

**RECORD OF PROCEEDINGS**  
**CITY OF BOWLING GREEN CITY COUNCIL**

Minutes of

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

**MONDAY, NOVEMBER 19, 2012**

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The regular meeting of the Bowling Green City Council, held in the Council Chamber, 304 North Church Street, Bowling Green, Ohio was called to order at 8:20 p.m. by Council President Zanfardino. The meeting began with the Pledge of Allegiance.

On roll call, Council Members Aspacher, Gordon, Jeffers, McOmber, Robinette, Rowland and Zanfardino responded. Also present were Mayor Richard Edwards, Municipal Administrator John Fawcett, City Attorney Michael Marsh, Public Works Director Brian Craft, Utilities Director Brian O'Connell, Parks and Recreation Director Michelle Grigore, and Planning Director Heather Sayler.

Council President Zanfardino declared the minutes of the meeting held September 4, 2012 approved as distributed.

**CORRESPONDENCE**

There was no correspondence.

**OFFICIAL REPORTS**

Mayor Dick Edwards expressed his thanks to the Downtown BG and the Chamber of Commerce for the outstanding holiday events held this past weekend beginning with the tree lighting on Friday night and the parade on Saturday.

Mayor Edwards congratulated Coach Danijela Tomic and the BGSU Women's Volleyball team on winning the MAC Championship yesterday.

Mayor Edwards publicly thanked the Administration for the long and hard work developing the City's budget for 2013. The Mayor indicated that it was an outstanding team effort.

Mayor Edwards read a statement regarding the backyard chicken issue. The statement in its entirety is attached to and made a part of these minutes.

Municipal Administrator John Fawcett had no report.

Planning Director Heather Sayler had no report.

Parks and Recreation Director Michelle Grigore had no report.

City Attorney Michael Marsh had no report.

Utilities Director Brian O'Connell had no report.

Public Works Director Brian Craft reported that due to the holiday work schedule, Thursday's refuse pickup will be done on Wednesday this week. Craft also noted that the leaf pickup crew is on their third pass through the City and plans to make one more complete pass before ending for the season.

**NEW LEGISLATION**

The following new legislation was recommended by the Administration and presented to Council for introduction:

Council Member McOmber, for the Finance Committee, introduced a resolution transferring previously appropriated funds.

Council Member McOmber, for the Finance Committee, introduced an ordinance providing supplemental appropriations for the current expenses and other expenditures of the City of Bowling Green, Ohio, during the fiscal year beginning January 1, 2012 and ending December 31, 2012.

Council Member Gordon, for the Transportation & Safety Committee, introduced a resolution adopting the Bowling Green Fire Division 5-Year Strategic Plan.

Council Member Robinette, for the Planning, Zoning and Economic Development Committee, introduced an ordinance amending the Zoning District Map of the Bowling Green, Ohio, for approximately 1.493 acres at the southeast corner of East Wooster Street and South Prospect Street, and including the properties generally known as 212 & 218 East Wooster Street and 117 & 123 South Prospect Street from B-2 General Commercial and R-2 Single Family Residential zoning to B-3 Central Business District zoning.

### COUNCIL COMMITTEE REPORTS

Council Member Robinette reported that the Planning, Zoning and Economic Development Committee held a public hearing earlier this evening regarding Ordinance #8207, #8208 and #8209. Robinette noted that Council heard from several citizens and the developer, and that all of the Council Members were present and heard the discussion. Robinette stated that all three of these ordinance will receive third reading tonight and be brought forward for discussion and a vote.

Council Member Jeffers brought forward the issue regarding backyard chickens noting that City Attorney Mike Marsh has drafted proposed legislation based upon feedback he received from several Council Members. Jeffers indicated his support for allowing backyard chickens indicating that he did not think that potential costs for enforcement were likely to be substantial. Jeffers further stated that while there are still some issues with the proposed legislation, he felt that it could be amended later as discussions unfold. Jeffers noted that he means no disrespect for the process undertaken by the Planning Commission who studied the issue and gave it a negative recommendation, but feels that the legislation should be introduced and given first reading at tonight's meeting.

Council President Zanfardino commented that a lengthy public hearing was held prior to the last Council meeting to review proposed legislation. Zanfardino indicated that this newly revised version, in his opinion, is more restrictive than the previous version, almost to the point of making backyard chickens impossible.

Council Member Robinette indicated that normal protocol for introducing a change to the City's zoning code is to have the Planning Director review the changes and advise Council on its potential impact on the Planning Department. Robinette went on to say that he feels that this ordinance is unnecessary, not in the best interest of the entire community and deserves no more of Council's time. Over the past three months, many hours have been devoted to studying this issue, mostly by the Planning Commission, letters and emails have been received from citizens, the majority of which have been against backyard chickens. Robinette said that Bowling Green has had a prohibition against farm animals including backyard chickens on the books at least as far back as 1975 and he has heard nothing in the arguments that convinces him to change the laws now. Robinette reiterated that this issue deserves no more of Council's time. He also stated that the Planning Commission embraced the challenge that Council presented to them and conducted a thorough and comprehensive study of the issue. While the recommendation of the Planning Commission is not binding on City Council, he suggested that it is nonetheless informative and relative and should be respected. Robinette also noted that if this ordinance was passed it would not affect the entire community because there are developments such as Stone Ridge and Larch Landing that have deed restrictions that don't allow backyard chickens. Robinette also pointed out that if it was passed Council Member Rowland lives in such a community where she and her neighbors would not be affected by its passage.

Council Member Rowland stated that she was first contacted by Dr. Sherri Thomas regarding this issue. In her account to Rowland, Dr. Thomas indicated that she contacted the City not once, but twice asking if there was a prohibition against keeping backyard hens. She was told on both occasions that there was no such prohibition. Based on that information from the City, she got five hens which she keeps in her

backyard which adjoins City property along Simpson Garden Park. Rowland indicated that to her knowledge, Dr. Thomas has not received any complaints from park users. Rowland confirmed that her homeowners' association does not allow keeping backyard chickens or any outdoor animals. Rowland stated that she feels that if the City does not address this issue, then it has done a huge disservice to Dr. Thomas who was told by the City two times that it was okay to have the backyard hens. Rowland noted that Dr. Thomas came to her saying that rather than paying the fine, she would like to see if the law could be changed. As for enforcement, Rowland indicated that it is her opinion that the Animal Control Officer is the best person to enforce the regulation and that he is not overworked and should have the time. She indicated that she does not see this as an expensive issue of enforcement for the City. Rowland stated that since this citizen (Dr. Thomas) was given wrong information by a City official, that she should be grandfathered in or the issue should get full consideration by the Council.

Municipal Administrator John Fawcett stated that this information about Dr. Thomas has never been heard of before by the Administration. Rowland verified that the information was given to Dr. Thomas by Animal Control in the Police Division.

Council Member Robinette stated that the recourse for Dr. Thomas receiving erroneous information is not to change our laws. The recourse, he suggested, is to consider waiving the fine, not to change the law.

Council President Zanfardino noted that the draft of the legislation that Council has tonight is very restrictive and has a "sunset" clause of 12 months to allow for a trial period. Zanfardino agreed with Council Member Robinette that the ordinance should be referred to the Planning Director for her input. Zanfardino placed on the table a motion to recommend the draft ordinance to the Council for full consideration and three readings. After some discussion about what a vote on that motion would mean, Council Member Robinette moved that Council cease work on this backyard chicken issue and that it be set aside forever. Council Member Aspacher seconded the motion. Robinette explained that voting yes on this motion would mean that it would not go forward and the issue would be removed from Council consideration at this point. On roll call vote, Council Members Jeffers, Rowland, Zanfardino, and Gordon voted no. Council Members Robinette, McOmber, and Aspacher voted yes. Council President Zanfardino declared motion defeated. Zanfardino recommended that the Planning Director be given a copy of the draft legislation for her review and recommendation.

### LOBBY VISITATIONS

Earlene Kilpatrick, BG Chamber of Commerce, thanked the City for its support of the holiday parade held over the past weekend.

Laura Sanchez, 202 W. Reed, addressed Council regarding the two hens that she keeps in her backyard. Sanchez apologized for the trouble she has caused by bringing this issue forward and stated that she has decided to give her two hens to friends who operate an organic farm outside the City limits.

Ed Connell, 622 Cedar Lane, stated that he read the first draft of legislation that Council was considering regarding backyard chickens and found it to be very vague and incomplete. Connell stated that he finds it hard to comprehend that the City is spending this much time on an issue and basing a decision on personal feelings about two people in the City that currently have chickens. Connell said that this has not been a well thought out and will erode the value of property in the City.

John Zarch, 315 Ridge Street, addressed Council to inform them of a new type of social outing for students called "Suit Up Bowling Green." The program is designed to encourage students to wear formal attire and learn professional etiquette that will further their development for the job market and the future. Zarch noted that the next event will be held on December 1 at Stone's Throw Restaurant.

Joyce Kepke, 1132 Lyn Road, noted that she attended the public hearing held earlier this evening and that she always understood that the purpose of zoning was to protect the investment of a property owner and for it to be changed, only the people that live there should agree on what that change should be. Additionally, Kepke noted that if the Greens' are unable to go through with their development and the zoning is changed to B-3, it means that the property could be sold as B-3 and anything that is allowed in the B-3 district could be built there.

Council Member McOmber commented that the Greens' have agreed to rezone the property back to B-2 if the property is sold rather than developed.

Jorge Chavez, 631 Crestview Drive, spoke in favor of allowing backyard chickens, but felt that the requirement of yearly consent of the neighbors was an undue hardship on the hen owners.

### **READING OF LEGISLATION**

Clerk read Resolution #3520 transferring previously appropriated funds, for first reading.

Council Member McOmber moved, Robinette seconded, to suspend the rules and give Resolution #3520 its second and third reading. On roll call vote, Council Members McOmber, Robinette, Rowland, Zanfardino, Aspacher, Gordon, and Jeffers voted yes. Council President Zanfardino declared motion carried, and rules suspended.

Clerk read Resolution #3520 for second and third reading by number and title only.

Council Member McOmber moved, Aspacher seconded, to adopt Resolution #3520. On roll call vote, Council Members Robinette, Rowland, Zanfardino, Aspacher, Gordon, Jeffers, and McOmber voted yes. Council President Zanfardino declared motion carried, and Resolution #3520 adopted.

Clerk read Resolution #3521 adopting the Bowling Green Fire Division 5-Year Strategic Plan, for first reading.

Clerk read Ordinance #8212 providing supplemental appropriations for the current expenses and other expenditures of the City of Bowling Green, Ohio, during the fiscal year beginning January 1, 2012 and ending December 31, 2012, for first reading.

Council Member McOmber moved, Aspacher seconded, to suspend the rules and give Ordinance #8212 its second and third reading. On roll call vote, Council Members Rowland, Zanfardino, Aspacher, Gordon, Jeffers, McOmber, and Robinette voted yes. Council President Zanfardino declared motion carried, and rules suspended.

Clerk read Ordinance #8212 for second and third reading by number and title only.

Council Member McOmber moved, Aspacher seconded, to adopt Ordinance #8212. On roll call vote, Council Members Zanfardino, Aspacher, Gordon, Jeffers, McOmber, Robinette, and Rowland voted yes. Council President Zanfardino declared motion carried, and Ordinance #8212 adopted.

Clerk read Ordinance #8213 amending the Zoning District Map of the Bowling Green, Ohio, for approximately 1.493 acres at the southeast corner of East Wooster Street and South Prospect Street, and including the properties generally known as 212 & 218 East Wooster Street and 117 & 123 South Prospect Street from B-2 General Commercial and R-2 Single Family Residential zoning to B-3 Central Business District zoning, for first reading.

Council Member Robinette announced that a public hearing will be held for Ordinance #8213 on Monday, January 7, 2013, at 6:00 p.m. in the Council Chamber.

Clerk read Resolution #3517 declaring it necessary to renew an existing tax for the purpose of providing funds for recreational purposes of the Bowling Green Parks and Recreation and requesting the Wood County Auditor to certify the total current tax valuation of the City and the dollar amount of revenue that would be generated by that levy, for second reading.

Clerk read Resolution #3518 determining to proceed to submit to the electors of the City of Bowling Green the question of a renewal tax in excess of the 10 mill levy limitation for the purpose of providing 1.4 mills for Bowling Green City Parks and Recreation, for second reading.

Clerk read Resolution #3519 authorizing the Municipal Administrator and the Utilities Director to participate in the Ohio Department of Transportation Cooperative Purchasing Program for the purpose of purchasing vehicles, machinery, materials, supplies, or other articles, for second reading.

Clerk read Ordinance #8211 abolishing Section 152.14, 152.15, 152.16, 152.17 and 152.18 of the Codified Ordinances of the City of Bowling Green, Ohio, regarding Billboards and Projecting Signs and realigning and amending Section 152.19 to replace certain portions of those sections regarding glare, for second reading.

Clerk read Ordinance #8206 amending and enacting Section 33.04 of the Codified Ordinances of the City of Bowling Green, Ohio, relative to pay scales for seasonal employees, for third reading.

Council Member McOmber moved, Jeffers seconded, to adopt Ordinance #8206. On roll call vote, Council Members Aspacher, Gordon, Jeffers, McOmber, Robinette, Rowland, and Zanfardino voted yes. Council President Zanfardino declared motion carried, and Ordinance #8206 adopted.

Clerk read Ordinance #8207 amending the Zoning District Map of the City of Bowling Green, Ohio, for eight (8) parcels generally known as 110 and 112 and 114 North Prospect Street and 215 and 219 and 233 East Wooster Street and generally located at the corner of North Prospect Street and East Wooster Street, now owned by Wooster Street Apartments, LLC, from B-2 General Commercial to B-3 Central Business District zoning, for third reading.

Council Member Robinette suggested that Council discuss this ordinance (#8207) as well as the subsequent ordinances (#8208 & #8209) as a group. Robinette said that the properties in these ordinances are currently zoned B-2, and have been so designated since 1975, and the request is to rezone to B-3 Central Business District zoning. Robinette pointed out that the proposed project would decrease population density in the block and noted that the fears that many of the residents expressed in the public hearing could occur under the current zoning. Robinette said that he feels the zoning change will allow a project to go forward that is in the best interest of the community. He opined that the applicants are respected, trusted members of the community who are invested in the economic success of Bowling Green. He stated that this is the kind of economic development project that not only enhances E. Wooster Street, but the downtown area as well, and replaces rental houses and a parking lot with an aesthetically pleasing building. Robinette further noted that the Community Development Foundation, Chamber of Commerce and Downtown Bowling Green support the project as presented. Robinette also said that it is important that Council not underestimate the type of message that will be sent to potential developers and investors of other new businesses if this rezoning request is denied. Robinette gave his support of these rezoning requests as being in the best interest of the City.

Council Member Gordon stated that in the last few weeks he has heard from and spoken with many of his constituents in the 1<sup>st</sup> Ward about this rezoning request and many of voiced concerns. Gordon said that he believes that the people most likely to understand the full ramifications of zoning changes are those who stand to be most affected by it and those people, who are his constituents have told him very clearly that this rezoning would have a net negative effect on the 1<sup>st</sup> Ward and the City of Bowling Green. Gordon stated that 100% of the constituents that he has spoken with are opposed to the rezoning request. Of those concerns, he was most troubled by the possibility that this request, if granted, might compromise the residential character and integrity of the 1<sup>st</sup> Ward and that it might also exacerbate existing tensions between students and residents. Gordon also stated that he could not support any change that might alter the character of the 1<sup>st</sup> Ward and worsen conditions therein. Gordon said that he supports economic development in the City, but not at the cost of the neighborhoods. He indicated that he will vote no on this rezoning request and encouraged other Council Members to do the same.

Council Member Aspacher agreed that it is important to protect the integrity of the neighborhoods throughout the City, but offered that it also must be balanced with the benefits. Aspacher said that this project truly has the potential to provide enhancements to the neighborhood and that the current B-2 zoning, under different ownership/circumstances is possibly more damaging. Therefore, Aspacher indicated that the benefits of the rezoning slightly outweigh leaving it as is, so he indicated his support in favor of the rezoning.

Council Member Jeffers indicated that he liked the project, but is troubled by the 100% opposition of the residents in the neighborhood. Jeffers also said that the 2013 budget has money set aside to update the City's Master Plan which he thought might develop a clear plan for the corridor between downtown and the University. Jeffers said his recommendation would be to table these ordinances and see how the Master Plan updates play out in the coming months.

Council Member McOmber commented that from his perspective he does not see rental houses being returned to single family, owner occupied homes because of the cost of rehabilitating the properties, nor does he see the other extreme of a large apartment building as likely. McOmber indicated that the proposed building is better than what exists now and will provide better retail, better apartments and better parking. McOmber also said that under the current zoning, there are probably a lot worse ways to develop the property than what the Greens' are proposing under the B-3. He said it was a close call in his opinion and will take the Greens' at their word that they would return the zoning to B-2 if the project they plan does not go forward. McOmber gave his support for the rezoning.

Council Member Rowland said that it is her wish that the upstairs of the building will be something other than student rentals. She also expressed her desire to go through the Master Plan update and see what is determined by that process. Rowland stated that because of the 100% opposition she has heard from the area residents and because of the student rentals, she opposes this rezoning request at this time. Rowland asked the Greens' to return to the City with their request after the Master Plan update is completed.

Council President Zanfardino said that he liked the proposed building design, but what he has heard is that the people that live there view this area as a residential neighborhood and would like to see the neighborhood come back as opposed to allowing more commercial development. Zanfardino stated that current zoning goes back to 1975 and there are monstrous possibilities with B-2 zoning, but it has remained residential. So, in his opinion, the potential of the B-2 is overstated. Zanfardino said that the comments he has received are unanimously against this rezoning, therefore, he will not support its passage.

As a review, Council Member Robinette stated that the block in question has four owner-occupied single family homes, seven rental properties, and four commercial properties. Robinette noted that any Master Plan review or update will not include changing the zoning of any properties, it will only address zoning classifications and perhaps changes within the classifications. Council Member Jeffers asked why there couldn't be a zoning classification that includes the things the Council Members are comfortable with within the B-2 or B-3 zone that would allow the development of this project. There was a discussion among Council Members regarding the possibility of tabling these ordinances and taking a look at making changes to the classifications which would protect the interests of the residents of the neighborhood and allow this project to go forward. At the end of that discussion, Council Member Robinette withdrew his motion to adopt Ordinance #8207.

Council Member Robinette then moved to table Ordinance #8207 indefinitely. Council Member Jeffers seconded the motion. On roll call vote, Council Members Gordon, Jeffers, McOmber, Robinette, Rowland, Zanfardino, and Aspacher voted yes. Council President Zanfardino declared motion carried, and Ordinance #8207 was tabled indefinitely.

Clerk read Ordinance #8208 amending the Zoning District Map of the City of Bowling Green, Ohio, for the property generally known as 120 North Prospect Street and owned by SAG Investments, Ltd., from B-2 General Commercial to B-3 Central Business District zoning, for third reading.

Council Member Robinette moved, Rowland seconded, to table Ordinance #8208 indefinitely. On roll call vote, Council Members Jeffers, McOmber, Robinette, Rowland, Zanfardino, Aspacher, and Gordon voted yes. Council President Zanfardino declared motion carried, and Ordinance #8208 tabled indefinitely.

Clerk read Ordinance #8209 amending the Zoning District Map of the City of Bowling Green, Ohio, for four (4) parcels of land generally known as 117 and 117½ North Summit Street owned by Robert L. Hudson from B-2 General Commercial to B-3 Central Business District zoning, for third reading.

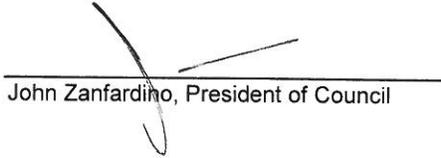
Council Member Robinette moved, Aspacher seconded, to table Ordinance #8209 indefinitely. On roll call vote, Council Members McOmber, Robinette, Rowland, Zanfardino, Aspacher, Gordon, and Jeffers voted yes. Council President Zanfardino declared motion carried, and Ordinance #8209 tabled indefinitely.

Council Member Rowland moved, Jeffers seconded, to adjourn. On unanimous voice vote, Council President Zanfardino adjourned the November 19, 2012 regular meeting of the City Council at 9:45 p.m., subject to call.



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Kay D. Scherreik, Clerk of Council



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John Zanfardino, President of Council

Statement for City Council

November 19, 2012

Mr. President and Members of the Council:

I welcome this opportunity to report to you on several matters of mutual interest.

First, a huge thank you to Barbara Ruland and Downtown BG for the wonderful tree lighting ceremony and related events on Friday evening and another big thank you to Earlene Kilpatrick and the BG Chamber of Commerce for another fantastic Holiday Parade. What a wonderful weekend of activity in the downtown area.

Second, congratulations to first year Coach Danijela Tomic and the BGSU Women's Volleyball team on winning the MAC Championship yesterday. Although I couldn't be there, I did get to watch much of the game on television. What an exciting five-set game against N. Illinois University and of course we are especially proud of the play of our own BGHS graduate, Ashley Dunn.

Third, I want to publicly commend the entire Administration who worked so long and hard and so effectively on the development a budget for 2013. It was truly an outstanding team effort. According to John Fawcett, the process was perhaps to most difficult and vexing in his memory. There were more than a few long evening sessions and I suspect a few sleepless nights. I thought the budget review session last Thursday with the members of the Finance Committee and others went exceptionally well. I especially want to applaud the strategic and focused review process.

Fourth, I am happy to report that very soon some tree plantings will be taking place along the Wooster Street and Church Street perimeter areas. The trees have been purchased with private dollars and I believe will total 15. We also will be placing an historic marker/plaque on a suitable rock at the intersection along with two benches that will give an added park like feel to the City's new "green space."

Fifth, in anticipation of an ordinance that you will likely consider this evening, I feel a need on behalf of countless citizens, the Administration, a previous long term Mayor as well as former members of Council to offer comment and to project some cautionary notes about the highly contentious "chickens in the back yard" issue as follows:

As has been the case for most of you, I have followed the backyard chicken issue with more than passing interest. I have viewed the issue against the backdrop of many sincere voices on both sides of the issue; Bowling Green's long history of dealing with animal control issues; my own personal background of growing up in an agriculture community; discussions with other mayors and people who have had to deal with the issue as a matter of public policy, past and present.

In reflecting on the issue, I am reminded that historically speaking we as a municipal government were drawn into the issue because of a citizen complaint and because some chickens became un-cooped.

I also have reflected on the process that was put into place by the City's Planning Commission and the extent that the members of the Commission and the special review subcommittee took to consider all aspects of the issue. Here is a copy of the working document that accompanied that process. I believe it can be said that every step of the way the members of the Commission attempted to be fair, open minded and reflective. The review process has been lengthy and in the end the Planning Commission voted unquestionably 7 – 0 against any change in the existing ordinance. I totally respect that process and applaud the work of our fellow citizens and their work in conjunction with the City's Planning Office.

Interestingly, the most vocal and pointed voices in opposition to a change in the existing ordinance typically have been citizens who have an agriculture or animal care background, who have cleaned a chicken coop as in my case, and who are simply aware of the many potential legal ramifications of a change in the existing ordinance. I call it "but I want a goat type issue."

Clearly it is within your purview to consider a change in the existing ordinance and I respect your right to do so in opposition to what I perceive to be a clear-cut majority of voices against any change.

I will not belabor or extend the process by reciting all of the concerns expressed about the backyard chicken issue and clearly I will not be an advocate for a change since I live in a neighborhood where there are restrictive covenants. As a matter of principle, I would find it difficult to support something that does not apply to me or to my immediate neighborhood.

But more specifically, I respectfully ask that you view the issue through the lens of the community at large and its potential application throughout the whole of the city and in neighborhoods that are already being stressed by other kinds of issues and ordinances including housing code violations, disruptive parties, unkempt properties, stray animals or varmints and even backyard fires unrelated to cooking. The issues are many and varied and like you, I am very sensitive to the neighborhoods and the efforts of the City Administration with its increasingly limited resources to address those issues.

In conclusion, I am well aware of the issue of sustainability ~~issues~~ and in that vein, I am an enthusiastic supporter of the Farmer's Market. I like fresh eggs but I have yet to hear of anyone in our community who has a difficulty in locating organic chicken eggs. And, also, I applaud the allowances of some major cities to permit backyard chickens and promote urban farming given the distances from the inner city core to agriculture areas, i.e., the countryside.

In an isolated sense, the issue of backyard chickens is not a problem. As Mr. Jeffers reported, and as the Mayor of Oxford, OH told me, it's not a problem there since there is virtually no interest by townspeople and students in backyard chickens save two individuals and one, I'm told, moved away. But in Athens, OH and in Kent, OH and in our nearby competitor cities of Findlay and Perrysburg, it is perceived as a potential problem or as an unwise policy. I sincerely believe that when the backyard chicken issue is weighed and applied to the whole of our community and our many interesting and varied neighborhoods, it will promote unwelcomed strains, relationships and concerns. Thank you!