



**OFFICE OF THE CITY MANAGER**

**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Patrick Urich, City Manager   
**DATE:** March 1, 2013  
**SUBJECT:** Issues Update

The following are issues related to the City for the weekly Issues Update. If there are additional items you believe should be included, please let me know.

**URBAN HUNTING:** In response to a citizen complaint to Council members regarding lawful urban hunting for deer by use of the bow and arrow (and crossbow), Chief Settingsgaard examined the issue and offered the below response. Please note that the comments are restricted to deer hunting by bow only because City ordinance already prohibits the discharge of a firearm.

**Complaint**

On January 22, 2013, members of the City Council received an email from a citizen who expressed safety concerns regarding deer hunting within their subdivision. The complainant resides on Derby Road, in the Galena Park Subdivision (Derby and Galena). The Galena Park Subdivision (photos attached) has relatively few homes with large wooded lots. The lots located on Derby Road and Orchard Road range in size from approximately  $\frac{2}{3}$  to  $4\frac{1}{2}$  acres. The complainants in this case expressed concerns about the legality of hunting with a bow and arrow (and crossbow) in a residential neighborhood, and the dangers that are posed particularly to children and pets. As a solution, the complainants recommended that the Council adopt an urban hunting ordinance similar to what currently exists in Charleston, W.V. Charleston requires the registration of both hunters and properties, and restricts hunting to only properties that are 5 acres or larger.

**Current Legal Status**

**State Law:** The Illinois D.N.R. regulates deer hunting within the State of Illinois and governs such things as licensing, permits, safe transport of firearms/bows, trespassing, etc., but these provisions apply uniformly, state-wide, irrespective of density of population. The D.N.R. does not specifically regulate hunting within urban or suburban areas other than to require safe shooting distances from dwellings. The 2013 Illinois Digest of Hunting and Trapping Regulations requires that a bow hunter be at least 100 yards from a dwelling unless the hunter has permission from the owner or tenant of that dwelling. If permission is granted, there is no minimum distance required. The actual verbiage is as follows:

*Hunting Near Inhabited Dwellings: It is unlawful to hunt or allow a dog to hunt within 300 yards of an inhabited dwelling without first obtaining permission of the owner or tenant of the dwelling. **Except: A 100-yard restriction shall apply while trapping, hunting with bow and arrow, or hunting with shotgun***

*using shotshells only, or on licensed game breeding and hunting preserve areas, on federally owned and managed lands, on DNR-owned, -managed, -leased or -controlled lands and areas operated under a Waterfowl Hunting Area permit.*

**Peoria City Ordinance:** City ordinance does not prohibit hunting by bow and arrow if it takes place solely on private property. It does prohibit the discharging of a bow on a public way, or in such a way as to cause an arrow to cross a public way. The applicable ordinance is as follows:

*Sec. 20-161. - Discharging, etc., prohibited; exception.*

*(a)No person shall fire or discharge any gun, pistol or other firearm within the city, except on premises used by a duly licensed shooting gallery, gun club or rifle club.*

*(b)No person shall be permitted to fire or discharge upon any public way within the city any air gun, spring gun or other similar device which is calculated or intended to propel or project a bullet, **arrow** or similar projectile; provided, however, that nothing in this article shall prevent the use of such weapons in shooting galleries or in any private grounds or residence, where the projectile fired or discharged from any such gun or device will not traverse any space used as a public way.*

### **Complaints/Investigations**

The Peoria Police Department has responded to the Derby Road deer hunting complaint twice. The first was in the fall of 2011 and the second was this past fall (2012). Both complaints centered on the same property on Derby where the hunting was taking place.

**2011:** In the fall of 2011, a complaint came in regarding deer that had been taken by a bow hunter on private property. The Police Department determined that no ordinance had been violated but the Illinois D.N.R. was called in to investigate whether any hunting laws had been broken. The D.N.R. officer investigated and determined that deer had been taken illegally and the offending person was prosecuted. However, the illegality was not in the act of hunting itself, but rather the hunter did not possess the proper permits for the deer. Had the hunter possessed the proper permits, the hunting and the taking of the deer in that location would have been lawful.

**2012:** A similar complaint was received this past fall, again complaining that someone was bow hunting on private property within the subdivision. Chief Settingsgaard assigned a Sergeant to investigate, and the Sergeant spoke with both the complainants and the owners (hunters) from the neighboring property. In this instance the complainant not only expressed safety concerns related to the bow hunting, but also mentioned trespassing, the sound of a gunshot at night, and the possibility that hunters are paying for hunting rights. Neither the trespassing, nor the gunshot allegations could be verified. The owners of the property where the hunting took place spoke with the Sergeant; they were knowledgeable on the law and aware that they could legally hunt on their property. They denied that anyone had paid to hunt, and indicated that the only people hunting were themselves and/or two of their relatives. They registered a counter complaint with the Police Department to report that a neighbor is stopping in their driveway and writing down license plates, all in relation to the hunting issue. The Department's investigation was concluded and no violations of the laws or ordinances were proven.

The only other deer hunting related complaint the Chief found was from 2009, and in that case, the complainants reported that men were going into the woods with guns in the 2900 block of W. Nevada (Trewyn Park, near I-474 and Adams). The DNR was called in to assist with that investigation and no criminal case could be substantiated. The activity alleged in the complaint was already prohibited by ordinance because it entailed the use of firearms.

### **Safety Concerns**

The crux of the complaint seems to hinge on the danger that bow hunting presents to the neighborhood, particularly children and pets. The Chief cannot support that argument with evidence. While bow hunting is and has been legal in the City, the Department can find no instances of anyone ever being injured by an arrow. The Chief has polled the comparable cities in Illinois and received nine responses. Of the 6 cities that also allow bow hunting, none reported anyone being injured. Archers hunting whitetail deer typically need to be within 30 yards or less of their target to be effective, which makes it relatively easy for them to be able to identify and differentiate a child or a dog from a deer. The possibility that a bow hunter would mistake a child or even a dog for a deer is not very likely. A stray arrow is a possibility, but arrows lose their energy and velocity rather quickly, and unless they are traveling at an upward angle, they will not fly very far before gravity pulls them to the ground. The hunters in this case, like most bow hunters, were reportedly using an elevated position, which means the arrows fly in a downward angle toward the ground, making it even less likely that they would travel far enough to cause a true safety risk. The State of Illinois sets the legal distance from a residence for a firearm at 300 yards, while the legal distance for a bow is only 100 yards. The great reduction in what the State of Illinois considers a safe distance is indicative of the lesser danger posed by an arrow, and the shorter distances for which an arrow poses a legitimate risk. Injury certainly is not impossible, but it is improbable to the degree that considering bow hunting to be dangerous to others is difficult to justify.

The issue here may be more about the perception of safety. To some, particularly those not comfortable or familiar with deer hunting and/or archery, the perception and belief may be that the practice is dangerous, especially within the corporate limits of the City. Others might object to the practice for other reasons that are not related to safety. Some may be opposed to hunting altogether, while others might support it in a rural setting, but just not inside the City or “not in my backyard.”

On the topic of safety, the Department would be remiss to not point out that there is a legitimate and verifiable risk that is posed by deer in our community as a result of motor vehicle crashes caused by deer in the roadway. State Farm Insurance estimated over 1.2 million deer/car collisions for the 1 year period between July of 2011 and June of 2012, with over 51,000 in Illinois alone. According to the Insurance Institute for Highway Safety, in 2007 alone, 223 people died as a result from vehicle/deer crashes. Logic might dictate that fewer deer would result in fewer crashes and a reduced risk to the motoring public.

### **Prohibition/Restrictions by Ordinance**

The Council has multiple options available in response to this issue as outlined below:

- A. Status Quo: Make no change in the ordinance which will allow the continuance of legal bow hunting for deer in the City, in places not prohibited by State law.
- B. Prohibit all hunting in the City, including by bow and arrow (crossbow).
- C. Adopt an ordinance that allows limited hunting but is more restrictive than State law.

Option A would require the least amount of staff time and expense, and based upon historical data, poses no true safety risk to the public. However, it may have an impact on the perception of safety.

Option B would require the drafting of an ordinance as well as some enforcement efforts when violations are reported, but would be considerably less work and less expense than Option C.

Option C has multiple alternatives available for consideration that are present in ordinances in other jurisdictions, many of which could be combined into a single policy or ordinance. The administration and enforcement of a new ordinance based on any combination of these options could be costly to administer and enforce.

- **Hunter Registration:** Require that all hunters pre-register with the City, for a fee.
  - Advantages:
    - Potential hunters could be screened for suitability (background check).
    - A shooting proficiency test could be included.
    - A safety course certificate could be required.
    - A database of known hunters could make identification easier in the event of an incident.
    - City could recoup all or a portion of the costs for administering the program.
  - Disadvantages:
    - Staff time would be committed to administer the program.
    - Staff time would be committed to enforcement.
    - Processes would have to be developed.
    - Consequences for failing to comply would be difficult to apply, and violations difficult to detect.
    - Appeal process for license denial would be required.
    - Hunter registration would not guarantee a safer or more ethical hunter.
  
- **Property Registration:** Require that any properties to be hunted must pre-register with the City, for a fee.
  - Advantages:
    - Potential properties could be screened for suitability.
    - A database of registered properties would help in identifying when hunting is taking place illegally.
    - City could recoup costs for administering the program.
  - Disadvantages:
    - Staff time committed to administer the program.
    - Staff time committed to enforcement.
    - Approval processes would need to be developed.
    - Appeal process for denials would be required.
    - Property registration would not guarantee a safer or more ethical hunter.
    - Some property owners in the City may view this as an infringement on their property rights.
  
- **Lot Size Restriction:** Require that a property must be of certain acreage. Five acres is required in Charleston, WV, and other communities have different restrictions, such as a 3 acre minimum.

- Advantages:
  - Lot size restrictions would reduce the number of properties that would be lawful to hunt on.
  - Increase the odds that a hunter will be further from a dwelling than what is currently required by State law.
  - Decrease the potential for conflict between hunters and opposing neighbors.
- Disadvantages:
  - Staff time would be committed to administration and enforcement.
  - Lot size does not guarantee an increase in the distance between a hunter and a neighboring property line or a neighboring house. For example, Council could enact a 5 acre restriction, but without additional restrictions, a hunter could legally sit alongside a neighbor's property line within just a few feet of the neighbor's yard, children's play area, etc.
  - Lot size restrictions could result in hunting rights only for the wealthier citizens with very large lots.
  - Fewer properties to hunt could result in fewer deer killed by hunters, perhaps increasing property damage from over foraging, and an increase in traffic crashes.
- **Increase Shooting Distances from Dwellings:** Council could choose to increase the legal shooting distance from a residence for a bow and arrow, which is currently set at 100 yards by the State. Distances could be increased to 150 yards, 200 yards, etc.
  - Advantages:
    - The likelihood of an arrow accidentally striking a residence or a person at or near a residence could be reduced.
    - Fewer properties would be eligible for hunting without permission of neighbors. The further a hunter has to be from a dwelling, the less likely a given property will have area to hunt that complies with the State's distance requirements.
  - Disadvantages:
    - Staff time would be committed to administration and enforcement.
    - Violations for specific distances would be difficult to prove and enforce.
    - This increase in distance from a dwelling does not reduce the distance from neighboring properties, only from neighboring dwellings. Hunters may still be allowed to shoot very close to a neighboring property line.
    - Distance increases could result in hunting rights only for the wealthier citizens since smaller properties would not be able to qualify.
    - Fewer properties to hunt could result in fewer deer killed by hunters, perhaps increasing property damage from over foraging, and an increase in traffic crashes.
- **Establish Shooting Distances From Property Lines:**
  - Advantages:
    - Restrictions of distance from property lines goes beyond the State's required distance from a dwelling and actually requires a set distance from any portion of a neighboring property, which would include yards and play areas.

- The likelihood of an arrow accidentally striking a person could be reduced, assuming that person is not walking upon the property where the hunting occurs.
  - Fewer properties might be disqualified when compared to a total acreage restriction.
  - Of the options presented in “C”, this restriction may present the greatest opportunity for a reduction in conflict between neighbors and exposure to risk. For example, a restriction of a minimum distance of 150 feet from a property line places a hunter at a far greater minimum distance from a neighbor’s property than does an acreage restriction alone, no matter how large the property.
- Disadvantages
    - Staff time would be committed to administration and enforcement.
    - Violations for specific distances would be difficult to prove and enforce.

### **Staff Recommendation**

**Option A:** The Police Department recommends option A as outlined above, with no change in the ordinances relative to bow hunting in the City. Evidence does not support the assertion that the practice poses a realistic danger. The Chief surveyed comparable Illinois cities, survey attached, and received responses from the following nine cities: Aurora, Belleville, Decatur, Elgin, Joliet, Normal, Rockford, Urbana and Waukegan. Including Peoria, six of the ten cities do not prohibit bow hunting for deer, and of those cities where bow hunting is lawful, none of them regulate the practice through hunter registration, property registration, minimum lot sizes, etc. None of the cities that responded, including Peoria, has experienced anyone being injured from being struck by an arrow (or a bullet) fired by a hunter. Based upon the survey responses and the Chief’s conversations with the other cities’ respective Chiefs, deer hunting is not common in any of the cities where it is lawful since deer are present in only a portion of the city, and even then, few properties are of such size or configuration as to qualify under the state’s 100 yard requirement. The limited amount of hunting that has taken place has not posed a problem in any of the other municipalities where it is legal to hunt.

**Option B:** If the Council would choose to move from the status quo and craft a regulating ordinance, the Police Department would then recommend option B which would prohibit all hunting within the City limits. This option would eliminate lawful hunting and only illegal hunting would need to be addressed. A total prohibition would require the least amount of City resources to administrate and enforce, and illegal behavior would be easily identified by the community.

**Option C:** As noted above, Option C provides a variety of means by which the City could choose to allow bow hunting for deer to continue in the City while regulating the activity well beyond the State of Illinois’ current limitations. The multiple variations in Option C may require a considerable amount of staff time to administer and enforce, yet would likely accomplish very little in the way of public safety. If the goal in regulating hunting is based on safety concerns, none of the measures in Option C would absolutely prevent an accidental injury to a child, adult, or a pet. Even if hunting was restricted on a particular piece of property in the hopes of protecting neighboring properties, it would not prevent children, pets, or even adults from walking in areas where hunting is taking place legally, and thus coming into contact with hunters.

If the City was to regulate hunting because it was deemed to be an activity that is inappropriate or otherwise unwanted in the City, then again, the Chief would recommend that it be prohibited altogether.

In the event that some form of Option C is desired, the Chief would recommend the Department draft an ordinance that prohibits the firing of an arrow (or bolt) within 150 feet of a neighbor's property line unless permission is granted, in writing, from the affected property owner. This ordinance, in addition to the State's 100 yard requirement, would keep legal hunters at a sufficient distance from both dwellings and properties without creating an unnecessary burden upon staff. Creating a system of registering hunters, registering properties, limiting property eligibility, etc., would be a costly solution to a problem that is relatively non-existent.

**ILLINOIS ATTORNEY GENERAL NATIONAL FORECLOSURE SETTLEMENT AWARDS – HOUSING COUNSELING AND COMMUNITY REVITALIZATION PROPOSAL:** On December 21, 2012, the Office of Attorney General Lisa Madigan released a Request for Qualifications and Proposals (RFP/RFQ) for the National Foreclosure Settlement Awards. In April 2012, a \$25 billion national settlement was secured with the nation's five largest bank mortgage servicers – Bank of America, JP Morgan Chase, Wells Fargo, Citibank and Ally Bank, formerly GMAC. The settlement addressed allegations of widespread “robo-signing” of foreclosure documents and other fraudulent practices while servicing loans of struggling homeowners.

As a result of the settlement, homeowners in Illinois will receive approximately \$1 billion in principal reductions on their mortgages and other loan related relief. Illinois also received over \$100 million in funds to provide grants to ameliorate the damage done by the foreclosure crisis. Of these funds, already \$23 million has been made available or distributed for legal assistance services for borrowers and renters and start-up foreclosure court mediation efforts in Illinois.

The RFP/RFQ is in connection with the \$70 million in funding that will be available over the next three years to bolster, expand and connect proven housing counseling and revitalization strategies in geographic areas throughout Illinois that have a high number of vacant and abandoned properties in order to attract new buyers and renters. Proposals that include high impact initiatives and redevelopment projects in a defined geographic boundary which can be accomplished or can achieve significant milestones within the three year period will be the most competitive.

Proposal priority will be given to **teams** pursuing coordinated strategies, leveraging in-kind resources and advancing local plans to address foreclosures and revitalization efforts in a defined geographic boundary.

A team of local stakeholders was quickly established to submit a proposal for the February 15, 2013 deadline. The design of Peoria's program consists of a collaboration the region has never seen before with two Community Development Financial Institutions (LISC and Illinois Facilities Fund-IFF), two housing counseling agencies (METEC and Novadebt), a non-profit housing development organization (Peoria Opportunities Foundation), a community organization (East Bluff Neighborhood Housing Services), the City of Peoria, a local bank (Busey Bank) and Realtor (Jim Maloof Realty). These team members have developed a proposal that will directly assist struggling families and deploy a targeted revitalization and housing stabilization strategy for one of Peoria's neighborhoods, the East Bluff.

In the development of the proposal, the team looked at areas in the City that met the following: 1) a defined geographic area, 2) area with a high number of vacant, abandoned and foreclosed properties, 3) the existing organization of community members, groups or associations, 4) recent and available data for the area, and 5) the availability of leveraging resources. The team identified the East Bluff neighborhood, specifically the East Village Growth Cell (EVGC), as the area for the proposed neighborhood revitalization and development.

The East Bluff is an area hardest hit with foreclosures, abandoned and vacant properties. Within the past three years, 16% of the owner occupied properties in the EVGC have been foreclosed. Twenty-five percent of these recorded foreclosures were filed by one of the banks listed in the settlement - Bank of America, JPMorgan Chase, Wells Fargo, Citibank and Ally Bank, formerly GMAC.

Additionally, using the TIF field study data provided in October 2010 and updated in 2013 for the proposal submission, approximately 254 vacant properties exist in the EVGC; approximately 10% of the total properties.

Greater Peoria LISC is the Lead and Fiscal Agent for the proposal. The proposal includes the following activities:

- 1) Develop 45 units of owner occupied housing for households earning up to 150% of Area Median Income (AMI)  
*\*150% of AMI for the City is approximately \$100,000 annually for a household size of 4\**
- 2) Develop 25 units of rental housing for special populations
- 3) Demolition of 50 units of housing
- 4) Offer pre-purchase, post-purchase, credit and rental housing counseling programs
- 5) Deploy down payment assistance and emergency mortgage relief programs
- 6) Development of a LISC sponsored Financial Opportunity Center in the East Bluff

In total, the Peoria proposal has requested **\$10.8 million** in National Foreclosure Settlement award funds. Beginning in April 2013, the Attorney General will enter into one, two or three year agreements, on a rolling basis, with renewals contingent upon annual performance reviews and demonstrated continual need for funds and services.

City administration has identified EVGC as a priority for revitalization and has undertaken various planning initiatives (School Impact Zone, Special Service District and TIF) designed to enhance the physical and economic climate, and has made significant investments in infrastructure improvements and neighborhood programs. The award of this proposal will continue these efforts and leverage additional resources.

For additional information, please contact Nicole Frederick, Grants Coordinator, at 494-8606 or [nfrederick@peoriagov.org](mailto:nfrederick@peoriagov.org).

**AMERICORPS VISTA PROGRAM:** The City's Department of Community Development, Neighborhood Division, has been selected as a host site for the AmeriCorp VISTA program.

AmeriCorps VISTA is the national service program designed specifically to fight poverty. Authorized in 1964 and founded as Volunteers in Service to America in 1965, VISTA was incorporated into the AmeriCorps network of programs in 1993. VISTA has been on the front lines in the fight against poverty in America for more than 45 years.

In January, the City applied to Housing Action Illinois for an AmeriCorps VISTA Volunteer to work with staff and the Heart of Illinois Homeless Continuum of Care (CoC) for the implementation of the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act.

New regulations focus on implementation of the CoC planning process, consolidation of HUD's competitive grant programs and an increase in emphasis on performance of funded activities. It is anticipated that HUD will release significant guidance, regulation interpretation, best practice theories and webinar trainings. In conjunction with City staff, VISTA Volunteer will assist member agencies of the CoC in resource collection, information sharing and overall formation of the new governance structure of the Continuum. The CoC must comply with HEARTH Act regulations on or before August 2014. Non-compliance of regulation implementation would jeopardize future grant funding.

Greater Peoria LISC has also partnered with the City's effort to host the VISTA Program. Since 1994, LISC has nationally sponsored the AmeriCorps program as an additional strategy to help build community development capacity. Greater Peoria LISC identified the opportunity of recruiting an AmeriCorps VISTA Volunteer to assist the Continuum develop and implement HEARTH Act regulations to further assist homeless individuals and those at risk of becoming homeless in our community.

LISC will pay the host fee of \$3,600 to Housing Action Illinois on behalf of the City. The total program costs for a VISTA Volunteer is \$56,760 and covers the volunteer's living stipend, healthcare costs and other program benefits. Housing Action Illinois requires a host site to provide approximately 6% of the total program costs. With the partnership with Housing Action Illinois and LISC, the City will receive the benefit of this position without any of the cost.

The City's Community Development VISTA Volunteer will be located in the Neighborhood Development Division. Recruitment and selection of the volunteer will begin in late March/early April with placement no later than August 2013.

For additional information or questions, please contact Nicole Frederick, Grants Coordinator, at 494-8606 or [nfrederick@peoriagov.org](mailto:nfrederick@peoriagov.org).