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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

APRIL 4, 2013

THE OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT  
MET IN REGULAR SESSION AT 5:30 P.M. ON THURSDAY, APRIL  
4, 2013, AT CITY HALL, COMMISSION CHAMBERS, OWENSBORO,  
KENTUCKY, AND THE PROCEEDINGS WERE AS FOLLOWS:

MEMBERS PRESENT: C.A. PANTLE, CHAIRMAN  
WARD PEDLEY, VICE CHAIRMAN  
RUTH ANN MASON, SECRETARY  
GARY NOFFSINGER, DIRECTOR  
MADISON SILVERT, ATTORNEY  
JERRY YEISER  
SEAN DYSINGER  
FRED REEVES

\* \* \* \* \*

CHAIRMAN: LET ME CALL THE OWENSBORO  
METROPOLITAN BOARD OF ADJUSTMENTS TO ORDER. I WANT TO  
WELCOME YOU THIS EVENING. WE START OUR MEETING EACH  
EVENING WITH A PRAYER AND PLEDGE OF ALLEGIANCE. WE  
INVITE YOU TO JOIN US. GARY WILL DO OUR PRAYER THIS  
EVENING.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: AGAIN, I WANT TO WELCOME YOU TO THE  
MEETING THIS EVENING. IF YOU HAVE ANY COMMENTS ON ANY  
ITEM, PLEASE COME TO ONE OF THE PODIUMS AND STATE YOUR  
NAME SO WE'LL HAVE RECORD IN THE OFFICE.

WITH THAT THE FIRST ITEM IS CONSIDER THE  
MINUTES OF THE FEBRUARY 7TH MEETING. WE HAVE THEM ON

1 FILE AND IN THE OFFICE. WE'VE FOUND NO PROBLEMS WITH  
2 THEM. ENTERTAIN A MOTION TO DISPOSE OF THE ITEM.

3 MR. PEDLEY: MOTION FOR APPROVAL.

4 MS. MASON: SECOND.

5 CHAIRMAN: A MOTION HAS BEEN MADE AND A  
6 SECOND. ALL IN FAVOR RAISE YOUR RIGHT HAND.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: MOTION CARRIES.

9 -----

10 VARIANCE

11 ITEM 2

12 1320 HALL STREET, ZONED I-1  
13 CONSIDER A REQUEST FOR A VARIANCE IN ORDER TO REDUCE  
14 THE FRONT YARD BUILDING SETBACK LINE, ALONG HALL  
15 STREET, FROM 25 FEET FROM THE PROPERTY LINE TO 18 FEET  
16 FROM THE PROPERTY LINE AND TO REDUCE THE SIDE STREET  
17 YARD BUILDING SETBACK LINE, ALONG EAST 14TH STREET,  
18 FROM 25 FEET FROM THE PROPERTY LINE TO 13 FEET FROM  
19 THE PROPERTY LINE IN ORDER TO CONSTRUCT A STORAGE  
20 BUILDING.

21 REFERENCE: ZONING ORDINANCE, ARTICLE 8,  
22 SECTION 8.5.3(C)

23 APPLICANT: WAYNE DENNIS, ZACH DENNIS

24 MR. SILVERT: WOULD YOU STATE YOUR NAME,  
25 PLEASE?

MS. EVANS: MELISSA EVANS.

(MELISSA EVANS SWORN BY ATTORNEY.)

MS. EVANS: FIRST OF ALL, I WOULD LIKE TO  
STATE THAT APPROVAL OF ITEMS HERE TONIGHT DOES NOT  
ALLOW THE APPLICANT OR OWNER TO CONSTRUCT, ALTER,

1       MODIFY OR OCCUPY A BUILDING ON THE SUBJECT PROPERTY.  
2       IT IS THE APPLICANT OR OWNER'S RESPONSIBILITY TO  
3       OBTAIN ALL APPROVALS AND INSPECTIONS AS NECESSARY  
4       BEFORE OCCUPANCY OF THE BUILDING IS ALLOWED. PLEASE  
5       CONTACT THE BUILDING AND ELECTRICAL DIVISION OF THE  
6       OMPC PRIOR TO BEGINNING ANY WORK ON THE SUBJECT  
7       PROPERTY FOR APPLICABLE REQUIREMENTS.

8               THE SUBJECT PROPERTY IS A CORNER LOT IN AN  
9       AREA ESTABLISHED BEFORE THE CURRENT ZONING ORDINANCE  
10      REQUIREMENTS WERE IN PLACE. THE FRONT AND SIDE STREET  
11      YARD SETBACKS ARE 25 FEET FROM THE PROPERTY LINES.  
12      THE APPLICANT PROPOSES A 10 FOOT INTERIOR SIDE YARD  
13      SETBACK IN ORDER TO MEET THE BUILDING CODE  
14      REQUIREMENTS FOR NOT FIRE RATING THE BUILDING. THERE  
15      IS AN EXISTING MASONRY BLOCK BUILDING APPROXIMATELY 48  
16      FOOT BY 24 FOOT ON THE REAR OF THE PROPERTY. THE  
17      EXISTING BUILDING SITS APPROXIMATELY 15 FEET FROM THE  
18      PROPERTY LINE ALONG EAST 14TH STREET.

19              THE APPLICANT PROPOSES TO CONSTRUCT AN 80 FOOT  
20      BY 40 FOOT PRE-ENGINEERED STEEL BUILDING ON THE  
21      PROPERTY FOR PERSONAL STORAGE. THE STRUCTURE WILL BE  
22      18 FEET FROM THE PROPERTY LINE ALONG HALL STREET AND  
23      13 FEET FROM THE PROPERTY LINE ALONG EAST 14TH STREET.

24              THE BUILDABLE AREA OF THE PROPERTY IS SOMEWHAT  
25      LIMITED. THE APPLICANT COULD CONSTRUCT A SMALLER

1       STRUCTURE ON THE PROPERTY AND MEET THE REQUIRED  
2       SETBACKS.   HOWEVER, THIS IS AN OLDER AREA DEVELOPED  
3       BEFORE THE ESTABLISHMENT OF THE ZONING REGULATIONS AND  
4       THE MAJORITY OF THE STRUCTURES IN THE AREA ENCROACH  
5       INTO THE FRONT AND SIDE STREET YARD BUILDING SETBACK  
6       LINES.

7               THE APPLICANT PROPOSES TWO DRIVEWAY APRONS  
8       ALONG EAST 14TH STREET.   ACCORDING TO THE STREET  
9       ACCESS LIMITS ON LOCAL STREETS, FOR USES OTHER THAN  
10      DETACHED SINGLE-FAMILY AND DUPLEX DWELLINGS, VEHICLES  
11      SHOULD NOT BACK DIRECTLY ONTO STREETS.   THEREFORE,  
12      VEHICLES ENTERING AND EXITING THE SUBJECT PROPERTY  
13      VIA THE PROPOSED DRIVEWAY APRONS SHOULD NOT BACK IN OR  
14      OUT OF THE SUBJECT PROPERTY FROM OR ONTO THE STREET.

15              THE APPLICANT PROPOSES TO USE THE PROPERTY AND  
16      THE STRUCTURE FOR INDIVIDUAL STORAGE PURPOSES, WHICH  
17      REQUIRES NO PARKING.   ANY OTHER APPROVED USE IN AN 1-1  
18      LIGHT INDUSTRIAL ZONE WOULD REQUIRE A MINIMUM OF 5  
19      PAVED PARKING SPACES.   THE APPLICANT SHOULD BE AWARE  
20      IF THE USE OF THE PROPERTY CHANGES FROM INDIVIDUAL  
21      STORAGE TO ANYTHING ELSE, THE PARKING WILL BE  
22      REQUIRED.

23              GRANTING THE VARIANCE TO REDUCE THE FRONT YARD  
24      BUILDING SETBACK LINE ALONG HALL STREET FROM 25 FEET  
25      FROM THE PROPERTY LINE TO 18 FEET FROM THE PROPERTY

1 LINE AND TO REDUCE THE SIDE STREET YARD BUILDING  
2 SETBACK LINE FROM 25 FEET FROM THE PROPERTY LINE TO 13  
3 FEET FROM THE PROPERTY LINE WILL NOT ADVERSELY  
4 AFFECT THE PUBLIC HEALTH, SAFETY OR WELFARE OR CAUSE A  
5 HAZARD OR NUISANCE TO THE PUBLIC. IT WILL NOT  
6 ALTER THE ESSENTIAL CHARACTER OF THE GENERAL VICINITY  
7 OR BE AN UNREASONABLE CIRCUMVENTION OF THE  
8 REQUIREMENTS OF THE ZONING REGULATIONS BECAUSE THE  
9 PROPERTIES ON THE OTHER THREE CORNERS OF THE  
10 INTERSECTION OF HALL STREET AND EAST 14TH STREET ALL  
11 APPEAR TO ENCROACH INTO THE FRONT AND SIDE STREET YARD  
12 BUILDING SETBACK LINES AND ARE NOT A PUBLIC SAFETY  
13 CONCERNS OR A NUISANCE AND THE EXISTING BUILDING ON  
14 THE SUBJECT PROPERTY ALREADY ENCROACHES INTO THE SIDE  
15 STREET YARD BUILDING SETBACK LINE AS WELL.

16 STAFF WOULD RECOMMEND APPROVAL WITH THE  
17 FOLLOWING CONDITIONS:

18 CONDITIONS:

19 1. PARKING SHALL BE REQUIRED IF THE USE  
20 CHANGES TO ANYTHING OTHER THAN INDIVIDUAL STORAGE.

21 2. VEHICLES ENTERING OR EXITING THE SUBJECT  
22 PROPERTY SHALL NOT BACK FROM OR ONTO THE STREET.

23 WE WOULD LIKE TO ENTER THE STAFF REPORT INTO  
24 THE RECORD AS EXHIBIT A.

25 CHAIRMAN: THANK YOU.

1 HAS THERE BEEN ANY COMMENTS IN THE OFFICE ON  
2 THE ITEM?

3 MR. NOFFSINGER: NO, SIR.

4 CHAIRMAN: IS THE APPLICANT HERE AND DO YOU  
5 HAVE ANY COMMENTS YOU WOULD LIKE TO ADD AT THIS TIME?  
6 COME FORWARD AND STATE YOUR NAME, PLEASE.

7 MR. SILVERT: WOULD YOU STATE YOUR NAME,  
8 PLEASE?

9 MR. DENNIS: MY NAME IS WAYNE DENNIS.

10 (WAYNE DENNIS SWORN BY ATTORNEY.)

11 MR. DENNIS: I'VE GOT SMALL CARS AND STUFF.  
12 THE MAIN THING I WANT IT FOR, WANT IT STRICTLY JUST  
13 FOR MY OWN USE AND FOR THE STORAGE. I ALREADY HAVE  
14 THE ALREADY BUILDING. IT JUST BE MORE CONVENIENT FOR  
15 ME. THAT'S PRETTY MUCH ALL I WAS HOPING FOR. I  
16 ALREADY HAD THE BUILDING AND THAT'S THE MAIN REASON.  
17 IT'S PRE-ENGINEERED BUILDING. IT'S KIND OF HARD TO  
18 DOWNSIZE IT. I THANK YOU ALL VERY MUCH.

19 CHAIRMAN: ANY BOARD MEMBER HAVE ANY QUESTION  
20 OF THE APPLICANT?

21 MR. REEVES: I HAVE JUST ONE QUICK QUESTION.

22 IS IT GOING TO BE POSSIBLE FOR YOU TO GET OUT  
23 ON THE STREET WITHOUT BACKING OUT? DO YOU HAVE A TURN  
24 AROUND AREA WHERE YOU CAN GO OUT FRONTWARD RATHER THAN  
25 BACKWARDS?

1           MR. DENNIS:  YES.  THERE'S APPROXIMATELY, IT  
2           WILL BE 13 FOOT ON THE 14TH STREET SIDE WHERE THE  
3           EXIT.  YOU CAN EVEN SEE IT RIGHT NOW.  THE WAY IT'S  
4           SITUATED THAT YOU CAN PULL UP AND THEN JUST HEAD RIGHT  
5           OUT ON THE STREET.

6           MR. REEVES:  THANK YOU.

7           CHAIRMAN:  STAFF HAVE ANY COMMENTS AT THIS  
8           TIME?

9           MR. NOFFSINGER:  YES.  I WOULD LIKE TO MAKE  
10          SURE THAT WE HAVE ON RECORD THAT MR. DENNIS  
11          UNDERSTANDS THE TWO CONDITIONS.

12          NUMBER ONE MEANS THAT IF YOU CHANGE THE USE OF  
13          THIS BUILDING IN THE FUTURE, REQUIRED PARKING  
14          REQUIREMENTS MUST BE MET.  IF YOU CEASE THE CURRENT  
15          USE AND YOU WANTED TO LEASE THIS OUT TO USE THE  
16          REQUIRED FIVE PARKING SPACES OR TEN PARKING SPACES,  
17          YOU WOULD HAVE TO PROVIDE THOSE SPACES AS REQUIRED BY  
18          ORDINANCE.

19          I JUST WANT TO MAKE SURE YOU UNDERSTAND THAT  
20          FIVE YEARS FROM NOW, TEN YEARS FROM NOW, WHEN WE'RE  
21          FACED WITH THE SITUATION.  THAT PARKING IS NOT  
22          SOMETHING YOU CAN GET A VARIANCE ON.  YOU WILL HAVE TO  
23          PROVIDE IT OR THE USE WOULD NOT BE ALLOWED.

24          THE SECOND ITEM WOULD BE THAT THE ZONING  
25          ORDINANCE DOES NOT ALLOW YOU TO BACK ONTO A PUBLIC

1 RIGHT-OF-WAY. THIS BOARD CANNOT GRANT YOU PERMISSION  
2 TO DO THAT WITH A NEW SITUATION LIKE THIS.

3 IF WE DO FIND THAT YOU'RE BACKING ONTO OR FROM  
4 THE PUBLIC RIGHT-OF-WAY, IT WOULD RESULT IN THIS  
5 VARIANCE POTENTIALLY BEING NEGATED. IT WOULD BE A  
6 ZONING VIOLATION AND IT WOULD HAVE SOME SERIOUS ISSUES  
7 WITH THE USE OF THAT BUILDING.

8 MR. DENNIS: YES, SIR.

9 CHAIRMAN: YOU UNDERSTAND ALL THE RULES AND  
10 GUIDELINES?

11 MR. DENNIS: YES, SIR.

12 MR. PEDLEY: MR. CHAIRMAN, ARE WE VOTING ON  
13 THESE SEPARATELY? MIGHT BE A SITUATION WHERE WE  
14 APPROVE ONE OR DENY THE OTHER. SO DO WE NEED TO DO IT  
15 TOGETHER OR SEPARATE?

16 CHAIRMAN: MR. ATTORNEY.

17 MR. SILVERT: IT'S AT THE CHAIR'S DISCRETION  
18 HOW YOU WANT TO ACCEPT THOSE MOTIONS.

19 CHAIRMAN: WHATEVER THE BOARD MEMBERS DESIRE,  
20 WE WILL DO IT THAT WAY.

21 MS. MASON: LET'S DO IT SEPARATE.

22 CHAIRMAN: OKAY. ENTERTAIN A MOTION.

23 MR. PEDLEY: MR. CHAIRMAN, I MAKE A MOTION ON  
24 NUMBER 1) HALL STREET SIDE FROM 25 FEET TO 18 FEET  
25 WITH STAFF'S FINDINGS 1 THROUGH 4, AND WITH THE

1 CONDITIONS THAT PARKING SHALL BE REQUIRED IF THE USE  
2 CHANGES TO ANYTHING OTHER THAN INDIVIDUAL STORAGE, AND  
3 VEHICLES ENTERING OR EXITING THE SUBJECT PROPERTY  
4 SHALL NOT BACK FROM OR ONTO THE STREET.

5 CHAIRMAN: IS THERE A SECOND?

6 MR. DYSINGER: SECOND.

7 CHAIRMAN: A MOTION HAS BEEN MADE AND A  
8 SECOND. ANY OTHER COMMENTS OR QUESTIONS FROM THE  
9 BOARD?

10 (NO RESPONSE)

11 CHAIRMAN: STAFF HAVE ANYTHING ELSE TO ADD?

12 MR. NOFFSINGER: NO, SIR.

13 CHAIRMAN: HEARING NONE ENTERTAIN A MOTION ON  
14 NUMBER 1 IN FAVOR PLEASE RAISE YOUR RIGHT HAND.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: MOTION CARRIES.

17 NOW THE SECOND ITEM, PLEASE.

18 MR. PEDLEY: MR. CHAIRMAN, I MAKE A MOTION ON  
19 THE SECOND ONE, ON THE 14TH STREET SIDE WITH STAFF'S  
20 FINDING 1 THROUGH 4 AND WITH THE CONDITIONS THAT  
21 PARKING SHALL BE REQUIRED IF THE USE CHANGES TO  
22 ANYTHING OTHER THAN INDIVIDUAL STORAGE, AND VEHICLES  
23 ENTERING OR EXITING THE SUBJECT PROPERTY SHALL NOT  
24 BACK FROM OR ONTO THE STREET.

25 MS. MASON: SECOND.

1 CHAIRMAN: A MOTION HAS BEEN MADE AND A  
2 SECOND. ANY OTHER COMMENTS OR QUESTIONS FROM THE  
3 BOARD?

4 (NO RESPONSE)

5 CHAIRMAN: STAFF HAVE ANYTHING ELSE?

6 MR. NOFFSINGER: NO, SIR.

7 CHAIRMAN: HEARING NONE ALL IN FAVOR RAISE  
8 YOUR RIGHT HAND.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: MOTION CARRIES.

11 BEFORE WE PROCEED WITH THE NEXT ONE, I WANT TO  
12 ASK THE ATTORNEY TO PLEASE READ THE ZONING ORDINANCE  
13 ON THE NEXT ITEM SO EVERYBODY WILL HEAR BEFORE WE  
14 PROCEED, SIR.

15 MR. SILVERT: ARTICLE 8.2H(2), THAT ARTICLE.  
16 JUST A MOMENT, MR. CHAIR.

17 -----

18 ADMINISTRATIVE APPEAL

19 ITEM 3

20 3731 STRIKE THE GOLD COURT, ZONED R-1B  
21 CONSIDER A REQUEST FOR AN ADMINISTRATIVE APPEAL  
22 CONCERNING THE ZONING ADMINISTRATORS INTERPRETATION OF  
23 ARTICLE 8, SECTION 8.2H(2) REGARDING LIVESTOCK BEING  
24 KEPT IN A RESIDENTIAL ZONE.  
25 REFERENCE: ZONING ORDINANCE, ARTICLE 7, SECTION 7.35  
APPLICANT: JOHN C. & KRISTIN K. ALLEN

CHAIRMAN: WOULD YOU READ THE ZONING  
ORDINANCE, PLEASE?

1 MR. NOFFSINGER: NO, SIR, I DON'T HAVE THAT  
2 SECTION. WE HAVE IT, BUT I THINK THAT WILL BE PART OF  
3 MANUEL BALL'S PRESENTATION.

4 CHAIRMAN: DO YOU HAVE A COPY?

5 MR. BALL: YES, I DO.

6 CHAIRMAN: PLEASE READ IT FOR US, PLEASE.

7 MR. SILVERT: WOULD YOU STATE YOUR NAME,  
8 PLEASE?

9 MR. BALL: MANUEL BALL.

10 (MANUEL BALL SWORN BY ATTORNEY.)

11 MR. BALL: ARTICLE 8.2-H(2) IS ACTUALLY THE  
12 SCHEDULE OF ZONES, THE ZONES AND THE USE TABLE.

13 INSIDE THAT ZONE AND USE TABLE IT ACTUALLY  
14 READS THAT DAIRY AND STOCK RAISING IS ONLY A PERMITTED  
15 USE INSIDE AN A-R AND A-U ZONE. IT'S ACTUALLY INSIDE  
16 THE TABLE OF ZONES.

17 CHAIRMAN: PROCEED.

18 MR. BALL: WHERE I ACTUALLY CAME UP WITH MY  
19 INTERPRETATION IS STOCK RAISING IS NOT A PERMITTED USE  
20 OF THE PROPERTY LOCATED IN AN R-1B ZONE PER ARTICLE  
21 8.2-H(2) OF THE OWENSBORO ZONING ORDINANCE.

22 THE ACTIVITY OF STOCK RAISING IS ONLY  
23 PERMITTED IN A RURAL AGRICULTURAL OR URBAN  
24 AGRICULTURAL ZONE. THE ZONING ORDINANCE DOES NOT  
25 SPECIFICALLY DEFINE LIVESTOCK OR STOCK RAISING;

1       HOWEVER, BOTH THE DAVIESS COUNTY ANIMAL CONTROL  
2       ORDINANCE AND KRS CHAPTER 246 IDENTIFIES SHEEP AS  
3       BEING LIVESTOCK, WHICH IS WHAT IS IN QUESTION  
4       CURRENTLY.

5                 ARTICLE 8.2 IS BASICALLY THE ZONES AND TABLE  
6       USE. IT WAS DESIGNED TO DETERMINE THE USE OF THE  
7       PROPERTY. IT WAS DESIGNED TO LOOK AT THE USE ON THAT  
8       SPECIFIC PROPERTY. NOT NECESSARILY, IT DOES NOT TAKE  
9       INTO ACCOUNT WHETHER THAT PARTICULAR ACTIVITY IS  
10      PROFITABLE OR NOT TO THE OWNER.

11                HISTORICALLY OMPC STAFF HAS BEEN CONSISTENT  
12      WITH NOT ALLOWING LIVESTOCK SUCH AS HORSES, WHICH  
13      WOULD ALSO BE CONSIDERED A PET, INSIDE ANY ZONES WITH  
14      THE EXCEPTION OF AN A-U AND A-R ZONE.

15                THAT IS WHERE MY INTERPRETATION OF THE ZONING  
16      ORDINANCE CAME FROM.

17                THAT'S ALL OF I HAVE UNLESS YOU HAVE ANY  
18      QUESTIONS.

19                CHAIRMAN: ANY BOARD MEMBERS HAVE ANY  
20      QUESTIONS?

21                MR. DYSINGER: I DO, MR. CHAIRMAN.

22                THE KRS STATUTE REFERENCE SPECIFICALLY SAYS  
23      PROFIT DOES MATTER. AS THE ORDINANCE DOES NOT DEFINE  
24      STOCK RAISING, AND WE'RE REFERENCING KRS TO HELP US DO  
25      THAT, I'M SURE THE APPELLATE WILL GET INTO THIS IN

1       THEIR TESTIMONY, BUT IF IT'S NOT FOR PROFIT THEN WHY  
2       DO YOU THINK THAT STILL APPLIES, GIVEN THAT THE KRS  
3       SPECIFICALLY SAYS FOR PROFIT?

4               MR. BALL:   THE ZONES AND USE TABLE IT DOESN'T  
5       EVER TAKE INTO ACCOUNT WHETHER PROFIT IS GAINED FROM  
6       ANY OF THESE USES.   COULD BE PRINCIPALLY OR  
7       CONDITIONALLY APPROVED WITHIN THAT PARTICULAR ZONE  
8       WITHOUT ANY PROFIT BEING MADE AT ALL OR NOT.   FOR  
9       INSTANCE, YOU COULD HAVE A NONPROFIT ORGANIZATION THAT  
10      IS A BUSINESS THAT WOULD NOT BE PERMITTED INSIDE A  
11      RESIDENTIAL ZONE AS WELL; HOWEVER, PROFIT DOES NOT  
12      COME INTO PLAY IN THE USE IN THE ZONING TABLE.

13              MR. DYSINGER:   IN THE ORDINANCE, YOU MAY HAVE  
14      SAID THIS AND I APOLOGIZE, IS SHEEP SPECIFICALLY  
15      IDENTIFIED AS LIVESTOCK?

16              MR. BALL:   SHEEP IS NOT SPECIFICALLY  
17      IDENTIFIED.   NEITHER IS LIVESTOCK.   THERE'S NOT AN  
18      ACTUAL DEFINITION OF LIVESTOCK WITHIN THE ORDINANCE.

19              MR. DYSINGER:   WITH REFERENCE TO DAVIESS  
20      COUNTY FISCAL COURT'S ANIMAL CONTROL AND PROTECTION  
21      POLICY --

22              MR. SILVERT:   WHICH WE DO NOT FORCE.

23              MR. DYSINGER:   WHICH WE DON'T ENFORCE;  
24      THEREFORE, I HAVE NO QUESTIONS ON IT.

25              THAT'S ALL THE QUESTIONS I HAVE AT THIS TIME,

1 MR. CHAIRMAN.

2 CHAIRMAN: ANY OTHER BOARD MEMBERS HAVE ANY  
3 QUESTIONS AT THIS TIME?

4 (NO RESPONSE)

5 CHAIRMAN: STAFF HAVE ANY OTHER QUESTIONS AT  
6 THIS TIME OR COMMENTS?

7 MR. NOFFSINGER: NO, SIR.

8 CHAIRMAN: THANK YOU.

9 THE APPLICANT, YOU WANT TO COME FORWARD AND  
10 STATE YOUR PRESENTATION, PLEASE.

11 MR. SILVERT: STATE YOUR NAME, PLEASE.

12 MR. ALLEN: MY NAME IS JOHN ALLEN.

13 (JOHN ALLEN SWORN BY ATTORNEY.)

14 MR. ALLEN: FIRST OF ALL, CHAIRMAN AND BOARD,  
15 I APPRECIATE THE OPPORTUNITY TO SPEAK TO YOU ABOUT  
16 THIS THIS EVENING.

17 IN OUR APPEAL, WE HAD PROVIDED WHAT I CONSIDER  
18 A PRETTY EXHAUSTIVE LIST IN REGARDS TO THE ALLEGED  
19 VIOLATION THAT WAS POSTED TO US. I TRUST THAT YOU'VE  
20 HAD AN OPPORTUNITY TO LOOK AT THAT ATTACHMENT TO THAT  
21 APPEAL. CAN I GET A CONFIRMATION THAT YOU ALL HAVE  
22 HAD A CHANCE TO LOOK AT THAT?

23 CHAIRMAN: YES, SIR.

24 MR. ALLEN: I WANTED TO GO THROUGH THESE  
25 INDIVIDUALLY.

1 AS WE ALREADY HEARD, THE TERM OF STOCK RAISING  
2 IS A COMMERCE-RELATED DEFINITION. I SHARE YOU WITH A  
3 NUMBER OF THINGS HERE REGARDING WHAT A DEFINITION OF  
4 STOCK RAISING IS AS IT IS BEING FOR PROFIT REARING  
5 ACTIVITY.

6 THE ANOTHER THING I WILL MAKE A NOTE OF IS  
7 THAT EVERYTHING THAT IS IN THIS SCHEDULE OF -- I WANT  
8 TO MAKE A CORRECTION. I KEPT HEARING THAT THIS WAS  
9 8.2. ACTUALLY I BELIEVE 8-10 IS THE SCHEDULE OF ZONES  
10 UNDER ARTICLE 8. IT IS THE H-2 SECTION OF THAT CHART.

11 YOU NOTED THAT EVERYTHING THAT IS LISTED  
12 THERE, IN PARTICULAR 1H-2 IS FOR DAIRYING AND STOCK  
13 RAISING, WHICH IS SUBTITLED UNDER THE TERM  
14 "AGRICULTURAL." AGRICULTURAL, AGAIN, IS ANOTHER TERM  
15 THAT IS REFERENCING TO SOME SORT OF PROFIT REARING.

16 I WANTED TO BE ABLE TO LET YOU KNOW THAT WHAT  
17 WE HAVE AT OUR PROPERTY IS NOT FOR UTILITY. IT IS  
18 STRICTLY AS A PET FOR APPLICATION. WE REALLY DO NOT  
19 FEEL THAT THIS ALLEGED VIOLATION FITS WITHIN THIS  
20 CONDITION OF H-2. IF ANYTHING, IT WOULD FALL UNDER  
21 THE CATEGORY I, WHICH THERE ARE NO RESTRICTIONS FOR US  
22 HAVING A DOMESTIC ANIMAL AT OUR PROPERTY.

23 FURTHERMORE, IN MY BULLET POINT NUMBER 3  
24 REGARDING CHAPTER 246 OF THE KRS, THEY FURTHER DEFINE  
25 WHAT LIVESTOCK IS, AND I WON'T DISAGREE THAT SHEEP IS

1        CONSIDERED LIVESTOCK, BUT IT'S ALSO WITH A CONDITION  
2        THAT IS FOR PROFIT. SO LIVESTOCK, AGAIN, IS A PROFIT  
3        DRIVEN TERM. WE DO NOT HAVE THESE SHEEP AT OUR HOUSE  
4        TO SHARE FOR THEIR WOOL OR EVEN RAISE THEM, BREED  
5        THEM, TO SLAUGHTER THEM FOR FOOD. WE DON'T EVEN USE  
6        THEM FOR OUR ONLY PERSONAL FOOD. WE DON'T DAIRY THE  
7        SHEEP FOR MILK, FOR MAKING ANY TYPE OF MILK PRODUCTS.  
8        WE DON'T FALL UNDER THAT. THEREBY, WHAT WE HAVE THERE  
9        IS NOT A LIVESTOCK DEFINITION.

10                THE LAST THING I WANTED TO MENTION THEN IS ON  
11        THE ORDINANCE REGARDING KOC 1010.6, I REALIZE THAT'S  
12        NOT SOMETHING THAT YOU ALL HAVE, BUT IT FURTHER  
13        IDENTIFIES WHAT A PET IS. WHAT THEY DEFINE IN THERE  
14        IS A DOMESTIC ANIMAL, WHICH SHEEP FALLS WITHIN THAT  
15        DEFINITION OF THIS DOMESTIC ANIMAL, AND FURTHERMORE  
16        THEY DEFINE THAT PETS ARE SOMETHING THAT ARE NOT BEING  
17        USED AS UTILITY.

18                SO I FEEL LIKE THAT IS A VALID CONDITION FOR  
19        WHAT WE ARE CLAIMING AS BEING OUR PURPOSE FOR HAVING  
20        THESE SHEEP AT OUR RESIDENCE.

21                I PUT ALL OF THIS IN A SUMMARY MODE. I DO  
22        HAVE ATTACHMENTS OF THESE THAT I ACTUALLY PULLED OFF  
23        THE INTERNET THAT HAS THIS TYPE OF INFORMATION.

24                WE ALSO HAVE INFORMATION I CAN SHARE WITH YOU  
25        ABOUT THE SHEEP THEMSELVES.

1           WE HAVE PUT A LOT OF INVESTMENT INTO THEM AS  
2           PETS, AS WE WOULD TREAT THEM JUST AS WE WOULD A DOG OR  
3           A CAT. WE HAD ONE SHEEP THAT'S JUST ABOUT A YEAR OLD  
4           NOW THAT HAD A JOINT DISEASE AND WE SPENT A LOT OF  
5           MONEY TREATING THAT, MORE OF A VETERINARIAN TYPE  
6           ACTION. WE ALSO HAD NEUTERED THIS PARTICULAR SHEEP SO  
7           THAT, YOU KNOW, WE DON'T FALL WITHIN THIS BREEDING  
8           CONCEPT. SOMETHING WE'RE NOT DESIRING TO RAISE SHEEP,  
9           TO TURN THEM OVER FOR GENERATING A PROFIT. I HAVE  
10          THOSE AS ATTACHMENTS, IF YOU WOULD LIKE TO HAVE THOSE  
11          PRESENTED FOR THE RECORD.

12           CHAIRMAN:   WHATEVER YOU'VE GOT TO HELP US  
13          DETERMINE.

14           MR. ALLEN:   I MAY HAVE MADE FIVE COPIES OF  
15          THIS. CAN I APPROACH?

16           CHAIRMAN:   PLEASE, SIR.

17           MR. SILVERT:  IF YOU WOULD, LEAVE ONE WITH OUR  
18          COURT REPORTER.

19           WOULD YOU LIKE TO OFFICIALLY ENTER THAT INTO  
20          THE RECORD AS AN EXHIBIT?

21           MR. ALLEN:   YES, I WOULD.

22           CHAIRMAN:   SO NOTED.

23           MR. ALLEN:   I'M TAKING SOME SAMPLES HERE OF  
24          LIVESTOCK DEFINITIONS. IT'S NOT SOMETHING I JUST  
25          PULLED TOGETHER. THE NEXT PAGE REFERS TO ANIMAL

1 HUSBANDRY WHICH IS BASICALLY BREEDING AND RAISING OF  
2 LIVESTOCK. PROVIDE INFORMATION HERE ABOUT FARM, WHICH  
3 IS ANOTHER THING I WANTED TO JUST TOUCH ON.

4 AS YOU NOTICE THAT IN THE SCHEDULE FOR THE  
5 ZONING ORDINANCE, FARMING, WHICH IS PART OF AN  
6 AGRICULTURAL ITEM WHICH I THINK IS H-3, YOU'LL NOTICE  
7 THAT THAT IS PERMITTED WITHIN THE RESIDENTIAL ZONES.  
8 SO THERE'S OBVIOUSLY A REASON WHY THAT WAS PUT IN  
9 THERE, BUT IT STILL DOESN'T MEET FROM WHAT WE'RE  
10 SAYING THAT IF OUR ANIMALS WERE TO BE PUT INTO A  
11 CONSIDERATION OF BEING A FARM ANIMAL, THEN THAT WOULD  
12 FALL UNDER THAT AND BE ELIGIBLE TO MEET THAT  
13 REQUIREMENT THAT IS ACCEPTED BY THAT SCHEDULE OF ZONE.

14 ALSO, THEN I'VE GOT A LIST OF INVOICES IN HERE  
15 THAT IS FROM OUR VETERINARIAN THAT WAS SERVICING THE  
16 PARTICULAR ONE SHEEP THAT WE HAVE THAT HAD SOME  
17 PHYSICAL AILMENTS WITH. THAT SHEEP HAS WELL OVERCOME  
18 THOSE. WE'RE GRATEFUL FOR THAT.

19 I JUST WANTED TO PROVIDE THIS TO YOU AS  
20 SUPPLEMENTS OF INFORMATION TO IDENTIFY OUR CLAIM.  
21 THAT WE HAVE HERE A SITUATION WHERE WE'RE DEALING WITH  
22 PETS AND NOT DEALING WITH THE CLASSIFICATION OF H-2,  
23 WHICH IS A PROFIT REARING STOCK RAISING AND DAIRY.

24 THAT'S ALL I HAVE TO SAY ABOUT THE MATTER. I  
25 APPRECIATE YOUR ATTENTION.

1           CHAIRMAN: ANY BOARD MEMBER HAVE QUESTIONS OF  
2 THE APPLICANT?

3           MR. DYSINGER: YES, MR. CHAIRMAN.

4           HOW MANY SHEEP ARE WE TALKING ABOUT?

5           MR. ALLEN: WE HAVE THREE. WE HAVE ONE SHEEP  
6 THAT'S THREE YEARS OLD AND WE HAVE TWO OTHERS THAT ARE  
7 A YEAR OLD.

8           MR. DYSINGER: WHAT ARE THEIR NAMES?

9           MR. ALLEN: THE THREE YEAR OLD'S NAME IS  
10 BEATRICE, FEMALE, OBVIOUSLY. THE OTHER ONE YEAR OLD  
11 IS NAMED BENNETT, WHICH IS A BOY. THE THIRD ONE IS  
12 BETSY.

13          MR. DYSINGER: THIS IS A SERIOUS MATTER.  
14 PLEASE DON'T TAKE MY GIGGLE AS A SIGN I DON'T TAKE IT  
15 SERIOUSLY. THE KIDS REALLY STARTED GIGGLING WHEN YOU  
16 COULDN'T GET THE NAME QUITE RIGHT.

17          THE WOOL, DO YOU HARVEST THE WOOL?

18          MR. ALLEN: NO, WE DO NOT. WE DO SHEER THEM  
19 JUST FOR THEIR CONVENIENCE IN THE SUMMER MONTHS.  
20 OBVIOUSLY, WE LET THAT GROW OUT DURING THE WINTER. WE  
21 JUST BASICALLY THROW IT AWAY.

22          MR. DYSINGER: THIS IS GOING TO SOUND LIKE A  
23 SILLY QUESTION, AND I DON'T MEAN IT TO. DO THE KIDS  
24 PLAY WITH THE SHEEP?

25          MR. ALLEN: NOT ONLY DO OUR KIDS PLAY WITH IT,

1 I ALSO HAVE SOME PHOTOS OF THESE WHERE THEY'RE  
2 INTERACTING WITH OUR KIDS. IF YOU WOULD LIKE ME TO  
3 SHARE THAT WITH YOU AS WELL, I HAVE A FEW PHOTOS OF  
4 THESE.

5 THE FIRST PICTURE THERE IS OUR OLDEST DAUGHTER  
6 WITH THE OLDEST SHEEP. THAT WAS A LITTLE BIT OF A  
7 HALLOWEEN OUTFIT. AS YOU CAN SEE, THE DAUGHTER IS  
8 ACTUALLY DRESSED UP LIKE THE SHEEP AND THE SHEEP IS  
9 ACTUALLY DRESSED UP LIKE LITTLE BO PEEP. THAT'S THE  
10 INTERACTION WE HAVE.

11 YOU SEE OTHERS WHERE SHE'S USING THE LARGE  
12 SHEEP AS A FOOT STOOL. SO THEY'RE INTERACTIVE. WE  
13 ALSO HAVE SIX DOGS THAT LIVE AT OUR HOUSE. THEY  
14 MOSTLY LIVE INSIDE. OUR DOGS ALSO INTERACT WITH THE  
15 SHEEP. WE HAVE ABOUT A 60 FOOT BY 70 FOOT BACK YARD  
16 THAT'S FENCED IN. SO THERE'S A LOT OF ROOM FOR THEM  
17 TO ROAM AROUND. WE HAVE A COVERED 10 BY 10 ENCLOSURE  
18 FOR THEM TO BED DOWN AT NIGHT. THEY'RE OUTDOOR  
19 OBVIOUSLY.

20 TO ANSWER YOUR QUESTION, YES, THEY INTERACT  
21 QUITE REGULARLY WITH OUR CHILDREN AND WITH OUR OTHER  
22 PETS.

23 MR. DYSINGER: MR. CHAIRMAN, THAT'S ALL THE  
24 QUESTIONS I HAVE RIGHT NOW.

25 CHAIRMAN: THANK YOU.

1 MR. REEVES: I HAVE A QUESTION AND IT'S  
2 PROBABLY FOR MR. BALL, I GUESS.

3 WHAT PRECIPITATED THE VIOLATION NOTICE?

4 MR. BALL: THE VIOLATION NOTICE WAS  
5 PRECIPITATED DUE TO MULTIPLE COMPLAINTS.

6 MR. REEVES: FROM? YOU DON'T HAVE TO NAME  
7 NAMES, BUT FROM NEIGHBORS, PASSERBY?

8 MR. BALL: I ASSUME THEY'RE FROM NEIGHBORS.

9 MR. DYSINGER: CAN CHARACTERIZE THE NATURE OF  
10 THE COMPLAINS? NOISE? ODOR?

11 MR. BALL: JUST A COMPLAINT THAT THERE WAS  
12 SHEEP IN A RESIDENTIAL COMMUNITY. THEY DID NOT FEEL  
13 LIKE THOSE WERE NEEDED IN A RESIDENTIAL COMMUNITY.

14 I WOULD JUST LIKE TO JUST CLARIFY ONE OTHER  
15 THING TOO.

16 THE ZONES AND USE TABLE DOESN'T HAVE ANYTHING  
17 AT ALL TO DO WITH PROPERTY. IT IS A SPECIFIC USE OR  
18 ACTIVITY INSIDE A CERTAIN ZONE. IT REALLY DOESN'T  
19 HAVE ANYTHING TO DO WITH A PROFIT AS BEING GAINED OR  
20 NOT FROM THAT SPECIFIC ACTIVITY.

21 MR. DYSINGER: MR. CHAIRMAN, UNDERSTOOD ABOUT  
22 THE TABLE. THE PROBLEM I'M HAVING AT THIS POINT IS  
23 THE ORDINANCE DOES NOT SEEM TO DEFINE WHAT ANIMALS ARE  
24 BY DEFINITION LIVESTOCK AND WHAT ANIMALS ARE BY  
25 DEFINITION PETS. IF THE STAFF COULD SHED SOME LIGHT

1 ON THAT, I WOULD BE GRATEFUL.

2 MR. NOFFSINGER: THE ZONING ORDINANCE IS VERY  
3 LIMITED IN TERMS OF LANGUAGE BECAUSE YOU CAN'T DEFINE  
4 EVERYTHING. WE HAVE A SECTION IN THERE THAT DEALS  
5 WITH DAIRYING AND STOCK RAISING. TYPICALLY, AS MR.  
6 BALL HAS RESTATED HERE TONIGHT, THAT TYPICALLY HE  
7 LOOKED AT THE DEFINITION OF STOCK, LIVESTOCK, AND HE  
8 FOUND THAT SHEEP FIT INTO THAT. HE DID NOT FIND THE  
9 DEFINITION WHERE DOGS OR CATS FIT THAT DESCRIPTION OR  
10 IN THAT DEFINITION. SO THAT'S WHY HE CAME TO THE  
11 CONCLUSION THAT HE DID. THE ZONING ORDINANCE CANNOT  
12 DEFINE EVERY POTENTIAL TERM THAT'S OUT THERE. IT  
13 WOULD BE WEBSTER'S DICTIONARY IF IT DID. IT'S VERY  
14 LIMITED IN TERMS OF WHAT YOU CAN INCLUDE PHYSICALLY  
15 AND HAVE THE ABILITY TO INCLUDE. YOU DO HAVE TO LOOK  
16 AT OTHER OUTSIDE SOURCES FOR DEFINITIONS, PARTICULAR  
17 CONCEPTS OR TERMINOLOGY.

18 CHAIRMAN: ANY OTHER?

19 MR. YEISER: MR. CHAIRMAN, I WOULD LIKE TO ASK  
20 QUESTION OF MR. ALLEN.

21 ARE YOU PLANNING ON HAVING MORE SHEEP OR IS  
22 THIS ALL YOU'RE GOING TO HAVE? I CAN UNDERSTAND WHERE  
23 IF YOU WERE GOING TO KEEP ON HAVING THEM, PEOPLE ARE  
24 REALLY GOING TO GET UPSET ABOUT IT. IS THESE THREE  
25 ALL YOU'RE GOING TO HAVE?

1           MR. ALLEN: THIS IS ALL THAT WE ARE INTENDING  
2 TO POSSESS. THE THIRD ONE ACTUALLY CAME AS A RESULT  
3 OF SOMEBODY CALLED US THAT THEY HAD THIS SHEEP THAT  
4 WASN'T GOING TO MAKE IT. WE TOOK IT IN AS AN  
5 ADDITION. WE WERE ONLY PLANNING ON HAVING TWO. THE  
6 THIRD ONE SORT OF CAME ALONG BECAUSE OF THE AILMENT  
7 THAT IT HAD. WE DIDN'T WANT TO SEE THE ANIMAL BE PUT  
8 DOWN BECAUSE WE FELT LIKE IT HAD SOME HOPE TO IT. WE  
9 SPENT A LOT OF PERSONAL MONEY TO TEND TO THAT.

10           MR. YEISER: DO YOU KEEP THE PIN VERY CLEAN  
11 WHERE THERE'S NO ODOR FOR YOUR NEIGHBORS TO HAVE TO  
12 SMELL OR ANY NUISANCE TO THEM IN ANY WAY?

13           MR. ALLEN: I CAN GIVE YOU A LITTLE BIT OF A  
14 HISTORY. THIS ISN'T THE ONLY COMPLAINT THAT WE'VE  
15 HAD. WE'VE HAD PRACTICALLY EVERY AGENCY, GOVERNMENT  
16 AGENCY IN THE COUNTY AT OUR RESIDENCE. WE'VE HAD THE  
17 DAVIESS COUNTY SHERIFF'S DEPARTMENT. ANIMAL CONTROL  
18 HAS BEEN OUT THERE A COUPLE OF TIMES. WE'VE HAD THE  
19 STATE POLICE WAS EVEN THERE AT ONE TIME. WE EVEN HAD  
20 A CRIMINAL CHARGE BROUGHT UP AGAINST US BECAUSE OF OUR  
21 DOGS AND THE SHEEP BECAUSE OF AN ODOR THAT THE ANIMAL  
22 CONTROL, WHICH IS IRONIC, THEY ACTUALLY FILED THE  
23 CRIMINAL COMPLAINT ON US, BUT THEY HAD COME OUT THE  
24 WEEK PRIOR TO FILING THAT AND DIDN'T FIND ANYTHING  
25 WRONG. WE WENT THROUGH ABOUT A TWO OR THREE MONTH

1 ORDEAL OF WORKING THROUGH THAT. THE CHARGES WERE  
2 DROPPED WHEN THEY WERE BROUGHT TO TRIAL BECAUSE THE  
3 ANIMAL CONTROL GROUP DID NOT HAVE A CASE.

4 THE ANSWER TO YOUR QUESTION, WE KEEP THE  
5 FACILITY VERY CLEAN. WE CHANGE THEIR STALL OR THEIR  
6 ENCLOSURE ON A REGULAR BASIS.

7 WE PUT LIME ON THE YARD, WHICH IS BASICALLY AN  
8 ODOR RETARDANT, IF YOU WILL, TO KEEP THAT DOWN. WE  
9 ALSO HAVE LARGE DOGS THAT USE THE BACKYARD AS WELL AND  
10 WE KEEP THAT CLEANED UP.

11 MR. YEISER: DO YOU HAVE A FENCE THAT'S A  
12 SOLID FENCE OR DO YOU HAVE A FENCE THAT PEOPLE CAN SEE  
13 THROUGH?

14 MR. ALLEN: IT'S A SEE THROUGH FENCE. IT'S  
15 WHITE PVC TYPE FENCE. IT'S FOUR FOOT TALL.

16 MR. YEISER: ABOUT LIKE A WIRE FENCE OR  
17 SOMETHING ANYBODY CAN SEE IN?

18 MR. ALLEN: IT'S NOT A WIRE FENCE. THERE'S A  
19 PICTURE OF THE FENCE IN ONE OF THOSE PHOTOS THERE.

20 MR. YEISER: YES, I SEE IT IN YOUR PICTURE  
21 HERE.

22 THAT'S ALL THE QUESTIONS I HAVE, MR. CHAIRMAN.

23 CHAIRMAN: ANY OTHER BOARD MEMBERS HAVE ANY  
24 COMMENTS OR QUESTIONS AT THIS TIME?

25 MR. SILVERT: WOULD YOU STATE YOUR NAME,

1 PLEASE?

2 MRS. ALLEN: MY NAME IS KRISTIN ALLEN.

3 (KRISTIN ALLEN SWORN BY ATTORNEY.)

4 MRS. ALLEN: I JUST WANT TO ADD JUST A COUPLE  
5 OF THINGS.

6 AS YOU LOOK THROUGH, JOHN MADE THE COMMENT  
7 ABOUT FINANCIAL -- I'M SORRY, THIS IS A SHAKY SUBJECT  
8 FOR ME. IT'S KIND OF LIKE IF YOU ALL, IF SOMEONE WAS  
9 SAYING TO YOU, YOU HAVE TO GET RID OF YOUR DOG OR YOU  
10 HAVE TO GET RID OF YOUR CAT. IT'S THE SAME THING FOR  
11 US.

12 WHEN WE TALK OUTSIDE AND WE CALL THEIR NAMES  
13 AND THEY COME TO US INDIVIDUALLY. THEY'RE JUST,  
14 THEY'RE VERY MUCH LIKE DOGS. BENNETT, WHEN HE WAS  
15 GOING THROUGH HIS -- HE ACTUALLY WAS BORN INTO A VERY  
16 DIRTY SITUATION. THE MOTHER WAS DOWN AND SHE HAD NO  
17 MILK. THIS WOMAN CALLED ME AND SHE SAID, DO YOU  
18 THINK, YOU KNOW, WILL YOU RAISE, WILL YOU BOTTLE FEED  
19 HIM? I SAID, I JUST DON'T THINK THAT I CAN DO THIS.  
20 I SAID, BUT YOU'LL BOTTLE FEED HIM, RIGHT? SHE SAID,  
21 I'M JUST A CRUSTY OLD WOMAN AND, SHE SAID, I'M JUST  
22 GOING TO HAVE TO LET NATURE TAKE ITS COURSE. WITHIN  
23 HALF AN HOUR I WAS UP PICKING UP THE SHEEP. NOT ONLY  
24 DO WE HAVE A FINANCIAL INTEREST IN THIS SHEEP BECAUSE  
25 OF ALL THE MONEY, IF YOU WOULD ADD UP I IMAGINE THAT

1 IT'S WELL OVER \$1,000 THAT WE'VE SPENT ON ACUPUNCTURE  
2 AND OTHER THINGS ON THE SHEEP. IT'S PERSONAL. IT'S  
3 JUST LIKE -- YOU CAN SEE IN SOME OF THE PICTURES, LIKE  
4 THE DOG, WHEN THE SHEEP WAS A BABY, HE WOULD LAY ON  
5 HER BED WITH A DIAPER ON. HE WOULD BE LAYING THERE  
6 WITH THE DOG. IT'S NOT LIKE HE'S SOME SORT OF -- I'VE  
7 BEEN TO FARMS AND YOU CAN'T EVEN APPROACH A SHEEP  
8 THERE BECAUSE THEY'RE SO WILD. THESE ARE JUST --  
9 ALSO, ON ANOTHER PERSONAL NOTE. MY CHILDREN ARE ALL  
10 HERE TODAY BECAUSE THEY WANT TO BE HERE. NOT BECAUSE  
11 THEY HAVE TO BE HERE. THEY'RE THEIR PETS AND WE LOVE  
12 THEM JUST LIKE WE LOVE OUR DOGS AND OUR CATS. THAT'S  
13 ALL. THANK YOU.

14 CHAIRMAN: ANY OTHER QUESTIONS OF THE  
15 APPLICANT?

16 (NO RESPONSE)

17 CHAIRMAN: STAFF HAVE ANYTHING ELSE AT THIS  
18 TIME?

19 MR. NOFFSINGER: NO, SIR.

20 MR. PEDLEY: MR. CHAIRMAN, I THINK THE ISSUE  
21 HERE IS DEFINED WHETHER IT IS A PET OR ACTUALLY A FARM  
22 ANIMAL FOR REPRODUCTION OR PRODUCING A PRODUCT FOR  
23 SALE. THE APPLICANT HAS STATED IN HIS APPLICATION  
24 HERE, IT SAYS, "WE DO NOT RAISE THESE SHEEP FOR  
25 BREEDING, NOR DO WE MILK THE SHEEP FOR ANY REASON, NOR

1 DO WE SELL THE SHEEP'S WOOL FROM SHEARING, NOR DO WE  
2 FEED OUR SHEEP FOR THE PURPOSE OF SLAUGHTERING TO  
3 PRODUCE MEAT." THAT JUST BASICALLY TAKE IT AWAY FROM  
4 BEING A LIVESTOCK OR A FARM ANIMAL.

5 STAFF'S SIDE THEY'VE GOT A DIFFERENT  
6 DEFINITION OF ACTUALLY WHAT THE SHEEP ARE. THAT'S THE  
7 ISSUE WE HAVE, THE ISSUE WE MUST COME TO A DECISION  
8 ON.

9 THE APPLICANT HAS STATED IN HIS APPLICATION  
10 THAT HIS PURPOSE IS STRICTLY FOR A PET. ALTHOUGH, HE  
11 DID NOT SIGN THAT APPLICATION THAT I SEE HERE ON THIS.  
12 WELL, HE DID TOO. HE SIGNED IT SO IT BECOMES AN  
13 AFFIDAVIT.

14 I'M UNDECIDED WHETHER THE ORDINANCE IS CORRECT  
15 AS LIVESTOCK OR IS IT CORRECT AS A PET. IF THE THREE  
16 SHEEP IS ALL THAT THEY INTEND TO KEEP, NO MORE THEN  
17 HAVING DOGS. SO IN REALTY, THEY HAVE PETS THERE.  
18 THAT'S MY SIDE OF IT. I'LL GIVE THE REST OF THE BOARD  
19 MEMBERS AN OPPORTUNITY TO SPEAK.

20 MR. REEVES: I GUESS I TAKE A COMPLETELY  
21 OPPOSITE POINT OF VIEW OF MR. PEDLEY IN ALL RESPECT.  
22 I DON'T THINK THERE'S ANY DOUBT IN ANYBODY'S MIND IF  
23 YOU SAY LIVESTOCK, I THINK SHEEP IS LIVESTOCK. I HAVE  
24 NO DOUBT IN MY MIND.

25 MY CONCERN IS, I MEAN I HAD AN UNCLE THAT

1 RAISED CATTLE AND THEY NAMED THEM OUT ON THE FARM.  
2 THEY WOULD ALL COME AS THEIR NAME BEING CALLED. THEY  
3 WERE PETS. THEN THEY WOULD GO TO BE SOLD AND  
4 SLAUGHTERED FOR MEAT.

5 I'M JUST VERY CONCERNED ABOUT A PRECEDENCE  
6 THIS MIGHT SET IF SOMEBODY ELSE WANTED TO HAVE A HORSE  
7 AS THEIR PET IN THE YARD THAT WOULD ANSWER TO A NAME,  
8 OR COW IN THE YARD THAT WOULD ANSWER TO A NAME, OR A  
9 BUFFALO IN THE YARD THAT WOULD ANSWER TO A NAME. THEY  
10 ALL MIGHT BE VERY WELL MY PET, BUT I DO NOT SEE IT  
11 BEING APPROPRIATE IN A RESIDENTIAL SETTING WHERE YOU  
12 HAVE NEIGHBORS. THERE'S NO DOUBT -- I DON'T KNOW THAT  
13 THEY CAN GUARANTEE US THEY WON'T HAVE ANY MORE. I  
14 DON'T KNOW WHETHER THE MALE IS NEUTERED. I THINK THIS  
15 SETS A VERY, VERY DIFFICULT PRECEDENCE IF WE ALLOW  
16 THIS.

17 CHAIRMAN: ANY OTHER BOARD MEMBER HAVE A  
18 COMMENT BEFORE WE --

19 MR. DYSINGER: MR. CHAIRMAN, UPON LOOKING AT  
20 THE APPLICATION, I WAS INCLINED TO SIDE WITH STAFF, AT  
21 LEAST WITH THE SPIRIT OF WHAT I THINK THE ORDINANCE  
22 INTENDS TO PREVENT. SOME OF THE THINGS THAT MR.  
23 REEVES IS REFERRING TO.

24 HOWEVER, THE EVIDENCE THAT I HAVE SEEN TONIGHT  
25 MEANS THESE ANIMALS MEET THE DEFINITION OF A PET ON

1 ALMOST EVERY LEVEL. I WOULD EVEN GO SO FAR AS TO SAY  
2 THAT IF THERE WAS EVIDENCE THAT THE WOOL WAS USED TO  
3 SO MUCH AS STUFF A PILLOW, THAT'S A UTILITY USE AND  
4 THEREFORE WOULD NUDGE THIS OVER INTO LIVESTOCK. WE  
5 HAVE A PHOTOGRAPH IN EVIDENCE OF A SHEEP WEARING A  
6 HAT, MR. CHAIRMAN. I MEAN THAT'S A PET. I THINK I  
7 TEND TO AGREE WITH MR. PEDLEY, I MIGHT SAY MUCH TO MY  
8 SURPRISE AT THE BEGINNING OF THIS MEETING.

9 MR. YEISER: I AGREE TOO. I THINK THE  
10 ORDINANCE IS TOO LAX IN SAYING THAT THEY CAN'T HAVE IT  
11 AS A PET. I READ THIS THING OVER THE WEEKEND AND  
12 LOOKED AT IT. I SEE NOWHERE THAT THEY HAVE REALLY  
13 DONE ANYTHING WRONG. A PET IS A PET. I THINK MAYBE  
14 IT SHOULD BE SOMETHING PUT IN WRITING SAYING THEY  
15 CAN'T HAVE MORE OR THEY CAN ONLY HAVE A CERTAIN LIMIT.  
16 IF ONE DIES, THEY WON'T REPLACE THAT MAYBE, BUT NOT  
17 HAVE SEVEN, EIGHT OR FIVE OR WHATEVER.

18 MS. MASON: I TOO WHENEVER I CAME THIS EVENING  
19 I HAD MIXED FEELINGS ABOUT IT AND I WAS GOING TO BE  
20 OPEN-MINED AS FAR AS LISTENING TO WHAT THEY HAD TO SAY  
21 AND WHAT MR. BALL HAD TO SAY. I FIND THAT WHAT I HAVE  
22 READ OR WHAT I'VE SEEN TONIGHT IS THAT THEY ARE PETS.

23 CHAIRMAN: BEFORE WE GO FURTHER, IF WE MAKE A  
24 MOTION WE CAN PUT REQUIREMENTS IN FOR THE FUTURE?

25 MR. PEDLEY: ARE YOU ASKING FOR A MOTION?

1 MR. NOFFSINGER: NO.

2 CHAIRMAN: WELL, WAIT. I JUST MAKE A  
3 STATEMENT. WE CAN PUT GUIDELINES IN IF WE SO DESIRE.

4 MR. NOFFSINGER: NO, SIR. NO, SIR.

5 CHAIRMAN: YOU CAN'T?

6 MR. NOFFSINGER: NO. YOU EITHER AGREE THAT  
7 THE ZONING ENFORCEMENT OFFICER MADE THE APPROPRIATE  
8 DECISION OR YOU DISAGREE WITH HIS DECISION AND STATE  
9 THAT HE ERRORED IN INTERPRETATION OF THE ORDINANCE.  
10 THEN KEEP IN MIND THAT THE ZONING ORDINANCE DOES NOT  
11 DEFINE PETS. THE DEFINITION YOU HAVE BEFORE YOU HERE  
12 IS A SEPARATE ORDINANCE FROM THE DAVIESS COUNTY FISCAL  
13 COURT, THEIR ANIMAL CONTROL ORDINANCE, AND WE DID NOT  
14 MAKE THAT A PART OF THE RECORD AND WE DO NOT HAVE THAT  
15 HERE TONIGHT. THE ZONING ORDINANCE DOES NOT DEFINE  
16 PET.

17 CHAIRMAN: THANK YOU.

18 MR. PEDLEY: IN OUR MOTION, WE MUST STATE THAT  
19 WE ARE NOT IN AGREEMENT WITH THE ZONING  
20 ADMINISTRATOR'S FINDINGS?

21 MR. NOFFSINGER: YES. AND THAT YOU WOULD HOLD  
22 THE APPEAL OF THE APPLICANT.

23 MR. REEVES: I WANT CLARIFICATION.

24 IF WE DID FIND FOR THE APPLICANT, DOES THIS  
25 SAY THAT WE ARE AGREEING THAT SHEEP ARE PETS?

1 MR. SILVERT: YOU WOULD BE STATING THAT IN  
2 THIS CASE WITH THE FACTS THAT ARE PRESENTED TO YOU IN  
3 THIS CASE THESE SHEEP ARE NOT LIVESTOCK. THAT'S WHAT  
4 YOU'RE SAYING. NOTHING MORE. THE FINDINGS OF THE  
5 ZONING ADMINISTRATOR IN ISSUING A NOTICE OF VIOLATION  
6 ARE BASED ON THE FACTS ON A CASE BY CASE BASIS.

7 CHAIRMAN: DO YOU HAVE ANYTHING ELSE YOU WOULD  
8 LIKE TO ADD?

9 MR. ALLEN: MR. REEVES, YOU WERE QUESTIONING  
10 ABOUT THE LEGITIMACY OF THE CONDITION OF THE MALE  
11 SHEEP. I ALSO HAVE A RECORD HERE OF THAT VETERINARY  
12 SERVICES WHERE THEY DID NEUTER THE SHEEP, IF YOU WOULD  
13 LIKE TO HAVE THAT AS WELL.

14 MR. REEVES: YOU MIGHT WANT TO HAND THAT IN.

15 MR. ALLEN: I WOULD LIKE TO ENTER THAT AS AN  
16 EXHIBIT AS WELL.

17 CHAIRMAN: BOARD MEMBERS HAVE ANY OTHER  
18 COMMENTS?

19 (NO RESPONSE)

20 CHAIRMAN: STAFF HAVE ANYTHING ELSE TO ADD?

21 MR. NOFFSINGER: NO, SIR.

22 CHAIRMAN: THE BOARD HAVE ANY OTHER QUESTIONS  
23 OR COMMENTS?

24 (NO RESPONSE)

25 CHAIRMAN: DO YOU HAVE ANYTHING ELSE YOU WOULD

1       LIKE TO ADD?

2               MR. ALLEN:  NO, SIR.

3               CHAIRMAN:  ENTERTAIN A MOTION TO DISPOSE OF  
4       THE ITEM, PLEASE.

5               MS. MASON:  I HAVE A QUESTION.

6               MR. BALL, DID YOU READ, YOU DID NOT READ  
7       EXACTLY WHAT THE ORDINANCE WAS, RIGHT, THAT YOU MADE  
8       YOUR FINDING ON?  DID YOU READ THAT ORDINANCE EARLIER?  
9       DID I MISUNDERSTAND?

10              MR. BALL:  THE ORDINANCE IS THE USE AND ZONES  
11      TABLE WHICH BASICALLY SHOWS WHAT ACTIVITIES OR USES  
12      ARE PERMITTED WITHIN CERTAIN ZONES.

13              MS. MASON:  IT JUST SAYS LIVESTOCK OR NOT.  IT  
14      DOESN'T NECESSARILY DEFINE WHAT LIVESTOCK IS?

15              MR. BALL:  IT DOES NOT DEFINE WHAT LIVESTOCK  
16      IS.  IT STATES THAT STOCK RAISING OR RAISING OF STOCK  
17      IS NOT A PERMITTED USE WITHIN ANY ZONE WITH THE  
18      EXCEPTION OF A-R AND A-U.

19              MR. NOFFSINGER:  MR. BALL, DOES THE CITY OF  
20      OWENSBORO'S ANIMAL CONTROL ORDINANCE PROHIBIT SHEEP  
21      WITHIN A RESIDENTIAL ZONE?

22              MR. BALL:  I DO NOT BELIEVE SO.

23              MR. NOFFSINGER:  WHAT ANIMALS DOES IT  
24      PROHIBIT, THE CITY OF OWENSBORO?

25              MR. BALL:  NON-DOMESTICATED ANIMALS.

1 MR. NOFFSINGER: DO THEY DEFINE  
2 NON-DOMESTICATED ANIMALS?

3 MR. BALL: THEY DO DEFINE NON-DOMESTICATED  
4 ANIMALS.

5 MR. NOFFSINGER: DO YOU RECALL THAT  
6 DEFINITION.

7 MR. BALL: I CAN ACTUALLY READ THAT  
8 DEFINITION, I BELIEVE.

9 THE DEFINITION OF DOMESTIC ANIMALS OR  
10 NON-DOMESTICATED ANIMALS?

11 MR. NOFFSINGER: NON-DOMESTICATED AND  
12 DOMESTICATED.

13 CHAIRMAN: PLEASE READ THEM BOTH.

14 MR. BALL: SURE.

15 DOMESTIC ANIMAL - ANY OF THE FOLLOWING  
16 ANIMALS: DOMESTIC DOG, CAT, RABBIT, MOUSE, RAT,  
17 REPTILE, GUINEA PIG, CHINCHILLA, HAMSTER, GERBIL,  
18 FERRET. DOMESTIC ANIMAL ALSO INCLUDES LIVESTOCK WHICH  
19 INCLUDES CATTLE, SHEEP, SWINE, GOATS, HORSES, LLAMAS,  
20 BUFFALOES, OR ANY OTHER ANIMALS OF THE BOVINE, OVINE,  
21 PORCINE, LAGOMORPHS, CAPRINE OR EQUINE SPECIES, DEER  
22 AND ELK, WHOSE REGULATORY REQUIREMENTS ARE UNDER KRS  
23 CHAPTERS 150 AND 246, AS WELL AS POULTRY, RATITES AND  
24 CORVINE, THAT ARE PRIVATELY OWNED AND RAISED IN A  
25 CONFINED AREA FOR BREEDING STOCK, FOOD, FIBER AND

1 OTHER PRODUCTS.

2 UNDER NON-DOMESTIC ANIMALS IT STATES, "NO  
3 PERSON SHALL KEEP OR PERMIT TO BE KEPT ON THE PREMISES  
4 ANY NON-DOMESTIC ANIMAL. THIS SECTION SHALL NOT BE  
5 CONSTRUED TO APPLY TO ZOOLOGICAL PARKS, PERFORMING  
6 ANIMAL EXHIBITS SERVICES OR AREA MUSEUM."

7 MR. NOFFSINGER: GIVEN THAT, IN THE CITY, AND  
8 I REALIZE YOU'RE LOCATED OUTSIDE THE CITY.

9 MR. BALL: I BELIEVE THIS IS ACTUALLY THE,  
10 IT'S AN ORDINANCE ESTABLISHING ANIMAL CONTROL AND  
11 PROTECTION POLICY FOR THE DAVIESS COUNTY FISCAL COURT.

12 MR. NOFFSINGER: I ASKED YOU FOR THE CITY OF  
13 OWENSBORO.

14 MR. BALL: I DO NOT HAVE THAT. I APOLOGIZE.

15 MR. NOFFSINGER: WHAT I WAS TRYING TO SHOW  
16 THERE WAS THAT THERE'S A DIFFERENCE BETWEEN THE CITY  
17 OF OWENSBORO'S ANIMAL CONTROL ORDINANCE AND THE  
18 DAVIESS COUNTY FISCAL COURT'S ANIMAL CONTROL  
19 ORDINANCE.

20 MR. BALL: I DO NOT HAVE THE CITY'S ORDINANCE.  
21 I APOLOGIZE.

22 MR. NOFFSINGER: AND I BELIEVE THERE IS.  
23 THEREFORE, THE BOARD MAY WISH TO CONSIDER THE  
24 DIFFERENCES, AND I BELIEVE THERE IS A DIFFERENCE.  
25 CERTAINLY YOU MAY WANT TO CONSIDER THAT THE ZONING

1       ORDINANCE DOES NOT ADDRESS THE KEEPING OF SHEEP AS  
2       PETS. IT'S BY AN ANIMAL CONTROL ORDINANCE. I BELIEVE  
3       THE CITY HAS ADDRESSED THE KEEPING OF ANIMALS LIKE  
4       THIS AND PROHIBITS SHEEP FROM BEING CONSIDERING AS  
5       PETS. THE COUNTY ORDINANCE DOES NOT. I THINK THE  
6       MORE APPROPRIATE PLACE TO REGULATE THAT TYPE OF USE  
7       WOULD BE THROUGH AN ANIMAL CONTROL ORDINANCES WITH THE  
8       DAVIESS COUNTY FISCAL COURT AND NOT THROUGH ZONING.  
9       THAT MAY BE THE WAY THIS BOARD WANTS TO APPROACH IT,  
10      BASED UPON THE ORDINANCE THAT WE HAVE.

11               MR. PEDLEY: YOU CANNOT THOUGH FIND THAT THE  
12      ZONING ADMINISTRATOR ERRORED IN HIS FINDINGS OF THE  
13      SHEEP BEING LIVESTOCK BECAUSE IT DOESN'T DEFINE SHEEP  
14      AS A PET. THAT'S WHAT YOU'RE SAYING. WE CAN'T SAY  
15      THAT THE ZONING ADMINISTRATOR DID NOT ERROR AND THEN  
16      AT THE SAME TIME DENY THEM. YOU CAN'T GO BOTH WAYS.  
17      IF YOU SAY THAT MAKE A RULING IN FAVOR OF THE  
18      APPLICANT'S APPEAL, THEN YOU CAN'T SAY THAT THE ZONING  
19      ADMINISTRATOR DID NOT ERROR BECAUSE WE'RE TALKING  
20      ABOUT THE ZONING ORDINANCE AND WE'RE TALKING ABOUT A  
21      FISCAL COURT ORDINANCE, AND WE'RE TALKING ABOUT A CITY  
22      ORDINANCE WHICH IS ALL TOGETHER DIFFERENT.

23               NOW, ARE YOU IN THE CITY OR ARE YOU IN THE  
24      COUNTY?

25               MR. ALLEN: WE'RE IN THE COUNTY.

1           MR. PEDLEY: YOU HAVE A COUNTY ORDINANCE HERE.  
2 BUT YOU CAN'T RULE IN FAVOR OF HIM AND AT THE SAME  
3 TIME RULE IN THE FAVOR OF THE ZONING ADMINISTRATOR.  
4 IT'S VERY DIFFICULT TO GET THAT IN A MOTION.

5           MR. BALL: I WOULD LIKE TO STATE THAT IN BEING  
6 CONSISTENT HISTORICALLY, I'VE TOUCHED BASED WITH THE  
7 PREVIOUS ADMINISTRATION, AND HISTORICALLY ANY TYPE OF  
8 LIVESTOCK, AS I MENTIONED IN THE PAST, I KNOW HORSES  
9 HAVE COME UP IN THE PAST IN QUESTIONS BECAUSE A HORSE,  
10 AS MR. REEVES HAS STATED, IS SOMETHING THAT COULD  
11 TYPICAL BE SEEN AS A PET ALSO.

12           HISTORICALLY SPEAKING WHEN ASKED WE HAVE  
13 STATED THAT A HORSE WOULD NOT BE ALLOWED INSIDE A  
14 RESIDENTIAL COMMUNITY, INSIDE OF A RESIDENTIAL ZONE.  
15 I APOLOGIZE.

16           CHAIRMAN: DO YOU HAVE SOMETHING ELSE, SIR?

17           MR. DYSINGER: NOT TO GET TOO FAR-FIELD IN  
18 HYPOTHETICALS. FOR ME THE ISSUES REALLY BECOMES  
19 UTILITY. IF THE SITUATION COMES UP WHERE A HORSE  
20 COMES BEFORE THIS BOARD, I APOLOGIZE. THIS IS A  
21 SERIOUS MATTER. I DON'T MEAN TO KEEP GIGGLING. YOU  
22 KNOW, DO THEY RIDE IT? THIS IS A PARTICULAR SITUATION  
23 AND WE HAVE EVIDENCE BEFORE US. I'M VERY SYMPATHETIC  
24 TO THE SITUATION THAT THE STAFF IS IN IN THIS. I'M  
25 VERY SYMPATHETIC FOR THE ISSUE OF PRECEDENCE. MY

1 FEELING IS THAT ON AN ISSUE OF APPEAL WE'RE NOT  
2 NECESSARILY SETTING A PRECEDENCE. THERE WILL BE  
3 EVIDENCE ANY TIME THIS COMES UP. THIS IS A VERY  
4 UNIQUE SET. WE'VE GOT VET BILLS. THEY PUT THE CAST  
5 ON THE THING. I DON'T KNOW HOW ELSE TO SEE IT.

6 MR. PEDLEY: THAT'S WHAT THIS BOARD IS FOR.  
7 THAT'S OUR JOB. THAT'S WHAT WE HAVE TO DO.

8 NOW, SOMEONE ELSE HAS GOT A HORSE, A COW OR  
9 SOMETHING ELSE IN THE YARD, AND THEN YOU ISSUE A  
10 VIOLATION. THEY'VE GOT THE SAME RIGHT TO COME BEFORE  
11 THIS BOARD. THEN WE WOULD HAVE TO MAKE ANOTHER  
12 DECISION BASED ON WHAT'S PRESENTED. IT'S VERY EVIDENT  
13 THESE ARE PETS.

14 IT'S VERY DIFFICULT ON THE ZONING  
15 ADMINISTRATOR'S SIDE. IT'S VERY DIFFICULT ON THE  
16 OTHER SIDE. I UNDERSTAND MANUEL AND I UNDERSTAND WHAT  
17 GARY SAID. I'M NOT SURE I CAN PUT IT IN A MOTION.

18 MR. REEVES: MR. CHAIRMAN, I GUESS THE CONCERN  
19 I HAVE, THIS IS PROBABLY A FISCAL COURT VERSUS CITY  
20 COMMISSION ISSUE THAT MAYBE THEY NEED TO RESOLVE.  
21 BECAUSE TO ME A SUBDIVISION IS A SUBDIVISION IS A  
22 SUBDIVISION. THE REGULATION SHOULD BE CONSISTENT  
23 THROUGHOUT THE COUNTY AS FAR AS A DEFINITION. BECAUSE  
24 IF YOU LOOK AT THE DEFINITION MR. BALL MADE, YOU COULD  
25 MAKE A CASE THAT THE SHEEP ARE DOMESTICATED. BUT IF

1 THE CITY HAS AN ORDINANCE THAT SAYS THEY'RE NOT,  
2 SOMETIMES THESE ORDINANCES ARE A LITTLE OLD AND  
3 HAVEN'T BEEN AS WELL THOUGHT OUT. WHEN THAT ORDINANCE  
4 WAS WRITTEN, IT MAY NOT HAVE BEEN ALL THESE  
5 SUBDIVISIONS COME IN IN THE COUNTY. I STILL HAVE A  
6 CONCERN I HAVE ABOUT THIS KIND OF ANIMAL IN A  
7 SUBDIVISION THAT MIGHT IMPACT THE PROPERTY VALUE OF A  
8 NEIGHBOR OR WHATEVER. WE CERTAINLY HAVE AN ISSUE. I  
9 DON'T THINK WE CAN JUST PASS THE BALL OFF AND SAY, WE  
10 REFUSE TO ACT BECAUSE THERE'S AN ISSUE BETWEEN THE  
11 CITY AND COUNTY ANIMAL CONTROL.

12 MR. NOFFSINGER: MR. CHAIRMAN, I AGREE WITH  
13 WHAT MR. REEVES IS SAYING AND THAT'S WHAT I WAS TRYING  
14 TO ALLUDE TO. I FIRMLY BELIEVE THAT IN THE CITY OF  
15 OWENSBORO THEY HAVE AN ANIMAL CONTROL ORDINANCE THAT  
16 WOULD PROHIBIT SHEEP FROM BEING CONSIDERED AS PETS.  
17 HOWEVER, OUTSIDE OF THE CITY OF OWENSBORO, THEIR  
18 ANIMAL CONTROL ORDINANCE DOES NOT GO THAT FAR. I  
19 THINK WE LOOKED INTO THAT AND IT DOESN'T ADDRESS IT.

20 I ALSO THINK THAT THE ZONING ORDINANCE, GIVEN  
21 WHAT I'VE HEARD TONIGHT BASED UPON THE TESTIMONY OF  
22 THE STAFF, WHICH I THINK WAS WEAK AT BEST, BASED UPON  
23 THE STRONG TESTIMONY OF THE APPLICANT, THAT THEY HAVE  
24 PROVED THEIR CASE. THAT DOESN'T MEAN IT'S RIGHT OR  
25 WRONG.

1 I JUST THINK THAT ZONING IS NOT MEANT TO  
2 ADDRESS EVERYTHING. WE AT THE STAFF LEVEL GET CAUGHT  
3 UP IN THESE COMPLAINTS AND WE DON'T WANT TO GO OUT  
4 ENFORCING A PET ORDINANCE OR AN ANIMAL CONTROL  
5 ORDINANCE. WE DON'T HAVE THE STAFF TO DO IT. WE  
6 DON'T HAVE THE EXPERTISE TO DO IT. IT'S A SITUATION  
7 WHERE IT'S PROPERLY DONE THROUGH AN ORDINANCE OUTSIDE  
8 OF ZONING. HOWEVER, WE ARE CHARGED WITH ADDRESSING  
9 THE COMPLAINT. I THINK MANUEL ADDRESSED THE COMPLAINT  
10 AS BEST HE COULD WITHIN THE ZONING ORDINANCE.

11 NOW, WHAT YOU HAVE TO DECIDE IS DID HE ERROR  
12 IN THE VIOLATION BASED UPON THE WAY THE ZONING  
13 ORDINANCE IS WRITTEN. NOT THE WAY THE ANIMAL CONTROL  
14 ORDINANCES ARE WRITTEN, BUT BASED UPON THE WAY THE  
15 ZONING ORDINANCE IS WRITTEN. WE DON'T HAVE A  
16 DEFINITION OF PETS. WE DON'T HAVE A DEFINITION OF  
17 LIVESTOCK. WE JUST HAVE WHAT YOU SEE BEFORE US.

18 MR. PEDLEY: IN THE EVENT THAT WE RULE THAT HE  
19 DID NOT ERROR, THEN WE RULE AGAINST THEIR APPEAL.  
20 THEN CAN THEY AND SHOULD THEY TAKE IT TO FISCAL COURT  
21 BECAUSE YOU HAVE A FISCAL COURT ANIMAL CONTROL  
22 ORDINANCE? COULD THEY TAKE IT TO FISCAL COURT?

23 CHAIRMAN: MR. ATTORNEY.

24 MR. SILVERT: IF WE UPHOLD THE NOTICE OF  
25 VIOLATION OF THE ZONING ADMINISTRATOR, THEIR RECOURSE

1 IS NOT TO FISCAL COURT. THEIR RECOURSE IS TO CIRCUIT  
2 COURT.

3 CHAIRMAN: DO YOU HAVE SOMETHING ELSE?

4 MR. ALLEN: YES. I KEEP HEARING THE WORD  
5 "LIVESTOCK." WHAT I READ IN THAT SECTION H-2 SAYS  
6 NOTHING ABOUT LIVESTOCK. IT SAYS STOCK RAISING AND  
7 DAIRYING. THAT'S THE DEFINITION THAT I'M CONTESTING,  
8 IS THAT STOCK RAISING IS A BUSINESS. IT IS NOT THAT  
9 YOU POSSESS SOME SORT OF ANIMAL THAT MEETS THE  
10 DEFINITION OF LIVESTOCK. IT'S WHAT YOU'RE DOING WITH  
11 THE ANIMAL. I THINK THAT'S WHERE IT FALLS IN AT HERE.  
12 WHEN IT FALLS UP UNDER THE AUSPICES OF AGRICULTURAL,  
13 AGRICULTURAL IS A COMMERCE. WHAT WE HAVE THESE SHEEP  
14 THERE FOR IS NOTHING TO DO WITH COMMERCE.

15 MR. NOFFSINGER: MR. ALLEN, I AGREE WITH WHAT  
16 YOU JUST STATED. WHAT I THINK IS ZONING SHOULD NOT BE  
17 REGULATING WHAT PETS YOU HAVE. THAT SHOULD BE THROUGH  
18 A SEPARATE ORDINANCE. THROUGH AN ANIMAL CONTROL  
19 ORDINANCE LIKE THE CITY HAS AND LIKE THIS COUNTY HAS,  
20 WHICH THE COUNTY MAY WANT TO REVISIT THEIRS, BUT  
21 THAT'S UP TO THE CITY AND COUNTY. ZONING SHOULD NOT  
22 REGULATE WHAT OR HOW MANY PETS THAT YOU HAVE. NOW,  
23 THAT'S MY OPINION.

24 MR. ALLEN: I THINK, MR. NOFFSINGER, I THINK  
25 THEY DO ADDRESS THE ANIMAL CONTROL IN THE COUNTY'S

1 POLICY. WHAT THEY ARE DOING IS THEY'RE DEFINING  
2 LIVESTOCK AS A DOMESTIC ANIMAL. THAT'S ON THEIR  
3 DEFINITION. THIS WAS IN ONE OF THE ATTACHMENTS THAT I  
4 HAD. DEFINITION NUMBER 10 DEFINES DOMESTIC ANIMAL,  
5 WHICH INCLUDES LIVESTOCK, BUT THEN ON DEFINITION  
6 NUMBER 17 THEY DEFINE PET WHICH IS, "ANY ANIMAL KEPT  
7 FOR PLEASURE RATHER THAN UTILITY; UNDER NO  
8 CIRCUMSTANCES SHALL A NON-DOMESTIC ANIMAL AS DEFINED  
9 IN THIS ORDINANCE BE CONSIDERED A PET."

10 MR. BALL'S DEFINITION OF NON-DOMESTIC ANIMAL I  
11 HAVE THAT HERE. IT'S IN YOUR ATTACHMENT AS WELL.  
12 IT'S DEFINITION NUMBER 15 IN THAT SAME ARTICLE. IT'S  
13 A WHOLE LIST OF ANIMALS, FELINES OTHER THAN THE  
14 DOMESTIC HOUSE CAT. PRIMATES, BEARS, WOLVES, COYOTES,  
15 FOXES, VENOMOUS REPTILES, ANY CROSSBREED OF SUCH  
16 ANIMALS WHICH HAVE SIMILAR CHARACTERISTICS OF THE  
17 ANIMALS SPECIFIED HEREIN.

18 SO IT'S A PRETTY GOOD DEFINITION THERE OF WHAT  
19 NON-DOMESTIC ANIMAL IS. SO I THINK THERE'S A CLEAR  
20 DISTINCTION HERE. I THINK THE COUNTY ORDINANCE IS  
21 DEFINING WHAT IS A PET. IF IT'S DOMESTIC AND IT'S NOT  
22 BEING USED FOR UTILITY, IT'S A PET.

23 CHAIRMAN: YOU HAVE SOMETHING ELSE YOU WOULD  
24 LIKE TO ADD, MA'AM?

25 MRS. ALLEN: YES. I WOULD LIKE TO SAY ONE

1 MORE THING.

2 I FEEL LIKE MR. REEVES WANTS TO SET A  
3 PRECEDENCE WITH THIS. WE'RE KIND OF BEING HUNG OUT TO  
4 DRY HERE IF YOU GO AGAINST US ON THIS ONE. BECAUSE IF  
5 YOU NEED TO CHANGE, IF YOU NEED TO CHANGE THIS TABLE  
6 AND YOU NEED TO SAY SOMETHING ELSE AND YOU NEED TO  
7 DEFINE IT BETTER, THEN SO BE IT. LET'S DEFINE IT IN  
8 THE FUTURE, BUT RIGHT NOW AS IT'S DEFINED WE ARE NOT  
9 BREAKING THE LAW. WE ARE NOT DOING ANYTHING WRONG.  
10 THESE ARE OUR PETS. WE LOVE THEM. I PUT AS MUCH INTO  
11 BENNETT, OUR LITTLE SHEEP, I PUT MORE INTO THAT THAN  
12 SOME PEOPLE ON THIS EARTH PUT INTO THEIR CHILDREN. I  
13 THINK THAT NEEDS TO BE CONSIDERED. I LOST MORE SLEEP  
14 WITH THAT SHEEP THAN I DID WITH MY BABIES SLEEPING  
15 THROUGH THE NIGHT. YOU HAVE TO TAKE THAT INTO  
16 CONSIDERATION. DON'T HANG US OUT TO DRY BECAUSE  
17 YOU'RE TRYING TO SET A PRECEDENCE. WE ARE DOING  
18 SOMETHING VERY LEGAL. WE ARE DOING SOMETHING THAT WE  
19 LOVE. IF YOU NEED TO CHANGE THE ORDINANCE, THEN  
20 GRANDFATHER US IN AND CHANGE THE ORDINANCE. WE ARE  
21 NOT GOING TO GET ANY MORE SHEEP. YOU CAN STATE THAT.  
22 I DON'T KNOW WHAT ELSE TO SAY. WE LIME OUR YARD.  
23 THERE IS NO STENCH. WE HAVE BEEN THROUGH SO MANY  
24 DIFFERENT THINGS. ANIMAL CONTROL COMING OUT. THEN  
25 ANIMAL CONTROL SAYING, I'VE GOT NOTHING ON HER.

1 ANIMAL CONTROL CALLED -- THEY'RE CALLING PEOPLE AND  
2 THEY'RE TRYING TO FIND SOMETHING. IT'S JUST LIKE WHEN  
3 IT WENT IN, OUR ATTORNEY WENT IN TO THE SIDE COURTROOM  
4 AND SPOKE AND THEY CALLED ASHLEY CLARK AND THEY SAID,  
5 I'VE NOTHING ON HER. I'VE GOT NOTHING ON HER EXCEPT  
6 TRYING TO GET THE NEIGHBORS OFF MY BACK.

7 THIS IS WHAT I THINK. I THINK PEOPLE NEED  
8 MORE TO DO IN THEIR LIVES. WE ARE TRYING TO DO A GOOD  
9 THING. WE TOOK CARE OF AN ANIMAL THAT A FARMER WOULD  
10 HAVE JUST BEAT OVER THE HEAD. WE PUT MONEY AND TIME  
11 AND LOVE THIS ANIMAL. I WISH MORE PEOPLE WOULD DO  
12 THAT IN THE WORLD. NOT ONLY WITH ANIMALS, BUT WITH  
13 CHILDREN AND EVERYTHING IN THE WORLD BECAUSE IT WOULD  
14 BE A BETTER PLACE.

15 CHAIRMAN: THANK YOU.

16 DO YOU HAVE ANYTHING ELSE?

17 MR. BALL: I DO NOT.

18 CHAIRMAN: I THINK WE HASHED THIS PRETTY WELL.  
19 I'LL ENTERTAIN A MOTION.

20 MR. DYSINGER: MR. CHAIRMAN, GIVEN THE  
21 SPECIFICS OF THIS CASE AND THE EVIDENCE THAT'S BEEN  
22 PRESENTED TONIGHT, I MOVE THAT WE FIND FOR THE  
23 APPELLANT. FINDING THAT THESE PARTICULAR THREE  
24 ANIMALS MORE CLOSELY MATCH THE DEFINITION OF PETS AND  
25 DO NOT MATCH THE DEFINITION OF DAIRYING AND STOCK

1 RAISING AND THEREFORE FIND FOR THE APPELLANT.

2 CHAIRMAN: WE'VE GOT A MOTION. IS THERE A  
3 SECOND?

4 MR. PEDLEY: SECOND.

5 CHAIRMAN: A MOTION HAS BEEN MADE AND A  
6 SECOND.

7 MR. REEVES: MR. CHAIRMAN, COULD I EXPLAIN MY  
8 VOTE BEFORE I DO?

9 CHAIRMAN: YES.

10 MR. REEVES: I'M GOING TO VOTE TO SUPPORT THIS  
11 BECAUSE I THINK GIVEN THE COUNTY ORDINANCE THEY  
12 CLEARLY FIT THE COUNTY ORDINANCE, BUT I DO THINK IT'S  
13 NOT APPROPRIATE TO HAVE THESE KIND OF ANIMALS IN  
14 SUBDIVISIONS. I WOULD URGE FISCAL COURT TO TAKE A  
15 SERIOUS LOOK AT THIS OR WE WILL HAVE MORE PROBLEMS. I  
16 DON'T FIND MR. BALL AT FAULT IN THIS.

17 CHAIRMAN: I APPRECIATE YOUR COMMENT. THAT  
18 WILL BE NOTED IN THE MINUTES.

19 ANY OTHER COMMENTS?

20 (NO RESPONSE)

21 CHAIRMAN: HEARING NONE ALL IN FAVOR RAISE  
22 YOUR RIGHT HAND.

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: MOTION CARRIES UNANIMOUSLY.

25 MR. DYSINGER: MR. CHAIRMAN, I MOVE THAT WE

1 ENTER INTO CLOSED SESSION PURSUANT TO KRS 61.810(C) SO  
2 THAT THE BOARD MAY DISCUSSION PENDING LITIGATION  
3 AGAINST THE BOARD. SPECIFICALLY THIS CLOSED SESSION  
4 IS TO DISCUSS AN OFFER OF SETTLEMENT REGARDING A  
5 PENDING MATTER. NO ACTION WILL BE TAKEN IN CLOSED  
6 SESSION. IF ACTION IS NECESSARY, THE BOARD WILL  
7 RECONVENE IN OPEN SESSION; OTHERWISE, THE BOARD WILL  
8 ADJOURN FROM CLOSED SESSION.

9 MR. REEVES: SECOND.

10 CHAIRMAN: WE HAVE A MOTION AND A SECOND. ALL  
11 IN FAVOR RAISE YOUR RIGHT HAND.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: WE ARE IN CLOSED SECTION.

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1 STATE OF KENTUCKY )  
 )SS: REPORTER'S CERTIFICATE  
2 COUNTY OF DAVIESS )

3 I, LYNNETTE KOLLER FUCHS, NOTARY PUBLIC IN AND  
4 FOR THE STATE OF KENTUCKY AT LARGE, DO HEREBY CERTIFY  
5 THAT THE FOREGOING OWENSBORO METROPOLITAN BOARD OF  
6 ADJUSTMENT MEETING WAS HELD AT THE TIME AND PLACE AS  
7 STATED IN THE CAPTION TO THE FOREGOING PROCEEDINGS;  
8 THAT EACH PERSON COMMENTING ON ISSUES UNDER DISCUSSION  
9 WERE DULY SWORN BEFORE TESTIFYING; THAT THE BOARD  
10 MEMBERS PRESENT WERE AS STATED IN THE CAPTION; THAT  
11 SAID PROCEEDINGS WERE TAKEN BY ME IN STENOGRAPHY AND  
12 ELECTRONICALLY RECORDED AND WAS THEREAFTER, BY ME,  
13 ACCURATELY AND CORRECTLY TRANSCRIBED INTO THE  
14 FOREGOING 45 TYPEWRITTEN PAGES; AND THAT NO SIGNATURE  
15 WAS REQUESTED TO THE FOREGOING TRANSCRIPT.

16 WITNESS MY HAND AND NOTARY SEAL ON THIS THE  
17 29TH DAY OF APRIL, 2013.

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\_\_\_\_\_  
LYNNETTE KOLLER FUCHS  
NOTARY ID 433397  
OHIO VALLEY REPORTING SERVICES  
2200 E. PARRISH AVE, SUITE 106E  
OWENSBORO, KENTUCKY 42303

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COMMISSION EXPIRES: DECEMBER 16, 2014

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COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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