

**BOARD OF ADA COUNTY COMMISSIONERS  
MINUTES OF THE PUBLIC HEARING  
WEDNESDAY, SEPTEMBER 12, 2012  
6:00 P.M.**

The Board of Ada County Commissioners (Board) met this date in the Ada County Public Hearing Room of the Ada County Courthouse Complex. Staff present: Richard Beck and Megan Johnson, Development Services; and Ray Chacko, Prosecuting Attorney's Office. Minutes Recorder: Terri Broome.

**I. IN THE MATTER OF CALL TO ORDER:**

Commissioner Rick Yzaguirre called the meeting to order at 6:00 p.m.

**II. IN THE MATTER OF ROLL CALL:**

Commissioners Rick Yzaguirre, Sharon M. Ullman and David L. Case were present.

**III. IN THE MATTER OF CHANGES TO THE AGENDA:**

There were no changes to the agenda.

**IV. IN THE MATTER OF UNFINISHED BUSINESS:**

**ACTION: S. ULLMAN MOVED TO REMOVE APPLICATION NO. 201101223-ZOA - ADA COUNTY: ROOSTER ZONING ORDINANCE TEXT AMENDMENT FROM THE TABLE FOR CONSIDERATION. D. CASE SECONDED. S. ULLMAN, AYE, D. CASE, AND R. YZAGUIRRE, AYE. THE MOTION CARRIED UNANIMOUSLY.**

- 1. 201101223-ZOA - ADA COUNTY: ROOSTER ZONING ORDINANCE TEXT AMENDMENT:** A zoning ordinance text amendment to amend Ada County Code Title 5, Chapter 7, Section 2, and Title 8, Chapter 2 Articles B, C & D; Chapter 5, Section 3, Subsection 62; and Chapter 5 Article A. The request is being made to add a definition of domesticated animal, and (UPDATED) to expand the residential zones in which livestock can be kept outright. *(Tabled from 7/11/12)*

R. Yzaguirre explained that this item had been an ongoing matter. He stated this was a new hearing on the matter and opened the public hearing.

R. Beck submitted two additional exhibits into the record. He then presented the Staff report and explained the specific changes to the proposed text amendment.

Don Howard stated his name and address for the record. He read a statement into the record opposing the acreage restriction to raise roosters or other animals.

S. Ullman explained that the proposed language being presented loosened the previous restrictions including the restrictions relating to property size. S. Ullman and R. Beck discussed the restrictions relating to zoning and CC&Rs. S. Ullman stated that the proposed ordinance restricted animals that cause harm and that are defined as a nuisance to the community.

D. Howard stated he was also concerned with the restriction of the number of animal units per property.

R. Beck advised that the number of animals allowed per property or property size was limited by what was currently in the code and not changed by the proposed ordinance.

Melt Esquibel stated his name and address for the record. He stated he was placing the Board on notice that he believed Board was acting in violation of the state constitution by taking action on the proposed ordinance.

Linda Diehl stated her name and address for the record. She presented testimony expressing her concerns regarding the language grandfathering in rights to property owners.

S. Ullman explained that the Board was attempting to loosen restrictions and restrict only nuisance animals. R. Beck advised that there wasn't specific language

addressing grandfather rights. He explained that a conformity issue may arise if the CC&Rs of a subdivision prohibit animals, as the ordinance requires the property owners comply with their CC&Rs.

Lori Gautier stated her name and address for the record. She presented testimony supporting the removal of the requirements for educational purpose and property size from the existing ordinance as long as the property owner complies with the CC&Rs of their subdivision. She discussed her concerns regarding the definition of a nuisance animal.

Mary Ann Lawford stated her name and address for the record and presented testimony opposing the ordinance relating to compliance with CC&Rs.

Mary Friend stated her name and address for the record and present testimony supporting the revised ordinance.

Elizabeth Krause stated her name and address for the record and presented testimony opposing the ordinance.

Christy Tarbet stated her name and address for the record. She presented testimony opposing the ordinance and the requirement to comply with CC&Rs that are otherwise not enforced by a subdivision.

Katherine Frazier stated her name and address for the record and presented testimony opposing government interfering with property rights.

S. Ullman explained that occasionally laws need to be amended to remove restrictions rather than impose new restrictions.

Marshall Boisselle stated his name and address for the record and presented testimony opposing the ordinance and supporting the testimony provided during the hearing from other individuals. He explained he raised chickens to support his family. He stated he was concerned about his residence being rezoned in the future and him being restricted from raising chickens or other animals.

R. Yzaguirre read the definition of Nuisance Domesticated Animal contained in the proposed ordinance. S. Ullman explained that the proposed ordinance would not affect responsible animal owners.

M. Boissell inquired what the procedure for code enforcement would be if an animal was at large.

R. Beck explained that code enforcement would not take action unless a complaint was formally made. He stated he believed that code enforcement personnel worked with property owners to resolve violations.

S. Ullman suggested that possibly a public meeting could be held with code enforcement personnel to allow them an opportunity to explain their jobs and how handle these situations. She said it has been her experience that the code enforcement personnel tend to work with the property owners to assist them to come into compliance with the code. She stated that legal action is a very last step in the procedure.

Alexa Phillips stated her name and address for the record and presented testimony supporting removal of the education requirements and acreage restriction.

Karly Tarbet stated her name and address for the record and presented testimony supporting the right to raise chickens.

M. Lawford re-approached the podium and inquired what effect the CC&Rs provision would have on property owners living in subdivisions the do have CC&Rs in place but not enforced.

S. Ullman advised M. Lawford that CC&Rs can be changed. She said perhaps adding "active" before CC&Rs in the provision as suggested early may be a resolution to her concerns.

Josh Roberts stated his name and address for the record and presented testimony opposing the ordinance, stating he believed the law was unnecessary.

Deborah Tackman stated her name and address for the record and presented testimony supporting the removal of the education requirement and acreage restrictions. She expressed concern regarding the change from nuisance dog to nuisance domesticated animal and opposed amending the ordinance. She indicated that based on her investigation and discussion with a code enforcement agent, code enforcement currently handles animals at large in the manner proposed without it actually being in the code. She also inquired how the nuisance would be determined and discussed the fines and penalties that would be imposed against the animal owner.

R. Yzaguirre closed the public hearing.

**ACTION: S. ULLMAN MOVED TO APPROVE THE LANGUAGE FOR APPLICATION NO. 201101223-ZOA - ADA COUNTY: ROOSTER ZONING ORDINANCE TEXT AMENDMENT WITH THE EXCEPTION OF ADDING WORD ACTIVE BEFORE CC&RS. D. CASE SECONDED.**

**DISCUSSION: S. ULLMAN STATED THAT AFTER NUMEROUS HEARINGS, THE PROPOSED LANGUAGES TAKES EVERYBODY'S RIGHTS INTO CONSIDERATION. SHE SAID SHE BELIEVES THAT THE RESPONSIBLE ANIMAL OWNERS WON'T HAVE ANY PROBLEMS WITH THE ORDINANCE, BUT THE OCCASIONAL IRRESPONSIBLE ANIMAL OWNER THAT THE LANGUAGE IS BEING TARGETED TOWARDS. D. CASE COMMENTED THAT HE APPRECIATED THE PUBLIC'S COMMENTS AND THEIR ATTENDANCE AT THE HEARING.**

**ACTION: S. ULLMAN, AYE, D. CASE, AYE, AND R. YZAGUIRRE, AYE. THE MOTION CARRIED UNANIMOUSLY.**

**V. IN THE MATTER OF NEW BUSINESS:**

- 1. 201200937-V FOWLER ENTERPRISES INC:** A variance application to reduce the required side and rear yard building setbacks in Southwest Community Residential (RSW) District for a future accessory structure. The property contains 1.0 acre and is located at 3223 South Cloverdale Road, Sections 28 3N 1E.

R. Yzaguirre opened the public hearing.

M. Johnson submitted an additional exhibit into the record and presented the Staff report.

Mike Fowler, Applicant, stated his name and address for the record and discussed the Application.

S. Ullman inquired if Staff had received any objections to the proposed variance. M. Johnson responded that Staff did not receive any feedback from the neighbors, positive or negative.

R. Yzaguirre closed the public hearing.

**ACTION: S. ULLMAN MOVED TO APPROVE APPLICATION NO. 201200937-V FOWLER ENTERPRISES INC. AND ADOPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE STAFF REPORT. D. CASE SECONDED. S. ULLMAN, AYE, D. CASE, AYE, AND R. YZAGUIRRE, AYE. THE MOTION CARRIED UNANIMOUSLY.**

**VI. IN THE MATTER OF ADJOURNMENT:**

There being no further business to come before the Board on this date, the meeting was adjourned at 7:06 p.m.

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Rick Yzaguirre, Chairman

ATTEST:

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Christopher D. Rich, Ada County Clerk