The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, August 9, 2012, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Drew Kirkland, Chairman
Ward Pedley, Vice Chairman
David Appleby, Secretary
Gary Noffsinger, Director
Madison Silvert, Attorney
Margaret Cambron
Irvin Rogers
Wally Taylor
John Kazlauskas
Fred Reeves

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CHAIRMAN: I would like to welcome everybody to the August 9, 2012 meeting of the Owensboro Metropolitan Planning Commission.
Would you please rise. Mr. Madison Silvert will give our invocation and pledge of allegiance.
(INVOCATION AND PLEDGE OF ALLEGIANCE.)
CHAIRMAN: Our first order of business is to consider the minutes of our July 12, 2012 meeting. Are there any additions, corrections, questions?
(NO RESPONSE)
CHAIRMAN: If not the chair is ready for a
motion.

MR. APPLEBY: Motion for approval.
CHAIRMAN: Motion for approval by Mr. Appleby.
MR. PEDLEY: Second.
CHAIRMAN: Second by Mr. Pedley. All in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries unanimously.
Next item, please.

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ZONING CHANGES

ITEM 2
5540 Highway 54, 3.200 acres
Consider zoning change: From A-U Urban Agriculture and R-1A Single-Family Residential to B-4 General Business
Applicant: Francis Hagan; Estate of Eva E. Smith, Robert Smith Executor

MR. SILVERT: Would you state your name, please?
MR. HOWARD: Brian Howard.
(BRIAN HOWARD SWORN BY ATTORNEY.)
MR. HOWARD: I will note that the rezonings heard here tonight will become final 21 days after the meeting unless an appeal is filed. If an appeal is filed, we will forward the record of the meeting along with all the relative documents to the appropriate Ohio Valley Reporting
(270) 683-7383
legislative body for their final action.

PLANNING STAFF RECOMMENDATIONS

The Planning Staff recommends approval subject to the condition and findings of fact that follow:

CONDITION:

No access shall be permitted to Highway 54.

FINDINGS OF FACT:

1. Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan;

2. The subject property is located in a Rural Community Plan Area, where general business uses are appropriate in limited locations;

3. The proposal is a logical expansion of B-4 zoning to the east; and,

4. With no access to Highway 54, the proposal should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

MR. HOWARD: We would like to enter the Staff Report into the record as Exhibit A.

CHAIRMAN: Is there anybody here representing the applicant?

MS. KNIGHT: Yes, Your Honor.

MR. SILVERT: Would you state your name.
MS. KNIGHT: Tera Knight representing the applicant.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody have any questions from the Commission?

(NO RESPONSE)

MS. KNIGHT: I would like to make a statement, please, on behalf of the applicant.

CHAIRMAN: Yes, ma'am.

MS. KNIGHT: My client appreciates the Staff's recommendation to approve the rezoning, but would ask that the Commission reconsider the condition recommended to deny access to 54.

My client would ask that at this point the access option be left open to be addressed when a site plan or development plan is filed so that all interested parties can review it and all access options can be considered in order to find the best access solution.

As noted in the report, Ed Foster Road may be considered at the discretion of the county. The Kentucky Transportation Cabinet would review any access proposal to Highway 54.

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My client would be concerned that a blanket denial at this point would restrict his ability to make the best possible use of the property for any possible future development.

Again, he would just ask that at this time that condition not be made a part of the approval so that the access can be made as a part of the entire site plan and find the best possible solution for that matter.

CHAIRMAN: Thank you.
Let me bring one of the Staff members.
Who worked on this case?
MR. HOWARD: Me.
CHAIRMAN: Would you step to the podium.
Mr. Howard, what's your thought on the request?

MR. HOWARD: When we were looking at this, the site and working through the Staff Report, you know, Highway 54 is a busy corridor. You're looking at approximately 170 feet or road frontage that this property has.

Typically on a road like this in an urban service area you have a 500 foot spacing standard for access. The property that adjoins it to the east has access and directly through Old Highway 54. Our
thoughts were they would have the option of using that access point and connecting through the existing property and then access from Ed Foster Road, and eliminating another conflict point on Highway 54 with it being the busy corridor that it is.

We would stand by our recommendation to eliminate access potentially at that point, but certainly you all as the Commission have the right to reconsider that.

CHAIRMAN: If I understood her request correctly, she wanted to leave open the option for 54 and Ed Foster Road. If that would be correct, what would you think about eliminating an option on 54 and just giving them the option on Ed Foster Road?

MR. HOWARD: That was the intent of the Staff Report. That they would not have access to 54. They could have indirect through Old 54 or on Ed Foster. That certainly would be fine with us. That's not what they're interested in based on her statement.

CHAIRMAN: Thank you, Mr. Howard.

MR. NOFFSINGER: I do have a question, Mr. Chairman, of Mr. Howard.

If they were to propose an access point to Kentucky 54, the state would be required to review that access point?
MR. HOWARD: Correct.

MR. NOFFSINGER: Would they require a Traffic Impact Study?

MR. HOWARD: It depends. At 3.2 acres a lot of it would depend on what the use on the property is. Their Traffic Impact Study requirements have changed greatly over the, I guess, about two, two and a half years ago. The threshold to require a Traffic Impact Study is much less than it used to be; however, depending on the use they may or may not require one. They may just require an encroachment permit that would have to be bonded to allow an access point.

CHAIRMAN: Would requiring a traffic study, would that slow down a permitting process by virtue of the length of time to get a traffic study?

MR. HOWARD: If a Traffic Impact Study were required, yes, the state would take their time and review that. My understanding is, I can't really speak for them, but sitting through some of the meetings we've had here recently on larger developments, the regional office in Madisonville reviews the Traffic Impact Study, but now they have to get approval through Frankfort before they'll sign off on the findings of a Traffic Impact Study. It's not unheard of for them to require it.

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MR. KAZLAUSKAS: Mr. Chairman, I would like to ask Mr. Howard.

I want to ask you a question, and you probably don't know it. Do you know what the state's requirement is to put an access point in that close to an intersection?

MR. HOWARD: They review them on a case by case basis. They do have spacing standards that they look at. They'll look at the fact that it does have, it is a corner lot so you do have an alternative road that you could have access from that is a lower classification, Ed Foster Road, but as far as exactly what they would look at, no, I wouldn't feel comfortable speaking for them on that.

MR. KAZLAUSKAS: In your opinion, they would be able to put an access point on Ed Foster Road probably without much problem, right?

MR. HOWARD: I talked with the county engineer just to verify. I guess it's just to the south, there's Ed Foster Spur that was recently vacated as a county road. Just verifying that Ed Foster is still in the county maintenance system and mentioned to them a potential development here. I did not get indication from him that they would not to be able to have potential access.

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MR. KAZLAUSKAS: One last question. Old 54 where it comes off the Hines property right there, would you consider that to be a busy road into that intersection where it comes in there, certain times of the day?

MR. HOWARD: Maybe during the shift. There is times that it may be busy, but overall, no, that's certainly not on a level of traffic generation and shouldn't create great issues at Highway 54 I wouldn't think, no.

MR. KAZLAUSKAS: Thank you.

CHAIRMAN: Does anybody else have any questions of Mr. Howard?

MR. REEVES: One quick one. I'm trying to recall that property. Does that curve fairly soon after you pass the saw shop or is it pretty straight? I'm trying to recall what that road looks like.

MR. APPLEBY: It's pretty straight.

MR. REEVES: That's what I was thinking. It kind of goes up a little hill like?

MR. APPLEBY: You have a lot of access points up and down through there right now.

MR. REEVES: Thank you.

MR. NOFFSINGER: Mr. Chairman, Staff's concern
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too is that potentially the only time we have to address access to the property on 54 is at the time of rezoning. Once the rezoning is approved, we may not have another opportunity. A development plan is not necessarily required that has to come back before this board. The development may occur with a site plan. A site plan requirement only would not give the Staff an opportunity to evaluate the access to the property. It would just be based upon the standards that are contained in the zoning ordinance and the zoning ordinance would allow an access point; in fact, multiple access points to 54 on this property.

Our concern is that once its zoned B-4 General Business and you have the additional trips to this property, that it's too close to the interaction of 142 and Old Kentucky 54 for an additional access point.

MR. APPLEBY: Gary, at this point, not knowing what the use of the property is, now has some concerns with allowing an additional access point there, but I suppose we could attach an additional condition that -- I don't want to just arbitrarily say, limit them. Force them to have to go through a rezoning to remove the condition. What additional condition can we put on there that would allow us, assure us we'd have an
opportunity to review it, to require a development plan on this?

MR. NOFFSINGER: Right. Of course, in doing that, that increases the applicant's cost to the development. However, that would be one way to address the issue, is to require a development plan to be approved, which would have to be approved by the Planning Director or the Planning Commission and that an emphasis be placed on the study of access on Kentucky 54.

CHAIRMAN: Yes, ma'am.

MS. KNIGHT: If I may. It seems like there's a lot of players here; again, with the county and the state. I don't think my client would have an issue bringing this back or making that a condition, that it be reviewed once against. Again, I think if everybody could come to the table and, again, decide what the best solution to the access issue would be, I think that would be something my client would appreciate and want. He doesn't want to create an unsafe situation out there.

I would like to know that if -- he does own the adjoining lot. If it were all consolidated, it would be about 270 feet, I think, of frontage on Highway 54. That's an option that he could consider.
or might present as part of a development plan or whatever the case may be.

CHAIRMAN: With your 270 feet total, you're still inside of the requirement.

What is it, Mr. Noffsinger, 500?

MR. NOFFSINGER: Well, this property is outside of the urban service area so we do not have the standards of the Access Management Manual to apply to this property. We feel that the standards contained in the Zoning Ordinance, which would allow multiple access points to the property, are not desirable due to the traffic volume on Kentucky 54. We do not have a set of plans as to how they're going to develop the property. Certainly any time where you have even one access point on a major street like this within a distance of 270 feet and you have street intersections on both sides, we feel that they can certainly create an unsafe situation.

Staff likely would not recommend an access point between them, but we have to have a mechanism in order to be able to evaluate and review the access. That's why we made the recommendation no direct access to 54. Because once the property is zoned, we lose the opportunity to take a look at access and to apply a standard to that property.
CHAIRMAN: Is there a time factor? I mean is your client, are they wanting to go ahead and get this project going?

MS. KNIGHT: There's really no time factor at this point. He's not in a hurry. I'm not sure what the use will be, but he's afraid if this condition is placed on the property that it does limit his options. I think the requirement of a development plan, again, with all parties involved, whether it be county, state, Planning & Zoning Commission again, would be a much less restrictive alternative than just a blanket denial of access completely to Highway 54. That would be more a desirable option for my client obviously.

CHAIRMAN: Mr. Noffsinger, then we need to, if we vote for approval we have to have additional conditions?

MR. NOFFSINGER: Well, Staff stands behind their recommendation; however, an alternate condition would be to require that a final development plan be submitted to the Planning office and be signed by the director for the Planning Commission which addresses all aspects of what a financial development plan would, including a study of the access to Kentucky Highway 54 and the possible requirement of no direct access to 54.
CHAIRMAN: What kind of cost would the applicant incur with that?

MR. NOFFSINGER: I can't state that because you're going to have to have an engineering firm prepare that development plan. There will be considerable cost involved. A site plan is not as involved as a final development plan. You're talking about several thousand dollars to do a final development plan and then you're also talking about a potential for a Traffic Impact Study to be prepared for the State of Kentucky. I can't address that.

Our filing fees somewhere probably around $250, $400, but I can't state what the fees would be for the engineer.

CHAIRMAN: I just wanted to review so your client would be aware of additional cost they would face. This commission I'm sure would attach, I can only speak for myself, but I assume the commission would be willing to attach additional conditions where your wishes can be met, but I just wanted to make sure that you realize what your client would incur, as far as extra cost, extra time, and we still may be right back to our original recommendation.

MS. KNIGHT: Right. I don't know that he's aware of all the cost associated with that or what
that might entail. Obviously, I feel like if there are options, he would want to be explore those, even at some cost. Again, because of a blanket denial access is not what he wants.

Again, he doesn't want to create an unsafe situation out there or whatever, but he wants to make the best possible use of his property and have all the options open for, again, all players that might be involved, whether it be the county, the state, the city, whatever the case may be to have it.

MR. NOFFSINGER: Another option might be, if the applicant is agreeable, would be to postpone action on this tonight. Because I was certainly unaware that there was an issue. If we had an opportunity to sit down with the applicant and discuss what the options are, then we might all get on the same page and we might have a better recommendation for you, if he's not in a hurry to move forward with the zoning.

MS. KNIGHT: And he would be here tonight, but Ed had to leave for Indianapolis for the birth of a grandbaby. Kind of last minute.

Yes, I think that would be a great option, for postponement, maybe have a meeting.

CHAIRMAN: Are you making that request?

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MS. KNIGHT: I would make that request, yes.
CHAIRMAN: Be noted that the applicant wants
to make a request for a postpone.
MR. APPLEBY: Motion for postponement.
CHAIRMAN: Motion for postponement by Mr. Appleby.
MR. REEVES: Second.
CHAIRMAN: Second by Mr. Reeves. All in favor
raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion to postpone.
Next item, please.
MR. NOFFSINGER: Before I read Item 3 in the
record, I just wanted to state that Item 4 at Harbor
Ridge Drive and Harbor Crest and Silent Doe Crossing
has been withdrawn and there will be no testimony
taken on that item.
ITEM 3
Portion of 10088 Highway 144, 0.036 acres
Consider zoning change: From B-4 General Business to
A-R Rural Agriculture
Applicant: Thomas E. Bickett; Everett L. Padgett

MR. SILVERT: Would you state your name, please?
MS. EVANS: Melissa Evans.
(MELISSA EVANS SWORN BY ATTORNEY.)
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PLANNING STAFF RECOMMENDATIONS

The Planning Staff recommends approval subject to the condition and findings of fact that follow:

CONDITION:

Submission of a division and consolidation plat to consolidate the subject property with the adjoining tract.

FINDINGS OF FACT

1. Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan;

2. The subject property is located in a Rural Maintenance Plan Area where rural large-lot residential uses are appropriate in limited locations;

3. The subject property will be consolidated with an existing, adjoining tract;

4. Once consolidated, the tract will be a separate, well-proportioned lot; and,

5. The consolidated property will have road frontage on a state maintained roadway and no new streets are proposed as part of this rezoning.

MS. EVANS: We would like to enter the Staff Report into the record as Exhibit B.

CHAIRMAN: Do we have anybody here representing the applicant?

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(NO RESPONSE)

CHAIRMAN: Do we have any questions?
(NO RESPONSE)

CHAIRMAN: Questions from the commission?
(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a motion.

MR. ROGERS: Motion for approval based on Planning Staff Recommendations with the one condition and Findings of Fact 1 through 5.

CHAIRMAN: We have a motion for approval with conditions and findings of fact by Mr. Rogers.

MR. TAYLOR: Second.

CHAIRMAN: Second by Mr. Taylor. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 5

Portion of 137 Weikel Drive, 0.31+/- acres
Consider zoning change: From B-4 General Business to R-2MF Multi-Family Residential
Applicant: Goetz Development, LLC

MR. REEVES: Mr. Chairman, I think these folks back here didn't understand what you said awhile ago. Were you all here for the Item 4?

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I'm not sure they understood what you said about it being withdrawn. They were kind of quizzed back there.

MR. NOFFSINGER: Yes, that item has been withdrawn. There will be no testimony.

MS. CRABTREE: Permanently withdrawn?

MR. NOFFSINGER: Until such time as another application comes before us, but this application, there will be no action taken on it. There would have to be a new application submitted, new notification before it could be reheard.

MS. CRABTREE: And they would send letters out to the neighborhood again?

MR. NOFFSINGER: Yes, ma'am.

CHAIRMAN: Just for the record let me bring you up.

MR. SILVERT: Let's get your name for the record and get you sworn in.

MS. CRABTREE: My name is Lavonne Crabtree.

(LAVONNE CRABTREE SWORN BY ATTORNEY.)

CHAIRMAN: Now, Ms. Crabtree, would you repeat your questions.

MS. CRABTREE: We just wanted to know if this was a permanent withdrawal or if it was going to be postponed to another date, and if we would be notified.
of another meeting.

MR. NOFFSINGER: Yes, it has been withdrawn.

If there is another meeting, you will be notified.

MS. CRABTREE: Thank you.

MR. NOFFSINGER: You're welcome.

MR. SILVERT: Would you state your name, please?

MR. WARD: Neil Ward.

(NEIL WARD SWORN BY ATTORNEY.)

MR. WARD: I just have a question. Regardless of who does this, whose name is attached to this, you said there should be or there definitely will be notification?

MR. NOFFSINGER: Will be.

MR. WARD: And this Commission has to hear this before this goes forward regardless; is that a true statement? This can't be done without your all's vote. Is that the way I understand it?

MR. NOFFSINGER: Correct.

MR. WARD: That's all. I just wanted to clarify that. Thanks.

CHAIRMAN: All right.

PLANNING STAFF RECOMMENDATIONS

The Planning Staff recommends approval subject to the condition and findings of fact that follow:

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CONDITION:
Approval of a revised preliminary subdivision
plat.

FINDINGS OF FACT:
1. Staff recommends approval because the
proposal is in compliance with the community's adopted
Comprehensive Plan;
2. The subject property is located in an
Urban Residential Plan Area, where urban mid-density
residential uses are appropriate in limited locations;
3. Sanitary sewer service is available for
extension to the site; and,
4. The proposal is a logical expansion of
existing R-2MF Multi-Family Residential zoning located
immediately west of the subject property.

MS. EVANS: We would like to enter the Staff
Report into the record as Exhibit C.

CHAIRMAN: Do we have anybody here
representing the applicant?

MR. KAMUF: Mr. Chairman, I'm here to answer
any questions that you have.

CHAIRMAN: Thank you. Mr. Kamuf is here.
Do we have any questions from the audience?
(NO RESPONSE)

CHAIRMAN: Any questions from the commission?
(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a motion.

MR. APPLEBY: Motion for approval based on Staff Recommendations with the single condition and Findings of Fact 1 through 4.

CHAIRMAN: We have a motion for approval by Mr. Appleby.

MR. ROGERS: Second.

CHAIRMAN: Second by Mr. Rogers. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

Related Item:

ITEM 5A

Dutch Banks, 7.07 acres
Consider approval of amended major subdivision preliminary plat.

Applicant: Goetz Development, LLC

MR. NOFFSINGER: Mr. Chairman, this plat has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order. Its use is consistent with the underlying zoning and its ready for consideration.

CHAIRMAN: Are there any questions from the Ohio Valley Reporting

(270) 683-7383
audience?
(NO RESPONSE)
CHAIRMAN: Questions from the commission?
(NO RESPONSE)
CHAIRMAN: If not the chair is ready for a
motion.
MR. APPLEBY: Motion for approval.
CHAIRMAN: Motion for approval by Mr. Appleby.
MR. REEVES: Second.
CHAIRMAN: Second by Mr. Reeves. All in favor
raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries unanimously.
Next item.
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MINOR SUBDIVISIONS
ITEM 6
8450, 8462 Highway 815, 34.645 acres
Consider approval of minor subdivision plat.
Applicant: Jean B. Moore
MR. NOFFSINGER: Mr. Chairman, this plat has
been reviewed by the Planning Staff and Engineering
Staff. It's found to be in order. It does come to
you as an exception to the subdivision regulations in
that it does not meet the three to one depth to width
ratio; however, the property is being divided for an
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existing home and the property follows the natural
boundaries of the crop activity that's occurring on
the property.

With that the Planning Staff does not feel
that they're trying to maximum the number of lots.
They're trying to respect the pattern of the
development and use on the property and trying to also
conform with the standards as much as possible. They
do have a note stating that the property hereon would
not be further subdivided unless they've met the
minimum requirements of the subdivision regulations.

So with that Staff believes it's ready for
consideration.

CHAIRMAN: Do we have anybody representing the
applicant?

APPLICANT REP: Yes.

CHAIRMAN: Do we have any questions?
(NO RESPONSE)

CHAIRMAN: Any questions from the audience?
(NO RESPONSE)

CHAIRMAN: Hearing none the chair is ready for
a motion.

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

MS. CAMBRON: Second.

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CHAIRMAN: Second by Ms. Cambron. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

NEW BUSINESS

ITEM 7

Consider approval of the June 2012 financial statements.

MR. NOFFSINGER: Mr. Chairman, all members have been mailed a copy of the financial statements and they're ready for consideration.

CHAIRMAN: Are there any questions?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a motion.

MR. PEDLEY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Pedley.

MR. KAZLAUSKAS: Second.

CHAIRMAN: Second by Mr. Kazlauskas. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

The chair is ready for one final motion.
MR. PEDLEY: Motion to adjourn.
CHAIRMAN: Motion to adjourn by Mr. Pedley.
MR. APPLEBY: Second.
CHAIRMAN: Second by Mr. Appleby. All in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries unanimously. We are adjourned.

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STATE OF KENTUCKY

) SS: REPORTER'S CERTIFICATE

COUNTY OF DAVIESS

I, LYNNETTE KOLLER FUCHS, Notary Public in and for the State of Kentucky at Large, do hereby certify that the foregoing Owensboro Metropolitan Planning Commission meeting was held at the time and place as stated in the caption to the foregoing proceedings; that each person commenting on issues under discussion were duly sworn before testifying; that the Board members present were as stated in the caption; that said proceedings were taken by me in stenotype and electronically recorded and was thereafter, by me, accurately and correctly transcribed into the foregoing 26 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 5th day of September, 2012.

LYNNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES: DECEMBER 16, 2014
COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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