

ENVIRONMENT AND LAND USE COMMITTEE
Department of Land Management

REGULAR MEETING MINUTES
November 11th, 2010 9:00 AM
COUNTY BOARD ROOM

Chairman Brandt called the meeting to order at 9:01 AM.

Committee members present: George Brandt, Hensel Vold, Tom Bice, Michael E. Nelson, Mark A. Smick, Roland Thompson, Dave Quarne and Ed Patzner.

Staff/Advisors present: Kevin Lien and Virginette Gamroth. Kimarie Estenson was present for part of the meeting.

Others present – William Gardner, Gene Wachs, Shane Goplin, Judy Goplin, Scott Steeno-Central States/Verizon Wireless, Larry Pittman, Nicole Myers, Carmen Wilson, Denise Redbird, Winn Bay Sand, LP representatives; Gary Stone, Jamie Puent, Harold Dirksen, Bill Vachon, Rhonda Ficke, and DeWayne Snobl-APHIS-WDACP.

Chairman Brandt stated that the Open Meeting Law had been complied with through notifications and posting.

Approval of Agenda – Vold made a motion to approve the amended agenda as presented, Bice seconded, motion carried unopposed.

Approval of Minutes – Bice made a motion to approve the October 13th, 2010 meeting minutes as presented, Nelson seconded, motion carried unopposed.

Public Hearing-Land Use Change/Rezone-Transitional Agriculture (TA) to Institutional (I)- William Gardner, Applicant. Brandt opened the public hearing at 9:03 AM. Nelson read the public hearing notice aloud. Brandt went through the public hearing procedures for the benefit of the public in attendance. Lien explained that Mr. Gardner has applied for a rezone on 2.63 acres in Eden Heights subdivision outside of Arcadia. Lien referred the Committee to the ArcView aerial map provided for all to view. Lien stated current zoning on that site is Transitional Ag (TA) and the request is to change it to Institutional (I) for the construction of a church. The Revised Comprehensive Zoning Ordinance, Section 2.05, lists some of the uses that would be allowed in institutional zoning as cemeteries, schools, churches, public and private institutions and buildings along that nature. Lien added he has documentation of a phone call inquiry as well as a letter from the Town. Lien distributed a letter to the Committee signed by some of the adjoining land owners. In referring to the map, Lien stated it is the first two lots when entering into the subdivision. Brandt asked Gardner if he wanted to add any further comments. Gardner added it would be an Assembly of God church and the Assembly in EauClaire would be the “mother” church. The building would seat 100-299 and there would be classrooms and offices, a dining area and the sanctuary. Gardner pointed out on the map where parking would be available. Brandt inquired about traffic patterns. Gardner responded the big day would be Sunday, otherwise it would probably be limited. Lien read a written recap of a telephone call office staff had taken from Paul Sobotta. Sobotta made inquiries only he did not make a statement as to whether he was for or against the issue. Lien asked if Gardner was constructing the church. Gardner responded that he was not, it will go out on bids. Gardner stated he was Vice President of the church according to the incorporation papers.

Gene Wachs – Registered to testify in opposition – Wachs referred the Committee to the letter that was distributed earlier and gave the following points contained in the letter. Wachs stated he owned the land directly across the street, and other signers of the letter owned land adjacent to the property being rezoned. Wachs stated Boberg Lane is basically a one lane road, there is no room to pass, if two cars

pass, one will be in the ditch as the road is very dangerous. Gold N' Plump has a building nearby where they repair semi's and work on other vehicles. Farmers utilize the road with farm machinery. Wachs continued that church functions could bring in 80 to 100 vehicles and if the driver's don't know what they're doing, they are going to be in the ditch. Wachs stated the land in the area has been hunting grounds for many people over the years. If a church were to be placed on this land, the Town of Arcadia would not receive any tax money from this institution at all, as they are tax exempt, therefore adjoining landowners would actually have to pay more taxes. Current land values in this area could be reduced. Wachs added a septic system and well would need to be put in. Wachs stated, for people who are not familiar with that road, it is a big "bowl" of hills all the way around and when it rains the water comes right down through that land. After heavier rains, the road has been washed out and more rock has been put in there all the time, therefore if all the water goes right through that land there will be trouble with the well and septic systems especially if there are numerous people using those systems as opposed to one or two people using a home septic. Wachs added that if the land was zoned Institutional it could immediately, or in the future be turned into a home, a group home or a school or they could turn their home into a church and write it off. Wachs referred to the letter that he received from the Department of Land Management listing the purpose for the rezone as being for an "institutional business" (church). Wachs questioned what an institutional business was. Wachs felt this should be explained further. Wachs read the letter which stated that the rezone should not be approved and read the names of the signatures on the letter: Gene Wachs, Randal Thomas, Nancy Thomas, Romona Wachs and Diane Thomas.

Lien read a letter from the Town of Arcadia which stated that the Board of Supervisors was informed by William Gardner and Hickory Valley, LLP that they have applied to the Trempealeau County Department of Land Management to change the Land Use/Zoning from Transitional Agriculture to Institutional for the purpose of constructing a church on the property on Eden Heights Lane within the Town of Arcadia. The Town of Arcadia Board of Supervisors passed a motion at their October 14th, 2010 board meeting stating they have no objection to the Trempealeau County Environment and Land Use Committee changing the Land Use/Zoning from Transitional Ag to Institutional for the purpose of constructing an institutional business (church) on two parcels of property located on Eden Heights land within the Town of Arcadia.

Gene Wachs added he did not think anyone was informed about the Town of Arcadia board meeting regarding this matter.

Brandt closed the public hearing at 9:18 AM.

Nelson questioned how far the town roads of Boberg Lane and Eden Heights were from the Arcadia city limits. Estenson measured the ArcView photo and the city limits are approximately one half mile away. Discussion followed. Bice stated, that usually, if a developer were to come in and do what Gardner is requesting, the developer would be asked by the town to improve the road, Bice inquired if Gardner would be willing to do any road improvements as Bice added that improving the road would be very expensive and there is less aid available to the townships therefore the town would have a tough time coming up with the money to improve the road. Gardner responded he didn't feel there was anything wrong with the road the way it is and Gardner didn't foresee that there would be that many vehicles. Lien verified that both roads are paved roads. Gardner added, as soon as a person would turn in the driveway, the church will be right there so no one would really be traveling up the hill. Gardner felt most of the water that comes down road-wise is on the opposite side of the road and the water that comes down along where the church would be, is below the proposed lots. Gardner stated there is a big culvert under the road right at the intersection. Quarne inquired if there was a wetland next to the road. Estenson responded it is not a designated wetland. Lien reiterated that there are culverts under Eden Heights Road. Wachs stated on the north side of Boberg Lane there is a drainage ditch that goes under the road and goes right along Boberg Lane going down to the Trempealeau River and on the left side another thirty feet would have to be cut back all the way down that road, so if the road would need to be improvised it would

cost big money. Vold asked if both roads were blacktopped and up to standards. Lien responded that both roads are town approved co-aid roads. Discussion followed. Bice suggested postponing any decision until the Committee could perhaps get a better look at the road. Nelson made a motion to table the issue until next month's meeting, Bice seconded the motion. Brandt added this would give Committee members an opportunity to visit the site on their own. At Smick's request, Gardner was asked to put up some stakes so there would be no doubt as to where the site is. Gardner replied that the building is staked out and where the soil tests have been taken is visible. Lien inquired if postponing the matter would adversely affect Gardner. Gardner responded that no construction was planned for this fall. Motion to table the decision carried with no opposition.

Public Hearing – Conditional Use Permit – Duplex – Anthony & Nicole Myers- Town of Arcadia

Brandt opened the public hearing at 9:27 AM. Nelson read the public hearing notice aloud. Lien mentioned Nicole Myers is present to apply for a Conditional Use Permit for a duplex. Lien stated the location is approximately two miles south of Arcadia off of Weaver Lane. Lien pointed out the location of the home on the ArcView map. According to the Zoning Ordinance modifying the existing farmhouse to a duplex requires a Conditional Use Permit (CUP) which means the Committee can place conditions on the permit. Lien stated he did not receive any calls for or against this Conditional Use Permit proposal. Brandt inquired if Myers had any comments. Myers stated the farmhouse will take minimal work to duplex. Myers' have just built a new home in a different location and they want to make use of the old house, they prefer not to tear it down as the original farm has been in the family for 131 years. Lien stated the Myers' actively farm the land. Discussion followed. No testimony from the public was given in favor or opposition. Lien read a letter from the Town of Arcadia which stated that the Town of Arcadia Board of Supervisors had been informed by Anthony and Nicole Myers that they have applied to the Trempealeau County Department of Land Management for a Conditional Use Permit to change a single family dwelling to a duplex on the property that they own at N26198 Weaver Lane in the Town of Arcadia. The Town of Arcadia Board of Supervisors passed a motion at their September 29th,2010 board meeting stating they have no objection to Trempealeau County Environment and Land Use Committee granting Anthony and Nicole Myers a Conditional Use Permit to convert the existing house at N26198 Weaver Lane into a duplex. Brandt closed the public hearing at 9:32AM. Lien verified, at Vold's inquiry, that the location was at the end of a dead end road. Brandt asked if a duplex in the middle of a working farm was practical. Myers responded that the farm yard itself is larger than a football field and at least one of the apartments would probably be occupied by farm help. Nelson made a motion to approve the Conditional Use Permit for a duplex on the Anthony and Nicole Myers farm, Bice seconded, motion carried with no opposition.

Brandt announced that #7 and #8 on the agenda would be reversed as they both deal with the same property and project, owned by Shane and Melinda Goplin, however, the rezone needs to be addressed first.

Public Hearing – Land Use Change/Rezone – Residential – 8 (R-8) to Rural Residential (RR) – Cell Tower- Shane and Melinda Goplin - Town of Hale.

Brandt called the public hearing to order at 9:36 AM. Nelson read the public hearing notice aloud. Lien introduced Scott Steeno, acquisition agent for both Central States Tower and Verizon Wireless and Shane Goplin, the landowner. Lien stated the Trempealeau County Comprehensive Zoning Ordinance requires that any tower greater than 70 feet in height obtain a Conditional Use Permit but they are only allowed in certain zoning districts. In this case the applicant must first rezone from Residential-8 to Rural Residential for the Conditional Use Permit to be allowed in that district. At Brandt's request, Lien mentioned that when the Town of Hale went through the Land Use planning process, their mindset was to create as many lots as possible for future subdivisions, so almost the entire Town of Hale is Residential -8 which means that if anyone wants to put in a new dairy operation, etc., a conditional use permit must be issued or the land rezoned. Lien had discussed the issue with the Town of Hale again, and the Town of Hale representatives stated they wanted to keep the Land Use Plan as is. Lien stated Goplin's are one of the largest landowners in the Town of Hale and the land being rezoned is located north of Pigeon Falls. An ArcView aerial map was provided

for all to view. Lien stated the rezone is for approximately 38 acres and it is not being sold, it is leased space. Steeno informed the Committee that Central States Tower will be the owner of the proposed tower, Verizon Wireless will be the main or first tenant on the tower. The purpose of the tower is to provide coverage northbound and southbound on Highway 53 where there is a lack of coverage. Steeno stated he had sent Lien some propagation maps showing “before” and “after” coverage and that there is a lack of coverage in that area for Verizon and for most other carriers as well. Steeno stated at the beginning of this process he is given a search area map by the Verizon RF engineer that tells Steeno explicitly where the tower is to be located, at what height they are looking to have that tower and how tall that tower should be to get maximum usage of their \$200,0000 expense to build that facility. Maximum usage meaning four or five miles one way or the other, up and down the highway, as well as the surrounding area. Terrain, of course, plays a large part in that decision. In doing this, Steeno understands he “walks a fine line” between making neighbors angry because these towers are not the most beautiful thing but Steeno has to answer to the RF engineer and the engineer is the “bottom line” approval of any site Steeno selects. Steeno stated the site he had initially spoken to Goplin about was several hundred yards to the west of the current proposed site and it was basically denied by the RF engineer because it would not provide the coverage objection that he needed to have in order to invest money into the site. Steeno added they originally wanted the hill to the south, however there is no access road and access would be next to impossible and there would be no access for utilities as they do need power and telephone land lines or preferably fiber optics to get up there. Brandt called for public testimony.

Judy Goplin – Registered in favor but did not wish to testify.

Larry Pittman – Registered to testify in opposition. Pittman stated his property is directly across the road and about 200 yards from where the tower will be built is his front porch, so whenever Pittman looks out of his front porch he will have an “animated” view of the sunset. Pittman has gone around to all the neighbors who have immediately adjoining land within approximately one quarter of a mile. Pittman stated he had called Lien with his concerns. It is not that he is opposed to the cell tower but he felt an alternative location to the cell tower should be presented. Pittman felt a better location would be two miles to the north on the top of Osseo ridge as it is 200 feet higher in elevation, naturally, both blind spots on Osseo ridge would be covered, it would make more sense to put the tower directly between the tower that is in Pigeon and the tower at King Valley. Pittman added from his house he can see the totality of two towers and the top of the King Valley tower. Coverage is not a problem in Pittman’s area, but if a person gets on top of the ridge and goes down into the valley’s, these areas would be covered. Pittman stated he called and talked with Steeno and Pittman was concerned with Steeno’s response telling Pittman that he really didn’t care if Pittman liked it or not. Brandt stated Pittman’s points were well taken.

Lien read a letter from the Town of Hale which stated the Town of Hale met and approved the change of zoning and conditional use in the Verizon tower on Goplin land. The letter was signed by Dave Berg. Brandt closed the public hearing at 9:50AM. Nelson inquired as to where the cell tower will be located in regards to where Don Putz lives. Goplin responded it is north on the rock knob. Smick inquired if the coverage area from that site is only 4-5 miles. Steeno responded that was correct, with digital coverage it only goes 4 – 5 miles. Steeno added back when cell phones were in their infancy and we had analog coverage it went 10-12 miles but since everyone went to digital for signal and data, meaning internet over the cell phone, the signal is greatly reduced. Smick inquired if other potential providers would legally have rights to locate on it. Steeno responded this tower will be built to accommodate Verizon and four additional carriers. Bice made a motion to approve the land use change/rezone request by Shane and Melinda Goplin from Residential-8(R-8) to Rural Residential (R-R), Thompson seconded, motion carried with no opposition. Brandt reminded all present that the rezone still has to be passed by the County Board of Supervisors.

Public Hearing – Conditional Use Permit – Cell Tower – Shane and Melinda Goplin-Town of Hale . Brandt opened the public hearing at 9:55 AM. Nelson read the public hearing notice aloud. Lien stated

that under Rural Residential zoning a cell tower with a height greater than 70 feet requires a Conditional Use Permit (CUP). Lien added there is a set of conditions which must be met; co-location site is at least two, (Verizon stated they are offering four), they must exhaust every option to co-locate on an existing tower (Lien read a letter which stated there are no towers in the immediate search area-the Verizon/Central States search has been submitted to the Dept. of Land Management office). The nearest tower is owned by Badger Tower Acquisition, LLC and is 3.05 miles southwest of the Goplin's site. The Goplin's site is designed to cover Highway 53 to the north and south approximately 4-5 miles. (The Badger tower site would not meet the coverage requirements of Verizon Wireless and Central States Tower RF engineers.) Lien stated the proposal is on Goplin's property, across the road from Mr. Pittman. Lien inquired about Goplin mentioning there was a rock knob nearby and was there an area that was unfarmable. Goplin stated that was correct. Brandt asked Lien to describe any limitations the State has put on the County. Lien responded that there weren't any as the State has not put a lot on the County's as far as cell towers. Trempealeau County has an ordinance in place that the State has not overruled or taken action on so Trempealeau County does have the ability to regulate them. It is a Conditional Use which means if they meet all the requirements as far as setbacks and co-locations then the permit can be issued. Brand commented that when cell towers started propagating throughout the State, about ten years ago, the State made a decision that the county's and townships would be able to regulate their locations but there are two reasons for denial that would not be allowed; one is aesthetics and the other was health issues. Lien added the towers have to meet FAA lighting requirements. Steeno had submitted to Lien the search area that was provided by Verizon which was very restricted. Steeno explained in more detail how this site was determined and that this was the only site that the RF engineers would approve. Brandt closed the public hearing at 10:02AM. Steeno provided a map which outlined in red the search area that Steeno had to work in. Nelson inquired why the ridge wasn't acceptable. Steeno replied the ridge is not acceptable because there is no way to get on top of it. Bice asked how much land Goplin owned around the proposed area. Goplin replied that particular field was 56 acres. Steeno added the cellular networks have been largely built out to cover the populated areas of the state by all carriers. Now every year they issue sites, that are called "fill-in" that are designed to fill in "numbered" roads or sometimes "lettered" roads where there would be dead spots and that is mandated by the FCC under the E911 rule. Smick stated he heard Steeno mention that other potential users could use that site. Smick inquired if one of the co-locators, in the future, was Trempealeau County, would Central States consider allowing Trempealeau County to locate on the tower for free. Steeno replied, that as long as the County would pay for a structural analysis (roughly \$1,500.00) and provide a comprehensive list of equipment that is to be installed, it would be available to them. Smick stated Trempealeau County is now in the process of spending about two and one half million dollars for its' infrastructure for the public safety system and trying to identify what Smick called "moving targets" as not all locations have been specified. Trempealeau County's current radio system uses about three towers and it will soon be expanded to about eight. Smick suspected that, in the not to distant future that some of the towers that Trempealeau County does locate on might change for several reasons; it is costing too much and the system initially will be an analog system and then go to a digital system. That means that the existing eight prospective towers out there might have to go to ten or twelve towers. Smick was hoping to get some type of commitment that a spot be reserved for Trempealeau County or the option to waive it or give it away. Trempealeau County may want to relocate them because they are going to cost too much money and additional sites may be needed when going to the digital mode. Steeno stated when talking about County systems and what they use for their emergency systems all that is particularly being talked about is a tower with antennas, maybe two at the most, those basically don't take up any space and they can be mounted to a current "T" frame that is on another carrier so there is really no need to reserve space because you can pretty much go anywhere on a tower even if there are other carriers around. Smick really wanted to make sure that Trempealeau County would have some free space reserved. Smick inquired if the building was reserved exclusively for storing Verizon's equipment. Steeno responded Trempealeau County would have to put up their own building. Thompson questioned why Trempealeau County was going to analog and in essence backwards, when all the fire departments, etc. are going digital? Smick responded that Thompson was correct and Trempealeau County is going through a transitional stage and will eventually

end up in the digital state. Lien read the requirements of the applicant which are: a statement from the owner/operator that such tower will be constructed to accommodate at least two additional communication facilities and that such additional facilities will be made available to commercial users at competitive rates and this requirement may be waived by the E & LU Committee. Steeno stated there would be four co-location sites. Lien and Steeno have discussed a plan for abandonment of the communication tower along with such surety as the Committee may require to cover the cost of abandonment should the owner default. Lien stated every single tower that has gone up in the County since the adoption of the Ordinance has had a reclamation bond. Typically in a tower of this size the bond is going to be around \$20-30,000. In addressing Brandt's inquiry regarding neighbors concerns, Steeno said he would accept any decision being tabled and then Steeno would come back next month with the RF engineer. Vold asked if the driveway has been approved? Lien responded the permit would have to come from the State Department of Transportation. Lien felt there was probably a field access road there already and with a cell tower this wouldn't be a large change as the towers are usually serviced one/twice a month and are snowplowed. Steeno added the utility easements will run underneath the access road. Nelson asked how far the tower would be off of Highway 53? Steeno responded it was approximately 633 feet. Lien reiterated that all standard conditions would apply as well as FAA requirements. Lien inquired about a problem with the lighting on another tower. Steeno explained that the FAA notified them that the other tower was in a migratory bird path and the FAA required a certain type of lighting, a white strobe at night, to avoid the birds hitting the tower. An appeal was sent into FCC based on neighbor complaints that the light was shining in their windows and the FAA came back and said change it to a red strobe at night and a white strobe during the day. Bice commented that he hears and understands the opposition and Bice is a very strong supporter of private property rights and private property rights protect Mr. Goplin and Mr. Pittman. There are so many issues that are give and take and cell towers are something we are going to have for a very long time. Bice felt the tower was far enough away from the neighbors who object to it, Goplins pay taxes on the land and "have the right to do what they want with it". Brandt asked what the setback requirements were? Lien responded the setback is 50 feet plus the height of the tower which in this case the tower is proposed at 260 feet therefore the setback is 320 feet from the property line. Bice made a motion to approve the Conditional Use Permit with standard conditions applying. Smick attempted to second the motion with the stipulation that Trempealeau County get one of the four sites free on the tower with the option to waive it in the future. Steeno responded that what has been done with other jurisdictions is that Verizon states they will give the county space, free of charge, on the tower and there is no height amount specified because it is unknown as to what kind of requirements the County will have. Bice stated he admires Smick for addressing the co-location issue but this Committee has to be really careful about asking for a "favor". Bice added that this Committee has to make a decision based on the best interests of all parties involved and its' merits alone. Vold then seconded the motion that Bice had made. Smick amended the motion that any decision be tabled until next month until Corporation Counsel can review the issue, Quarne seconded Smick's motion. Bice clarified his point that this Committee cannot give the appearance, since there is opposition, that the CUP for the tower has been approved based on Trempealeau County's/public use. Brandt called the vote on tabling this issue until next month, Quarne- no, Smick -yes, Vold - no, Thompson - no, Nelson- no, Brandt - no, Patzner - no, Bice - no, motion failed 7-1. Brandt called for a vote on approving the Conditional Use Permit with the standard conditions applying, motion carried with no opposition. Lien reiterated that the Land Use Change/Rezone will be on the December County Board agenda and will become final at that time, if approved.

Public Hearing –Conditional Use Permit – Park/Playground – Osseo Junior Baseball/Softball Association (OJBS, Inc.) Landowner, Carmen Wilson, Applicant – Town of Sumner. Brandt called the public hearing to order at 10:27 AM. Nelson read the public hearing notice aloud. Lien stated he was at the Town of Sumner for a Land Use Planning update, about two years ago, and ironically it was the same night that Carmen Wilson appeared to give a presentation to the Town on this project so it has taken Wilson a while to get to this point. Lien added the Town was in favor of it at that time. Lien stated the location is near the ball field just south of Osseo off of Ball Park Road. The Ordinance states that public

outdoor recreation uses require a Conditional Use Permit. It has been published in the newspaper and as a courtesy letters were sent to adjoining property owners and there has been no responses for or against the request. Lien can attest to the fact that when he was at the Town meeting two years ago the Town was in favor of the proposal and thought it would be a great use of the area and a wonderful addition. Wilson stated she had submitted a plan of what the park will look like. The new park will join up to the existing ball fields. The population of kids will not increase as there are already hundreds of children using the present park. Wilson stated the park/playground that is being proposed is twofold: one of the playground units is a handicap accessible park not only for kids but for adults who are handicap and need to bring their own children to the park and the second one will have "intensity equipment" which is new age equipment that is being designed to help curb child obesity. Wilson added they would like to put a walking track around the entire park. Wilson felt that there are a lot of children that don't play baseball and this would be a great place for them to be safe and for families to have fun. No one from the public registered to testify in favor nor in opposition. Lien read a letter from the Town of Sumner which stated the town has no problem with this request. Brandt closed the public hearing at 10:32 AM. At Nelson's inquiry Wilson verified that the land is in the Town of Sumner, but the City of Osseo will "adopt" it and the City will maintain the park and insure it. Bice questioned if the Baseball/Softball Association would continue to own the land. Wilson responded that the Association owned it, but once all the necessary permits were issued, it would be turned over to the City of Osseo. Nelson made a motion to approve the Conditional Use Permit, with any standard conditions applying, for the Park/Playground, seconded by Quarne. Motion carried with no opposition.

Wildlife Damage & Claims – DeWayne Snobl – Snobl discussed the 2010 WDACP crop prices and explained how he determines the prices. Snobl stated he covers a five county area. Prices are monitored throughout the year from October 2009 thru September of 2010. Snobl uses eight different sources and checks them once a month to determine prices. Apple prices are determined by calling numerous growers for wholesale and retail prices. Snobl had UW Extension assist in determining a price for the livestock. After some discussion, Quarne recommended and made a motion to change the corn price to \$5.00 and the soybean price to \$11.50, Nelson seconded. Bice verified that no county funds are being used nor is the county under any obligation of any kind. Snobl responded that the claims part of the program is all State funded. When the County contracts for wildlife services with the State there is some federal funding that comes into the program as well, but there are no County funds in any aspect of the program nor is the County liable. Lien stated, for clarification purposes, this money is run through the DLM budget, therefore the DLM budget expenditures, in the fourth quarter of a year, will look high. Motion to approve the corn price at \$5.00 and soybeans at \$11.50 and all other crop prices as recommended on Snobl's handout for the Wildlife Damage Program passed with no opposition.

Snobl recommended a November 30th or December 1st date for the 2010 90% Harvest Cut-off Date since he will need time to get it published in the newspaper. Snobl stated that everyone that is claim eligible has had their crops appraised already. Quarne made a motion to approve the 2010 90% Harvest Cut-off date as December 1st, 2010, Thompson seconded, motion carried with no opposition. Snobl added he will send the information to the newspaper for publication and he will make sure Lien gets a copy of that information. Snobl presented the Committee with information on the 2011 WDACP Budget Proposal. Snobl stated Sacia Enterprises (Decoraland Orchard) has been interested in a new permanent fence since 2008, however, the State has not had money available up until now. Snobl informed the Committee that there is a fence around the orchard now, and Sacia's have maintained that electric fence for 20 years, but it is to the point where the deer run right through it. In previous years', Sacia's were not interested in filing a claim, but they did want Snobl to document a history so that when fences became available again, the necessary documentation would be available. The length of the fence is approximately 6,632 feet and it protects 53 acres of orchard with a total estimated cost of \$26,800 for the project. The WDACP cost-share (75%) would be \$20,100. Snobl stated he had done an appraisal in 2008 of the damage which amounted to over \$50,000 because of the harsh winter. As winters got easier the damage decreased but it still ran \$10-\$13,000. When APHIS recommends a fence, it has to be approved by the State first as to the cost-effectiveness and it is a 15 year contract. Snobl stated projected savings on installing the fence

will be around \$50,000. Bice verified that none of the fencing funds come out of the Trempealeau County budget. Bice commented that he had no idea why the State of Wisconsin is spending money on a private enterprise fence. Snobl responded, that his opinion was, the State thought it was more cost effective to pay for a fence than to keep paying perhaps \$10,000 each year in damage claims. Discussion followed. Thompson made a motion to approve the fencing project for Sacia Orchards, Vold seconded, motion carried with no opposition. Snobl went through the WDACP budget proposal as presented on the handout. Snobl stated the budget is based on amount of participation and workload in the 48 participating counties and all items are pro-rated out per acre. Brandt reiterated to Committee members that there is a 5 year service contract with APHIS-WDACP that expires in 2013. Vold made a motion to approve the WDACP budget as Snobl presented it, Quarne seconded, motion carried with no opposition. Snobl mentioned the contract for the fence project will come later when Snobl has the final numbers.

Winn Bay Sand, LP – Review of Conditional Use Permit Condition and Final Site Plan Approval

Lien referred the Committee to the list of conditions, in their packet, that were approved at the public hearing held back in June. A site map was provided for all to view. Vachon stated when the original site plan was submitted, it was a conceptual plan, shown on Figure 16, that was in the CUP application. Winn Bay had to identify the processing equipment and the area processing, the conveyor line, utility lines, the water and natural gas lines and the rail loadout area which was identified within the proposed 35 acres processing area along with 150 acres of the non-metallic mining operation itself. After the plant design people and engineers looked at the topography that Winn Bay was working with, some of the equipment was moved around to better facilitate the overall plant operation, streamline the process of moving materials to the equipment for a sequential operation, therefore minimizing any kind of additional workload. Vachon had discussed with Estenson the shifting of the 35 processing acres and 150 acres of mining. Originally when Winn Bay came through there was this cross section area as the 35 acres based on the conceptual design, but what is actually being presented is 17 acres as the rail load out area, 17 acres in the conveyor area that extends beyond the mining limits and 11 acres in the processing area, it now equals the 45 acres of processing that was identified, however it does encroach into the area which was identified as “area 3 or 4 for the phasing” for the mining, so actually in the development of the overall plant layout, Winn Bay is taking the first one or two years worth of what was stated as “mining”. Vachon stated Winn Bay had dealt with the stormwater plan and requirements with the Department of Natural Resources and the Notice of Intent was submitted to Kurt Rasmussen with the DNR. That plan also dealt with stormwater issues of the rail loadout area. Initially, in the CUP application, the stormwater plan was submitted for the actual plant and there have been some changes made. Some of the areas were identified as very “fine” material and water retention basins and that has changed. The fine’s are still there but there are larger stormwater retention basins to accommodate the “water events” that happen on occasion in this area. Vachon stated the mining area stays the same, the rail loadout was originally farther to the north but to facilitate the equipment and the dryer coming off the hoppers it has been shifted further to the south and it also takes into account the natural valley that is there so there will be less excavation. The rail area is pretty much as identified, two stormwater retention basins to accommodate any runoff from any material contact within that area, so no material will flow offsite as it will go into a filtration basin which goes down into the groundwater. Vachon continued that as far as the siting, Winn Bay was cognizant of the requirement to maintain setbacks off the property lines. C & N (Canadian National) is currently reviewing the application and the construction information for the rail loadout and any necessary stormwater information. Lien asked Vachon to expand more on what is going to be in the rail loadout area. Vachon responded there is a conveyor and the conveyor will discharge into three surge hoppers. Stone added there are over-land conveyors that are going to come down and will “feed” into three surge hoppers (grain bins), because there is not a lot of storage area, it is just a little surge capacity so if there is a ton of materials that can’t be fit into a rail car, it can be stored. There will be a certified belt scale coming out of the surge bins going on top of the rail loadout. Lien verified the rail will be loaded by belt from the bottom of the surge bins. Lien questioned how Winn Bay was addressing any airborne materials. Stone responded there is a loading spout that drops right down onto the hole, on the top of the railcar, and it has its own dust collector and the conveyor feeds into that. Estenson asked the elevation of

the conveyor. Stone says because the conveyor is going over the hill, that spot is also being used as the utility corridor and service road and MSHA does not allow Winn Bay to exceed an 8% grade going over the hill so the cut that has to be made for running the conveyor over the hill. A height elevation for the conveyor is 975 feet and the current elevation is 1040 feet. In order to construct the conveyor and bring in the facilities Winn Bay has to obtain that grade, so on the north side it will be a 1:1 slope and the south side is a 3:1 grade and some 1:1 and subsequently the slope to the south will be initially mined and for the reclamation purposes the slope on the north side that is 1:1, will be converted back to a 4:1 slope. Lien asked if that was the point where Winn Bay would be closest to any adjoining property owners. Vachon responded that was correct. Lien inquired as to what kind of fencing Winn Bay intended to do and if they are staying back from the border of 10 feet since it won't be cut as steep as it was once presented. Stone responded that was correct and at that property line, the hill comes up for about 10 feet and then starts dropping away. Stone added they weren't planning to do anything with trees or brush, they plan to leave a 10 foot buffer. Puent stated Winn Bay was still inclined to put a 6 foot chain link fence there though. Bice asked if the fence would be on the property line? Stone stated there are remnants of a fence there. Bice inquired what would happen to any trees in the way? Dirksen responded he felt they would have to fence right down the property line and Lien agreed. Quarne recommended fencing on the property line and any tree that is in the way will have to be cut. Lien stated at the public hearing, one of the neighbors brought up the fact that the conveyor would be a deterrent for wildlife to transfer back and forth between the properties. Lien asked if the fence would be around the entire perimeter or just in the mining area? Puent replied it would be in the mining area but there is the question as to where the fence will be 20 years out. Stone stated the purpose of a fence is for public safety and a four foot fence would stop the average person but still allow deer to cross. Stone stated MSHA requires a berm of some type. Puent commented that Winn Bay would put up a fence for safety purposes. Brandt verified the placement of the stock piles and the conveyors coming out of the stockpiles. Vachon explained the processing system. Basically there is a crushing plant and trucks will be able to back up, discharge their load directly into the hopper (this is an enclosed building so basically any emissions are being captured while materials are going into the crusher) from there it goes up onto a conveyor into a swing conveyor and that is where the daily "surge" pile is created. This material is all graded and actually identified in the dust control plan (this material would be the worst for creating airborne emissions because it contains everything). From that particular point it is loaded through a tall conveyor which discharges automatically into the wash plant. From there the material is mixed with the water and goes through several screens to grade and sort and then depending on what grade it goes into the particular conveyor and is discharged into the storage pile. Fine materials that are washed out, that are not usable, are discharged into another hopper which waters it, the water is placed into the clarifier, the fines are then settled out and taken out in a water makeup tank. From the storage piles that have been graded, it is dumped into two bins which via conveyor go into the dry plant (natural gas operated dryer) and it dries the sand. There is air emission control equipment within this facility. Stone explained the dried sand goes into the elevator into a surge bin and then it goes into the screen deck which separates into three different sizes. Those three different sizes are dispersed into three different bucket elevators that feed into storage silos. From the storage silos it goes by conveyor to the surge bin, then to the certified belt scale and then loaded into the railcars. Brandt questioned if anything would be sold offsite or will everything be going out via railcar. Stone responded it will all go out on rail. Brandt made Committee members aware of the Board of Adjustment meeting scheduled for the next day, asking for a height variance to exceed 35 feet in an ag district on several of their structures, etc. that are not agricultural and that depending on the outcome of that meeting, Winn Bay could again be meeting with the E & LU Committee. Lien informed the Committee on publication issues and discussion took place. Estenson suggested going through all of the conditions noting that DLM has received the final site plan and the equipment list.

Estenson noted that the notice to adjacent landowners is something that will be done prior to any blasting and the blasting plan itself will not be completed until some initial pre-test blasts.

In addressing financial assurance, Vachon stated Winn Bay looked at the initial estimate and revised some of the numbers. Vachon added that after the site plan is approved then Winn Bay will submit its number.

Winn Bay felt this site was a little more unique because it is structure intensive so Winn Bay looked at bonding 35 acres of the processing area separately because it is substantial dollars and having the rest of the non-metallic mine as excavation at a different rate. It will be one bond but itemized. Brandt inquired to Estenson as to what the bonding rate was? Estenson replied it is really site specific but if one looked county-wide it is generally in the \$4-\$5,000/acre rate. Discussion followed on the bonding issue. Estenson stated for any larger pits, DLM customarily has a third party engineer review the bond once it is submitted and they definitely itemize the amount of topsoil that needs to be reclaimed and get into the details. Bice asked if Estenson was talking about spending money to hire an engineering firm or something to evaluate this issue. Lien responded that part of the conditions are, if DLM feels that they do not have capability to adequately set a bond amount, it is written in the Ordinance that DLM has the option to use an outside engineer consultant to evaluate the issue and that cost is put back on the applicant. Lien stated that as far as the bond, DLM will stay with what has been set with preceding mines, it could be one bond, but the building area should be addressed separately. Bice stated his opinion that he felt this Committee should be able to look at the information for the bond, as Bice hated to burden Winn Bay with more expense as Winn Bay owns the land, they have an incredible investment and Bice didn't want to burden them with much more "red tape". Brandt responded that he felt the expertise was lacking to evaluate this bond and the fee was a modest one and part of doing business. Dirksen added they have provided the numbers and Winn Bay has already spent a substantial amount of money. Estenson added that it was recommended by DNR, a few years ago, that DLM only review the bonds. DNR supplies a financial worksheet for Winn Bay to work through. Bice added that Winn Bay is coming to Trempealeau County and creating a lot of jobs, have invested an incredible amount of money, and someone has got to encourage their courage and bending over backwards to make us happy. Bice stated he has no ties to Winn Bay but it is our responsibility to represent the public but also to represent people who will "go out on a limb" to bring industry and business to Trempealeau County. Brandt commented that the Committee's job is to protect health and safety. Smick commented we are protecting the health and welfare of the taxpayer and jobs and helping the property values is also a significant responsibility of this Committee and we can't be putting up obstacles and impediments to this type of stuff. Brandt responded that this Committee has Statutory responsibilities and the Committee must make sure those are kept first. Estenson read "install monitor wells prior to mining activity - final location and depth to be determined by DLM staff". Estenson stated she and Lien had discussed this and were waiting for the final site plan and will continue to work with Winn Bay on that location. Vachon responded when they had provided the geologic and hydro-geologic evaluation, the groundwater flow is coming from the northwest to southwest, and Vachon pointed out the area where the monitoring well would be. Estenson questioned if that is where the high-capacity well is? Vachon then pointed out where the high-capacity well would be so as to take advantage of the access road, so the high-capacity well wouldn't be out in the middle of a field. Any potential migration from the site would be picked up by the monitoring well. Lien commented that in his discussions with Estenson, they felt the water would flow towards the Trempealeau River, so the spot should be somewhere between the mining site and the river, therefore Lien felt Winn Bay had selected a good spot for the monitoring well. Dirksen commented that the conceptual plan changed when Winn Bay decided on a utility corridor that included the access road, etc. Stone commented that nothing will be coming in on Helmer's Road except for temporary power. Vachon stated that the new location of the high capacity well, being further to the west, will have less of an impact on wells to the Northeast.

Estenson questioned air monitor status. Vachon stated he and Curt Dungey, Winn Bay air processing engineer had concerns with Dr. Pierce being listed on the condition and inquired if approval by the DNR air resources staff could be added. After some discussion, Lien stated the Committee will be reviewing the conditions of the Conditional Use Permit with the owner/operator on an annual basis, so if something comes up it can be addressed at that annual review.

Estenson read the condition that existing parameter tree canopy at the highest point of elevation must remain to keep the visual appearance and aesthetics and reduce dust from leaving the proposed mining area.

Estenson read the condition regarding the Advisory Committee. Estenson had suggested that the Committee start meeting in March and Winn Bay wanted to start in June. Estenson felt, since the Committee would meet quarterly for the first year, it would be a good idea to get the Committee established before operations begin and that Winn Bay was supposed to initiate the process. Bice questioned what kind of authority that Committee would have? Estenson responded the authority is the conditions in the permit and in the governing Ordinance. Dirksen commented that “advisory committee” may not be the correct term perhaps “monitoring committee” would be better as these people are not going to run the business but they will express opinions regarding health and welfare and view the operation. After some discussion, it was agreed that a start date for the Advisory Committee should be in the first quarter of 2011, perhaps March, as Winn Bay projects to be operating in quarter two- May.

Estenson gave a brief overview of the structure and well inspections. Estenson had put the inspections out on bids and Stone was informed as to the procedures. A bid from Semingson Plumbing was accepted to inspect the wells and do the water sampling. A bid from Corey Fischer, professional structural engineer was accepted to do the foundation inspections. Most of those have been completed. Only three people have signed the waiver regarding the well inspections. Overall Estenson has received good feedback from these processes.

Estenson read the condition that DNR wetlands must remain intact and Estenson is assuming by looking at the maps presented that Winn Bay is meeting the required setbacks. Vachon pointed out the wetlands A, B & C on the map. Vachon commented that wetland B is a man made wetland and will possibly be dried out, and the hydrology will change so Winn Bay will have the DNR come out and review it, document it and at that point it will be removed. In the reclamation plan, Winn Bay identified a pond, wetland area that is greater than the amount of wetland that is on the property right now.

Estenson questioned status of air permits. Vachon responded Winn Bay now has all equipment information and Winn Bay’s review should be done tomorrow. Vachon explained that the DNR basically takes a piece of equipment and the air permit is not based on how much the equipment will be used but how the equipment is rated. So currently Winn Bay is reviewing and putting that information in the report and it will be submitted to DNR. There is a permissible exposure limit - which DNR will figure out the realistic amount of emissions based on the hours of mining operation. Once the air permit application is submitted, Winn Bay will request a construction permit and there may be a public review process based on DNR’s determination. Stone added that Winn Bay submits the information to DNR, DNR looks at it and determines whether it looks like an acceptable permit and whether the calculations are correct, but DNR also has to provide public notice and the public has the right to request the information, so the construction waiver allows Winn Bay to go along with the construction process because at that point it is DNR’s responsibility to defend the permit.

Estenson stated the only other information that is needed is the financial assurance, because everything else is a work in progress and if for any reason Winn Bay did not meet the other conditions, the permit could be revoked. Estenson added as long as DLM gets the financial assurance and the air permit the Conditional Use Permit could be issued.

Stone asked for clarification on the condition on Page 3, Item 5, that all structures and wells be periodically inspected. Lien clarified that in the event there is a complaint of damage, there is a record of the initial inspection, but then another inspection could be done to look at the damage. Stone inquired if DLM would determine what periodically was. Estenson stated she would go back to the original audio and video tapes and clarify the well inspection time frame.

Brandt recapped that Winn Bay is working on financial assurance, they have presented a site plan and are working on the air quality permit and Estenson has voiced her opinion that the Conditional Use Permit could be issued.

Thompson made a motion to approve the site plan as presented, Nelson seconded, motion carried with no opposition.

TRM/LWRM Cost Share Payments/Requests – Lien presented the following cost share payments/requests for approval. No LWRM payments were presented.

TRM Name	Type	Amount	New CSA Total	Reason for change
David Tjoflat	Contract	\$149,626.00	\$149,626.00	Barnyard, Manure Storage, Roofs, Waste Transfer Systems.
David Tjoflat	Pay Request	\$135,045.22		Certify Manure Storage & Waste Transfer Systems
David Skoyen	Contract	\$ 73,130.00	\$73,130.00	Access road, animal trails barnyard, fencing & roof
David Skoyen	Pay Request	\$ 73,130.00		Certify access road, animal trails, barnyard, fencing & roof

Quarne made a motion to approve payment of the above listed projects, Thompson seconded, motion carried with no opposition.

Refunding of permit fees - Lien commented on permit fees, as the DLM has an office policy which was set by a previous Committee, that when someone applies for a permit and staff is sent into the field, no refunds are issued. Lien stated permit fees probably don't cover the full cost of sending someone into the field. Bice inquired if it is clear, when a person applies for a permit, that the fees are not refundable and has all the work been done to use up all the money paid by the permittee. Discussion followed. Smick asked if refunds have been made in the past. Lien responded that in a case where no work/field visits have been made, yes. Lien stated he would clarify for the Committee whether there is documentation which states permit fees will not be refunded and he would provide staff to discuss the amount of work that had been done on a particular permit. The Committee asked this item to be placed on the December agenda for further discussion.

Surveying Update – A survey report and bill for T20N, R7W, Town of Ettrick and a small amount of work for T20N, R8W, Town of Arcadia was provided to each Committee member for their review. Lien stated the County Surveyor is making good progress. Bice made a motion to approve the bill as presented, Nelson seconded, motion carried with no opposition.

Director's Report – Lien informed the Committee that there are three public hearings on the agenda for December.

Lien stated that at the recent budget hearings, comments had been made about fourth quarter expenditures and courthouse departments exceeding 25% of the budget in the fourth quarter. Lien stated, how he tried to run the DLM and the Zoning Dept. prior, since these departments are economy driven and permit related, is that DLM waits until revenues are met until any capital purchases are made. Lien added as far as expenditures, Wildlife Damage and Claims and Wisconsin Fund are two programs that pay out in the fourth quarter of the year so DLM budget numbers will always be high in that quarter. Lien stated the charts that were presented at the budget hearings were informative but they do not represent all the facts because they do not show how the income is received and expenditures of where that money goes. Smick commented that Lien's point is well taken and that if the chart presented would have been more specific it would have pinpointed certain departments, but the information only applies "if the shoe fits".

Petty Cash – Lien presented receipts for the expenditures made on a previously approved \$50.00 Kwik Trip petty cash card. The card now has \$4.43 left on it. Lien asked the Committee to authorize that

another \$50.00 be added to the Kwik Trip card. Nelson made a motion to refill the Kwik Trip card with \$50.00 in petty cash, Brandt seconded, motion carried with no opposition.

Bice requested that Farmland Preservation payments be placed on the December agenda.

Next Regular Meeting Date was confirmed for Wednesday, December 8th, 2010 at 9:00 AM in the County Board Room.

At 12:34 PM, a motion was made by Nelson to adjourn the meeting, Bice seconded, motion carried with no opposition.

Respectfully submitted,
Virginette Gamroth, Recording Secretary

Michael E. Nelson, Secretary