

ENVIRONMENT AND LAND USE COMMITTEE
Department of Land Management

REGULAR MEETING MINUTES
August 10th, 2011 9:00 AM
COUNTY BOARD ROOM

Chairman Brandt called the meeting to order at 9:02 AM.

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

Staff/Advisors present: Kevin Lien, Virginette Gamroth and Emery Palmer.

Others present – Ronald Tuschner-Town of Arcadia Chairman, Ivan Pronschinske, Mark Rumpel, Brian Senn, Tim Marko and, Daryl Reed –SEH, David Hesch, Kimarie Estenson, Doug Sokup, Scott Napiecek, Buck Sweeney, John Schaller,

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

Approval of Agenda – Quarne made a motion to approve the agenda as presented, Nelson seconded, motion carried unopposed.

Adoption of Minutes – 7/13/2011 – The meeting minutes had not been completed at the time of this meeting.

Re-visit - Conditional Use Permit Application–Non-metallic Mining- Mark Rumpel and James Dabelstein - Land Owner/Applicants – Brian Senn-Operator - Town of Arcadia. Lien reminded the Committee that this Conditional Use Permit had been tabled at last month’s meeting. Since the applicant was lacking some information, the Committee had decided to table the proposal. Lien stated, since that meeting he has met with Rumpel’s a couple of times. Rumpel’s have revised their plan and paid the \$1,500 third party engineering review fee. Lien noted that the plan had been sent to the engineering firm and a response has been received. Lien also received an e-mail from an adjoining property owner who suggested some additional conditions which Lien will read later. Lien stated Westbrook Engineering has been reviewing the CUP mining plans and that company has been very good about getting a response back to Lien within five business days. Westbrook has addressed all of the environmental concerns that Lien had requested and they have commented on the “positives” in the plan and, in addition, made comments about items the Committee should consider. Lien feels that Westbrook is doing what they have been asked to do. Brian Senn- Alpine Materials introduced himself and stated his company will be doing the mining at the Rumpel site. Senn introduced Tim Marko and Daryl Reed, with SEH, who were present to answer any questions about geology or hydrology. Lien stated he and Rumpels had gone through and discussed how many trucks and haul routes. Senn felt all information had been submitted and reviewed. Lien had discussed with Rumpels, how many trucks and what the truck routes would be so that the TIA (traffic impact analysis) could be completed. Lien stated Rumpel’s had overlooked the shoreland/zoning area so they modified their site plan so they are within 300 feet of a navigable stream. There is some designated wetland on the property that they are not mining in. Lien stated Rumpel’s definitely want to do a wash plant, they did go back to the Town of Arcadia. Lien wasn’t sure if there was a letter in the file, but Lien had talked to Town Chairman, Ron Tuschner about the wash plant and that wasn’t an issue, it had just been overlooked. Lien stated Rumpel’s plan on using a clarifier with no ponding area. They are not going to be drying, they are going to be hauling a wet sand and there will be no blasting at the site. Lien stated anything addressed in the Conditional Use Permit will be based on the fact

that there will be no blasting. At this time, Bice made a motion to remove the CUP from the table for discussion, Quarne seconded, motion carried unopposed. Quarne made a motion to approve the CUP request by Mark Rumpel and James Dabelstein, Bice seconded. Lien read aloud the final summary from the third party review which read, “it shows that the Non-metallic mining to be completed on the Rumpel property will NOT meet the requirements of the Wisconsin Department of Natural Resources (Chapter NR-135), and the Trempealeau County Comprehensive Zoning Ordinance (Chapters 13 and 20). Under the Trempealeau County Comprehensive Zoning Ordinance, Chapter 13 (Non-Metallic Mining), Section 13.02, Number 8, Trempealeau County requests that a Cultural Resource Site Review be performed by the Department of Natural Resources. There is no Cultural Resources Site Review Report included in the Conditional Use Permit Application. This report should be included and approved prior to the approval of this application”. Lien explained that the Committee can give a preliminary approval to the CUP with conditions that must be met before the CUP is signed. Lien continued reading from the summary, “Since no groundwater modeling was completed for this site, approval of this application should not include permission to drill a high capacity well for use in the wash plan operation. The approval for the well can be approved separately at a later date once it is established that no adverse affects will be done to adjacent wells, however we recommend that this analysis be completed prior to the approval of this Conditional Use Permit”. Lien stated SEH could be notified, regarding any needed information, prior to the approval of a high capacity well. Marko inquired whether Lien had received any information from DNR on the Cultural Resource Site approval. Lien responded he had received information in the form of an e-mail from Kurt Rasmussen, DNR stating there was “no hit” on either site, but Lien stated he would like to receive the form from the State Historical Society which states nothing was found on the site. Lien added he did have a letter from the Town, which he had read last month, in which they gave their approval of a CUP being issued. Lien then read a letter from an adjoining landowner, Lynn Axness, with some additional conditions. Axness’ conditions were as follows:

1. Cattle are dependent upon a natural spring located on my property for their water. Blasting can cause the earth layers to shift and springs to dry up. If this spring dries up, a new well shall be drilled, pump & water tank will be provided at the expense of Alpine Mine, Mark Rumpel and James Dabelstein.

Lien noted that Rumpel’s had stated there would be no blasting at this site.

2. If any wells on my property go dry or the water goes bad because of the mining activities, a new well shall be drilled and all expenses to provide this shall be paid by Alpine Mine, Mark Rumpel and James Dabelstein.

3. If any structural or foundation damage occurs to my new home, all repairs because of these damages shall be paid by Alpine Mine, Mark Rumpel & James Dabelstein.

4. Alpine Mine shall provide Lynn Axness with 24 hours notice in writing, prior to any blasting. This notice shall also include the blasting times – start to finish.

Lien stated notification to adjoining landowners 24 hours prior to blasting is a requirement at the County level. Lien mentioned that Gamroth had put together a binder to keep track of incoming calls regarding blasting activity. Lien has tried to get contractors to specify a blasting time, if possible, as a courtesy to neighbors. This hearing has been published in the newspaper for two consecutive weeks prior to the public hearing, Lien has received no other calls for or against the proposal. Thompson commented that Axness’ conditions all seem to pertain to blasting and Thompson understood that there was not going to be any blasting at this time. Lien responded that was correct. Brandt reiterated that if Rumpel’s would need to blast they would need to come back before the Committee to change the conditions of the CUP. Brandt commented about number of trucks because of this “mining corridor” that is developing on Highway 95. Lien

stated he has not received any information on this site from Tammy Ricksecker of the Dept. of Transportation (DOT), so Lien felt if a decision was made today it should be contingent upon a recommendation from the DOT. Bice asked if Lien had any problem with the Committee approving this CUP with the contingency that all requested information that is not here yet, be provided. Lien stated, he was comfortable with approval, but at this point a list of conditions has not been made. Thompson inquired if Town of Arcadia had their standard list of conditions for this site. Lien read the Town of Arcadia conditions aloud.

1. Alpine Materials Corporation shall assume all costs associated with the improvement, maintenance and repair of Soppa Road and bridges used by Alpine Materials Corporation commencing prior to any work on the Conditional Use Permit site and continuing until all mining activity has permanently ceased. A bond to be posted for \$100,000 per occurrence on the portion of Soppa Road and bridges used by Alpine Materials Corporation. The bridge or bridges shall be inspected annually at a cost to Alpine Materials Corporation with a copy submitted to the Town of Arcadia.

Lien clarified, with Tuschner, whether the Town of Arcadia had conducted evaluations on all the bridges in the Town last year. Tuschner responded that last year, Ayres & Associates had done an engineering study on all bridges over 20 feet and under 20 feet in the Town of Arcadia. Lien suggested that the Town of Arcadia forward a copy of that report to the Department of Land Management, so that Lien could forward that information on to the third party engineer. The engineer had some questions about that subject when he was reviewing the Ottawa Sand project.

2. All structures and wells on the properties immediately adjoining the Conditional Use Permit site shall be inspected and the condition of each shall be recorded prior to the commencement of any work at the site. These wells and structures should thereafter be periodically inspected to determine, to the extent practicable, whether or not damage has occurred as a result of the mining operations. Inspection and damage costs shall be borne by Alpine Materials Corporation.

Lien stated that the County had undertaken this issue with Winn Bay Sand, LP. At the direction of the Corporation Counsel, Department of Land Management was advised to devise a list of what the requirements would be for those inspections, provide that information to the applicant and then it is up to the applicant to provide the County with that information. Lien informed the Committee that the only one that has been done and they are testing is Ottawa Sand. Lien added the Committee has, sort of, set a standard in looking at a 2500 linear foot perimeter around these sites where those inspections are to be done. Thompson inquired if inspections would be needed in a “no blasting” site. Lien responded it might not be when there is no blasting involved, however, if they do blast in the future, then the inspections should be done. Brandt commented that Axness had mentioned that if things are going to be dug up there could be an effect on the groundwater so it may not be a bad idea for Rumpel’s to the the well testing ahead of time, because there are other things that can be affect groundwater besides blasting.

3. The opening of the mining pits, depletion of those pits and reclamation of those areas shall occur in the order presented to the Town of Arcadia by Alpine Materials Corporation.

Lien commented #3 refers to their staging plan.

4. Existing perimeter tree canopy (at highest points of elevation) must remain to keep the visual appearance, aesthetics and reduce dust from leaving the proposed mining area.

5. If the Wisconsin Department of Natural Resources changes permitted air quality standards as they relate to Silica, and/or Silica related compounds, the Conditional Use Permit shall be modified accordingly so that Alpine Materials Corporation activities must always comply with the most recent DNR standards.

Lien mentioned there is a short paragraph from the Section 13.03(2) - Permit Modifications of the Comprehensive Zoning Ordinance which states, “in the event that during the life of a permit the operator seeks to have permit conditions modified, or in the event that the County recommends further or additional

permit conditions as being required to meet the concerns of the County under this section or under the ordinance in general, upon request of either the operator, the Zoning Administrator or the County shall hold a public hearing to consider altering the original permit conditions for the remaining life of the permit. Upon the basis of the public hearing and information received and reviewed, the County shall have the discretion to impose additional permit conditions, or to remove or modify permit conditions, or to allow the original permit conditions to stand". Lien explained that at any given time the operator, the Zoning Administrator or the County can ask to have that permit revisited for whatever reasons would come up, whether it is air quality, dust control, erosion control, whatever, the permit can be revisited and conditions added or deleted.

Brandt clarified that when the County is referred to it is actually stating this Committee or the entity that acts on those requests on behalf of the County. The Ordinance also states that "the County" shall hold a public hearing and consider altering the original permit, so either the operator or the zoning administrator makes the request.

6. The Town of Arcadia Board review and approve final site plan and equipment list when available and prior to issuance of conditional use permit.

Lien inquired of Tuschner if the town has reviewed the equipment list, etc. for Alpine Materials. Tuschner stated he has not received a formal list of equipment that is going to be there, but that was ok.

7. A notice shall be given to adjacent landowners within 2500 feet of blasting area, 24 hours prior to blasting.

8. Blasting plan submitted and approved by the Department of Land Management prior to any continual blasting.

9. Financial assurance amount will be established after final site plan approval and prior to any excavation activity.

Lien stated the bond amount has been reviewed by the third party engineer and has been found to be accurate and meeting the intent of the Ordinance requirements.

10. The Town of Arcadia Board should meet with Alpine Materials Corporation a minimum of every 6 months for the 1st two years then if mutually agreed annually after 2 full years of mining activity.

11. The Town of Arcadia shall be responsible for signage of Soppa Road.

12. The Town of Arcadia Board shall review the conditions, compliance and complaints of the Alpine Materials Corporation mining permit with the owner/operators on an annual basis.

13. A 50 foot setback adjacent to the property line must be reclaimed fill at a 4 to 1 slope.

Lien clarified, with Tuschner, if the Town meant that a 50 foot setback must be maintained and then a 4 to 1 slope after that. Tuschner responded that was correct.

14. A 20 foot berm shall be established along property lines and along Soppa Road specified under Figure. 3 on Post Mining Contours dated May 2011.

15. No truck or equipment staging on Soppa Road.

16. Entrance and exit driveways shall be black topped prior to operations.

17. Alpine Materials Corporation shall be responsible for picking up rocks and/or debris on adjoining land at the land owner's request.

Lien felt this condition was related to some issues with blasting that had occurred in the past. Since there will be no blasting at this site that should not be an issue.

18. Alpine Materials Corporation shall provide an initial training and site visit to Emergency Responders for site specific dangers and chemicals that may require additional precautions during an emergency response situation.

The foregoing list of proposed conditions should not be construed as the only conditions to be applied to the Conditional Use Permit. The Town of Arcadia understands and expects that the standard Trempealeau County permit conditions to non-metallic mining will apply, together with whatever other conditions Trempealeau County believes to be in the best interests of all concerned.

Lien stated one of the other recommendations from the third party review for Alpine Materials and it was also required for Ottawa Sand, is, "All loaded trucks leaving the mine site should have tarps to keep particles from becoming airborne. There is no mention of this in the application, but it is their professional opinion that this would create unsafe conditions on the roadway if the trucks are not tarped, and particles are allowed to erode from the dump box during transportation. Lien commented that the Committee has heard him voice his opinion on this in the past for two reasons, one being he doesn't believe this stuff should be flying off an accumulating on the roads and in the ditches and two, he rides motorcycle, and he doesn't like being "sand blasted" by a truck going by which occurs when the truck is not tarped. Lien added that he and Dave Hesch have discussed this matter and Lien believes Hesch has ordered tarps for his trucks because of that issue. Lien is going to keep recommending this condition on all of the sites.

Lien verified with Senn that there will be a clarifier on this site and there will be no wash ponds. There will be a minimal amount of water used. The material will not be dried, so it will be hauled as a wet material. Senn responded that was correct.

Lien added all the Standard Conditions should apply to this site. Lien stated Rumpel's were originally in the Shoreland/Zoning area, but they have modified their site plan and moved it back from that area. There is also a designated wetland on the property and Rumpel's have moved outside of that. Lien stated there will be no blasting. Lien reiterated he has read all the town conditions, the third engineer recommendations and the list of conditions from Axness.

Brandt stated his notes reflected that there needs to be more discussion on the location of the high capacity well. Lien responded that Rumpel's need to do more study on that before it is permitted by the Committee. Lien added it was also a recommendation from the third party engineer that more studies be done in regard to the location of the well and its effect on adjoining property owners.

Brandt inquired about the Cultural Resource site review. Lien responded that DNR actually has a way that they can review if there has been a hit to that site and there has not been one in the past, but the Committee should still have that piece of paper, in house, that states that review has been done and there were nothing found on the property. Past history has been that if there are no hits, then DNR just writes a letter stating that information.

Brandt stated there is a requirement in our Standard Conditions and also a town request for a list of equipment. Senn replied the list is in the addendum to the initial plan. Senn explained the issue with the list is, there are a few different ways that processing may be done. They don't have an "end user" secured yet, so they don't know if they will be doing a quick wash on it that can be done with simple sand screws or if they will have to cut the material down closer with a hydro-sizer or a scrubber closer so the list just kind of lays out the general equipment that will be used and is not real specific on the brand name, etc. Lien stated there are two proposals, one for a wash screen slurry pump, trition scrubber, cyclones, hydro-sizer, de-watering screens and stacker, or wash screen screws, dewatering screens and stacker but there isn't a list as to how many bulldozers, excavators, etc. – that is not included. Lien commented to Senn that he is going to need to be more specific when he applies for his air quality permit as the DNR will want to know what kind of machinery and how many hours that machinery will be running, etc in order to find out whether Alpine Materials is exempt or whether an air quality permit is needed.

Brandt commented the town had requested that the operator train the local emergency response people on any potential hazards out there. Brandt assumed that as part of the clarifying process, there will be some type of flocculent/polymer and that information will be supplied to those personnel on how to respond to it. Senn responded that in the material safety data it states the biggest hazard associated with it is slipping and falling because it is slippery, but there is no hazard from ingestion or breathing. If one gets it on their skin it has to be rinsed off, it is not a chemical type of thing; it is just long chain polymer that makes the sediment in water stick to it. Lien read aloud from the label off one of the polycrylamides, "ingestion-material is not expected to be harmful if ingested, inhalation- move to fresh air, material is not expected to be harmful if inhaled". Lien commented that is the extent of the study. Lien asked the Committee to just keep this information in mind because as of right now the Committee cannot regulate polymers. Senn commented that with product liability being what it is, they wouldn't be able to put out a label like that if there were any known specific hazard. Senn stated this is a very inert product.

Brandt stated the Committee still needs to consider the inspection of the wells and foundations within 2,500 feet. Lien commented that is on the towns' list of conditions, but Lien felt the town was presuming that blasting was going to take place. In the past, the Committee has kind of targeted that issued when blasting was going to take place. If the applicant is conditioned that no blasting takes place then perhaps that condition is not needed. Quarne stated if no blasting is taking place that is fine, but if they change their mind then they would have to come back and it would be a new condition. Lien stated he had made that very point clear to the applicants when they had met.

Thompson stated he didn't understand the \$100,000 per occurrence that the Town of Arcadia had mentioned in their conditions. Lien asked someone from the Town of Arcadia to clarify that issue. Ivan Pronschinske-Town of Arcadia Supervisor was present and stated that, "if the road breaks up and Alpine Materials fixes it up so that everything is ok and then it happens again in three or four months, it is another occurrence". Tuschner added if there is an incident, the Town would want proof that they have reassumed that same amount of bonding again. It would be a paper trail for everyone concerned.

Brandt brought forward the topic of the Traffic Impact Analysis (TIA) and that Lien would be working with the applicant on that. Brandt asked if the hauling route was going to be Soppa Road to State Highway 95 exclusively. Lien responded that was correct, but the applicants have submitted four proposed routes as they haven't secured final contracts where this material would go. Lien has received maps with the four proposed routes. Proposed routes were State Highway 95 to State Highway 93 and south to Centerville or State Highway 95 to State Highway 53 and north to Blair/ Whitehall or to Centerville onto State Highway 35/54 to LaCrosse or north from Arcadia on State Hwy 93 to Eau Claire/Chippewa Falls. Lien understood that this makes the Department of Transportation's job of doing the TIA a little more difficult because there are four potential travel routes. Lien noted that every route would still include traveling Soppa Road to State Highway 95, so that intersection would be the major intersection of concern. Dregney inquired how many trucks the applicants were talking about. Lien stated, using Route 1, it would be 20 trucks raw, 13 trucks washed, Route 2 would be 12 trucks raw, 7 trucks washed, Route 3 would be 23 trucks raw, 13 trucks washed, Route 4 would be 25 trucks raw and 13 trucks washed, so it varies depending upon the route. Brandt asked for clarification on the difference between "raw" and "washed". Senn stated "raw" is right out of the ground and one can haul as fast as the trucks can be loaded, but when it is "washed", one has to take time for the washing process which therefore limits the number of trucks that will be loaded in a day. Lien commented the processing plant in these operations is the limiting factor as to how many loads can be hauled in a day. Upon Quarne's inquiry Lien responded these numbers were trucks per day and loads per day would be 180 maximum.

Bice stated Senn has heard all the requirements for the County and the Town of Arcadia and inquired if the applicants felt they could meet all those requirements. Senn responded they could.

Daryl Reed, Geologist introduced himself and stated he has a PowerPoint presentation on the high capacity well if the Committee was interested in that sort of information. The Committee agreed to see the presentation. With some technical difficulties taking place, Lien suggested the Committee could still move forward since we know that there is additional information that will need to be provided.

Brandt reiterated that there is a motion and a second on the floor to approve the Conditional Use Permit. The Committee will deal with the conditions beyond the standard conditions afterwards. Smick addressed all mining CUP's by saying that we want to do the correct thing and have everything as open and transparent as we can; however the process is just not user friendly to the Committee, the staff or even the applicant in view of some timeline issues. Smick felt it was unfair to everyone who really wants to know what's going on and get a handle on what is going on. For example, the conditions that Lien just read for this permit or any others are not in writing and produced for the Committee beforehand so that the Committee can look at them. Smick stated things are being done in a most complicated manner and it makes the job more difficult all the time. Brandt reminded Smick that at a meeting a couple of weeks ago, the E & LU Committee had decided not only the fee schedule, but also how the Committee was going to facilitate the types of things that Smick had mentioned. Brandt continued that one of those requirements was to make sure that the Committee members each had a plan in their possession so they could read along as staff was going through the process of describing it. Brandt added that Emery Palmer who is present will also be typing the conditions as suggested on the overhead so that they are shown on the screen and they can be modified before the Committee votes on them. Lien added this is the last meeting where there will be applicants who have had incomplete plans at a former meeting and then DLM has had to work with them in the past thirty days to modify their plans. Lien stated that two of the today's' applicants will be tabled because they have indicated they still do not have the required information. From now on, Lien will be working with applicants so that their plans are completed prior to a public hearing being scheduled. Lien has applicants who are frustrated, but Lien has told them, that based on the E & LU Committee, we are not going to put people on the meeting agenda until they have met all the requirements and applications are complete, so that we don't have to deal with applications several times. In past history, Lien stated that Winn Bay was here for months. There were a series of meetings and then when conditions were finally set, they were preliminary conditions which staff typed up and then they were brought back to the Committee. The Committee then reviewed and approved all of them. Lien commented that everyone, right now, wants to be in an expedited process – this gold rush – we're trying to jam things through. Lien stated that wasn't done for Winn Bay, it took a series of meetings. It just depends on how fast the Committee wants to make things happen. Lien added it wasn't done in the past and the intent is not to do it in the future because the applicants Lien is working with are going to have completed plans so that once a public hearing is scheduled, all the information is going to be there. Smick's point was that the Committee has been subject to criticism for doing things too fast, changing, etc. and sooner or later we want to do the right thing and the only way the right thing can be done for all parties is to get all the information in "black and white" beforehand. Lien agreed we are receiving a lot of public scrutiny about not doing our jobs and that people are not receiving all the information. Lien stated they get the CUP application which is very lengthy and a copy of the Ordinance, but they also have to read it. Smick responded he was glad that Lien had stated those particular items as the Committee has been subject to criticism in the public and most of those criticisms were absolutely unfounded. Brandt stated that he just read the Ordinance this morning and as far as the Patzner CUP, it goes through and indexes each one of the requirements so that permit will be really easy to deal with.

With a working PowerPoint presentation, Reed stated the applicants are looking at one high capacity well on the property. They are using Arcadia as kind of a model for the high capacity well as it is the closest nearby. Arcadia has wells 3-400 feet deep and the applicants are projecting the high capacity well to be in that range on the Rumpel property. Reed stated, that as part of the high cap well approval, a high cap well is any well that is capable of producing 70 gallons per minute or more, so it has to go through DNR approval. There is a fairly lengthy permit application. Reed has worked with several high cap well permits up in Chippewa County and what he usually does is provide the County with a copy of the actual permit application after the DNR review and and the DNR approval which pertains the stipulation that the DNR may have for the high cap well.

The application goes through a formal review process down in Madison; it is reviewed by both engineers and hydro geologists. As far as specifics for the Rumpel property, Reed stated that high cap well is going to be cased into what is called the Mount Simon aquifer. They will be casing through the Wonnewoc which is the primary sand interval through the Eau Claire formation which is an aquitard (a very low producing interval). They will be casing through that and actually getting down into the high cap aquifer. That casing will be grouted in. From there, they will go down with an open bore hole down near the bottom of the Mount Simon (based on Arcadia information) and then they are going to analyze it to see what kind of sand stone is being dealt with – it is a sandstone aquifer. They will need to do a pumping test, so they will go down into the bore hole and actually do a pumping test to get some hard information. Reed stated they are not modeling as they are trying to get good information on the capacity of that boring. The final is going to be based on the test drill, so this preliminary test is going to be very crucial on the type of data, what kind of pumping rate can that aquifer sustain and ongoing monitoring. It is not just putting in the well and producing water. One is required by the State, in the high cap well application, to provide an annual report showing monthly production volumes. Reed commented it is a stipulation from the Town that they want to meet with the operator. This is the type of information that Senn would be providing to the Town. Reed had mentioned the Mount Simon formation and it is the oldest, deepest sandstone formation and most of the high cap wells in western Wisconsin are in the Mount Simon which is very high quality aquifer-very good water. The City of Arcadia has four municipal wells in the Mount Simon and they tested as high as 1200 gallons per minute. Reed commented the applicants are not going to have a 1200 gallon per minute well – again 300-400 feet deep. Reed stated this high cap well is going to be quite a bit deeper than the surrounding private wells. If a well driller comes into this area, and he says he wants to go 400 feet, you want to chase him off the site because you are only after 10-12 gallons per minute, so someone here would be completing their private well up in the upper part of the sandstone aquifer. To get the type of rates that the applicant needs, one has to go deep. Reed pointed out the Mount Simon formation, the Wonnewoc which is going to be mined and the tunnel city which is a locally called “ledge rock”. It appears up on top of the ridges, it is a very hard type of cap rock and there will be some removal of that at the site. Reed continued the Eau Claire formation overlays a high cap aquifer which is fine grain sandstone. There is shale and glauconite in it, it is non-productive – it is an aquitard – it is kind of a protective interval of the deep-high cap aquifer. The Wonnewoc which lies above the Eau Claire – is a sand mining interval, it is a quartz-sandstone which is eighty feet thick and it is underlying by the Eau Claire and overlaid by the tunnel city. The tunnel city is a very hard sandstone and has probably been viewed up on ridges, it is locally called ledge rock and it is a waste rock. The Eau Claire and the tunnel city contains glauconitic sand, and these “green sands” are actually used in the water filtration industry. In addressing the hydrogeology of the water table, Reed stated the water table is the upper surface of the aquifer. What he has found, through several borings, is that the water table occurs at the base of the Wonnewoc and right at the upper Eau Claire interval – encountered at 94 and 119 feet and it is below the prospective sand. Reed mentioned some counties have stipulations about maintaining separation distance from the water table. Reed stated that there was enough interval between the prospective sand and the water table that he felt there isn’t going to be an issue. Monitoring wells want to be set over the water table – which means exposed screen above the water table and submerged screen within the water table and that is very important feature. – one wants to know the elevation of the water table and that is what needs to be monitored as one pumps the high cap well. Most of the private wells are completed in the upper Mount Simon or Cambrian sandstone aquifer and most private wells aren’t completed at the water table there are some deeper into the upper part of the aquifer. The purpose of test well programs is to collect actual data, not putting in modeling input parameters, but getting actual data. That is what Reed is going to use to design the high cap well. They will perform a pumping test for a minimum of twenty four hours to see what the drawdown is in this high cap well, then the pump is shut off and the recovery recorded – two very important parameters for assessing how much can be pumped from this aquifer. Water samples are usually collected at the conclusion or very near the conclusion of the pumping test and usually tested for iron, manganese and nitrates. Reed examined Arcadia’s consumer confidence report to see if there were any problems with the Mount Simon formation (arsenic, radium, and radioactivity) and there were no violations, it is a good quality aquifer in this area. Reed noted that the test well could actually be turned into the final well. The bore hole diameter is

increased and grout is put into the casing of the production well. Reed summarized by saying the well is very regulated and he would submit to the County any paperwork that is submitted to the DNR.

Brandt reiterated that he has a motion and a second to approve the CUP. Lien asked Brandt to clarify that the approval was contingent upon all conditions being met. Brandt responded that at this time, they were approving the CUP with standard conditions in this motion and then the conditions that were forwarded to the Committee would be discussed. Motion to approve the CUP for Mark Rumpel and James Dabelstein carried with no opposition.

Quarne made a motion to accept and approve the conditions that had been forwarded to the E & LU Committee from the Town of Arcadia which were read prior and have been in the Committees' possession since the last meeting, Nelson seconded. Lien clarified that the action was only on the Town of Arcadia conditions. Motion to approve the conditions carried with no opposition.

Lien read aloud, once again, the conditions submitted, for Committee consideration, by Lynn Axness. Brandt stated he felt these conditions pertained to blasting and the mine operator has stated there will be no blasting. Thompson commented he didn't feel these conditions were needed until the applicants would come back for a different permit. The Committee consensus was that these conditions related specifically to blasting and wouldn't be needed until blasting became an issue. Brandt advised Lien to keep Axness' conditions on file.

The Committee then considered the third party engineer recommendations: town road bonding (Lien stated this had been addressed, all trucks are tarped/covered, and a water table draw down analysis (the applicants stated they are working on that) and a Cultural Resource report. Brandt inquired if a Traffic Impact Analysis had been included in the engineer's recommendations. Lien stated that was not in their report, because the engineers know that it is being done by the DOT, but Lien did not have those recommendations by the meeting time today. Smick commented that he agrees with the third party engineer recommendations and inquired who that engineering firm was and if the same firm would be used every time. Lien responded Westbrook Engineering from Spring Green is the party who conducted the third party review. Lien added there were four companies that had contacted him, that were interested in doing the reviews within the parameters that DLM staff had set. These companies actually came to the DLM office and looked at the plans and spent several hours reviewing multiple plans. Westbrook agreed to the \$1,500 cost and the five working day turn around time and so far things have been working well. Thompson commented that Westbrook has been used by the Highway Department on bridge projects, etc. Thompson made a motion to approve the four recommended conditions of the third party engineer, Dregney seconded, motion carried with no opposition.

Brandt commented that the staff recommendations that he felt still needed to be dealt with were the Traffic Impact Analysis, truck routes and the list of equipment, but the list of equipment is a standard condition. Lien stated that he and Corporation Counsel are at odds about the length of mining activity or permit. Lien's opinion was that if the Committee states a length of time and the applicant/operator meets that length of time, then the Ordinance states that they can apply for a two year extension. Lien added the Committee has talked about this issue and has made it a condition for some of the mines. Lien felt the Committee needed to make it a condition consistently and enforce it and also the number of loads hauled per day. Lien stated that in other operations where they do washing and there is a high capacity well, the Committee has made it a condition that there be one monitoring well, and also air monitors and no use of jake breaks. Lien added the applicants have specified using a clarifier and that could be made a condition versus any ponds. Speed limits have been discussed but are not currently a condition. At Lien's inquiry, Thompson confirmed that the speed limit can only be reduced 10 miles per hour from the posted speed limit, and if it is not posted, the speed limit is presumed to be 55 miles per hour. Brandt commented that in the Ottawa Sand permit it was conditioned that trucks be going 30 miles per hour within a half mile of the intersection on Highway 95. Lien recalled it was a self imposed 30 mile per hour speed limit. Brandt stated the mining operations usually come to the Committee with a plan stating it will be "staged" over this amount time, based on their projections, so basically Lien is asked that the Committee make their plans part of the conditions, so if there is a change in

any of those plans the permit would need to be brought back before the Committee. Lien commented there were no air monitors, jake breaks or a monitoring well discussed in the CUP application, so Lien felt the Committee still needed to consider the issues and possibly take some action. Brandt inquired if there are maximum numbers of load per day and time lines in the application. Lien responded there is a number of trucks, but not a maximum number of loads. Lien stated he did discuss it with the applicants in order to be able to forward that information to the DOT, but he didn't remember reading that anywhere. Senn verified with Lien that some of those things were discussed, but are not in the plan. As far as time line for the mine, Senn responded that could depend on the market cycle and also the price of oil as whatever happens in the Middle East could change everything. Discussion on the length/life of the mine took place. Lien believed, according to the Ordinance, that the Committee could set a mine time length and as long as the applicant meets those conditions, they are allowed to mine. When that time line expires, the Ordinance specifically states they can be given a two year extension, but it doesn't state how many times that extension can be granted, if they meet the requirements. Lien stated, Corporation Counsel felt the Ordinance stated there should be a two year permit. Lien didn't read the Ordinance that way and that is not how the Ordinance has been enforced in past practice. Lien and Corporation Counsel have agreed to disagree, and Corporation Counsel is not going to push the issue, however Lien felt there needs to be some kind of mine length in writing, especially for the neighbors around this area. Senn suggested that as time goes on and permits are reviewed, if a report of progress is given then perhaps at that time, projections could be made. Brandt explained that the permits are reviewed annually by the Department and the applicant, but what the Committee was looking for was more of a sense of the life of the mine. Senn commented that one bad year, could extend the life of the mine another year. Brandt responded that Senn can come in and request a change in any of the conditions. Lien commented that if everyone has done their homework, they will know how much material is available at the location, how much is going to be excavated and once the math is done, how long the mine is going to be there. Lien felt it was fair for the public living around these mines to know what the expected life time of the mine is. The applicant can always come in for the two year extension of the CUP if needed. Stephen Doerr commented that the condition should be that jake breaks are allowed in the event of an emergency. Brandt responded that he felt that would just be good common sense. Brandt read the conditions being considered; life of the permit, maximum number of loads per day, air monitors, jake breaks, speed limits and a clarifier. The Committee discussed the other conditions beginning with maximum loads per day. Brandt clarified that the number of loads per day is what the operator is stating the loads will be, the Committee is not setting a maximum, these numbers are needed to forward this information to the DOT for the Traffic Impact Analysis. Brandt mentioned that air monitors become a factor when the operator does his Air Quality Analysis for the DNR. Brandt felt jake breaks and speed limits were conditions that were self explanatory. As far as length of the permit, if the operator says twenty years that is what the life of the permit will be. Nelson made a motion to approve the additional six conditions recommended by staff, Smick seconded. Thompson questioned how many air quality monitors there would be. Lien responded he had mentioned the air monitors simply for discussion and because it was something the Committee has considered in the past, however this operation is not going to be drying sand. Each operation is new and different. Thompson added there will be no blasting so there shouldn't be any dust. Quarne added this will be wet sand. At Lien's inquiry, Senn stated there would be no crushing. Lien then inquired how Senn was going to break it down to do the wash process. Senn replied most of the sand, when it is pulled out of the ground and out of compression, it almost falls apart in one's hand, so running it across a wash screen will further break it down. Lien inquired if the attrition scrubber that is mentioned on the plan is also a wet process. Senn responded that was correct. Smick inquired of Senn, whether the additional conditions were reasonable and if Senn would be able to meet those conditions. Senn responded they could. In regard to the air monitors, Marko commented that normally air monitors were seen in a setting where there is a drying plant where one is subjected to a more of the dust. Marko felt that when they submitted for their air quality permit, there was a good chance that it will be a registration permit, because of the low calculations on the emission of dust that is going to be created at the site. Smick inquired if Marko was saying that he could live with the conditions presented. Marko responded that he was stating that air monitors probably would not be needed. Senn responded saying he was agreeable with the Town of Arcadia conditions. As far as the third party engineer conditions, Senn was fine with those. In regard to the high cap well, Senn commented that he felt the site should be permitted, pending review of the

actual study being done. As far as loads per day, Senn would like to have as many loads as possible, if he is restricted to 180 loads, he is restricted, but he would like as many loads as possible. Brandt commented that Senn needs to set that number and then stay within those numbers, but the Committee will work with Senn. In regard to air monitors, Senn reiterated that they would not be drying. The main reason for the high cap well was so that a water truck could be filled to use to hold down dust. Thompson added that he felt the biggest dust would be on the haul road. Senn agreed and stated the reason for the high cap well is so that one can fill a 5000 gallon tank, hit the road and be done. Senn stated the issue of jake breaks comes up on every pit; he would like the use of them as it saves on breaks, but if that is a restriction to keep neighbors happy, that is ok. Senn commented the length of the road is almost going to limit the speed. Regarding length of the permit, Senn stated if he could get 20-25 years, he would ask for it. Senn added they had already stated they were going to use a clarifier. Brandt reminded Senn that he had stated the specific flocculent that was going to be used, so if that is changed, that is a change in a condition that would have to come back before the Committee. Brandt added that the information on the maximum loads per day will go into the Traffic Impact Analysis and that will then be forwarded to the DOT. The DOT might require Senn or they might recommend to the E & LU Committee, that Senn be required to do some road work. Senn questioned whether the DOT had any thresholds on loads per day. Lien commented that the TIA being accurate is very dependent on the number of loads that Senn states. Discussion followed on the number of loads. Upon Brandt's inquiry, Senn stated he would stay with 180 per day of maximum loads. Brandt reiterated that the air monitors are going to be dependent on the Air Quality Analysis as will the list of equipment. Lien reminded the Committee that there was no life of the mine on the condition list, nor were tarped trucks. Brandt stated tarped trucks were in the third party engineer conditions. Lien restated the conditions as being; contingent to DOT review, no blasting, 180 maximum loads, and a clarifier is to be used. Number of years is still needed for the life of the mine activity. Lien mentioned air monitors, monitoring wells, jake brakes and speed limit were discussion items that have been done for others and we need to stay consistent. Lien didn't think there were any conditions on the speed limit from the town like there have been in the past. Brandt stated he thought the town was going to be responsible for all the signage. Pronschinske stated the Town would post the signs. Brandt thanked Lien for reminding the Committee about "no blasting". Brandt reminded Senn that if the condition of no blasting needs to be changed, he would have to come back before the Committee to do so. Senn stated the life of the mine to be twenty years and inquired if the right to extend is included. Lien responded that ability is written into the Zoning Ordinance. In regard to the well water drawdown analysis, prior to approval, Reed suggested that they provide DLM with the application and the DNR approval of the high cap and then additional data would be provided in the annual report/review regarding the drawdown analysis. Reed added it is just hard to do it beforehand. Reed stated they would provide DLM with everything that is sent to DNR for approval. Marko added DNR will be very detailed on what can and can't be done, based on the data that is collected in the testing. Lien stated, after Reed's presentation, that the Committee must realize that there are multiple groundwater models out there that can be used and one can look at the cone of depression. Lien felt what Marko and Reed were saying is that they want to actually do the study to see what is really going on there, instead of using a model, and then submit that to DLM, which Lien felt was good. Lien felt that one could use multiple models and come up with multiple answers. Lien added that what Marko and Reed want to do is probably in the best interest of the neighbors, because realistically until that monitoring is done no one really knows what is going on out there. Brandt reiterated that there was a motion and a second to approve the inclusion of these conditions as part of the Conditional Use Permit, motion carried with no opposition. Brandt added the applicants should continue to work with staff, getting them information as required.

Revisit-Conditional Use Permit Application-Non-metallic Mining – John Patzner – Landowner/Applicant – Reglin & Hesch Construction, Inc. – Operator – Town of Arcadia. Nelson made a motion bring the Conditional Use Permit to the table, Quarne seconded, motion carried with no opposition. Quarne made a motion to approve the Conditional Use Permit, Thompson seconded. Lien stated Dave Hesch had come in last month for a CUP on the Patzner property and there was some information missing in the plan. Lien met with Hesch several times and the Committee has a modified plan in front of them. Hesch has gone through the plan and added information and corrected any typographical errors. Lien used his discretion and decided not to send this plan to the engineer for a third party review because there is no washing or

processing and they will be moving raw products (similar to the Larry Soppa site). If the third party review was something that the Committee felt should be done, Lien would be happy to forward the information to them. Lien did not feel this site was of the same magnitude as some of the other sites. Lien does have a letter from the Town which he will read later. There is a stream on the site, which Lien stated had come into discussion since the last E & LU Committee meeting. Lien shared a map with the Committee, which has a red marking as to where Lien had determined the stream to be navigable. Beyond the red mark, there are still two streams there, but they are no long navigable at that point. Lien added there is a shore land issue and Hesch understands that he needs to stay 300 feet away from that stream. Hesch does have the option of applying for a Special Exception Permit to excavate in the shore land area. There is a road and a ditch on the uphill side that separates the stream from the actual mining activity. The stream does cross underneath the road at a point in the back and continue up on the east side but at that point Lien wouldn't call it a navigable stream anymore. In their meeting together, Lien and Hesch determined the number and type of trucks. That information was submitted to the DOT and Lien had received a response back. This hearing had been publicized in the newspaper two weeks prior to the last hearing and did not receive any calls for or against, other than the testimony that was heard at the public hearing. Hesch commented that he will submit a request for a variance so that he could go closer to that navigable stream. Before Hesch would apply for that, he inquired if Lien would have any objection to that. Lien responded anyone has the right to apply for a Special Exception and Ottawa Sand is doing the same thing. At Brandt's inquiry, Lien responded that any variance requests go before the Board of Adjustment. Hesch reiterated he would be applying for the Special Exception permit because staying back the 300 feet would really have an impact on what could be excavated at this site. Thompson inquired if a berm isn't allowed to protect this stream. Lien responded not within the Shore land/Zoning. Lien responded there is a slope criteria which he didn't have with him. Lien stated he did know that on less than 12% slope, one cannot excavate or fill less than 2,000 square feet, so it is really limited as to what one can do in the shore land area. Lien stated permit approval, if it happens today, could be contingent upon all of the conditions being met and the bond amount, etc. taking place and that Hesch must stay 300 feet away from the stream unless the variance is granted. Brandt inquired about the Cultural Resource sight review as it is part of the standard conditions and stated it will be part of these conditions as well. Hesch stated Kurt Rasmussen, DNR had told him that there were no hits on this site and that an e-mail would be forthcoming. Lien commented that he thought a letter usually came from the State Historical Society and then the ownness is kind of on the operator, that if they hit something significant, they are to notify the historical society. Discussion followed on various historical "finds". Lien read aloud the response from Tammy Ricksecker, DOT, which stated, "Patzner Lane is a minimum width, it would need to be widened to handle two way truck traffic when mining the Patzner property. Sight distance is good east and west on State Highway 95. Because of the increase in proposed turning movements to and from State Highway 95, I am recommending that an eastbound bypass lane and a Type C westbound right turn lane be constructed. I have attached typical intersection details for state highways. To accommodate these turn lanes, each side of the sixty inch cross pipe under the highway must be extended. Patzner's east driveway must be completely removed, the ditch restored and the crops encroaching the seventy to eighty five foot southern highway right-of-way must be removed. It is illegal to plant crops on highway right-of-way. An engineered plan for the recommended improvements and a permit application from the Town of Arcadia may be submitted to my attention. Upon approval of the plans, a permit to work on the highway right-of-way will be issued. Please contact me for additional information". Hesch stated he had gotten the e-mail from Ricksecker, but had not had a chance to read it. Brandt reiterated those were the recommendations from the DOT. Brandt inquired if Lien had a list of recommendations from the Town. In discussing the towns' sixteen recommended conditions, which were read at last months' meeting, Lien had two questions, one being the fifty foot setback and the town clarified that (fifty foot setback then reclaimed material at four to one) and the other being (#2) - all structures and wells on the property immediately adjoining the CUP site shall be inspected and the condition of each site shall be recorded prior to commencement. Addressing the phrase "immediately adjoining", Lien stated the Committee has taken it upon themselves to do a 2,500 foot perimeter and then in Condition #7 - the town eludes to that same issue which states a notice shall be given to adjacent landowners within 2,500 feet of the blasting area - 24 hours prior to blasting. Lien noted blasting is part of this site. Lien stated that he could read all the conditions from the Town, but they are pretty much the same as the other one. Pronschinske stated

the only comment he had is that the Town made a condition that the road be made into a two lane highway as Hesch and the Town already agreed that whatever DOT recommended, Hesch would do. Pronschinske added that with regard to the setback, he lives out there and the only time he sees water out in that creek, going up Patzner Road, is when it rains, it is a ditch. Brandt verified with Pronschinske that Hesch has agreed with the Town to make Patzner Lane a full two lane and that both parties agreed that anything the DOT recommends for that intersection is something that Hesch would do. Pronschinske replied that is state area. Hesch clarified he is going to redo Patzner Lane only for the section of road that he will be utilizing, not the whole road. Lien read aloud the town condition, "John Patzner sand mine shall assume all costs associated with improvements, maintenance and repair of the Patzner Lane used by John Patzner sand mine commencing prior to any work on the conditional use permit site and continue until all mining activity has permanently ceased. John Patzner sand mine is responsible for all upkeep, maintenance and redoing of Patzner Lane to include two lanes with culverts to whatever length is needed by the John Patzner sand mine". Lien commented one is to assume that wherever Hesch leaves the mine that would be two lanes. Hesch agreed. Lien stated the e-mail from Tammy Ricksecker, DOT, states that the request must be made by the town. Lien inquired of Tuschner if that was something that the town is going to work with Hesch on – so that the request would be made through the town to make the modifications to State Highway 95 and Patzner Lane (within the right-of-way of the State). Tuschner agreed the town jurisdiction picks up after the right-of-way. Lien reiterated that it sounds like the State is asking for the request to be made through the town. Tuschner stated he felt it didn't matter if the request was made through the town to the DOT as he felt that was just a formality. Tuschner stated the town will work with Hesch or any other applicant to the best of their ability, to keep the operation going, Brandt noted there was a list of concerns submitted by the Wygel's to the Town of Arcadia, specifically condition #2 (all structures and wells be inspected and Wygels are requesting within a mile of the mine, returning them to original condition or better if there is any damage done), #10 (Town of Arcadia and owners of John Patzner sand mine will meet at John Patzner sand mine every six months for the first two years and annually thereafter), #12, (Town of Arcadia will review conditions, compliance and complaints a minimum of every six months for the first two years and then annually thereafter). Brandt noted there is a standard condition that the staff meets with the mine operator annually to review any complaints as well as to make sure that the operation is going smoothly. Three other conditions were suggested, scaling back hours of operation from 6 to 5 and 7 to 5. Brandt inquired if Hesch planned to stay within the county's standard hours of operation. Tuschner recollected that the County has standard hours set and the Town assumed those hours would be kept. Tuschner stated there are other things that come into play and the Town will have some comments for the upcoming meeting regarding hours of operation. At this point, Brandt suggested approving the conditions for this mine in the same manner that they were approved for the previous hearing. Brandt recapped that he had a motion and a second to approve the CUP with the standard conditions applying, motion carried with no opposition. Thompson made a motion to approve the additional conditions submitted by the Town of Arcadia, Dregney seconded. Bice mentioned that some of the issues associated with this mine were discussed and negotiated at the last meeting, on this mine, however, because the minutes are not yet prepared for the record, that information is not available. Bice asked if the towns' conditions were read into the record. Gamroth verified they were not. Bice inquired if Hesch remembered agreeing to stay 100 feet from Wygel's property line. Hesch stated he did and clarified that this site isn't even close to the Wygel's. Hesch felt Wygel's wanted the 100 foot setback for any future mining and Hesch agreed to that. Bice stated Wygel's had also requested a mine life of 15 years. Hesch requested a 20 year mine life because that is what everyone else is requesting plus he thought that was the standard. Bice inquired about the original application which read 13- 15 years and he thought it was agreed to leave it at that time. Bice inquired if any other agreements were made at the last hearing regarding mining hours as Vinz/ Wygels expressed some concerns. Brandt commented that Tuschner had stated earlier that Tuschner thought the hours of operation would be according to the Ordinance. Gamroth clarified that according to the minutes she was preparing, that Hesch had specified he would keep the hours of operation that he is currently operating under 6AM-5PM, but he is still restricted under County regulations. Bice commented that he wished the Committee would have passed the CUP last month as all of these issues had been worked out. Hesch commented that if the 15 years mine length was an issue, he would accept it and come back and extend it at a later time. Bice appreciated Hesch's comment, as that was an issue that Vinz/Wygel felt fairly strong about. Quarne reiterated that the mine life can be extended under the Ordinance

rules. Thompson felt, that Vinz/Wygel's thought, Hesch was going to mine the whole piece near their home and that is why they were concerned with the 100 foot setback. Hesch stated, since then, he has taken R. Wygel for a ride and explained to him what is going to happen regarding the mine.

For staff recommendations, Lien stated when he and Hesch met they clarified maximum loads per day would be 260. There would be a 15 year mine life. A groundwater elevation has been determined and Hesch is working with Kurt Rasmussen, DNR, on a storm water plan. Hesch has filed and received an exemption from an air quality permit based on the hours of operation and the equipment that will be operating at the site. Lien added a stream determination had been made. A recommendation has been received from the DOT as to what should be done and Hesch is going to work with the town on that. Lien has received a blasting plan from Hesch. For dust control, Hesch has graciously volunteered that he will tarp all loads, but Lien felt that should still be listed as a condition. Brandt inquired if Hesch had a hauling destination. Hesch responded yes, it was in the plan and it is the same place, Winona, where Hesch is currently hauling. Hesch inquired about the requirement to test the wells within 2,500 feet of the mine and stated he has talked to a lot of the neighbors and they don't want their well tested. Upon Hesch's inquiry, Lien replied that is in the conditions that if the landowner does not want their well tested, there is a waiver form that Hesch can have them sign. Hesch just wanted that issue clarified. Tuschner commented that at other meetings he has been at there are always inquiries as to what the town is getting back. Tuschner stated that the town has received a lot of tonnage of fill for nothing from stuff the miners can use. Tuschner was trying to make the point that they are giving back to the community what they can and it is saving the town megabucks by not having to haul from the quarry and the town is getting it for nothing. On that same note, Quarne mentioned that Winn Bay Sand, LP just donated \$50,000 for the resurfacing of the Carpenter Bridge Road. Brandt inquired if that wasn't part of their agreements. Quarne responded this was not part of the agreements; this was over and above what was required of Winn Bay. Lien thought the town road was bonded, but there wasn't any agreement. Brandt stated the additional conditions discussed; life of the mine, hours of operation, maximum loads per day, setback from streams and Hesch will be applying for the special exemption permit. Air monitors have been exempted, all loads will be tarped and well and foundation inspections within 2,500 feet.

Brandt inquired of Lien if the list of equipment has been obtained. Lien responded Hesch has all of the equipment information in his plan. Brandt mentioned the Cultural Resource report is part of the standard conditions. Hesch is to work with the town on the Traffic Impact Analysis, because the DOT has already given a recommendation as to what the intersection should look like and it is the towns' responsibility to communicate to the DOT that the operator will be doing that. Hesch asked for clarification on the 2,500 hundred foot inspections and asked that the distance be 2,500 feet from the working mine. Hesch stated Wygel's are 4,000 feet away and he didn't feel it was necessary to inspect their property until Hesch gets within the 2,500 feet. Lien verified that with every other site, inspection has been done within 2,500 feet of the perimeter of the mine site. Smick made a motion to add these conditions into the Conditional Use Permit, Thompson seconded, motion carried with no opposition.

Re-visit - Conditional Use Permit Application– Railroad Spur – Michael J. Blaha, Debra S. Bork and David R. Blaha, Landowner/Applicant – Sand Trans, David R. Blaha – Operator – Town of Lincoln

Quarne made a motion to bring the CUP application from the table, Bice seconded, motion carried with no opposition. Lien stated Blaha's have requested that this issue be tabled for another month because they do not have the additional information available at this time. When Blaha's have the information, they will come back before the Committee. Quarne made a motion to table the CUP, Bice seconded, motion carried with no opposition.

Re-visit - Conditional Use Permit Application – Railroad Spur – Maliszewski Rail LLC, Edwin J. Maliszewski, Landowner/Applicant – Maliszewski Rail, LLC – Operator – Town of Arcadia. Thompson made a motion to bring the CUP application from the table, Bice seconded, motion carried with no opposition. Lien stated he has had a couple of telephone conversations with Ed Maliszewski and basically it is the same situation as Blaha's. Maliszewski does not have all the information needed, so he is not ready to come before

the Committee and has asked that the issue be tabled. Nelson made a motion to table the issue, Bice seconded, motion carried with no opposition.

Re-visit - Conditions of Conditional Use Permit - Ottawa Sand Company, LLC. Quarne made a motion to bring the CUP application from the table, Dregney seconded, motion carried with no opposition. Smick made a motion to approve the CUP permit, Quarne seconded. Lien stated he has received a revised site plan from Ottawa Sand and had a couple meetings with them. Lien discussed the Shore land/Zoning issue with them (300 foot separation from a navigable stream) and the site plan has been modified to meet those requirements. At present time, they have also applied for a Special Exception Permit for the shore land area to be able to excavate within 75 feet of the stream versus the 300 feet. Information has been forwarded onto the DOT for the Traffic Impact Analysis and DOT is working on it. Lien read aloud an e-mail from DOT which stated, "When sand mine or plant accesses a town road directly and that town road affects a State Highway directly, DOT is recommending intersection improvements at the State highways to handle any increased traffic and turning movements. Typically this will include turn lanes that are bypass lanes, each location and operation are different, some may require more depending on topography, volume of traffic and site distance. Before DOT has all the data, it is estimated that at Thompson Valley Road recommended intersection improvements will be a Type D with a bypass lane on the north side of the highway. A typical intersection detail for state highways is attached". Lien believed Kimarie Estenson is working with the DOT on this issue. Lien commented that Tammy Ricksecker, DOT, had forwarded to him a series of e-mails between Estenson and Hesch. Lien understood that the miners have the ability to work with DOT directly, but in one of the e-mails, Hesch had corresponded to Ricksecker stating, "Operating hours which are regulated by the County Ordinance are 6-8 PM, Monday thru Friday during Daylight Savings Time, 7-5 PM the rest of the year. Lien stated that is not accurate information. Lien would prefer that the applicants work with DLM so that what is submitted to the DOT is the same thing that is submitted to the County. Lien felt if the applicant works with DOT directly then there is going to be miscommunication and inconsistent information. Lien added the CUP could be approved with the condition that DOT requirements be met. Brandt asked for the results from the Board of Adjustment meeting for the height variance. Estenson stated that the height variance was approved but that Ottawa Sand will be going back to the Board of Adjustment for a Special Exception Permit to reduce the required setback for Shore land/ Zoning from 300 feet to 75 feet. Buck Sweeney of the Axley Brynson law firm introduced himself and he represents Ottawa Sand LLC. Sweeney stated Ottawa Sand can operate within the 300 feet, however the original application was modified to the 300 feet to be in compliance, but they will be asking to reduce that setback to the 75 feet which is a decision for the Board of Adjustment. Sweeney mentioned there have been some issues with the shareholders and there have been some meetings with Lien on that subject. Sweeney, who represents one of the entities that has applied for the CUP (other people will be representing shareholders) proposed that one of the conditions that should be added to this is that the shareholder dispute needs to be resolved prior to any operation on the site. Sweeney continued that the shareholders will obviously want to have the dispute resolved before they do anything anyway, but in order to protect the County, Sweeney suggested that the committee make it a condition. Sweeney added there is also an issue regarding mineral rights and Sweeney suggested another condition that any mineral rights issues need to be resolved prior to any operations as well. Brandt commented this is the first time that anyone has mentioned "mineral rights" in any of these hearings. As far as Brandt knew, in this context, there hasn't been the sale of mineral rights as opposed to the sale of the land. Brandt asked if Sweeney could elaborate on the issues involved. Sweeney stated there are questions in the land transfers and does it include all the mineral rights of all the parties who have a right in the minerals and have they signed off on them. Sweeney stated Wisconsin is fairly easy because in most deeds one gets the mineral rights, but there are exceptions. Brandt stated there have been some issues where, in the past, Federal Land Bank kept the mineral rights. Brandt inquired if that was the issue here. Sweeney responded, no, that is basically a shareholder issue which is more of a civil issue. Sweeney reiterated he is not representing the shareholders; he is representing the company that has applied for the CUP. Sweeney was talking about the shareholders in the LLC, so Brandt inquired if he was talking about who it is that is going to be responsible for the bond, road improvements, etc. Sweeney responded it is a clear fact that Ottawa Sand, LLC has applied for the CUP, and he didn't think anyone disagreed with that. The dispute is on who would be Ottawa Sand, LLC. Sweeney's position is, if

that changes as part of a shareholder dispute, they would have to come back and regulate that. If it doesn't change, as part of the shareholders dispute, then it would continue to be Ottawa Sand, LLC who would be conditioned on the bond, etc. If it changes, and Ottawa Sand isn't applying, then there would be a new applicant. If the shareholder dispute gets resolved and Ottawa Sand continues to be the entity applying then there would be no changes, so that is why Sweeney suggested those two conditions. Brandt rephrased that basically the Committee wants to make sure who it is the County is dealing with. Sweeney did not want any operations done on the site until the issues get resolved and Sweeney felt that was an important component of what he is doing. If there is a shareholder dispute, Ottawa Sand needs to know if they have a permit or not, or where we are at in order to get that resolved, so it is kind of the "chicken and the egg" thing at this point. Quarne asked if the Committee should table this until things get settled. Sweeney replied that is one option that the Committee has, but he is requesting that the Committee go forward and instead of tabling it, put that as a condition which effectively tables any action. In the meantime, the entity, Ottawa Sand (Estenson and Sweeney) would still work with Lien to try and address four of the issues; the archaeological issue, finishing the air permit, finishing the high capacity well and the DOT interchange. Nothing would happen until all those issues get addressed anyway, so Sweeney would like to keep moving down "both tracks". Attorney John Schaller introduced himself stating he represents two of the shareholders, Doug Sokup and Scott Napiecek. Schaller stated, first of all, there is a dispute about how many shareholders are involved in the company, but essentially what is going on is there needs to be a "divorce" between shareholders. Schaller represents, Doug Sokup, and the Committee should have received a letter from Attorney Mike Chambers, who is representing his brother, Mike Sokup. Mike Sokup's attorney has taken a position that Mike hasn't appropriately transferred his rights in Sokup properties to the LLC, in fact, Mike Sokup hasn't even signed the last set of operating agreements. Schaller stated to Doug that Mike, utterly and absolutely, is not going to transfer his rights to this LLC until there is a divorce. Schaller added the Committee can issue the permit, but there has to be a condition on it – the condition of appropriate legal title, but Schaller stated the permit will not be worth the paper it is written on because there is not going to be a transfer of title. Schaller added there is going to be a divorce, be it by settlement or otherwise and if they have to go to court, he feels they have the argument, both before a judge and jury in terms of what is going on here. Schaller stated, the Committee would see in Schaller's letter that he believes there has been some illegal activities (Schaller didn't want to get into details or make accusations) but Schaller stated one of the shareholders has retained counsel and threatened them with a lawsuit, so this is not something that is tentative or hypothetical. Brandt commented both attorneys' are basically saying the same thing. Sweeney stated he does not disagree that there is a dispute among the shareholders. Sweeney commented it is a strange position for this Committee to deal with and he did not disagree, from the corporate point of view, that the shareholders need a divorce or a resolution. Sweeney felt that is where the condition was important that no activity take place on the site until there is a divorce/resolution. Where Sweeney disagreed, on the tabling issue, was that Sweeney would like to keep going on the permit because there has been a lot of money spent with Foth and Van Tyke and a lot of work/actions done on the permit, so Sweeney would like to continue working on the permit at the same time the dispute is going on, but they're not going to be doing anything until those issues are resolved and the divorce is final. Schaller commented that Foth Engineering has been paid significant amounts and they refused to show up for today's hearing because they have not been paid for their engineering work and this is part of the dispute. It is all in the background, so there is a lot going on here. Schaller believed things are not going to get resolved until there is a divorce or a lawsuit and it is obviously up to the Committee to decide what to do, but again the permit will not be worth the paper it is written on, because they are not transferring any rights until that "divorce" occurs. Brandt asked Estenson what her thoughts were. Estenson responded that she wasn't sure she could comment. Sweeney stated she is an employee of the LLC, so Sweeney didn't think it was fair to put her in the middle of things. Brandt stated that tabling the permit still allows for work with the DLM staff to go forward. Quarne made a motion to table the discussion on approval of the CUP until such time when DLM staff and both parties involved believe that they can go forward, Bice seconded. Brandt stated tabling, in the past, has been an opportunity for the parties to work closely with staff to get everything in place that needs to be. Sweeney understood that the Committee was going to table this issue, but there is also a hearing scheduled before the Board of Adjustment, to go from the 300 feet to the 75 feet. While this is tabled, Sweeney assumed they could still go before the Board of Adjustment to address that issue. Lien responded

yes and that the Board of Adjustment meeting is already scheduled for August 31st. Motion to table passed with no opposition.

TRM/LWRM Cost Share Payment Requests – Lien presented two LWRM cost share payments for approval.

LWRM	Type	Amount	New CSA Total	Reason for change
David Thompson	Contract/Pay Request	\$9,034.38		Streambank protection
Brady Olson	Contract/Pay Request	\$9,610.20		Streambank protection

Lien commented he has not been to the Thompson site, but during his mobile home court inspections, Lien visited the Olson site, on North River Road along the mobile home court, and they’re doing a really good job fixing up the stream, doing riprap and fixing the eroded corners. Lien reiterated this is not levy money, this is State grant money, where the applicant receives 70% and they have to pay 30% “out of pocket”. The DLM gets a percentage of the engineering fee which goes towards staff doing the work. Nelson made a motion to approve the payments, Thompson seconded, motion carried with Quarne abstaining. Bice verified that the DLM does not send the payment out until the County has received it. Lien responded that was correct. Lien explained that a specific project has to be applied for and if the County gets awarded that money, then the project is done and the applicant is then charged the engineering fee.

Survey Report – Lien presented the survey report and bill for T20N, R9W and T20N, R7W. Lien stated there is no doubt that Nelsen is in the most challenging terrain. Lien commented that Nelsen had stated normally they dig an 8 foot X 8 foot square to find a monument and yesterday, they dug a 14 foot X 16 foot square and found the original monument. Nelsen feels because of the topography the margin of error is greater plus they are in an area which experienced a lot of storm damage back in 1998. We are on the “home stretch” in remonumentation, but it might extend out a little beyond 2012 because of the rough terrain. Thompson made a motion to approve, Dregney seconded, motion carried with Bice abstaining.

Conditional Use Permit - Salvage Yards and Mobile Home Courts – Lien stated the mobile home court inspections went pretty well. Hillside Trailer Park is an ongoing issue, so Lien will be sending; the owner/operator a letter stating that he has some work that needs to be done. Lien has been working with Town of Albion on the Pineview Trailer court as there has been a constant issue with road maintenance and garbage build up. Lien mentioned the streambank work that is being done by the Olson’s on the Riverside mobile home court located on North River Road. Lien added there is an annual review and a fee paid for the CUP. Overall Lien felt the mobile home courts overall were good. Lien admitted, with the salvage yards, he has been very lack with enforcement, because Lien views them as a “necessary evil”. If one drives around the County a lot of the stuff has been cleaned up, probably because scrap prices are high. Because of the demand, the salvages yards are getting somewhat overrun with people bringing stuff in and purchases. Lien mentioned Swanson has now purchased his own scale plus he has bought up about four other salvage yards, so he moves a lot of material. When Lien does a salvage yard inspection he looks at things like are haul road open in the event there was a fire. Tires cannot be out in the open collecting water due to mosquitoes hatching. Lien stated most salvage yards are pretty good however Centerville Salvage has about 7,000 tires sitting out in the open and that is completely unacceptable. Lien gave Centerville Salvage a 30 day time period to get the tires under cover or shred them, etc. Lien is recommending approval of all the salvage yard CUP's except for Centerville Salvage. When Lien feels the tire issue has been satisfied then he will recommend approval for them.

In relation to this issue, Lien has had continual complaints regarding the Wier property in the Town of Trempealeau. Lien has been working with them for approximately 10 years. Lien stated Wiers and the County came to an agreement about two years ago. If Wier’s would continually provide receipts to Lien, that they are

making progress, then no additional enforcement action would be taken. Lien added multiple citations have been issued over the years, the judge puts them on a payment plan and the citations eventually get paid. Lien felt, the bottom line is, it has taken 30-60 years to accumulate the junk on that property so it is hard to remove it overnight. Lien has suggested to Wier's to have an auction or have a salvage yard come in and clean up the junk and they are not willing to part with the items. Lien stated he would take direction from the Committee otherwise he will continue to work with Wier's as he has been in the past. Wier's are working and making progress, but it is slow and it will take a long time. Lien knows one of the neighbors is not happy about the situation and he has complained as the neighbor feels it is affecting his property values.

Thompson inquired if Corporation Counsel were to send a letter would it be more effective. Lien stated, in the past there were a series of letters sent by Corporation Counsel specifying a strict time line and then the owner had medical issues so Corporation Counsel let it go. Lien stated it didn't seem like it was effective because of monetary issues. Committee consensus was that Lien should just keep on doing what he has been doing in the past.

Nelson made a motion to approve the Conditional Use Permits for the mobile home courts and the salvage yards with the exception of Centerville Salvage, Thompson seconded, motion carried with no opposition. Upon Brandt's inquiry, Lien stated he would get back to the Committee, regarding Centerville Salvage, at the next meeting and at that point the CUP could be approved.

Director's Report – Lien mentioned that Corporation Counsel has stated that "Director's Report" is too vague and in the future, specifics topics which are going to be talked about during the Director's report need to be listed for the benefit of the public. Discussion followed on that issue. Smick commented that people, especially those that write, "Letters to the Editor" should all be aware of what the process is as the Committee is subject to criticism that is absolutely unwarranted because people don't know the process or what they are talking about or what they are even criticizing the Committee about.

Smick asked for a status report on filling the vacant Zoning/Environmental Specialist position. Lien stated applications were due last Friday and seventeen applications had been received. Lien needs to find time to meet with Kabus to look through those applications and decide who will get interviews. Interviews will then be set up. Typically, Lien and the Personnel Director are involved in the interviews, but Lien asked for the Committee's preference. Brandt stated, in the past, the Committee has been involved in the interview process with the Director. Quarne stated, that years ago, the Land Conservation Committee was involved in the interviews. Lien added, at that time, there was no Personnel Director.

Lien stated he took criticism at a Town of Arcadia meeting that the County is not providing mining applicants with the information as to what is needed to meet all the specifications of a complete mining application. Lien showed the Committee what is being provided to the public and noted the applicant gets a copy of Chapter 13 of the Comprehensive Zoning Ordinance. Everyone is getting the requirements and they always have. Stephen Doerr stated he was present at the Town of Arcadia meeting and he felt bad for Lien being "chewed on" like he was. But to the benefit of the people who were feeling the frustration, Doerr felt it was line #8 on the submittal requirements, "the Committee reserves the right to ask for more" which is somewhat open ended. Doerr mentioned he wanted to be on the July agenda but because of more items being required he was put back another couple months. Doer stated that if the doesn't have preliminary approval by September 14th, his boss might move his equipment to Chippewa County.

Brandt stated someone had mentioned in one of the public hearings whether the Committee will take into consideration distances required between mines because of the effect on the particular landscape or a particular part of the County – in this case State Highway 95. Lien had pointed out that there is only one designated mining district in the County, which was part of the Land Use Planning process and that is in the Town of Caledonia. Thompson commented that Arcadia is up for review or past due. Brandt agreed and stated this plan is something the Committee takes into consideration. This is part B in Chapter 13.03(3) and are factors to be considered when adopting conditions, "the ability of the operator to avoid harm to public

health, safety and welfare and to the legitimate interest of properties in the vicinity of the proposed operation”. Brandt stated that Nick Gamroth is, hopefully, going to be bringing a representative from the Department of Revenue to the County Board meeting, this month or next, to discuss the effect of mines on property values. Not only what it means to the property owners but what it means for taxation as well. There may be more taxes coming in but we don’t know for sure because this hasn’t been around long enough to make a difference. Thompson commented it hasn’t affected the property values down in Caledonia, etc. Brandt stated it is interesting because a mining district puts a single family dwelling in the conditional use category.

Public Comment Requested on Goals and Actions of the 2011 Land & Water Resource Management Plan Update. Lien had one meeting with Peter Fletcher from Mississippi River Regional Planning as he was instructed to do by the Committee. Fletcher was the Chair of the Advisory Committee when the Land and Water Resource Management Plan was developed back in 2006. It is up for review and needs to be updated and adopted this fall. Carla Doelle, Lien and Fletcher worked on this plan. Doelle has done a lot of the typing and modifications to the plan. Fletcher has worked with several other counties on their plan modifications so he has a very good knowledge of what is required and what needs to be updated. Lien felt the meeting would have to be held by October, and then it would be sent in for approval and then it would be on the County Board agenda for December. Lien provided the Committee with a draft copy, where the potential changes have been made to it. Lien asked Committee members to take a look at the draft. Lien stated this is an agenda item today and it will be the next couple of meetings/months to take public input. There will be a public hearing held once the final changes have been made. Upon Brandt’s inquiry, Lien thought the public hearing would be held in October.

Brandt reminded the Committee that there is a special meeting scheduled for August 17th, 2011 at 9:00 AM to address the Comprehensive Zoning Ordinance Chapter 13- Mining Hours of Operation. The LWRM plan will also be on that agenda to take any public comments. Lien stated he and Stalheim will also have budget items on the agenda. Lien commented that the whole office had full time jobs before the mining issues exploded, so DLM is extremely busy. Nelson commented that DLM also picked up another job of putting up the 911 address signage. Upon Thompson’s inquiry, Lien stated the towns used to put the signs up, but there were complaints that some town were not putting them up. There was a town that Lien visited that had about seventy 911 signs in a corner and all those same signs had been re-ordered, by the County, at County expense, because they were missing out in the community. Some towns were really good and some were not, so to eliminate that, Emergency Management started putting them up. DLM takes in the applications and sends out the address notices and Land Records issues the actual addresses. DLM is probably first on any new site to do soils tests or septic, well or building inspections, so DLM will be putting the signs up also. Lien added that the 911 signs are now “flag type” signs which are printed on both sides.

Next Regular Meeting Date – Next regular meeting date was set for Wednesday, September 14th, 2011 at 9:00 AM. Smick would like the subject of 911 address signs on the August 17th meeting agenda. Smick also requested a closed session be put on that agenda to discuss personnel and performance matters. Brandt inquired if the Personnel Director and Corporation Counsel were going to be present. Smick responded that will be figured out between now and the meeting date. Committee consensus was that the items Smick mentioned should be included on the next meeting agenda.

Bice inquired as to what was going to be talked about at the August 17th meeting. Lien understood, in consulting with Corporation Counsel, that because a petition was submitted to the County Clerk’s office, that we are addressing specifically the request which is related to mining hours of operation only. It is not opening up the entire Ordinance only that section listed. There is suggested language in that petition giving the Committee flexibility and that is all that is going to be discussed. Lien stated this is very new ground for Lien and the County Clerk and according to State Statute; this is the way it is to be done, with recommendations coming from Corporation Counsel. Bice wanted to make clear and also get Lien’s opinion, based on everything that has taken place, did this Committee vote to open the hours of operation policy. Lien stated they did vote to acknowledge the petition and discuss hours of operation and the recommended changes to it.

Bice felt, that when that meeting ended, it was made clear, that the Committee did not want to make changes in general to that Ordinance. Lien didn't believe the Committee could, based on the petition that was filed. Bice wanted to make that point clear because the statement is being made that the Committee is going to open the whole Ordinance and technically we are not. Lien stated we are opening the Ordinance for that particular section, but Lien didn't legally believe that the Committee could address other sections because they were not addressed in the petition. Brandt commented that the petition was really specific. Thompson added that should be announced at the start of the meeting. Smick made another point, for clarifications sake, that we are not going necessarily to change it but we're going to open up discussion on whether or not we wanted to change it. Actually doing it is a whole different set of circumstances. Brandt read the filed petition aloud. Brandt commented that basically it is to give the Committee the ability to make site specific changes to hours of operation. Thompson stated that the hours of operation could remain the same and on a case by case basis be determined. Bice noted the Blair Press is going to run his complete response and the Trempealeau County Times will run approximately one third of his response, to recent Letters to the Editor. Bice, in general, thought the Ordinance is a good thing and didn't want to see it opened up, but if the Committee has emergency situations, somebody needs to be able to make a decision. Brandt reiterated that if the Committee does act on that issue, it will still need to go to full County Board.

Brandt listed the agenda items for August 17th to be budgets, Land and Water Plan, 911 sign posting, closed session and public hearing on non-metallic mining hours of operation.

Bice commented that he filed the petition because he was approached by Lien, that if the Committee wanted to have the ability to make emergency decisions for whatever could happen, he had to apply with the County Clerk to request a hearing. Lien stated if Bice wanted it to happen soon, Bice would have to do it right now. Lien clarified it was because of the timing for publication. Bice and Lien went to the County Clerk's office and Lien and Syverson told him what to write, and he even stopped writing while they checked the books a few times, so that is why the application that Bice submitted happened like it did. Bice stated it is a bit of confusion and he's not sure what he wanted to get out of it is going to happen.

Smick acknowledged Palmer's help with the meeting in working the computer keyboard. Bice wanted to see these items on the overhead screen at the beginning of the hearing and then cross them off if the Committee so chooses, so things are not discussed three different times.

Set next meeting date and time - The next regular meeting will be held on Wednesday, September 14th, 2011.

At 2:45 PM, a motion was made by Nelson to adjourn the meeting, Dregney seconded, motion carried with no opposition.

Respectfully submitted,
Virginette Gamroth, Recording Secretary

Michael E. Nelson, Secretary