

**ENVIRONMENT AND LAND USE COMMITTEE**  
**Department of Land Management**

**REGULAR MEETING MINUTES**  
**February 8th, 2012 9:00 AM**  
**COUNTY BOARD ROOM**

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

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

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

Staff/Advisors present: Kevin Lien, Tim Brueggen and Virginette Gamroth. Vickie Stalheim and Rian Radtke-Corporation Counsel were present for part of the meeting.

Others present –Ernie Vold –County Board Chair, Kyle Slaby, Joseph A. Slaby, Roger and Ann Wygel, Stephen Doerr, Donna Brogan, Darlene Rossa, Mark Palmer, Ronald F. Tuschner –Town of Arcadia Chairman, Robert Tenneson – Town of Preston Chairman, Randy Palmer, Tim Mathwich, Paul and Nancyanne Winey, Henry J. Wagler, Jonas Wagler, Jeff Bahnub, Jerome Mattison, Margaret Olsen.

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

**Adoption of Minutes** – Nelson made a motion to approve the January 11<sup>th</sup>, 2012 regular meeting minutes as presented and was complimentary of their preparation, Bice seconded. At this point, Smick in referring to the discussion, last month, of Committee member Quarne’s possible resignation due to a conflict of interest issue regarding mining, inquired of Gamroth (due to the length indicated in last month’s minutes) for an estimate of how much time the Committee spent discussing that issue. Gamroth responded she wasn’t sure of an actual amount of time spent but could get that information from the recording. Brandt inquired as to the relevance of Smick’s question. Smick and Gamroth concurred that the Committee had spent a considerable amount of time on the issue. Smick stated, that in contrast, the people who attend the meetings (and all are welcome) and choose to bring recording devices seemingly then are taking excerpts or sound bites out of things and then writing letters to the editor of the newspaper and accusing the Committee of haphazardly or glossing over the discussion about that item concerning Mr. Quarne as though it was of no significance. Smick stated that is partly absurd and a partly false statement in the paper as the Committee did spend a substantial amount of time discussing it. Smick inquired about discussing the issue of these meetings, etc. being broadcast by way of TV and also being “live streamed” (the County already has the capability), not only for the convenience of the current viewers but also for those people who want to replay it at their convenience 24/7. Smick has already discussed this issue with the Exec./Finance Committee and Smick hoped this Committee would go along with it. Smick added all the State proceedings in Madison are already done this way and we are seemingly the only County which already has the capability. Smick noted that this particular enhancement would help in solidifying the TV studio financially and let them continue in what they’re doing. Brandt acknowledged Smick’s concerns and suggested putting the item on the next agenda. Motion to approve the minutes carried unopposed.

**Public Hearing – Land Use Change/Rezone-Jerome M. Mattison, Landowner-Exclusive Agriculture (EA) to Exclusive Agriculture 2 (EA2)-Town of Hale.** Chairman Brandt opened the public hearing at 9:10

AM. Nelson read the public hearing notice aloud. Lien referred the Committee to the aerial photo on the overhead for all to view. Lien stated the parcel is located in Section 12, Town of Hale. The property is currently zoned Exclusive Agriculture (EA) which requires a minimum lot size or density requirement of one lot per thirty five acres. The proposal is to break out and separate a 9.53 acre parcel for finance/legal purposes. Lien added under the current zoning one can't create a parcel of that size so the proposal is to rezone to Exclusive Ag 2 (EA2) which would allow for a density of two lots per forty acres with a minimum lot size of whatever lot size is required by that township. Lien continued there is a draft CSM that has been submitted to the DLM for review. County Surveyor, Joe Nelsen caught this in his review and brought it to Lien's attention that under the current zoning the split would not be allowed. Lien noted this hearing was publicized in the newspaper two weeks prior and letters were sent to all adjoining property owners. Lien, personally, did not receive any calls for or against the proposal. Brandt asked the property owner, Jerome Mattison, who was present if there were any comments he would like to add. Mattison responded that he is working on refinancing and the only way he could complete it is through rezoning the parcel. Brandt called three times for any public testimony. Lien read a letter dated 1/11/2012 from the Town of Hale which read, I, David Berg, Board Chairman for the Town of Hale, Trempealeau County, Wisconsin do hereby approve the petition made by Jerry Mattison to rezone that part of the NW ¼ of the NW ¼ of Section 12, T23N, R7, Town of Hale, shown as Lot 1 on the attached pending Certified Survey Map to be zoned EA2. Lien added, in looking at an aerial photo, Mattison is basically separating out the buildings and a small wooded area behind it. Brandt closed the public hearing at 9:15 AM. Nelson made a motion to approve the rezone as presented, Vold seconded. Brandt noted that he had talked to Judy Betker about the Exclusive Agriculture zoning and its' relationship with Farmland Preservation. Betker had assured Brandt that this split does not affect any of the requirements of Farmland Preservation. Motion to approve the rezone carried unopposed. Lien noted that the paperwork for the rezones had been sent to the County Clerk for inclusion on the March 13<sup>th</sup> County Board agenda (pending approval from this Committee).

**Public Hearing – Land Use Change/Rezone-Henry J. & Ella M. Wagler, Landowner- Exclusive Agriculture (EA) to Primary Agriculture (PA) – Town of Hale.** Chairman Brandt called the public hearing to order at 9:16 AM. Nelson read the public hearing notice aloud. Lien stated this parcel is located in Section 24, Town of Hale. Mr. Wagler has proposed to parcel out 7.86 acres so that he can sell a larger parcel now and this parcel at a later date. Lien mentioned that when the land use process was done with each town, the lands that were zoned Exclusive Agriculture were discussed and it was determined that as Farmland Preservation went by the wayside, those lands would be looked at favorably to change to the predominant zoning in the area. In this case, most of Hale is zoned Residential-8, however this zoning change would meet the applicants needs today. Primary Agriculture allows for two parcels per forty with a minimum lot size of whatever is required by the Town. Lien noted that this hearing was published in the newspaper for two consecutive weeks and letters were sent to all adjoining landowners. Lien received no calls for or against the rezone request. Brandt inquired if Henry Wagler had anything to add to what Lien has said. Wagler basically reinforced what Lien had just stated. Brandt called for any public testimony. Lien read a letter from the Town of Hale which stated the Town of Hale has approved the rezone of 7.86 acres for Henry Wagler from Ag to Residential (the rezone designations listed in the letter were inaccurate). There being no testimony, Brandt closed the public hearing at 9:19AM. Quarne made a motion to approve the rezone request as presented. Motion carried unopposed. Brandt reminded the applicant that this rezone will be on the March 13<sup>th</sup> County Board meeting agenda and that he should plan to attend.

**Wildlife Damage-DeWayne Snobl –** Snobl provided a handout to each Committee member regarding the Wildlife Damage Program. Snobl stated individuals who are issued shooting permits have quotas that need to be filled to maintain claims eligibility. If the individual misses that quota, even by one deer, Snobl has to come before the Committee to have a Harvest Exemption considered. Snobl explained it basically means there is enough evidence to suggest that an exemption should be granted and therefore that individual could claim or deny the exemption therefore denying the claim. Snobl stated Greg Tollefson has missed his harvest

quota by two deer. He was under the WM-40 permit (there are three or four different types of permits) and his harvest objective was 10 deer and he needed to have 8 deer harvested by September 8<sup>th</sup>. Tollefson ended up shooting six by that date and ten totally by December 31<sup>st</sup>. In talking with DNR, Snobl learned that Tollefson had a farming accident that has and is requiring significant recovery time. Snobl stated in factoring Tollefson's previous performance, DNR and Wildlife Services felt an exemption would be warranted. Snobl noted that in talking with DNR during last years' exemption considerations, more items can be brought in beside just the log book for evidence. Snobl felt these were extenuating circumstances and he and DNR recommended that the exemption be granted on behalf of Tollefson. Thompson made a motion to grant the Shooting Permit Harvest Exemption for Greg Tollefson, Geske seconded. Smick asked if those persons requesting payment for damage must comply with a provision that during the regular hunting season the public can hunt on those lands. Snobl responded yes. Motion to grant the Shooting Permit Harvest Exemption passed unopposed.

Snobl stated for 2011 there were three farmers who requested formal appraisals on their property for crop damage.

<b>Name</b>	<b>Appraised Loss</b>	<b>Payable Loss</b>
Nelson, David	\$3,070.72	\$2,570.72
Ravnum, Steve	\$2,592.51	\$2,092.51
Tollefson, Greg	\$2,207.18	\$1,707.18
<b>Total</b>	<b>\$7,870.41</b>	<b>\$6,370.41</b>

Snobl stated the applicants have met all the requirements and recommended approval of the claims. Vold made a motion to approve payment of the 2011 WDACP claims as presented, Nelson seconded. Bice noted, for the public present, that this money paid comes from hunting fees; this is not taxpayer money which covers the damage to the crops. Motion carried unopposed.

Snobl presented approximate 2011 Deer Donation numbers (these are not absolute final numbers). Snobl stated that given the change in season formats (some which run after the end of January therefore hunters have until February 15<sup>th</sup> to donate.) right now there is no statewide number.

- Buffalo - 212 (267)-(2010 numbers).)
- Clark - (7)(8)
- Jackson - (56)(55)
- LaCrosse - (63)(88)
- Trempealeau (24)(19)

In most of the counties that Snobl covers, donations are slightly down. Snobl's opinion was that Trempealeau has dropped way down because of the issue of not having processors located uniformly throughout the County. Lien asked if the numbers were perhaps down because of Trempealeau County deer being processed in Buffalo County. Snobl felt that there was no doubt that deer from here are being processed in other counties. Upon Brandt's inquiry, Snobl stated all processors are advertised on the DNR website. Lien mentioned there are flyers for public distribution, in the DLM office, which have the processors listed on them. Snobl discussed the pounds of meat that were donated. Snobl stated if there are livestock issues (lost livestock or something happened) or safety issues regarding wolves, the landowner should still call Wildlife Services because they are responsible for investigating those issues. However, on December 28<sup>th</sup>, 2011, US Fish and Wildlife Services published the delisting of the gray wolf in Wisconsin, Minnesota and Michigan. There is a thirty day waiting period, so as of January 27<sup>th</sup>; the wolves were officially handed over to the State of Wisconsin for management. They are no longer considered federally endangered (assuming no litigation

comes from it). Snobl noted since that time there has been a number of issues going on regarding hunting seasons, etc. and it is very fluid at this time as to what is going to come out of that. Snobl stated right now there is no litigation that he is aware of that would stop it. Snobl noted the reality is that in northern and central Wisconsin public land is saturated so the production we see now is going to be pushed out into more marginal areas for habitat and where wolves probably won't do that well.

Brandt stated he has requested that Corporation Counsel Rian Radtke be present to make sure that proper procedure is followed taking a motion "from the table", etc. Brandt noted, for future reference, when the Committee is dealing with an issue like the present one, although the motion to table is appropriate, Radtke's recommendation is to suspend the decision until a particular time as opposed to tabling it, as it makes it a little easier to bring the motion off the table. With Radtke now present at the meeting, Brandt asked him for his opinion on how the Committee is to proceed. Radtke understood that a motion to table had been passed and there was also a pending motion to deny the application. Radtke stated to bring this back before the Committee a motion to remove or take the issue from the table would be in order and then needs a majority vote. At that point the Committee would be back exactly where they left off. The pending motion would be exactly where it was left at the last meeting. Radtke mentioned that in Roberts Rules of Order, negative motions are not recommended, it is more appropriate to "approve" and have that motion fail because in the event that there is a motion to deny or the motion to deny the permit application fails, it hasn't been approved, but it hasn't been denied. The more desired motion is to have a motion to approve and then have it fail by lack of votes.

**Conditional Use Permit-Non-Metallic Mine-Joseph A. Slaby, Landowner/Applicant-Arcadia, WI and Kyle E. Slaby, Operator-Arcadia, WI.** Brandt stated the meeting minutes portray the discussion very well and hopefully Committee members have reviewed those. Bice inquired what needed to be done to start discussing the issue. Brandt responded that a motion was needed to take the issue from the table. Bice inquired if at that point, the issue would go to a vote to deny. Brandt stated that the Committee would start discussion of the issue. Bice made a motion to put the issue back on the table. Upon Brandt's inquiry regarding the appropriateness of Bice making the motion to put the issue back since Bice also made the motion to table, Radtke responded that anyone can make the motion to bring the issue back to the table. Nelson seconded Bice's motion, motion carried with Quarne abstaining.

Lien stated he had discussed with the Town Chairman and the applicant that, if there was progress made so that additional discussion could be held, this item would be placed back on the agenda. Lien believes there has been progress made and that is the reason for the discussion today. Lien referred the Committee to a handout which is a letter from the Dept. of Transportation (DOT) stating possible available options. Lien added the applicant is here as well to explain what he learned at the town level and how they wish to proceed from this point forward. Brandt commented that some of the neighbors are present that were involved in the previous meetings discussion. Brandt turned the meeting over to Brueggen. Brueggen stated there is a question as to who owns the land and how exactly the road was recorded legally. In talking with the Town of Arcadia and the DOT it was decided that Paul Sonsalla Lane was a three rod road up to a point just past Christine Lane (just off of Paul Sonsalla Lane) and beyond that it would be a four rod road. The area that was on record as a 20 foot easement due to road maintenance by the town, it was decided that by State Statute it was considered a town road at that point – which would be a four rod road. Brueggen acknowledged there was a plat presented at the last meeting which showed that the three rod section of Paul Sonsalla Lane was actually 66 feet which would be a four rod road and that was a plat from when Highway 95 was reconstructed a few years ago, but that plat isn't necessarily a record because the Town of Arcadia has a recorded road record which puts it a three rod road, so the Town of Arcadia records actually trumps the map that had the 66 foot lines on Paul Sonsalla Lane. It has been decided that it is a three rod road up to the point past Christine Lane and then a four rod road past that. At the real estate end of the DOT, no one has been able to find anything that shows that there was right-of-way purchased that would make it any wider than a three rod road.

Brueggen added that is the newest information that he has on that issue. Brueggen stated there has also been a DOT permit approved for the Soppa Road intersection which is on the south side of State Highway 95 just offset from Paul Sonsalla Lane. Alpine Materials sand mine on Soppa Road is a permitted site and they do have a DOT permit to make improvements to that intersection. Brueggen added that part of the original recommendations from the DOT for the Slaby site is that they would have to coordinate (listed on the handout) those recommendations which were to re-locate the intersection center line to the east and increase intersection size to Type A and provide a left turn accommodation for east bound State Highway 95 and increase the driving surface of Paul Sonsalla Lane to twenty four feet. With those recommendations, Brueggen stated that was not including the improvements made to Soppa Road. Once the Soppa Road improvements are made, DOT has new recommendations which would increase the distance that Paul Sonsalla Lane would have to be moved, so those are listed on the bottom of the sheet. For the record, Brueggen read aloud part of the letter from DOT dated February 3, 2012, "In January of 2012 WisDOT received and approved plans for the Soppa Road intersection improvements for another mining operation located on Soppa Road. WisDOT would like to restate our position that to provide the left turn accommodations the Paul Sonsalla Lane intersection location needs to be coordinated with the location of Soppa Rd. This could be accomplished by the following scenarios:

- Relocating Paul Sonsalla Lane across from the reconstructed Soppa Rd intersection.
- Relocating Soppa Rd across from the reconstructed Paul Sonsalla Lane.
- Separating the intersections by a minimum of 500 feet. This 500 foot separation would allow a left turn bypass lane to be constructed for Paul Sonsalla Lane".

Brueggen reiterated that those are the three recommendations that the DOT makes for Paul Sonsalla Lane with the reconstruction of Soppa Road which already has a DOT permit to start on their engineered plans to make those improvements. Brueggen then pointed out on the overhead map what DOT is proposing in regard to Paul Sonsalla Lane, etc. Lien commented it sounds like Alpine Materials has the permit on Soppa Road because they have the DOT permit already in place and they are not willing to move their plans. Lien added that if the other two options didn't work, DOT had told Slaby that he could try to exercise going to the North therefore entering and exiting on North Creek Road. Slaby verified that information was correct. Bice asked what the most reasonable option was here that would be suitable. Slaby responded that he would like to see them relocate Soppa Road closer towards Slaby's property. Slaby pointed out, that as one could see; WisDOT owns quite a bit of right of way that they exercised to take when they reconstructed the road. Slaby stated he will try to work with Alpine Materials Corporation on that issue, but Slaby has had less than stellar response back from Alpine Materials so far. Slaby added that is the access road that he has to utilize, it may not be the prettiest, but he has to make it work. J. Slaby stated the cost issue of reconstructing Paul Sonsalla Lane to line up with Soppa Road, one can see the tavern is there, so it is a lot more feasible to pay for the cost of moving Soppa Road to the east to line up with Paul Sonsalla Lane then moving Paul Sonsalla Lane one way or the other. Slaby pointed out that the State has an easement on most of Soppa Road already and moving that would be the most logical thing to do there. Slaby pointed out that the DOT is stating in their letter that instead of fixing Paul Sonsalla Lane, one could move Soppa Road to the east and join up with that and it wouldn't interfere with Winey's property or anything. J. Slaby reiterated that was the most logical thing to do. Lien stated this scenario came up right at the beginning. K. Slaby had found out about this issue and was instructed to contact Alpine Materials. K. Slaby did make several attempts to contact Alpine Materials but they didn't contact him back thus appearing to not want to work with Slaby. Lien stated according to K. Slaby, Alpine Materials isn't willing to work with him because they have a DOT approved plan that has already been engineered and so they want to move forward which, in turn, negates Slaby's options. K. Slaby stated he spoke with George Lochstead of SEH Engineering and Lochstead had stated it would be Brian Senn's (Alpine Materials president) call. K. Slaby added he is willing to work with the company. Tuschner stated the Town has not signed that permit process. It is Tuschner's understanding that the Town has to sign it

to request an intersection approval. Brandt verified that Tuschner was talking about Soppa Road. Since the town did not sign the permit and it will be on the next Town of Arcadia agenda, Tuschner inquired if there was any way that the town could have some "influence" to make these two companies work together for the betterment of the Town of Arcadia and its' constituents. Lien recommended that Tuschner contact the towns' lawyer, but Lien felt that since those were town roads, the town would have the final say as to what the town is going to allow these companies to do regardless if they have a DOT approved plan. If it is in the towns' best interest to relocate those roads (Lien advised talking to a lawyer) then Lien felt they could put pressure on those companies to do so. Tuschner commented that the reason he is saying this is that the town board gave preliminary approval for those sand mines (Alpine Materials and Joseph Slaby). Tuschner feels it is in the best interest for the safety of not only town constituents but anyone that is traveling Highway 95 (east and/or west) to have these roads be somewhat perpendicular to each other. Tuschner felt there was a common sense approach to this. Upon Vold's inquiry, Brueggen stated he thought there was approximately 80 feet between the two roads right now. Stephen Doerr interjected, saying that similar to what this board ruled with Proppant Specialists where they didn't have any kind of contact with the DOT as to how they were going to enter Highway 95, the Committee gave them a condition that they work with the WISDOT to make that happen. Doerr suggested that this Committee do the same thing and make a condition for the Slaby Mine to coordinate and follow the recommendations of the WISDOT for access and use of Highway 95 or follow the recommendations of the Town of Arcadia for access and use of Paul Sonsalla Lane. Brandt stated it is the practice of this Committee, to make as a condition, that there be a traffic impact analysis and whatever recommendations come from the DOT need to be part of that operation as well as the agreements with the town on the roads. Brandt added there is a discussion that keeps to be recurring regarding the purchase of private property; the town can't take private property in order to benefit an individual. Brandt added the Winey's have indicated that they weren't interested in negotiating a sale. Paul Winey stated if one tries to move the road 4 or 500 feet east that is not even probable, as that is where Winey's home would be so that is not an option. Winey wasn't sure about going west or backing the road up even further. Winey stated when James Koernig from the DOT looked at the situation, early on, he even stated that if Soppa Road were to be brought over to Paul Sonsalla Road, it would still require moving the centerline of Paul Sonsalla Lane 12 -15 feet east to maintain visibility around the corner. Winey added that Tuschner had some documents on that issue. Winey continued that given the fact that Paul Sonsalla Lane has now been determined to be a 49 1/2 foot wide or 3 rod right-of-way, that significantly limits the public right-of-way to be able to move that, so to try to keep Paul Sonsalla Lane where it is at and move Soppa Road would require: 1) one can't keep Paul Sonsalla Lane where it is at and the State has said that it needs to be moved to the east because of the narrow right-of-way that is further going to encroach upon Winey's property and that there is also a substation nearby. Winey understood what was being talked about, but the Committee's need to remember the facts that even to line Paul Sonsalla Lane and Soppa Road up, there is still the visibility problem and that requires further movement. Winey didn't see any of these as tenable situations and suggested looking at another option such as moving out to the North without have to move them. Tuschner mentioned that he had the letter dated December 19, 2011 from Mr. Jim Koernig, DOT, that Winey had mentioned and read aloud from it, "with the new information it is his engineering judgment that by moving the centerline of Paul Sonsalla Lane 12- 15 feet to the east that there would adequate site distance to use the intersection for sand mine operations." Tuschner emphasized, "adequate site distance". Brandt inquired if anyone had talked to persons at the Newcomb Valley Bar about this situation. J. Slaby stated he had talked with them and they are not opposed to having a sand mine operation up that valley because it would be good for their business. J. Slaby addressed Mr. Winey's comments by saying, it was called a 3 rod road but it states in the letter from Mr. Koernig that the road will be 24 feet wide with 2 foot shoulders and another two foot slope so that comes up to 32 feet. A 3 rod road is 49 feet so one still has ten feet of road right-of-way or better to construct that 32 foot road in there. J. Slaby stated the object is to make it safer and to reconstruct Paul Sonsalla Lane to the east as it is the most feasible option or purchase land from Mr. Winey. J. Slaby reiterated the width there is plenty of room to put the road in. Brandt stated there were a number of issues which Geske had raised during the discussion which lead to a motion to deny the permit and the road issue was one of them. Brandt continued that the Committee has been

discussing that and there is more information about the engineering on Soppa Road and new recommendations from the DOT. There seems to be an agreement that site distance is an issue especially in the current location of the road. Brandt has driven that road and it is really hard to see to the east. There is also the issue of the Newcomb Valley Bar and written testimony from the DNR suggesting that any work that is done in that valley on roads have to take into consideration the Shoreland Protection Ordinance and the setbacks that are required. In an event to refresh the Committee on the other issues raised, Brandt stated Geske had brought up the fact that the permit is for a ten acre mine and in the description, it is obvious that the plans are to expand the mine (moving from one section to another). The request for the conditional use permit is for ten acres. The public present and Geske has suggested that the permit be denied knowing that there will be time in the future when the operation is going to expand and that K. Slaby come back with a different plan with the full operation on the plan and then that would be discussed. J. Slaby commented the reason they came up with the ten acre parcel is because the company that Slabys' are working with stated they want to have a small parcel, at first, until they would know what quality of sand is there. J. Slaby added they have said in public that they are going to expand the mine as it goes on, but the 10 acre parcel is to get started to see what quality of sand is there and to construct a holding/ponding area in case it is decided to construct a wet plant facility. J. Slaby stated a company does not want to buy a 320 acre parcel or expand until they actually see what product is really coming out of that area. J. Slaby added that they will expand. At this point, Brandt reminded J. Slaby that in the event they would expand, they would need to come back to modify their permit or get a new permit. K. Slaby admitted he was ok with that but he refused to throw away, at this point, what he started. Doerr interjected stating these ten acres might be adequate based on the demand for the product and the trucking of it, but three years from now that might not be economically feasible or adequate. In referring back to the road issue and right-of way, Winey has reviewed Chapter 82 from the State on town roads. Winey believed that their wish was that any improvements made on a road be brought up to a 66 foot right-of-way, not maintaining any three rod road; additionally there are the specific designations for the average daily traffic. The volumes being requested by this mine exceed the capability of the three rod right-of-way which is for less than one hundred travels per day and more only under special circumstances. When one is talking about 120 trucks in and 120 trucks out, that is 240 and during summer there could be up to 280 trucks. When one looks at the average daily traffic, it is very specific in there that they request a four rod road, so once again, it comes back to the fact that it is a three rod road and it would still require the purchase of property regardless of what the intersection configuration would be. Winey stated this road is not suitable for several reasons and he is not sure why it continues to be argued. K. Slaby commented that trucks will drive on the surface and not in the ditch. The surface is still not going to be any wider than 24 feet with 2 foot shoulders. J. Slaby added if the road is 66 feet, like Winey stated, it is still not going to make the road any wider than 33 feet, according to what the town permitted. Winey responded, that merely looking at the State standards for roadway right-of-way, if we start making choices and disregarding State specifications, Winey shuttered to think where we would be headed. Thompson commented that those regulations may be for laying out a new road. Winey responded this is laying out a new road because this will be asphalted and improved. Brandt commented Tuschner had mentioned at the last hearing, as part of the towns' conditions, they had specified the kind of roadbed, quality, etc. that could handle this type of traffic. Tuschner stated it was specified as heavy commercial, as he and Jim Johnson had held a discussion about that. Tuschner had wanted to know what the difference was so that the town would get it right. Tuschner noted that for Soppa Road they are also specifying a heavy commercial road from the point of where they enter Soppa Road to Highway 95 and is exactly the same for what they are requiring for Paul Sonsalla Lane. J. Slaby introduced his excavator, Randy Palmer-Duffeck Sand and Gravel and Tim Mathwich- Riverview Construction and asked them to say a few words as to how they have been involved in other operations over the years. J. Slaby encouraged the Committee to ask questions of them. Brandt asked the Committee if this was information they wanted to hear. Brandt commented he wasn't sure that the Committee is concerned at this point about the building of the road as much as where the road is going to be. Darlene Rossa commented one can talk about all the traffic but when the State Road was put in there it was a mistake to start with because the corner coming out of Paul Sonsalla Lane and Newcomb Valley should be fixed. Rossa expressed that she didn't care if there was a mining

company going in there or anything else, but when one pulls out from Newcomb Valley Tavern there is only so much time to try and get across that road and that issue should have been addressed when the highway was built and they didn't do it. It actually should have gone back onto the State because they created a real hazard on that corner. There are three intersections coming in from there; Paul Sonsalla Lane, Soppa Lane and Newcomb Valley Tavern and they all converge off center of each other and the State should have fixed that corner to start with. Brandt agreed it was a crazy intersection. Doerr interjected saying here was an opportunity, where the mine is going to pick up the responsibility to make the intersection safe, and Mr. Winey said it was not safe today, here is a chance to give them the opportunity to absorb the expense and make it safe for Dr. Winey and all the other residents. Rossa added she understood Winey's concern, but he has to take into consideration that he too has children, they are going to be driving someday, they have got to come out of Paul Sonsalla Lane and that corner is blind to them. They will be young, inexperienced drivers so one would think that he would want to make it safer. Brandt stated that Geske had made the motion to deny and was wondering if Geske had any more thoughts. Geske responded he didn't seem to have to make a point as one has just heard everything that is going on – something isn't right and something has to be done. Geske added that the Committee asked Slaby to come back and have it fixed, and even though they have come back with ideas, nothing is fixed or worked out and we haven't gotten anywhere. Geske expressed that he still has a problem with the easement up there as in Geske's mind that was stealing land. Geske stated someone was good enough to give someone else an easement and now all of a sudden it is being abused (in Geske's mind). Thompson commented that in 1935 the DOT made that arrangement that any road that was overtaken by a town was their road. Geske acknowledged that but stated it was still given that way. Thompson responded that is the way all the valley roads are. Geske stated it even shows a gate at both ends of it and just because Sonsalla or whoever was there didn't put a gate up to make it easier for the neighbors to get through, then the land is gone. Geske stated he was not a big fan of that and wasn't sure how anyone can say there isn't a problem. It has to be taken care of and if Slaby can work with Alpine Materials to get it moved and it is wide enough then ok, but there is no sense in going ahead until Geske has a plan in front of him, and it is ok'd by the DOT, town and neighbors. When that comes, Geske could vote for it. Geske added, that as far as making Alpine change their plans and move their's over, he was sure they have a timeline too and if we do this to them are they going to come back at the Committee and say now they're going to be put off three more months. Geske stated Alpine has done everything and got their "ducks in a row" now we're going to change it for them also. Geske finished by stating all the talk enforces what Geske feels. Smick commented he heard that K. Slaby was willing to go back to the drawing board and come in with a new proposal and if that doesn't happen, then Smick wanted some clarification as to if Slaby would have to file more paperwork, etc. so that he knows that and there is no misunderstanding. Brandt asked if Smick was referring to the road or the ten acre site. Smick thought Slaby was willing to come back and resubmit the application. K. Slaby explained that the ten acre site (which is an extraction site) is basically a starting and a finishing point. Upon finishing this site, Slaby will come back and reinitiate this whole process and resubmit an application for the entire process. K. Slaby stated he started with the ten acres as it was his father's wishes. Brandt added K. Slaby is not going to stop what he has started on this site, but he is willing to come back again. Vold inquired if there would be another fee if Slaby decided not to use this road, but another road instead. Lien responded that K. Slaby can modify this permit to use the north access (it is not as good of an access) without resubmitting, but Lien, Brueggen, J. Slaby and K. Slaby have had lengthy conversations about, at a point where the ten acres are exhausted or before that point, when K. Slaby wants to come in for additional acres that they understand that it will be a separate application or a revision to this one and they will come back through this process. Smick's heard the Arcadia Town Chair say, in regard to whatever is pending with the DOT, that the town still holds the "trump card" and can work on the process in their approvals that the roads are going to line up. It felt to Smick that the town may be in the best position to resolve this issue. Thompson commented the road only has to be moved 12 feet to the east and it doesn't have to be in the exact center of the right-of-way. Thompson and Vold agreed they would still have to line up. Brueggen stated that would be if Soppa Road was modified to line up with that. Smick added if that is deemed to be the best solution and acceptable to everybody, then it would seem the town has the best means to do so. Brueggen

commented that another factor is, the people doing the project for Soppa Road do have a DOT already approved, engineered plan and their permit to work in the right-of-way from the State Highway, so at what point can one say that they have to wait a couple of months with their project because we have another project that isn't permitted yet, but we think that they are maybe going to have to work with you, but we have no plans from them yet. Tuschner responded, why they didn't do it before they had the permitted plan completed when in essence they knew of this coming many months prior to it. Tuschner added there is a major problem here with the safety of that road (the three intersections) as it exists now and we all know it. It was Tuschner's contention, as Town Chairman, to say to the DOT, why don't they come down and engineer those intersections, take off or do what has to be done on the State right-of-way to where it improves the site distance of 6-7 seconds up to 90 or 10 seconds. Tuschner felt it was the State's responsibility or does someone have to be killed there before the State does something. Tuschner added we all pay taxes to the State of Wisconsin, it is the State's road and their responsibility for the health, safety and welfare of those people using that road. It is not the responsibility of a mining company or Ashley or GNP, it is no one else's but the State of Wisconsin, they need to step up to the plate and do their thing. Geske commented, after working with the intersection at the G-E-T middle school, they do what they want to do. They will do what you ask them to do but they won't do anymore. One has to specify what they should do unless they deem it different. Geske stated they made the GET school district buy more land and give a person land to get around to his business and the school district had no say. On the other side of the road, they put a driveway in for a house, in a turning lane. We question how they can do these things, but when one is working with the DOT it is specific. They might have known this other mine was coming but that is a different project. They had that specific project to work with and that is what they did. Now, something else comes along, they are not looking into the future for another road coming, etc. because they have a request for this. Tuschner stated when he met with the rep from DOT; the town did not realize at the time that they had the discretion to say how the trucks would ingress and egress out of the Patzner Sand Mine. So when this came up with Paul Sonsalla Lane,(the board felt they had a right to say), so they went to the State to tell them what kind of intersection. The State said what type of intersection would be needed. When they did that, the town thought (when they preliminarily ok'd it) that this was going to be good because they said they would rebuild the road and make the intersection as per the plan that was submitted. Now the current plan changes the whole thing. The Town Board didn't change but they went by the DOT reps suggestion, that the town board had the right to specify what kind of intersection. Tuschner stated the town board then came back to Slaby Sand mine with that information and Slaby Sand Mine agreed to it. Smick asked if there are ever any "eyeball" exchanges with the DOT, do they ever come down to meetings or why aren't they here so we could have some direct dialogue with them right here. Smick asked if we couldn't request the DOT be at these meetings in the future. Smick inquired if, with this application or any others received, if the County knows what the topsoil is before hand and is making sure that it is going to be replaced to, at least, that same depth, if not more and that the topsoil is not removed and then sold off. Lien responded that is all being addressed. Lien added that Brueggen, himself and K. Slaby have had almost daily contact with the DOT and all three are in an e-mail stream, so even though the DOT may not be at the meeting here, when the DOT e-mails Slaby, he forwards it to the DLM and when DLM receives an e-mail pertaining to Slaby Sand Mine it is forwarded to K. Slaby. Lien was actually going to meet with DOT in the DLM office later this afternoon, so they are pretty accommodating. Lien stated this Committee's charge is for the health, safety and welfare of the public in looking at the DOT recommendations. Lien stated Tuschner has the "trump card" as these are two town roads and Tuschner has the ability to work with the DOT and the applicant to get the issue resolved. Lien felt this Committee was getting off spectrum by saying once the town chairman is satisfied and the DOT is satisfied with the requirement, the mining companies have to do it. This Committee can't make decisions for the DOT or town. Brandt stated there is a motion to deny on the floor and requested a roll call vote at this time. Upon Mark Palmer's inquiry to testify, Brandt reminded Palmer that this was not a public hearing but an item that was brought from the table for additional discussion. Winey commented he won't deny that there is limited safety and visibility, and felt that everyone here recognized that. At the town meeting, Winey challenged that and had asked, to date, how many accidents had occurred at that intersection and the answer was none. It is

recognized by the few residents who live back there that there is limited visibility, it is suitable for passenger car traffic at the volume it is today, it is not suitable for the volumes being requested in large truck traffic. Winey couldn't see how one can take, what is recognized as limited visibility, knowing the volume (now that the mine to the south on Soppa Road is a reality), and dump it into all of that which is already recognized as an uncontrolled, limited visibility intersection on a major highway when there is a perfectly acceptable route to start to spread this truck traffic out. This Committee needs to be forward thinking in seeing how each mine will impact the overall flow of the County. That is the States, Townships and the County's responsibility for safety. Traffic impact analysis needs to be done at all levels. Dumping two mines into that area will create an accident waiting to happen – there have been none to date. Bice requested to see the alternative route that Winey spoke about. Brueggen pointed out the potential 10 acre mining site and the alternative route. K. Slaby reiterated the point that, the main goal when hauling sand is to either put it on a rail or get access to a State highway as quickly as possible. K. Slaby continued that to haul the sand on North Creek Road (he is already offending one group of neighbors, possibly more) would probably cause him to offend even more people. J. Slaby added it isn't very feasible because there is a wetland on Thomas Lane and one would also have to cross a wetland. The way state regulations are it is almost impossible to do that. . Bice felt the alternative route didn't appear to be a reasonable alternative. Brandt called for a voice vote, yes being a vote to deny and no the opposite, Bice – no, Geske – yes, Brandt – yes, Nelson – no, Thompson – no, Vold- yes, Quarne – abstained, Smick – no. Motion to deny failed 4-3 with one abstention. Bice made a motion to approve the Conditional Use Permit, Thompson seconded. Bice wanted to make it clear that this family owns this land, they pay taxes on this land and have been here a long time. This family has constitutional rights guaranteed by the fourth amendment to utilize their land in any way they see fit if it does not overly offend the majority of the people. Bice understood we have to look out for everybody involved, but in general their right is to accomplish what it is they are trying to accomplish, if they were offending 200 people or 50 people, then we have to look at that, but in general, this is their property and Bice knows for a fact that it is important that we don't violate their constitutional rights. It is Bice's goal to move forward allowing them to do what they are legally entitled to do but it is important that we see to it that it minimally affects the neighbors and all the people around them with as much respect as we can. Bice didn't see anyway possible that we should deny them the right to mine their sand. Bice challenges anyone to prove to him that he is wrong, but Bice felt the fourth amendment guarantees them the right. Bice added if it offends enough people or it offends anybody severely, then he understood the issue but he didn't see any reason to deny this. Geske asked Bice to put a number on that – 50 or 200- how far do we go before we offend people – is it 20 people, or 5 or 1, because Geske noted they have amendment rights too. Bice stated they have rights and Bice recognizes their rights but Bice didn't understand how their rights supersede the rights of these people to sell their sand. Bice stated when Geske asks to put a number on it, it is very difficult. At this point they are asking for ten acres so Bice felt the Committee needs to deal with ten acres and understand that down the road it is probably going to be more than that. Bice stated this is a public road. These people are hauling a product on a public road. Bice understood Winey's position and he feels extremely bad for him and everybody that is caught up in the middle of this, but it is not our place as government to stifle their rights. Bice added what they want to do is legal, it is conditionally allowed and Bice didn't see any reason that the Committee should deny it. Brandt stated it is at this point that we talk about conditions. Brandt reminded the Committee of some of the issues/conditions, such as tarping, tracking pads, etc. which the Committee had considered in the past. Upon Mark Palmer's request to discuss and not testify, Brandt allowed him to do so. Palmer stated that he thought the mines are here to stay. This might not be an ideal location, but Palmer wasn't sure what the ideal location is. Everyone certainly has their opinions and concerns depending on the locations and their perceived impact of the mine on their own situation. There may be benefits with having a mine at the back of the valley. Palmer would prefer someone traveling the main road and not having to look at the things and have them hidden back in the valleys, so maybe it is advantageous. What Palmer is hearing as the main concern here is the public roads and we have to remember these are public roads. Where do we draw the line on who can use them, how much traffic is too much traffic, it is really a fine line one is treading when one says it is not good to run sand trucks down the road but we can run grain and chicken trucks or just regular vehicles. Palmer felt it was boiling

down to primarily a road issue. The motion and second has been made and now is the point where the Committee needs to start looking at the conditions. If this gets approved with conditions, it doesn't mean that it is a "done deal" because Slaby's have to comply with all those conditions. At the point, they have this preliminary conditional approval, then it is easier for Slaby's to justify spending a lot of money with an engineer and to really pin the State down and say to them that this is an unsafe intersection. This is a Conditional Use, attach the conditions and see if the Slaby's can comply with them and deal with it again. Since the Trempealeau County Highway Commissioner, Jim Johnson was present, Brandt reiterated that Bice's question was, can we tell people what they can and cannot do on a public road. Johnson stated, as far as his position, weight limits can be posted and the town has that authority also, so to a certain extent the public can be told what to do. Smick thanked Palmer for his comments as he felt they were appropriate. Smick expressed the opinion that the Town of Arcadia board has the "trump card" and they truly can influence the best possible outcome better than any of us and will likely comeback and concur. Several people mentioned the intersection which has three components; Soppa Road, Paul Sonsalla Lane and the Newcomb Valley Tavern traffic. Smick finds it irresponsible on the part of the DOT working with just binocular vision and looking at projects in isolation that are only 5 or 15 feet apart, they should be looking at the whole picture. They are supposed to be a planning organization and they have blown it so badly, that the Committee should tell them to come up with a solution to this and foot the cost for all these road relocations. Lien offered the conditions the Committee had gone over last month on the Slaby site. Bice offered as a condition that the town (through Ron Tuschner) needs to work hard. Tuschner has said that he will do what he needs to do to improve the safety of that intersection and he thinks that he holds the "trump card" to make that happen. Bice stressed that the town has already given their approval and it is not our place to supersede town approval. Bice asked to condition from now on, if possible, to force the people hauling sand to purchase their fuel in Trempealeau County as Bice wanted the fuel tax. Mathwich stated it will be a combination of diesel fuel which will be purchased here or trucks will be converted to the natural gas which will be available here also. K. Slaby noted they are going to be putting in a natural gas filling station at Kwik Trip. Mathwich noted those were items that they are in the process of considering and researching at this time.

Bob Tenneson, Town of Preston Chairman stated they have a situation in the Town of Preston (Arcadia has the same situation). Winn Bay Sand was recently bought out by Preferred Sands. Preferred Sands is talking about annexing to the City of Blair. There is another parcel on the east side of the township that wants to annex to the City of Blair and also another parcel southeast that could annex to the City. Tenneson was talking about four sections in his township out of fifty four that the Town of Preston is going to lose in their taxation. The Town of Arcadia could lose a lot more land going east out of Arcadia. Tenneson stated if they are annexed these issues wouldn't be discussed at all by this Committee. Tenneson asked the Committee to keep that in mind when discussing the Conditional Use Permits. Pretty soon this Committee won't be able to place any conditions as these will all be under the City of Blair or City of Arcadia. The sand mines are here to come. Precedence has been set and the City of Arcadia has already lost one mine in their township. Tuschner stated there are two more that may be requesting annexation and going within the next month. Tenneson stated sand mining is here to stay and this Committee has to realize that either the Ordinance has to get opened up and let some of these rules and regulations that we have (Tenneson didn't see that other county's around us have them) need to be tightened and some should be eased up. A lot of the mines are asking for more hours of operation and that is one of the main reasons that Preferred Sands wants to annex to the City of Blair, the same thing with the Arcadia mines. Most of these mines are tucked back in the valley and nobody sees them. Tenneson wouldn't consider running all the hours but the Committee can determine that. Somewhere along the line some of these regulations are going to have to be eased up or all the mines will be in the City of Blair or the City of Arcadia and they will be running regardless of what this Committee says. Smick thanked Tenneson for the reality check. Brandt agreed it is true that the County doesn't have any jurisdiction in the municipalities. Thompson commented they have no reason not to go. Tenneson continued that the townships have to maintain the roads and how can it be done if they lose all that valuation. Lien responded that the issue he is hearing the most about is hours of operation, that is the main thing that these companies don't seem

to want to adhere to as far as the Ordinance. Everything else doesn't appear to be a problem. Lien stated this Committee had an opportunity last summer, when there was a public hearing to change hours of operation, the room was full. This Committee doesn't have to listen to the public as this Committee regulates that. Whatever this Committee adopts, Lien guaranteed that he and his Department would administer. This Committee has the ability to change to Ordinance and any Ordinance change then goes to full County Board for approval. Lien stated nothing is holding anyone back on this Committee from making those changes. If the towns want to petition or whatever this Committee does, Lien and the staff will administer. Lien has had lengthy discussions with all these mining companies about ways he personally feels that industry and the community could mesh over the hours of operation. Lien didn't know if they would amount to anything, but they seem to be listening to what Lien is saying. Lien felt there definitely could be some trade-offs. In looking at what is happening with the upcoming elections in April and this summer, this issue is not going away. This is what we will be dealing with every month.

Brandt stated there is a motion on the table which really needs to be dealt with specifically. We have standard conditions, there are conditions recommended by the Town of Arcadia and Bice has suggested that one of the conditions be that: the town be requested to improve the safety of the intersections in whatever way they can – to use their power and influence. Geske suggested making a condition that the road issue has to be resolved, don't put it on the town, Slaby's or DOT, they all work together and resolve the issue. Thompson stated the town can make that happen. Geske responded that is fine, but why put it all on the town, make all the parties work together. Bice felt that by not specifically asking the town to insure that, it could be unfair to a lot of other people involved. The town has the clout and Bice is a little uneasy about making that a condition, but if he can he will. Bice had a conversation with Tuschner and Bice knows Tuschner is very sincere in his attempt to resolve the issue. In addressing Jim Johnson, Bice stated he was there and looked at the area and it seemed to be that they could move more of the bank area looking east, coming out of that road. Bice asked if Johnson's opinion would be that they could maybe take some off of the bank for better visibility there. It would be a little closer to Winey's house but Bice seemed to think that was a reasonable thing. Johnson wasn't sure because he didn't know what the right-of-way was east of the road. Bice asked if Tuschner was ok with trying to get the intersection deal worked out. Tuschner responded he was, but mentioned that he would like the language to be specific and strong enough to have the town board, the Slaby's and the State of Wisconsin sit down in a meeting where these options can be discussed. Tuschner went so far as to say that before anyone leaves that meeting, there is resolve to this issue either one way or the other, otherwise this could drag out for a year with no resolution to it. Geske suggested getting Alpine Materials into the meeting also. Tuschner wanted this as a meeting of these parties and only these parties. Geske mentioned that the Town would be in control of that meeting. Tuschner stated he wanted that put in the county's records. Bice asked Tuschner to mention, when he talks to Alpine Materials, that they are operating under a Conditional Use Permit, so the County would like to see them work with the town as best they can. Tuschner requested that either Lien or Brueggen be present at that meeting so that they know exactly what is said and what is agreed upon. Geske asked Bice for clarification of his request to remind Alpine Materials that they are working under a Conditional Use Permit. Bice responded if Alpine Materials is not willing to bend a little bit here and work with the DOT or anybody else involved, we have given them a Conditional Use Permit, which means they are meeting the County's conditions and this is for the betterment of the people. Geske mentioned they already came in and got everything done, now we're going to change it on them. Bice stated to some extent that might be correct but this is in the best interest of the people. We need to tell them right now to do this before they start their construction. Doerr interjected that Alpine Materials has received communication from the DOT encouraging them to work with the Slaby mine. Brandt asked Lien what he thought Alpine Materials response would be if he were to say the Committee has considered pulling their permit if they don't change their plans. Lien responded he thought we would receive a letter from their lawyer. Lien felt it needed to come from the Town of Arcadia because it is a town road and it is at a point where the Committee does not have jurisdiction on the town road and the town does. Alpine Materials has a proposed plan approved by the DOT to modify the town road. The town has that final word and can say to them, because of the traffic issues,

we know we have another mine proposed, right across from you, this doesn't fit in the big plans for the Town of Arcadia. What is in the best interest for the Town of Arcadia is to make those intersections fluid and work together. It might be a very minimal modification. This Committee has the right to back the town in their decision, but Lien didn't feel at this point this Committee could say to someone, after we've issued the permit and they've worked with the DOT, that we've changed our mind because what their doing is going to interfere with what the other mine is doing. Smick felt it was a good question for Brandt to ask. Lien stated if one looks at the language that Brueggen put up on the overhead as a condition, it says they need to work with the town, and the DOT and be approved by DLM staff. Lien stated staff would be happy to attend any meeting that Tuschner wants to orchestrate to resolve those issues, but Lien felt it was in the best interest of the Town of Arcadia for them to be satisfied with any proposed plan. Tuschner commented that one of the things that needs to be said here is that the town needs preliminary approval for the Slaby Sand Mine and for Alpine Sand Mines pending conditions. This is the last condition for Alpine Materials that the town signed and officially approved that plan. At this point it is nothing more than a preliminary plan until it is signed and we submit a request to the State of Wisconsin for that intersection. That was Tuschner's understanding of the process, so it still is preliminary just like it is for the Slaby Sand Mine or any other sand mine that the Town of Arcadia approves until everything is done. It is preliminarily approved until all conditions are met. At this point, Doerr made another vocal outburst forcing Chairman Brandt to request that he sit down and stop interjecting. Brandt reiterated that two conditions have been added to the standard conditions; 1) Improvements must be approved and completed before mining operations commence. Approval must come from the township, Wisconsin Department of Transportation, Department of Land Management staff and 2) Operator of the non-metallic mine must attempt to purchase fuel from fuel stations in Trempealeau County. Lien stated he supported Bice's ideas behind this condition, but as staff it would be impossible to enforce. Lien felt this should probably not be conditioned. Nelson inquired if there should be a condition for the assessment that goes to the Highway Dept. for the fixing of the roads, either per yard or per ton. Lien responded, in this case, there are no county roads involved so the only agreement has been worked out with the town. Brueggen then shared the staff recommended conditions. Brueggen had provided a handout to the Committee at the last meeting. Upon Brandt's request, Brueggen read the following staff recommended conditions aloud.

1. Duration of the Conditional Use Permit is 5 years from the time of issuance. After the 5 year time period the applicant may apply for an extension in accordance with section 13.03 of the Trempealeau County Comprehensive Zoning Ordinance.

Brueggen stated this condition is open to change the length of time. It was changed to five years due to the fact that it was only a 10 acre parcel and the phasing of the operation shouldn't have to go beyond five years.

2. The applicant shall work with Town Board and/or the County Highway Commissioner to develop a road use agreement.
3. No mining activity shall take place within 50 linear feet of neighboring property boundaries unless the adjacent parcel is under common ownership and the applicant and the land is within the permitted mine boundary.
4. All structures and cased wells located on the properties within 2500 linear feet of the proposed mining area/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 practical whether or not damage has occurred as a result of the mining operations. A third party independent inspector shall be used and the costs associated should be borne by the owner/operator of the mining site. Landowners may sign a waiver declining the inspections of structures and cased wells located on their property.
5. "A" and "B" soil horizons must be kept separate for use in later reclamation

6. A 24 hour blasting notice shall be submitted to the Department of Land Management and all neighboring properties within 2500 feet.
7. All truck trailers/dump boxes leaving the mine site shall be covered or enclosed. Maximum number of loaded trucks leaving the site is 10 trucks per hour during approved operating hours.
8. All required permits or permit exemptions from the Wisconsin Department of Natural Resources or Trempealeau County shall be acquired prior to any mining activity.
9. Financial assurance for reclamation will be established and filed with the Department of Land Management prior to any mining activities.
10. The Department of Land Management will notify the owner/operator of the mine site when all conditions are met and mining activity may be started. Until notification from the Department of Land Management, no unauthorized land disturbance may take place at the mine site.

Brueggen noted that numbers 11 and 12 incorporate the recommendations from the Department of Transportation. Number 11 is the original one that they had sent and were discussed last month.

11.
  - a. Temporary use of a spotter is acceptable with a maximum of 10 trucks exiting per hour until June 1, 2012, at which time intersection improvements should be completed
  - b. Relocate the intersection centerline of Paul Sonsalla Lane to the east 12 to 15 feet
  - c. Increase the intersection size to a Type A DOT design
  - d. Provide a left turn accommodation for eastbound STH 95
  - e. Increase the driving surface of Paul Sonsalla Lane to 24 feet wide
  - f. Coordinate the engineering and construction of the intersection of Paul Sonsalla Lane and State Highway 95 with engineering and construction of Soppa Road and State Highway 95.
12. The revised recommendations:
 

The intersection of Paul Sonsalla Lane and State Highway 95 should comply with Wisconsin Department of Transportation recommendations

  - a. Relocate Paul Sonsalla Lane across from the reconstructed Soppa Road intersection
  - b. Relocate Soppa Road across from the reconstructed Paul Sonsalla Lane.
  - c. Separate the intersections by a minimum of 500 feet. This 500 foot separation would allow a left turn bypass lane to be constructed for Paul Sonsalla Lane.

Brueggen noted that Number 13 is the condition added today.

13. Operator of Slaby Non-Metallic Mines must/or attempt to purchase fuel from fuel stations located within Trempealeau County.
14. Road improvements must be approved and completed before mining operations commence. Approval must come from the township, Wisconsin Department of Transportation and the Department of Land Management staff.

Brandt asked for Committee opinion on eliminated Numbers 11 and 12 and having that covered by Number 14, as both 11 and 12 have to do with the same thing. Geske stated, as with the spotter, if they can't start until it is done, there is no sense in having that condition. Bice mentioned they couldn't start until it was done and questioned what time frame they were looking at to complete that. Discussion took place on Numbers 11 and 12 and when they could start. Brandt recalled Brueggen saying that the new list of recommendations reflect the approval that DOT made for the Soppa Road and that the original recommendations would be ignored or thrown out in favor of the new ones. Brueggen stated he believed that 11 could be replaced by 12, etc. depending on the Soppa Road construction. Brandt asked if 11 and 12 were taken out, 14 would cover all of that. Brueggen stated that was correct, a new agreement could be made if the town intercedes to work with

the DOT, and if the DOT would adjust their plan with Soppa Road then the Committee could come up with new recommendations that would fall underneath having an agreement in the Conditional Use. J. Slaby stated they are a little late so by the time the engineering is done, etc. it will probably be later than June 1<sup>st</sup>. Brueggen clarified that date was for the use of a temporary spotter. K. Slaby stated it is their highway so he would have to follow their recommendations. Brandt stated the Committee has to discuss all the recommendations of staff and pick and choose before a vote is made. Brandt asked for the Committee's opinion on the other ten recommendations. Lien clarified those ten were pretty much standard conditions. Brandt stated the only recommendation that is not new is that the staff has determined that the ten acre site would be more appropriately permitted for five years as opposed to twenty years. Brandt didn't think the Committee had done anything other than 20 years up until now but because of the size of this site, five years would be ample time. Brueggen responded it has been assumed that a Conditional Use Permit is twenty years but there is no exact wording in the Ordinance that puts it at twenty years so that is why staff felt that there should be a condition for a time duration. Brueggen felt that with the plan that Slaby Mine proposed five years would be ample time. Upon K. Slaby's inquiry, Brueggen stated the process for an extension is listed in Chapter 13 of the Comprehensive Zoning Ordinance and one just applies for a two year extension. Lien added they can keep applying for two year extensions repeatedly. The Ordinance doesn't specify that they expire as long as one continues to meet the conditions and Corporation Counsel had suggested the need for a time line. Hearing no problem with first ten conditions, Brandt directed the Committee back to Numbers 11, 12, 13 and 14. Bice asked if the Slaby mine would be able to haul trucks through there before the construction on the roadway is done, using flag people. J. Slaby responded that according to what the state wrote in their letter that is what they are saying. Brandt stated the way the condition reads, nothing would start until they have the approval and completion of the town, the DOT and the DLM. Bice felt construction wouldn't be completed until a year from now, so we need to address that issue somehow. Discussion took place on the time line to complete the construction, etc. Brueggen commented the improvement of the intersection is for safety and he didn't see how one could allow trucks to haul off of that road for a year if it is deemed unsafe the way it is, without the road improvements. Lien commented that the road improvements that Dave Hesch has worked out with the town will be done, before, on Patzner Lane and the same goes for Alpine Materials and Proppant Specialists – their improvements will be done before they mine. It is pretty standard that the improvements have to be done before they start mining. The only difference with this mine is that the DOT did say they would give them that temporary condition until June. Bice asked if the DOT allows them to extend them then we aren't going to stand in the way. Bice didn't feel the Committee should stand in the way, if they are willing to put flag people out there. Bice stated they can't sell their sand until the road is done. Geske commented if we didn't have them make the improvements prior to mining, we would be making an exception for this one. Brueggen stated it was approved by the DOT like that because Stephen Doerr and K. Slaby fought for the use of multiple, different, temporary conditions such as a spotter with a walkie talkie, and a mirror put up that one could look across the road to be able to see easterly. There were a number of things that they pushed for and this is what the DOT put as a recommendation. It is a recommendation. Brueggen read the approved Town of Arcadia conditions aloud noting that some of the conditions duplicate to a point, some of the conditions that staff had recommended.

1. Slaby Non-metallic Sand Mine shall assume all costs associated with improvements, maintenance and repair of Paul Sonsalla Lane and culverts and bridges used by Slaby Non-metallic Sand Mine commencing prior to any work on the Conditional Use Permit site and continuing until all mining activity has permanently ceased. The culvert bridges should be inspected annually at a cost to Slaby Non-metallic Mine with a copy submitted to the Town of Arcadia. In addition all existing driveway entrances should be constructed to include culvert if necessary to minimum sized diameter length for the Town of Arcadia minimum road design policy. If the current driveways need to be changed, must work it out with private landowners.
2. All structures and wells on the properties immediately adjoining the Conditional Use Permit sites

shall be inspected and the condition of each shall be recorded prior to commencement of any work at the site. These wells and structures should thereafter be periodically inspected to determine to the extent practical whether or not damage has occurred as a result of the mining operations. Inspections and damage costs shall be borne by Slaby Non-metallic Mine.

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 Slaby Non-metallic Mine. Reclamation of the mining sites shall begin no later than one year's time with a three month period for reclamation to be completed.
4. Existing perimeter tree canopy at highest points of elevation must remain to keep the visual appearance and aesthetics and reduce dust from leaving the proposed mining area.
5. If the 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 Slaby Non-metallic Mine activities must always comply with the most recent DNR standards.
6. The Town of Arcadia Board of Supervisors review and approve final site plan and equipment lists when available and prior to issuance of Conditional Use Permit.
7. A notice shall be given to adjacent landowners within 2500 feet of blasting area, 24 hours prior to blasting. A notification shall be given to the Town of Arcadia office.
8. Slaby Non-metallic Mine will provide blasting signage at the beginning of the valley. Blasting plans submitted and approved by the Department of Land Management prior to any continual blasting.
9. Financial assurance amount shall be established after final site plan approval and prior to any excavation.
10. The Town of Arcadia Board shall meet with Slaby Non-metallic Mine a minimum of every 6 months for the first two years and then if mutually agreed, annually, after the second full year of mining activity.
11. The Town of Arcadia shall be responsible for signage of Paul Sonsalla Lane. The posted speed limit of Paul Sonsalla Lane will be 25 miles per hour.
12. The Town of Arcadia Board of Supervisors shall review the conditions, compliance and complaints of the Slaby Non-Metallic Mining permit with the owners/operators on an annual basis.
13. A fifty foot setback adjacent to the property line must be reclaimed to a four to one slope.
14. No truck or equipment staging on Paul Sonsalla Lane or Christine Lane.
15. Slaby Non-Metallic Mine shall be responsible for picking up rocks and/or debris caused by blasting on adjoining land at the owners request.
16. Slaby Non-Metallic Mine shall provide an initial training and site visit to Emergency Responders for the site specific dangers and chemicals that may require additional precautions during an emergency response situation.

17. The back-up alarms used on all mining trucks must be the new style, low tone alarm.
18. All mining trucks leaving will be tarped.
19. Paul Sonsalla Lane should be 24 feet in width with 4 ½ inches compressed blacktop. This road shall have two foot shoulders on each side. This road is to be probed; culverts shall be replaced if necessary with the size of the culvert not being smaller than what currently exists.
20. Paul Sonsalla Lane must not be blacktopped prior to twelve months. If the Slaby Non-metallic Mine chooses to blacktop the road prior to a twelve month period, they will be responsible for repairing soft spots on the road.
21. The Slaby Non-metallic Mine must engineer and build an intersection on Paul Sonsalla Lane and State Road 95 specifically and strictly to Wisconsin Department of Transportation state standards and that the intersection be completed by June 1<sup>st</sup>, 2012.
22. No use of a hand cell phone or text messaging devices to be used by the spotter at the intersection of State Highway 95 and Soppa Road.
23. Vehicles and trucks used by Slaby Non-metallic Mine may not use Blaze Lane.
24. Only products excavated or extracted from Slaby Non-metallic Sand Mine may be processed on the site. No transporting in of sand products or byproducts.
25. All mine lighting must have full cut off shrouds so that no light is directed upward or at structures not on the property. Portable lighting shall be used only if necessary to illuminate work areas.
26. If a driveway location must be changed, Slaby Non-metallic Mine shall be responsible for all costs of relocation of the driveway and all native grass plantings.
27. The approach to Paul Sonsalla Lane from Christine Lane shall be 90 degrees with a level area forty feet from the entrance onto Paul Sonsalla Lane. The levels are to be blacktopped the same as Paul Sonsalla Lane new road width. Paul Sonsalla Lane should be level or have very little slope towards Christine Lane bridge.
28. All of the above conditions are to be in perpetuity to any future owners/operators of the Slaby Non-metallic Sand Mine. 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.

Tuschner stated the town was going to approve the conditions at a board meeting during the first part of January, and Slaby Sand Mine requested it be pulled from the towns' agenda, therefore the town board did not officially approve these recommendations. Tuschner added if there is going to be a timetable that is going to mess them up or hold up the County, if it is passed pending the approval of the conditions, they can then request a special meeting to have the conditions approved, but it will cost them. The Town of Arcadia has put a new policy in affect and that policy states that the applicant will pay \$200 to the town in advance to hold a special meeting for anything or anybody on any permit. Upon Brandt's inquiry, Tuschner clarified that the

town preliminarily approved the permit pending conditions. The conditions were to be approved in January, however due to road issues, K. Slaby had asked to remain mute at that meeting. Brandt clarified that the town has approved the permit request, but they haven't officially approved the list of the twenty eight conditions. K. Slaby stated he had no issue with paying a special fee to come before the township for approval of the conditions for the mine site presented here today. In the past when the Committee has approved a permit with conditions, the Committee also approved conditions recommended by the township. The township has not approved these conditions up to this point. A number of these conditions represent some of the concerns that the neighbors have brought out, specifically not using Blaze Lane and what happens with Christine Lane, etc. Lien noted that past practice (not necessarily pertaining to mining) on other conditional use permits have been conditionally approved contingent upon receiving a letter of approval or approved conditions from the Town. Upon Lien's inquiry, Tuschner responded that he did not foresee any changes in the towns' conditions. Brandt informed the Committee that they would address the conditions in three parts; staff recommendations, Bice's conditions/recommendations and the town recommendations to be bundled with the standard conditions. In addressing staff conditions, it was agreed to delete Numbers 11 and 12 and put it under Number 14. Discussion took place as to whether a motion was needed and it was determined it was not. Brandt stated the motion is to approve the Conditional Use Permit request where the standard conditions apply, where the Town of Arcadia conditions apply (pending approval from the Town of Arcadia) and where the conditions recommended by Supervisor Bice also apply. Bice wanted to reiterate that if he had his choice it would be to allow the Town of Arcadia to make the decision on when Slaby Sand Mine can haul sand. Bice didn't think the Committee needed to complicate things. Geske responded safety comes first and that is what the Committee is here for. Brandt and Geske agreed that the Committee would be changing what was done on the other mines. Brandt called for a vote to approve a Conditional Use Permit for the Slaby Mine with the conditions as listed; Smick-yes, Quarne-abstain, Vold-yes, Thompson-yes, Nelson-yes, Brandt – no, Geske-yes, Bice –yes. Motion passed 6 -1 with Quarne abstaining from the vote. Brandt added the work that needs to be done at this point will be between the operators, the Town of Arcadia, the Wisconsin Dept. of Transportation, Department of Land Management and the property owners that are going to be affected.

**2011 Budget Resolution** – Stalheim referred the Committee to a 2011 Budget Resolution handout in their folders. Stalheim stated this was a routine budget, it is done every year and it is done to basically balance out the budget for 2011. Stalheim went through the budget with the Committee. Vold made a motion to approve the budget revision resolution as presented, Nelson seconded, motion carried with no opposition.

**Budget Item-LIDAR and Zoning Signs at Entrances to County** - Lien explained because of a staff vacancy and some other additional revenues there is an overrun that could go back to the general fund. Last year, Lien stated the Committee decided, after a long discussion, to split the funds and start a "nest egg" for the possibility of having LIDAR flown. In 2011, Martin Goettl had given a cost estimate of \$296,000 to have LIDAR flown for the entire county. Lien stated Department staff can attest to the flood plain issues that are in the County of which LIDAR would be a great benefit. The contours of the maps would come down from 20 foot to 2 foot. Lien suggested splitting the budget overrun and adding half to the LIDAR fund. Lien mentioned the County continually has people building without permits even though the whole county has been zoned since 1972. Lien suggested putting up signs at the county entrances which state, "County Zoned – Permits Required" or something of that nature. Lien estimated the cost for the signs to be approximately \$1,200. Upon Thompson's inquiry, Lien's thought was to take the money from the amount going back to the General Fund. Discussion took place on what the signs would actually say. Bice stated everyone knows that a building permit is needed to build a building. Bice's opinion was putting up a sign may remind them if they forget, however we don't need to put up more signs and \$1,200 is a lot of money to some little old lady. Bice understood that we are going to miss a few people, but that isn't going to change, we'll miss them regardless of signs. Bice stated we don't need to put up more signs and he is not in favor of spending money to put up signs to remind people they need a permit. Either they forget or they are trying to avoid paying a permit fee or being assessed. We aren't going to change that with signs. Discussion took place on permits needed. Brandt

called for a motion on the issue. Bice made a motion to put the entire budget overrun back in the General Fund, Smick seconded. Thompson inquired how the County would ever get money for LIDAR. Bice responded that the money came from the taxpayers of Trempealeau County and it should be put back in the taxpayer's fund, not in a LIDAR fund. Bice believes the day is coming when LIDAR will get much cheaper (the price has already dropped). Bice added we are probably only five years or less from having the technology to have this free or almost free. Bice stated we do not need to increase our LIDAR fund. What LIDAR will do for Trempealeau County is not worth the amount of money it would cost. Bice begged the committee to put this money back into the General Fund and be concerned about LIDAR at a later time. Nelson disagreed with Bice in the sense that people spend a lot of extra money for flood insurance because of the maps currently being used. Bice acknowledged that was true but also felt the amount was exaggerated as to the number of dollars spent trying to clear this LIDAR thing up. Bice felt if one just waits a few more years it will get cheaper. We already have the technology and Bice feels LIDAR has already been done it is just not available to us. Smick thinks LIDAR has value but if we want to refine the flood areas and get the contours from 20 down to 2 feet that is important for insurance purposes and inquired if that information couldn't be obtained by using some engineering firms software on the wetland areas. Not to contradict Bice, but Lien mentioned that he had a large check that he couldn't deposit in the County accounts because the General Fund is "maxed out", it is overflowing, what does more money need to go into the General Fund for. Lien explained that this money is not being spent, this money is "designated" for a public benefit. Lien is not asking for the money to be spent, but to add a little more to a "nest egg" for a future public benefit. In two years, Lien hoped that Bice is right and if someone give us LIDAR, then that money that was set aside can be used for something else. Smick stated he feels perhaps some of the money should be put aside for next years budget for use at the DLM's discretion. Bice added, that money came from the people's pockets. Geske responded it is not leaving the peoples' pockets, these are the people. Bice added Trempealeau County has some fairly significant bills and the County will be paying some of those off bills (where the County is paying interest of around 5.50%), so the General Fund is going to shrink. Government will always find ways to spend the money in their hands. Lien noted that this money came from a position that was self-funded in DLM, that was vacated, so Lien's staff did additional work during that time, with no compensation. Brandt called for a vote on the motion to return all the money to the General Fund. All Committee members voted "no" except for Bice who voiced a "aye" vote, motion failed. Nelson made a motion to order the zoning signs first for the County out of this money and then any money left over would be split equally between the General Fund and the LIDAR fund (same as last year), Geske seconded, motion carried with Bice voting in opposition.

**TRM/LWRM Cost Share Payment Requests** – No TRM or LWRM cost share payments were presented.

**Survey Report** – Lien presented a survey report and bill for T20N, R9W which is Arcadia township. M. Nelson made a motion to approve the bill and report as presented, Bice seconded. Upon Smick's inquiry, Lien stated the original target date for completion of the remonumentation was the end of 2012. Lien noted Nelsen is still striving for that date, but because of the storm in 1998, Nelsen is having a difficult time as the area was severely affected by that storm. Nelsen is having to spend additional hours cutting his way into some of the sites. Smick noted in his observance of other county's, he has determined that Trempealeau County is sort of the "leader of the pack" and way ahead of other county's and somewhat of a role model. Lien agreed and stated in talking to other surveyors that seems to be the consensus. Motion to approve carried with no opposition.

**Director's Report** – Brandt stated he received notification from Dennis Presser from DATCP (Dept of Agriculture, Trade & Consumer Protection) which stated he is pleased to provide the Committee with an order to approve the Trempealeau County Land and Water Resource Management Plan through December 31<sup>st</sup>, 2016. This approval maintains our County's eligibility for funding from the Department to continue to implement the Land and Water Resource Management Plan. The work plan will need to be updated if

changes are made and file an annual report to remain eligible for Department funds. The plan is a reflection of leadership and commitment to your conservation staff. Their agency looks forward to assisting the County with the plans implementation. The letter was signed by Ben Brancl. Brandt noted the letter stated the County was eligible for funds but didn't say the County would get those funds. Lien had a chart to share with the Committee showing how the staffing grants have plummeted every year even though it is listed in the State Statutes what the State is to provide. Lien added these grants are supposed to fund 100% of Lien's position, 70% of a second staff position and 50 % of a third position. Upon Lien's inquiry, Stalheim responded we are getting 100% of the first position, a percent of the second and very little for the third position. Geske commented that he hears it on the FSA side also, that they keep taking money out of the government programs so as one drives around the County they will see less and less conversation. It is a cycle and right now we're getting out of the cycle of conservation. People are going to abuse the land and things aren't going to be good in a lot of places and then there will be all kinds of government regulations put in place again along with funding.

Smick had asked for a copy of the Statutory requirements regarding the E & LU Committee, so Lien presented that information to each Committee member.

On the previous months County Board agenda, the representative from the Villages of Eleva and Strum Sewer District, wanted to submit a petition to amend the County Zoning Ordinance. Lien stated he has a copy of that petition and it will be on next month's E & LU Committee agenda. Lien stated that since 1972 the Ordinance has only been petitioned this way two times, one was the petition that Bice submitted that summer as a Committee member so there was no fee involved. This petition is coming from a private entity to amend the Ordinance. Lien explained that we are required to hold a public hearing which is a \$200.00 fee and DLM is also required, by State Statute, to send a copy of the notice of public hearing by registered mail to all fifteen town clerks which equals a U.S Mail fee of \$191.25. Lien asked for direction of how to handle the registered mail fee. Lien stated the petition appears to want to do away with the frontage requirement of 100 feet for the lot size. This requirement has been in the Ordinance since 1972 (at that time it was 60 feet of frontage to create a new lot). No one administered that requirement until March 11<sup>th</sup>, 1998, when Corporation Counsel sent DLM a letter which stated from this date forward there will be no lots created that do not have frontage. Anything prior to that date would be grandfathered in. Lien has worked with every town chairman on extending roads, changing parcel sizes, etc. to meet the frontage requirements which was put in place to alleviate all the issues regarding easements. Hopefully the issues that we are dealing with today regarding easements will be resolved 100 years from now because people will have the frontage thus having access to their parcels without easements. Brandt stated the specific question is whether or not DLM should charge the petitioner for the cost of the registered mail. Quarne made a motion to require the petitioner to pay the bill for anything that pertains to the meeting that they want to have (public hearing fee plus registered mail fee), Thompson seconded, motion carried unopposed.

**Next Regular Meeting Date** – The next regular meeting date was set for Wednesday, March 14th, 2012 at 9:00 AM. Due to the large amount of public hearings already on the agenda another meeting date was scheduled for Tuesday, March 13<sup>th</sup>, 2012 at 9:00 AM in the County Board Room.

The Committee consensus was that the per diem for this meeting would be \$35.00.

At: 12:05 PM, a motion was made by Bice to adjourn the meeting, Nelson seconded. Motion carried unopposed.

Respectfully submitted,  
Virginette Gamroth, Recording Secretary

Michael E. Nelson, Secretary