

ENVIRONMENT AND LAND USE COMMITTEE
Department of Land Management

REGULAR MEETING MINUTES
May 9th, 2012 9:00 AM
COUNTY BOARD ROOM

Chairman Brandt called the meeting to order at 9:04AM.

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

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

Staff/Advisors present: Kevin Lien, Tim Brueggen, and Virginette Gamroth. Corporation Counsel – Rian Radtke, Human Resources Director – Jamie Kabus and Highway Commissioner - Jim Johnson were present for part of the meeting.

Others present – Roger Osegard, Robert Jewell, Richard Marino, Attorney Buck Sweeney, Stephen Doerr, Rebecca Larson, Bob Tenneson – Town of Preston Chairman, Keith E. Nichols, Steve Callister, Lloyd Mueller, Jeanne Mueller, Matt Hieb, Paul Boland, Mark Sylla, Scott A. Swanson, David Appleyard, Alfred Hanson, Kevin Werlein, Attorney Alan S. Robertson, Keith Nestingen, Ron & Lee Wong, Robert Walski, Kathleen Walski, Margaret Olsen, James Bork, Patricia Bork, Johann Bragger, Jacob Bork, Tom Stoner and Fred Boe-Town of Burnside Chairman, Theodore Konkkel, Roman Lilla, Attorney Ben Quackenbush.

Brandt stated this was the organizational meeting of the E & LU Committee, so the election of officers would be taking place. Brandt introduced Jay Low, newly elected County Board Supervisor and new committee member.

Election of Committee Chairman, Vice Chairman and Secretary. Nomination for Chairman took place with Vold nominating Brandt and Thompson nominating Bice. Voice vote took place with Quarne, Low, Thompson, Nelson and Bice voting for Bice. Vold, Brandt and Geske voted for Brandt. Bice was elected by a 5-3 vote. Chairman Bice took over the meeting and nominated Low for Vice Chairman. Geske nominated Brandt. The first voice vote ended in a tie, the second voice voted elected Low, 5-3, with Quarne, Low, Thompson, Nelson and Bice voting for Low. Vold, Brandt and Geske voted for Brandt. There being only one nomination, Quarne made a motion to close nominations and cast a unanimous ballot for Michael E. Nelson as Secretary, motion carried.

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

Adoption of Minutes – Since the April meeting minutes were not prepared at this time, Vold made a motion to dispense with the minutes until such time when Gamroth has them completed, Low seconded, motion carried with no opposition.

Public Hearing – Land Use Change/Rezone –Exclusive Agriculture 2 (EA2) to Residential 20 (R-20) – Ronald and Letha Wong, Blair, WI ,Landowners/Applicants- Town of Preston Chairman Bice called the public hearing to order at 9:10 AM. Nelson read the public hearing notice aloud. Bice requested that anyone who wished to speak fill out a public hearing form and return it to him. He also requested that any public hearing forms be turned in to him. Lien stated the Wong’s are asking to be rezoned from Exclusive Ag 2 to Residential-20 for a subdivision along Brekke Ridge Road. The site is approximately 160 acres. The Wong’s

had actually worked with Lien a number of years ago and had it platted out, but never followed through with the official recording of the plat and moving forward with the project. Lien stated the hearing has been published in the newspaper and courtesy letters were sent to all adjoining landowners. Lien has received no responses for or against the proposal. Lien referred the Committee members to an overhead aerial photo for viewing. Lien added there will soon be two homes in the subdivision which meets the zoning requirements as it was zoned under Exclusive Ag 2. For Wong's to sell additional lots in the future, the rezoning needs to take place. Ron Wong stated they did the subdivision some time ago but they had neglected to do this one final part and that is the reason why they are here today. Lien read a letter from the Town of Preston which stated they have given approval for Ron Wong to rezone from Exclusive Ag 2 to R-20 at the Wong subdivision located in Section 31 & 32, T21N, R7W. There being no one present wishing to testify, Bice closed the public hearing at 9:16 AM. Vold made a motion to approve the rezone as presented, Brandt seconded. Quarne commented when there is an R-20 zoning in the middle of an agricultural district it isn't ideal if there are livestock kept nearby. Quarne stated he would abstain from the vote because he is right next door to them. Motion to approve carried with Quarne abstaining. Wong's were reminded that the rezone is not complete until it is approved by the County Board. DLM staff will notify them of the time and date of the next County Board meeting. Bice stated he didn't anticipate any problems there. Brandt reminded Bice that even though, historically, rezones have met with little resistant, the Committee cannot promise anyone anything in terms of what will happen at the County Board meeting.

Public Hearing – Land Use Change/Rezone-Industrial (I) to Exclusive Agriculture 2 (EA2)-Scott Swanson, Landowner/Applicant, Blair, WI -Town of Preston Chairman Bice opened the public hearing at 9:17AM. Bice asked Swanson to take the podium at the front of the room. Nelson read the public hearing notice aloud. Brueggen referred the Committee to the overhead aerial photo of which he pointed out the approximately 8 acres to be rezoned. The hearing was published for two consecutive weeks in the paper and courtesy letters were sent to all adjoining landowners. Bice asked Swanson to give an overview of what it is he is trying to accomplish. Swanson stated they have been working up in the back of the fields and it is a clay area and it is hilly. Swanson explained it is not ideal working conditions for the salvage yard. In cleaning off the hill and making a flat level spot, it will be a lot safer and there will be less erosion problems that he will have to try and deal with. There are times in the spring and in the winter that Swanson cannot get to the cars that he needs to. As far as yard operation, this would make things much better. Lien clarified that Swanson is zoned industrial because he operates Swanson Auto Salvage. The reason for the rezone is that first it has to be rezoned to an agricultural zoning district to allow non-metallic mining as a conditional use. Lien does salvage yard inspections, annually. Swanson lives in a valley where there is this rock outcropping in the middle of the valley. Lien stated he has worked at it for many years, trying to chisel away this consolidated sand stone. Lien felt he has made some progress but working with the Kraemer Company would expedite that process and give him more room to work. Even though salvage yards may not be the most ascetically pleasing thing for people to live next to, they are a necessity in the County because there is a lot of recycling of scrap done. Lien explained that even though it is within the boundaries of the salvage yard, it is not considered an expansion. Lien assumed after the mining activity is completed, this would be rezoned back to industrial to be able to utilize that area for the salvage yard, so this is somewhat of a temporary rezone to allow for the conditional use for non-metallic mining. At this time Bice called for testimony from the public.

Attorney Buck Sweeney-Axley, Bryneleson, LLP – Sweeney stated he represents the Kraemer Company. Sweeney stated what Lien pointed out is we have a salvage yard and it is a necessity for recycling, etc. and we have to have them. Swanson has been in that situation for a long time. Basically, one can look at this as non-metallic mining but one can also look at it as site preparation for the expansion of his salvage yard which is really what they are trying to accomplish. Sweeney felt that was an important point. Sweeney stated the goal here, on behalf of the Kraemer Company, is simply get in, get the material out of there, have a flat base so he will have a decent working area that will be flatter, much more easily assessable for his continued operation and come back to this same forum as soon as they have the material out of there and rezone again back to the industrial use. Sweeney added this one is a little different. Kraemer Company has had quarries that have lasted as long as 100 years. This is not going to be a 100 year quarry. This operation is to get the material out, to get

a flat working surface, then rezone it back to the industrial use. From the Kraemer Company point of view, there are representatives present to answer any questions the Committee may have from an operational point of view, but a rezone is a little different than standard non-metallic mining because nonmetallic mining regulations also allow site preparation. Sweeney explained we are here because we are going to be taking that material to a market and that is why they felt it was appropriate to go for the rezone to ag so that they could get a conditional use permit for nonmetallic mining. Bice, again, called for public testimony.

Charlotte Everson – Registered to appear and testify for information only. Everson has questions about the mining permit. As far as Kraemer is concerned, how long will this process take, how will the sand be gotten out of there, will this be only during “9 to 5” type hours, if it will be trucked, how many trucks. Everson is concerned about the Lady Slippers that are on the side of the road. This area has a very special flower called the Lady Slipper which is an endangered specie and it only grows on the side of the hill. At a previous time when Everson was out taking pictures of those flowers with her children, Swanson came out and told her not to dig those up. Everson stated Swanson is a good neighbor, but because this does border her property, she does want to make sure that this is not something that is not a loud thing for all the neighbors nor would it hurt the environment especially that roadside with the flowers which she doesn’t want stripped off, etc. Swanson responded that the Lady Slippers grow on the top side of the road, as one is exiting Swanson’s driveway they are on the left side of the road. Swanson didn’t see where the flowers are ever going to get disturbed. Upon Everson’s inquiry about the road being enlarged, Swanson responded that was something that the mining representatives would have to answer but perhaps it could be done on one side of the road. Bice mentioned that this particular hearing was for the rezone and not for the Conditional Use Permit, so the Committee would actually address Everson’s issues in the next hearing or perhaps ask her to re-testify.

Brueggen read a letter from the Town of Preston which stated this letter is to inform you that the request has been made by Scott Swanson to rezone from Industrial to Exclusive Ag 2. Motion was made by Gary Everson to approve this request and seconded by Vernon Back, all in favor. Bice called for any other comments on the rezone. Bice closed the public hearing at 9:16AM. Low made a motion to approve the rezone for Swanson, Vold seconded. Brandt felt this was a problematic site of which Brandt had several questions in the next hearing, and therefore was not in favor of the rezone. Motion carried with Brandt opposing. Bice reminded Swanson that the rezone will need to go to County Board for final approval.

Public Hearing – Conditional Use Permit and Reclamation Permit-Nonmetallic Mine-Scott Swanson, Landowner/Applicant, Blair, WI and K Frac LLC, Operator, Plain, WI – Town of Preston Bice opened the public hearing at 9:31 AM. Nelson read the public hearing notice aloud. Brueggen explained this is the same acreage that was rezoned in the immediately preceding hearing. The proposal is to come in and mine the hillside. Brueggen showed a topographic aerial view on the overhead for all to view. Brueggen stated the current auto salvage yard lies in a low spot. Swanson is requesting to have K Frac (sister company to Kraemer Co.) come in and mine the hill back to make more room for the auto salvage yard. The haul route, which is a concern of the DLM, is that they would haul 80 trucks per day (latest proposal of 80 in and 80 out) from the site, down Tappen Coulee Road, north on County Highway S into the City of Blair. County S actually is also Broadway Street in Blair, so it would run through town until it adjoins with Highway 95 near the old Clippers IGA store (now the Dollar General). Their reclamation plan is to leave the area flat as much as possible as the sole purpose is to expand that site for the auto salvage yard so there is a proposal for high walls in the area which is something that hadn’t really been proposed before in sand mining due to the fact that sandstone isn’t as hard a surface as perhaps a shale pit or some of the rock quarries where a safe and stable high wall can be left. Brueggen recommended conditioning that the wall is safe and stable if they were to leave a high wall. Brueggen added that Bob Jewell works as a geologist for Kraemer Company so he is kind of the subject matter expert so perhaps he could give some expert advice. Brueggen stated he thought the mining would be done in three years or less and then it would have to be rezoned back to Industrial in order to expand the auto salvage yard. Brueggen turned the meeting over to the Kraemer representatives. Attorney Buck Sweeney-Axley, Bryneleson, LLP asked Bob Jewell to go through the operational plan and issues for background. Jewell stated he is the geologist for Kraemer Company and also K-Frac which is an affiliate of the Kraemer Company. As far as operations, first the trees and topsoil would be stripped off (trees or brush piles would probably be burned with the proper permits).

The topsoil would be saved for reclamation at the end. After that there would be some drilling and blasting to loosen the sandstone. After that there would be either crushing or screening done. Finally, that would be stockpiled and a loader would come in to load the trucks. Trucks would haul out on to Tappen Coulee to County Road S. The current haul route has it going north to County Road S (Broadway in the City of Blair) onto Highway 95 heading east or west on Highway 95 depending on where the material will be taken. At this point they don't know where the material will be going so they presented multiple haul routes. Jewell stated he is here to answer any concerns and added they are hoping to be done in just a few seasons. Lien stated the reclamation plan calls for a sandstone high wall. Lien has worked with Swanson for approximately 10 years as he has been trying to take down that hill. Lien's experience, with the sandstone in the county, is that it is stable until it weathers one season and then it completely sloughs off and erodes with freeze/thaw action. The staff recommendation is to not approve a high wall of sandstone. Jewell appreciated that but what Swanson is after is expanding the salvage yard. Jewell stated that NR-135 and Trempealeau County's codes say 3- to 1 slopes. Jewell added if one has a high wall that is eighty feet high and one does 3 to 1 slope you are coming out 240 feet. Jewell felt Swanson would not be getting any more room or very little, it is not going to accomplish the goal. NR-135, which the County code should match, does allow for vertical high walls. In this case, Jewell didn't know if the wall would be vertical or near vertical. Even if they go 1 to 1 that could help with the erosion, they could build a berm below it to gather that sand. There are ways to accomplish high walls that are vertical or very near vertical through NR-135 and they have performed some slope analysis. They have been doing this a long time and have reclaimed a lot of pits and quarries and they've done a couple in Trempealeau County. Jewell felt they have gained a reputation that they do what they say they are going to do and if there is a problem, they will work with the regulatory authority and do the best job that they can. Jewell added they want to work with the community and they want everyone to be happy and he is aware there are concerns. Lien wanted to know how they were going to address the limestone high wall that is sloughing at the old Wilber quarry site that Kramer owned as it is getting closer and closer back to the road. Lien felt that was a real good example of what can potentially happen to a site. Jewell responded they have been working on that with the township and landowners. Lien added his job as staff is to make recommendations, (when they see those things happening, especially when talking about sandstone which is not near as stable as limestone), to try to avoid those conflicts. Lien understood the material needed to come out of the site, but the DLM needs to have proof that the high wall is going to hold. Lien felt it wouldn't. Lien had no problem with the mining of the site as long as all the conditions are followed. The County has been pretty consistent in requiring a 3 to 1 slope to keep things stable. Sweeney explained, from the Kraemer Company's point of view, what they thought they could do is obtain a stable slope, but they do have to address it differently than limestone, but the future use of this area is the distinguishing factor. It is not like there will be a house put there or anything will be hurt. Sweeney added what has been done on other sites, not having 3 to 1, is to put berms up along the toe of the slope to prevent some of the sloughing and maybe there are some other creative things that can be done. As part of the conditions maybe some of the concerns could be addressed. Sweeney stated they would like to work with the County to have a "win-win" situation. Lien inquired if Kraemer's had talked to the neighbor to the north as Lien was concerned about the bank eroding back to the north and what Kraemer would do with it at that point. Jewell stated that it something they can address if they are granted this permit. Discussion took place on some of the items NR-135 addresses including a bench. Sweeney added Kraemer has a long time history of bonding roads and taking care of any damages caused by the operation and they would want to make sure to go with a bond. Kraemer believes that the bonding is the most appropriate tool for them and would respectfully request that they get a bond on the particular county roads and will work with the town on the town roads. Sweeney stated Kraemer's would like to work with the County Commissioner on some of the county road issues. Sweeney wanted to highlight that what is talked about here is 3 years, which is short term based upon the estimated volume and using 80 trucks per day. If the market slows down and they wouldn't sell any material it could be extended out at that time, but they have no problem in having a time limit, but they want to make the Committee aware that if they have another half a year, etc. to go they may come back and ask for an extension of the CUP. The landowner wants to get that site flat as quickly as possible to rezone it back to an industrial use. Sweeney stated Kraemer also wants to work with the neighbors to minimize any issues that they have. Jewell addressed Everson's question about the endangered species, etc. Jewell has had a wetland delineation performed on the property. There are

no wetlands where Kraemer is proposing to do their mining. Jewell did get an endangered species report back on that site and there is nothing there, but along the road on the south side (if the township wanted them to widen the road or put shoulders to the south) they would have to be very careful about where those endangered plant species are. Jewell explained there are steps that they have done to address that issue. In addressing blasting, Jewell stated that is going to be a concern also. Jewell felt the County typically put conditions on that the neighbors, within a certain amount of footage, would be notified. Due to concern from the neighbors, Jewell noted that Kraemer's would have to call the County and neighbors 24 hours ahead and give a timeframe for the following day as to when they would be blasting. Jewell stated they want to be a good neighbor. Blasts typically are during the mid-day between 11:00 AM and 2:00 PM. Sometimes they have to be delayed because of weather, etc. until the next day. Everson asked how close to the property line the mining would be? Jewell responded County code is 10 feet. Jewell explained a berm and some of the overburden (which would be seeded to prevent erosion) would probably be stored near Everson's property for use in reclamation later. Jewell stated they would stay off the property lines. Everson asked what Jewell considers "a season". Jewell responded one year, they may have to stop in the winter. They are new to the frac sand business so it depends on who they are sending it to and whether their wash plants are inside or outside, etc. Jewell reiterated they would just be screening. They would probably be doing a little crushing, but there would be no washing. Everson asked how blasting would affect livestock in the area? Jewell responded it basically doesn't affect it. Everson inquired if, because Badger Mining owns property nearby, the whole backside of their property around Swanson's is in jeopardy of becoming a sand mine. Jewell responded he did not know as they have not been in contact with Badger Mining. Bice called for public testimony.

Attorney Alan Robertson – Registered to testify in opposition. Robertson stated he is the attorney for the City of Blair and that the City would object to the route that is being selected. The streets in Blair are classified as being Class B highways. Robertson didn't think a Class B highway would be able to include that many trips a day. Robertson suspects these trucks are probably 82-84 ton. Robertson didn't think, even though they permit heavy use on some city streets (Broadway being one of them) to allow that kind of usage on the streets. It just couldn't take it. The stretch of Broadway that is contemplated is eight blocks of residences, then four blocks of businesses and there is a fair amount of traffic on Broadway. There is a lot of pedestrian traffic on Broadway. Robertson stated that eighty trucks a day, going out, creates a safety hazard. He is almost certain that the kind of weight that these trucks carry do serious damage to the precious little bridge over the creek by the Community Center and he didn't think the bridge could take it. Robertson very much opposed and asked the Committee to consider that, because that route will create considerable havoc in the City of Blair.

Buck Sweeney – Registered to testify in favor. Sweeney stated he had already done his presentation.

Roger Osegard – Kraemer Company – Registered to testify in favor. No further comments.

Susan Marks – Registered to testify in favor and appear and testify for information only. Marks stated she is not here to contest or impede Swanson's desire to improve his property. Swanson is here to propose to the Committee, and ask for consideration, of the impact that this Conditional Use Permit will have on her life and on her business. Marks moved into the area in 1995. Swanson and Marks have been good neighbors for nearly 17 years. Marks is an artist and she works on her premises, she has a studio there. This is going to create an impact on her business and on her life. Her complaint is that she will no longer be able to work in her studio and create art which she markets in California and around the State, etc. It is an unusual business; it can't be compared to others. One can work for several years or several months, but then one has to have a show and that is where the work is sold or that is how Marks' chooses to do it. Marks chose to move into this area for the privacy, the beauty and serenity. She can hear birds in the morning. The last thing that she is going to be able to tolerate is blasting. Marks stated that she and Swanson have talked about this. She is ok with him taking his sand off and improving his yard, but she is here to propose a compromise that would benefit her in this process. Being that Marks will be forced to re-locate during this time, since she is not

interested in selling her farm and opening up the coulee to mining, that she would like to be compensated in some form or fashion (that these companies can absorb) for the cost of Marks relocation during these three years (at which time she would come back to her land) and she could pick up where she left off and have the life that she built here before this happened. Marks was here to present those thoughts and ask for that consideration because she believes that this township, county and state are facing many more of these mines. She thinks it is important that we don't lose our community along with everyone trying to better themselves and get ahead in this world. Marks proposed a compromise that she would be willing to move off her property, out of the area for three years, but asked that these two companies absorb those costs so that she would be able to continue her business in another location and then she could return to her family farm/property and continue her life there without interruption. Bice mentioned her property was some distance away from the property. Marks responded it is about 12 feet away from the blast site as she is on the hill above him so she is going to hear everything. Marks stated it is going to impact her life and she will not be able to work in the profession that she has because of this. She is willing to relocate for three years. She also has a concern that North Cliff has purchased the property above Swanson. She also asked that there be some way of insuring that this mining wouldn't continue in their valley for the sake of the other neighbors that are going to be impacted as well and wouldn't be as able to relocate as Marks is. At this time she is not willing to sell her property and opening it up to harass neighbors in that way. She wants to work with Swanson, to come to a creative possibility where everybody gets what they need.

Swanson stated he has animals also and he is not going to surrender his own animals for this. Swanson doesn't feel there is an issue. He doesn't feel they are going to be blasting everyday. Jewell added the blasting won't occur everyday. Initially it may be smaller shots until they get back into the hill a little farther, but they may be able to blast and then work for a week or two processing that material. The further they get into the hill, they are presuming the blasts will get a little larger and therefore the processing time would take a little longer. This wouldn't be an everyday occurrence. Swanson added the blasting is a concern to him also. He has spent a lifetime to have a nice shed there and the shed would be rather close to the blasting area, so he has concerns about it also. This company seems to know what they're doing and are going to work with all the conditions. Jewell mentioned they have blasted in urban settings, right next to apartment buildings, etc. and can work with the blasters to keep the blasts small to keep the vibrations low. Blasting is different now than it has been done in the past as there are a bunch of sequential timers which are a number of little blasts rather than one big bang. They would work with their blasters to try and keep the vibrations to a minimum.

Richard Marino – Registered to testify in favor. No testimony at this time.

Margaret Olson – Registered to testify in opposition. Olson just had a general comment about the fact that this Committee, by its own actions, has determined that there are problems to consider with the accumulated affect of the non-metallic frac sand mining, by re-forming that Advisory Committee that did such great work in forming the Ordinances and conditions for this. Olson suggested tabling all these permits until that Advisory Committee has a chance to do some studies and make some recommendations to this Committee. Olson used today's LaCrosse Tribune as an example of some of the considerations that she wishes these leaders were giving to this. Olson referred to the Patros site on the north side of LaCrosse where Exxon Mobile had its' oil tanks. Progress has been hampered by the soil and groundwater contamination. Negotiations continue with Exxon Mobile Corporation about the level of clean up needed at the former tank farm which could cost as much as 5 million dollars. Not referring specifically to any permit request before this Committee, Olson wished that this Committee would consider what future committees and residents are going to have to deal with, by this rapid expansion of a somewhat controversial industry.

Brueggen read the following letter from neighbors to the east of Swanson's property, Lawrence and Jennifer Dolle, into the record. About three weeks ago we received a letter from the Trempealeau County Department of Land Management about the new zoning request by Swanson junkyard. I called Tim Brueggen, who is employed by the Trempealeau County Department of Land Management and we had a conversation about our concerns. I told him I cannot make it to the hearing, Tim said if I were to write a letter

with my concerns he would read it at the meeting and it would be entered into the minutes. I do thank Tim for his help. Our property is east of the junkyard. Our parcel was originally part of the Swanson farm when we purchased the land in 1978 with the idea we could use it for hunting, recreation and some peace and quiet. About ten years ago, we received a letter with a zoning request to allow a junkyard. Hindsight is always perfect. We should have opposed Swanson's request at that time, we regret the junkyard was ever allowed. Prior to the original zoning change, one could look off of Tappen Coulee Road and see a small farm, small farm house and some red outbuildings. Today, if you drive past the sight, you will see too many junk cars, junk tractors, junk machinery, miscellaneous debris and many old tires. Also, dilapidated buildings. We have many concerns about the junkyard, they are as follows: 1.) Appearance – before you consider approving the zoning change, I would appreciate it if you would drive by the junkyard and take a look. Would you want to see that next to your property? 2.) Lack of respect by Mr. Swanson to the landowners next to his junkyard. Less than two years ago, after the last zoning approval, we found that Mr. Swanson trespassed on our land, without asking to do so, cut the fence we had installed on our west line, removed our fence posts and hauled junk onto his high ground. We repaired the fence and he did cut it for a second time. When crossing our fields, that were rented out to Tenneson 3T Dairy, he destroyed their crops. If you were to drive to almost the top of Tappen Coulee Road, where the southwest corner of our land joins the Swanson southwest quarter, you will find a junk truck chassis and some large treated posts placed on either side of the road right-of-way on land not owned by Swanson. Also you will find that a small portion of our fence, installed at an angle, to allow Swanson access to his high ground, which he was going to use for agricultural purposes. You will find more of his junk placed there. Swanson also said he was going to use the large treated posts to build a heavy duty fence next to our farm because he was going to raise some beef cattle. That was well over a year ago and as you can see, he doesn't keep his word. We will finish our fence to the surveyed corner marker. Swanson does not respect the land or his neighbors. 3.) We are concerned about the groundwater pollution and runoff pollution. I made a comment to my son, a few years ago, that we are fortunate that our property is above his junkyard. If you were to go and look at this junkyard, you will only see dirt and mud where a majority of the metal processing is done. The metal processing area is at the lowest part of the junkyard. All the rain run-off which probably contains spilled gasoline, oil and anti-freeze soaks into the ground and goes right through that area. You will find there aren't any precautions taken to control the run-off. Less than a quarter mile passed the junk yard, you will find a creek that drains a lot of farmland in the area and eventually will be polluted if not already. 4.) We are very concerned about our land value, we are aging and in our 60's and if we consider selling our property, I am confident that our land value is down and will continue doing so compared to other parcels that might be available if the proposed zoning change is allowed. I will repeat myself, if you were in a market for a piece of recreational land, and drove by the junk yard, you would find that it would be in your best interest to consider another location to invest your money in. I have lived in LaCrosse all my life, I personally own collector cars, I am old enough to remember a couple of junk yards that were located in our area. They were both eyesores. One was Shifter junk yard and the other was National junk yard located between LaCrosse and Onalaska. The junk yard that is owned by Swanson mirrors both of the junk yards I mentioned. The National junk yard was on the federal list of sites and was cleaned up using taxpayer funds and cost over half a million dollars. I hope you don't allow another problem like the ones created in LaCrosse County. A junk yard doesn't belong in rural areas where Swanson's junk yard is presently located. I would also suggest that if you were interested in looking at a modern salvage yard, you should take a look at the Runde operation located in Holmen, Wisconsin. You will find most of the recycling area has a concrete surface which allows for liquids that might be spilled, to be collected and not allowed to soak into the ground or to run-off. In closing, to allow a junk yard in the location that Swanson has, was a mistake in the first place, and now to think about doubling it is a larger mistake. I personally think that the Department of Land Management should contact the Department of Natural Resources, the Environmental Protection Agency, and the Trempealeau County Health Department and have them go and make sure Swanson corrects all the problems he has created. We thank you for considering our concerns and hope you deny the zoning change.

Brueggen read a letter from the Town of Preston, dated April 10, 2012, which stated this letter is to inform you that a Conditional Use Permit for non-metallic mining on the Scott Swanson property was approved with Gary Everson making the motion, Vernon Back voting in favor and Robert Tenneson abstaining. Bice called

for any more public testimony. Bice closed the public hearing at 10:10 AM. Thompson made a motion to approve the Conditional Use Permit, Vold seconded. In regard to the high wall, Bice asked if Kraemer could meet Trempealeau County's ordinance on that. Jewell responded their ordinance matches NR-135 which suggests 3 to 1 slopes, but there is a condition that allows for high walls. Bice asked again if they could meet the Trempealeau County requirements. Sweeney responded the answer is "yes", but they need to work with Lien to come up with a position that they feel is a stable slope. Sweeney stated Lien raises some good points so they are going to have to come up with something to protect the toe of that or as Jewell mentioned a 1 to 1 slope. Sweeney added they can meet the regulations under NR-135 but Dick Marino was part of that Committee and the question is really, what is a stable slope. This isn't a sand and gravel pit which typically has a 3 to 1 slope. Because of the type of materials that one has, one can allow a stable high wall, the question is, what is stable and there is not a black and white answer regarding that. Sweeney felt Kraemer could work with Lien to come up with a compromise that is not a 3 to 1 slope, something less than that which will be a stable environment. It also depends on what happens with the property next door, but that is "down the road" and not anything that Kraemer has any control over. Sweeney proposed the opportunity to come up with and deal with that as a condition that the Kraemer Company work with DLM staff to come up with a stable slope. Sweeney asked for Lien's comments. Lien stated he and Brueggen had discussed, that in NR-135, there are some engineering requirements that can be met for high walls. Historically, Trempealeau County has not had substantial evidence that high walls work effectively, so they have required 3 to 1. Kraemer Company has been very good about doing that. Lien elaborated on several sites with high walls. Lien stated staff felt until there is substantial evidence that sandstone can be a stable high wall, the recommendation of a 3 to 1 is more likely. If Kraemer could work out something with the neighbor to the north, there may not be a wall at all. If they are going to mine down, it would just be a level area right into their site. Lien felt that would be the best scenario. Lien isn't worried about the sand going down into Swanson's yard as Swanson could utilize it some way. Lien has worked with Swanson over the past 10 - 15 years and he has made a lot of improvements. Salvage yards are not aesthetically pleasing and because of his location, he has had a lot of run-off issues, and he has utilized that sand to fill in low areas and divert run-off. Lien's main concern is with the property line to the north. Lien felt some other resolution could probably be found, but in reading the plan, staff felt the best would be the 3 to 1 slope until there is one found. Lien knew of some benches/steps down that could possibly work. Lien reiterated he is worried about the property to the north. Lien stated his recommendation is still the 3 to 1 until something can be mitigated to the north or if Kraemer provides some additional engineering that would allow for a "stepped" high wall. Brueggen added there is language in NR-135 that does allow high walls for consolidated material (all the rock quarries that are a hard rock). It is not looked at so much for sand stone because sand stone does erode. Brueggen felt there are sheer strength tests for sites (rock walls and different pieces of land), so it does give standards and they are out there. Brueggen added if that is what they were looking at for reclamation, before it is certified complete, Trempealeau County would have to hire a third party engineer (costs associated to the company) to prove that it would be a stable site. Brandt stated the point Sweeney has been trying to make, is the nature of the end result is what is driving Swanson's request for the CUP (wants to expand and to flatten out some land). Staff is suggesting that if it is impossible to do the high walls that they are requesting, the ability to get to the point where he wants to be at, a 3 to 1 slope is not going to be attainable, so it calls into question, whether or not, if that is the rationale for this project, if that is even attainable. Brandt stated there were a lot of issues here, he loves Swanson and his junk yard, he has done business with Swanson and he has been incredibly generous to anyone who does business with him, but every time Brandt goes there, he can't find the place because the driveway is at such an angle to Tappen Coulee Road that one almost can't see it, especially if one is coming from the south. Brandt's issues have to do with the roads. Brandt hasn't heard about road use agreements. In the past this Committee has required agreements with the town, county and input from the WI DOT. This Committee has yet to see that information. Brandt stated Robertson raised issues for the City of Blair. Brandt cannot imagine 80 to 160 trucks going down Broadway with the pedestrian traffic, the number of children, school bus routes, all of these things are going to be factors, which Brandt felt are factors that would speak against this particular project. Brandt also mentioned one of the alternative routes is to go through Galesville. Brandt added no one was here from Galesville and he wasn't sure that Galesville understands that there might be an increase in truck traffic through an already busy community. Brandt wanted to hear more from Kraemer and staff as to how much

conversation they have had with the town and have they talked about bonding or road use agreements and whether they have communicated with the Highway Commissioner and DOT. Brueggen stated he had two letters from the WI DOT, one being the original Transportation Impact Analysis (TIA) (Brueggen explained the TIA process). The original TIA stated 400 truck loads per day (800 truck trips) with three proposed routes. All three of the routes would go north to County Highway S and Broadway and then to Highway 95. Kraemer's felt it was their quickest route to the State Highway. Originally, with the 400 loads, DOT recommended Kraemer making the intersection (Broadway and State Highway 95) into a type A which would require turn lanes on both sides of the intersection. Brueggen wasn't sure there was enough room to put that type of intersection in at that location. Brueggen had talked to Jewell about the recommendations from DOT. An additional TIA was requested, with 80 trucks per day (round trips), and the DOT switched the intersection improvement. Brueggen read aloud from the DOT letter, "in light of this information, Wisconsin DOT recommends the following to accommodate the multiple haul routes. Wisconsin DOT recommends upgrading both sides of County Highway S and State Highway 95 intersection to a Wisconsin DOT Type B2. Brueggen added that is their recommendation, which would still be a turn lane in each direction, but the width and length of those lanes is somewhat smaller, so there may be room to fit that in where Highway 95 meets the Broadway/County S intersection. Brueggen thought it would be up to the Kraemer Company to show that they would be able to do an engineered plan to fit that in there. Brandt inquired about communication from the Highway Commissioner. Brueggen stated he is aware of all the operations, but he has not given any recommendations for what would need to be done on County Highway S. Bob Tenneson, Town of Preston Chairman was present and stated they have a road agreement with Kraemer for the road. Also in regard to the intersection of State Highway 95 and 53, Tenneson has plans at home that in 2014 there are supposed to be turn lanes coming from the South. It will not come to a square corner. In Blair, there will be a turn lane headed towards Joe Hansen's so trucks leaving that way will not have to stop; they will merge, just like Galesville. The plans are tentatively set for 2014. Brandt stated as one can see from the map, anyone who comes down Tappen Coulee, knows that the driveway comes down at such an angle to the road, as opposed to 90 degrees, and asked if Kraemer has looked at improving that at all. Jewell responded they will have to improve the entrance to the Swanson property to accommodate the different types of trucks they will be bringing in there. They will try to bring it in more at 90 degrees rather than at the angle that Brandt is talking about. Jewell elaborated on some of the site improvements. Tenneson noted that in their town agreement, it stated that Kraemer must leave Hill Crest alone, they can't return empty there, they can only use just one route on their return. Lien commented that in talking with the City of Blair Mayor, yesterday, he felt the Mayor was kind of proposing that route versus downtown City of Blair. Upon Lien's inquiry, Tenneson stated he had not met with the City. Jewell stated they would be interested in working with them with whatever route they wanted. Lien acknowledged that Robertson was present representing the City, but when Lien talked with the Mayor, he had stated the "lesser or two evils" would be Hillcrest versus downtown Blair. Robertson stated he had talked to the Mayor and if Hillcrest to 4th Street route was used, you would have about four blocks of residential street, but much less exposure. Fourth Street gets a fair amount of traffic, incoming school buses go that route frequently, but there is very little pedestrian traffic on Fourth Street. Brueggen provided an aerial photo of the area for all to view. Lien asked if Jewell or Kraemer Company felt the B2 intersection, downtown, where Highway 95 and Broadway intersect, was feasible. Jewell replied they are concerned about the radius on the Dollar General side, if there is enough room to do that. Lien reminded the Committee that if there are going to be more of these mines, the cities need to look at truck routes. We have issues in the City of Arcadia, now we have them in Blair, if the railroad sites go through, in the future, on the east end of Blair there will be more truck traffic. The cities are going to have to look at alternate truck routes if we're going to continue to have this type of traffic. Brandt expressed concern, in regard to erosion control, about the drainage. On the west side of the mine, especially during Phase 4 and Phase 5, the drainage is going to be off site to the west. Brandt asked how that was going to be controlled. Jewell referred Brandt to the site plan and a little item called "sump hole". Jewell added they would probably try and "steer" the water towards that. Jewell explained that a sump hole is a hole drilled 20 feet deep and then they try to grade the floor of the quarry in that direction and try to capture that storm water that falls on that site which typically works pretty well. Berms are also used to guide the water too. Discussion followed on the drainage. Jewell wanted everyone to know that during their processes no chemicals are used. They use water for dust control and they

use fuel. They do have plans in place to deal with any fuel spills if that happens. In addressing Marks, Geske felt she would have to work out a deal with the mining company as this Committee would have nothing to do with that. Marks replied she wanted to present it as an idea that there is a necessity to be considerate of people who have had their businesses in operation before this. Also, Tappen Coulee has a bus route on it which is the only way off the hill toward town and to the school so there are a lot of young people driving back and forth around that area. Marks added if we change the roads, etc. it makes it so much easier for another mining operation to come in. Marks objects to that and she doesn't want to see that happen. She is willing to go along with Swanson taking the sand off his property as long as they handle it within the legal aspects and handle the reclamation properly. Other than that, Marks is not interested in developing that area or her land. Geske stated it would be nice for Kraemer's to come up with a plan for blasting so that Marks could possibly run her business. Geske asked Kraemer's to communicate the blasting information to her. In regard to the reclamation and the clay soil, Geske inquired if it wasn't going to be bad to put cars out there in the spring, etc. as in the first couple of years it will be two feet of muck. Swanson stated the clay ground is actually up above. The future plan is to get out of that area and then Swanson would most likely farm it. In addressing Mr. Dolle's concerns, Swanson does work with a CCP group and they do inspections as well as the County. Swanson acknowledged that there were tires on the premises, but it is a scheduled pickup. Swanson cannot tell them when to pick them up. Geske's concerns were about the new area of the salvage yard and how effective it would be for Swanson. Swanson responded it would be very effective because it would be a level area. Geske inquired if Kraemer knew how much material was there, as when that sand is gone, there is still another hill remaining in Swanson's yard. Sweeney stated, on the reclamation plan, there isn't a 3 to 1 slope there right now. The sandstone that is there is a fairly steep slope, so one could look at that as the potential of trying to have the slope at that elevation. Jewell stated they could work on a compromise. Geske stated the tough thing about a compromise is that the Committee has stayed with a 3 to 1 slope for everyone else and if it is opened up, then everyone will want to do a high wall. Sweeney stated this is basically an expansion of this particular facility for a salvage yard. It is not a long term mine and that is the distinguishing feature that Sweeney sees. Sweeney clearly understood the precedent value that the Committee had to deal with. Sweeney added the idea behind NR-135, whether it is 3 to 1 or a high wall, is to stabilize the material. Jewell stated Kraemer's keep referencing NR-135. They know the County has a Nonmetallic Mining Ordinance. They also know that the County's Nonmetallic Mining Ordinance cannot be more restrictive than NR-135 - it has to match it identically. NR-135 does allow for slopes that are steeper than 3 to 1. Osegard commented there are a lot of road cuts in the country where they cut through and put a road there and they have sandstone faces on them that are straight up and down. Osegard added that we are talking about an end use in which the landowner is the only one affected by whatever is falling off, not the neighbors. Brueggen commented that NR-135 does give the County the ability to place conditions and rules on a reclamation permit. Brandt asked what the length was for the request of the CUP. Brueggen responded his staff recommendation to the Committee was five years which the Committee would adjust should they feel the need. Lien explained the permit extension process. Brandt asked for verification that if there is no activity on a site for one year, the CUP lapses. Lien responded mostly likely the County would take action with the bond amount, to stabilize the site, before letting the permit lapse. Sweeney stated they would have the obligation to do the reclamation before the County could make a claim on their bond - as the operator they have that obligation. Discussion followed on the bonding and reclamation. Brandt again asked, if there is no activity in a mine for one year, does the CUP lapse? Lien responded no. Lien explained the mining company's ability to pay a non-activity fee to keep the quarry open and licensed even though there may be no activity. Past Corporation Counsel felt that by paying that fee and the DLM doing a review, it is still meeting the requirements of NR-135. There is still the intent even though no activity has taken place and the bond is still in place. At this time, Bice suggested postponing this application as there are many questions that there are no answers for and many details that need to be worked out yet. Brandt suggested hearing the staff recommended conditions as they may address some of the questions. Discussion took place as to whether to hear the conditions and haul routes involved, etc. Lien clarified for the Committee that staff has recommended a 3 to 1 slope (which is in the best interest of the property to the north) but Kraemer's have the ability, through NR-135, to come back with engineering to show the DLM that a stable high wall would suffice (DLM staff could review it for reclamation purposes). The point was made that on a State Highway going through a city, the municipality has no say,

however, Brandt felt the City of Blair understands the negative affect that this amount of truck traffic will have and asked Robertson to weigh in on that. Robertson commented to convert Broadway Street in Blair to a Class A highway is a problem. Sweeney stated there was an alternative route suggested and they would have no problem with that alternative route. Discussion followed on traffic through cities. In addressing Marks' issues with blasting, Thompson suggested Dave Hesch speak to the Committee at this time regarding blasting. Hesch stated he has had the Committee out to one of the blasts which took place. One concerned neighbor, which lived about 800 feet away, was a real issue when they started blasting. She stayed in her home during the first five blasts and the concern is now over with, there isn't even an issue. Hesch uses the blasts that Kraemer's were talking about, it isn't a real big blast, and it takes about 1.3 seconds. There are cattle within 300 feet in a pasture, and it doesn't bother them at all. Hesch stated he turns his blasting report into the DLM each time and they have all been within the requirements that they are required to be. Hesch reiterated the blast takes 1.3 seconds. Hesch has video on his phone which he could show to anyone who is concerned. Hesch stated the blasting won't be done on a daily basis. Hesch blasts about every ten days and they process about 2000 ton per day, about what Kraemer is doing. Hesch welcomed anyone to come out to his site and view a blast. Marks commented we are comparing cattle to human beings. Marks has a medical condition (PTSD), so she didn't care how many times one blasts, each time will be the same and have the same effect on her nervous system. She is an artist and that is the work she does and it will be interrupted by any number of blasts. We are talking three years of Marks getting calls that there is going to be a blast and she finds that unacceptable because she was here first, on her property, and doing her business. She will have to get herself a lawyer if the permit is passed. In all fairness, we cannot compare cattle to humans in this situation. Bice inquired as to what is going to be the actual haul route that will be used. Jewell responded what is on the table right now is Tappen Coulee Road to County Road S, then north following County Road S which becomes Broadway Street in Blair to State Highway 95. From State Highway 95 they will go east or west. At this point, Kraemers' do not know if they will go towards Hixton or Winona or to Highway 53 to Chippewa Falls. There was the Hillcrest Road, alternative route that was mentioned through Blair. Discussion followed on the need for a town road agreement if that alternative route was selected. Sweeney suggested as a condition of the permit that Kraemer's would have to have an amendment to the town road agreement in order for them to haul on Hillcrest Road. Jewell stated they have been in contact with Highway Commissioner, Jim Johnson and he gave them a County road agreement for the haul route. Tenneson commented if the Committee was going to stop all the corn trucks going to Blair Grain, or AMPI from coming into town, then what is next? Sweeney commented that State Highways are built for commerce. Upon Bice's inquiry, Sweeney stated they would try to "wrap it up" in three years based upon production and the market. In response to Bice's question, Jewell responded they would be running normal mine hours. Upon Bice's inquiry, Osegard responded they would work out a road use agreement with the town, city and the county. Brueggen read the following staff recommended conditions into the record which are in addition to the standard conditions in the Ordinance.

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.
2. The applicant shall work with Town of Preston Town Board, the City of Blair, and the Trempealeau 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 with the applicant and the land is within the permitted mine boundary. An adjoining landowner may sign a waiver, which has to be filed with the DLM, to allow the applicant to mine within 10 feet of the property line.
4. All structures and cased wells located on the properties within 2,500 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 practicable, whether or not damage has occurred as a result of the mining operations. A third party independent inspector shall be used and costs associated should be borne by the owner/operator of the mining site. Landowners may sign a waiver declining the inspection 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 allowed number of loaded trucks leaving will be determined upon final Wisconsin Department of Transportation traffic impact analysis of which the final one was stated at 80 loads per day.
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. A site-specific engineering analysis must be performed by a registered engineer to demonstrate that an acceptable slope stability factor is attainable at steeper slopes for the proposed high walls in the Reclamation Plan. If high walls are not deemed to be safe and stable the applicant must develop a new plan that is approved by the DLM and meets the requirements of Chapter 20 of the Ordinance and NR 135. All costs associated with engineering reviews for reclamation shall be at the cost of the applicant.
11. All mining areas shall be kept free of materials associated with Swanson Auto Salvage until reclamation is certified complete and the area is rezoned for use as auto salvage.
12. The Department of Land Management will notify the owner/operator of the mine site when all conditions are met and mining activity may start. Until notification from the DLM no unauthorized land disturbance may take place at the mine site.

Brandt made a motion to add the recommended condition to the Conditional Use Permit, Thompson seconded. Brandt suggested amending Condition #2 to add in the School District of Blair-Taylor and Gale Ettrick-Trempealeau as two of the recommended haul routes not only include the school bus routes, but also includes going past two schools in Galesville. Motion died for lack of a second. Lien reminded the Committee that this is a conditional use and the Committee has the ability to place conditions on health, safety and welfare. In the past, school bus issues have been addressed and truck traffic had been prohibited during those hours for safety and accountability of youth. Discussion followed on school bus traffic. Lien thought the City of Blair could designate truck routes through the City and they can also impose weight limits on city streets. Quarne added they can on city streets but they cannot on this county road. Vold made a motion to add the condition of no staging on Tappen Coulee Road, Geske seconded, motion carried unopposed. Brandt reiterated this is just not a good site. Tappen Coulee is narrow and winding, County Road S is not much better and it goes through the City of Blair. Bice stated the motion is to approve the addition of the recommended conditions. Motion carried unopposed with Quarne abstaining from the vote. Bice stated there is a motion and a second on the table to approve the Conditional Use Permit, having added the conditions. Highway Commissioner, Jim Johnson was present. Lien verified that Johnson was aware of the Swanson mine site proposal and the proposed haul route. Lien asked if Johnson had worked with them on a road use agreement. Johnson had given Kraemer's a copy of an agreement that was available, but he didn't have any figures in it because the Highway Committee worked on them yesterday. The suggestion was that they charge 25 cents per ton per loaded mile plus a declining bond. There will be a cap (\$200,000 was discussed) on the money that is available in the fund for the road. Lien stated the main thing was that Johnson had worked with Kraemer's on an agreement. The motion to approve the Conditional Use Permit for Scott Swanson passed with Brandt voting in opposition and Quarne abstaining. At this time the Committee took a five minute break.

Public Hearing – Conditional Use Permit and Reclamation Permit – Nonmetallic Mine – James & Patricia Bork and Johann & Shannon Bragger, Landowners/Applicants, Independence, WI and 10K International, LLC, River Falls, WI, Operator-Town of Burnside Chairman Bice called the public hearing to order at 11:25 AM. Nelson read the public hearing notice aloud. Brueggen referred the Committee to an overhead aerial photo of the site which is along County Highway X. There are five parcels, four of the parcels belong to James and Patricia Bork and the other is owned by Johann and Shannon Bragger. The site is located in the Town of Burnside. The complete area is approximately 123 acres, but the proposed actual mine area is 75.1 acres. The plan is to do a phased mining operation with about 9.6 acres per phase. It would be

approximately 1 -2 years to complete each phase. As the hearing notice stated, the reclamation plan is to return a portion of that land back to its' current use which is agricultural land and also to have open grass lands and some farm land. There are two proposed haul routes for this operation. Brueggen did have a Traffic Impact Analysis (TIA) from the Dept. of Transportation. The two haul routes are to go from County Road X to State Highway 93 and then to State Highway 35/54 towards Winona, MN or to use County Road X to Cooke Valley Road to State Highway 121 to State Highway 88 to Buffalo County Highway B then to State Highway 37 to State Highway 35 to State Highway 25 into Wabasha. The proposed loads per day are 175 with quad axle semis and dump boxes. Brueggen added it is an extraction site; there is no processing or wash plant on site. It would just be raw extraction and then transporting the materials offsite. James Bork, Patricia Bork, Johann Bragger, Mark Sylla who works for 10K, Matt Hieb with ACA Engineering and Brian Hunter, President of 10K International introduced themselves. Hunter stated 10K International is a Wisconsin based company. They are the end user. They are not looking for the market or for sales, they are it. They are a little bit different from some of the other applications that the Committee may hear, but in their world, this is what he does, this is his living and what he does everyday. This isn't something that they thought they should get into; this is something they have been into for a long time. When talking about his company, Hunter likes to break it into four parts; 1). Company, 2) Operation, 3) Community, 4) Safety, with no particular order. When he talks about his company, he talks about the company as that they are Wisconsin based and proud of where they are and in the people that they hire. They do things a little differently, as they tie themselves back to the community. They have spent a lot of time and effort in putting the right people on the ground here, so that they have a community liaison. Sylla has worked for 10K in that role and will continue in that role so that they feel they have the "ears" of the community and they try to address those issues that the community may have prior to them ever coming to one of the Boards. Hieb will give a rundown of the operation. Hunter stated it is a basically simple operation. They are talking about doing a mine extraction and dealing with hills. At the end of the day those hills will still be there however they may be lower. Their goal and hope is to be able to turn the land into more usable farm land. There have been many people that have stood here and talked about community and talked about jobs. Hunter is not going to "blow smoke" by saying they are going to hire 2-300 people, but what they are going to hire is eight people. Those eight people will be from this community. When they talk about commerce, they always ask what they can give back to the community. As a community steward and a member of this community, 10K will donate back into the community for various events (school, charity or sporting) as that is their method of operation that is what they do. Hunter mentioned the other part that never seems to come to the table is what these trucks bring back to the community. Trucks can be a nuisance, but they feel if they do things right it may not be as big of an impact. When talking about commerce, they like to ask how much fuel to trucks burn and where do they buy that fuel. 10K buys their fuel in the local area. They try to hire as many local drivers as they can to enhance the amount of jobs that will be held, outside of the eight that Hunter already talked about. They discuss how they need to work with the County and the towns. One of the biggest issues that his company has faced is, when they come into this business, they never thought they would put neighbor against neighbor. What is happening here and seems to be happening in a lot of county's is, when they deal with the Bork and the Bragger families, there is an idea and they want to take that idea and market that idea. Somewhere, somebody in the area may be offended by it. 10K has a community individual, "in play", to try to make that to be as least of an impact it can be, but there are times where it is impossible. As a company, they offer something to the neighborhood. They say, "if our operation is going to impact you in such a way that you can't live in this community anymore, we understand that and we're going to help you". If they have tried to impact and have tried everything they can to lessen the impact you believe you have in front of you, they'll offer the community a way to buy it. As a company, they will offer individuals an opportunity to sell their property. We offer it to be reasonable. They say to the individuals, get an appraisal and we'll get an appraisal, as long as they are close, they will take the individuals appraisal, add 10% to that, and in the end, they will buy them out, as that is being reasonable. Hunter continued that when things get beyond that, sometimes emotion gets into play. So community for 10K is extremely important and somehow they have to get emotion out of the play and just deal with the facts. If the facts are, you can't live in the community, they represent that and understand that and they understand their involvement has changed your way of life. They offer that to the county here as a solution that 10K is prepared to enter into. One of the biggest issues they hear about safety is the amount of trucks, school traffic

and weather conditions, etc. They introduced the truck “push”. They have an individual on the road, traveling the road at all times of their operation. If they find that the road is unsafe, they will be off the road before anyone else will be. Hunter stated they are not here because of the commerce, or because they need to ship one more load of sand. They are not going to jeopardize the safety of their individuals, staff or anybody out there. As the president of this company, Hunter is not here to hide behind risk. or to mitigate his risk. If there is an issue on a haul road, whether it is 10K’s trucks or not, they will deal with it, because evidently it is a concern. Their philosophy is they are not here to mitigate risk, they are here to eliminate risk and that is their mandate going forward. In talking about how this is going to look and what they will do at time of school unloading, bus traffic, etc., they don’t have to be on the road. They are not looking at this pit and location as being their sole source of income. They are here to work the pit that makes sense. When Hunter says it makes sense, it is not about the dollars, it is about what makes sense to the community. From a standpoint of 10K International, and an owner, the president in front of you, Hunter gave his word as a company, that they are here to work with the community, the county and they will abide by whatever regulations or conditions are put in front of them. Hunter asked that they are reasonable, fair for them and for everyone else. Hunter stated as time goes on, one will find that 10K will be the good community steward. Bice called for public testimony.

Paul Boland – Registered to testify in opposition. Boland stated he had no knowledge of this sand mine coming into his area. Boland felt that the town board should send out some sort of notices so that people can “get on board” right away and voice some of their concerns. Boland commented this is the first part of a two part plan; the second part is to go across the road. (County Highway X), once they get this mine operational so Boland felt that meant truck traffic would double again. Boland pointed out where his buildings were located on the overhead aerial photo. Boland felt the hours of operation were outlandish and questioned why they don’t just work eight hours a day or maybe ten, five days a week. Why do they have to work fourteen hours a day, six days a week? Boland completely remodeled this place in the last two years and built a brand new shop. It is so quiet and pristine out there and all he is going to hear now is crushers and dump trucks and it is just not fair. Boland believed there was also health issues involved with this such as airborne particulates from silica. Boland knows that OSHA is coming out with a new standard in October. Boland didn’t know if these mines get grandfathered in, or if they need to follow new regulations from OSHA. Boland also has a driveway issue. Pulling out of his driveway, Boland cannot see anything coming from the east going west and if there are 175 loads per day on that road, Boland will be dead. Boland didn’t foresee anything he said here making a difference.

Margaret Olson – Registered to testify, but was no longer present.

Brueggen read aloud a letter from Sandy Filla N36724 Filla Valley Lane

I live about a mile away from the site of a proposed sand mine in the Town of Burnside, Trempealeau County. I would like to express my concern regarding the proposed amount of truck traffic that would occur if this application is approved. My concern is that the projected amount of trucks that would be traveling on County Road X would pose an increased risk to those of us who travel that road on a daily basis either traveling to school, work, or for agricultural purposes. There are several areas which include sharp curves and poor visibility. One section that would be very dangerous is the intersection of Lyga Valley Road and County Road X, which is about a half mile from the projected sand mine. This intersection is on a blind corner and if you are traveling west on County Road X and need to turn left onto Lyga Valley Road, the visibility is very poor. This is a dangerous intersection right now. If you add the projected amount of truck traffic that this mine will generate, I believe the danger level will increase significantly. My family travels this road every day and we have had numerous close calls at this intersection. If this mine is approved, I believe it would only be a matter of time before an accident would occur at this intersection. I would request that the Committee take a serious look at the impact this mine will have on the safety of those who travel County Road X daily. If you choose to approve the application, please consider placing some restrictions such as decreasing the amount of truck traffic allowed or possibly a reduced speed limit in the area near the intersection of Lyga Valley Road and County Road X.

Brueggen read a letter from the Town of Burnside Board of Supervisors which stated they have voted to approve the application for a Conditional Use Permit for non-metallic mining by 10K International on the Bork/Bragger property with the following concerns and the conditions recommended by the Department of Land Management and Burnside Town Board. The concerns of the Board include the increased traffic on County Highway X and its effect on the local road safety and the effect on the ability of the road itself to withstand the increase volume of heavyweight traffic. We are confident that the County will address this concern. We also acknowledge and express concerns for the quality of life on the adjacent property owners, particularly the Paul Boland property and desire an acceptable agreement to be reached between the property owner and 10K International regarding the concern. It is our view that the Town Board has no authority to address this concern. Also noted is that the haul route to Minnesota uses Jelen Lane which has been abandoned and should read, "to continue on Highway X to State Road 93". Brueggen stated they have listed conditions that the Committee can go through later.

Hunter wanted a chance to answer some of the concerns that were brought up. In Filla's letter, it referred to truck traffic, various turns, etc. Hunter stated they are very much aware of that. In their trucks they have installed communication and they call out every mile where a truck is. So within a mile, they know exactly where their trucks are. If for some reason they get into a situation where someone is moving something on the highway that is encroaching on the space, they are able to notify their trucks. That is a policy that they have in play to ensure the safety of the motoring public outside of their truck traffic. The second issue that was brought up by Boland was actually three things; a crusher, health issues and the driveway. As far as the crusher is concerned, 10K does not enhance the product in any way, they are just mining the product therefore there is no crusher. In regard to health issues, Hunter felt the internet gives us a lot of information; sometimes it is good, sometimes it is bad. From the standpoint of the silica dust, which is some of the health related issues, it is really referred to at the time of processing. 10K International does not process at a dry plant. There is no plant operation, no process operation; they are just removing the sand. The sand, in a bank, has a natural moisture content of about 6-8%. In most cases, sand will not blow at that point, it will not be airborne, hence some of the health issues go away. To enhance that people talk about tarps. 10K has chosen tarps that will seal the load so that there are no airborne issues. Hunter addressed Boland's driveway issues. Hunter wasn't sure where Boland's driveway was, but with the help of the County, if we find that the driveway is an issue and there is something that 10K can do to improve that to ensure that Boland is not killed, that would be the first thing 10K will do, not the last.

Stephen Doerr – Registered to testify in favor. Doerr stated he wanted to ask and encourage this Committee to approve their permit in the fact that it produces revenue to the local farmers. Individual farmers that have come forth and want to participate in the need out there in Texas and North Dakota. Being in the Highway Committee meeting the other morning, obviously there are going to be some neighbors that possibly have to take some sacrifice for the community, but ultimately the County is prepared to go ahead and put a levy of 25 cents per ton mile. So potentially, it is an outside entity investing in Trempealeau County infrastructure.

Bice called for any other public testimony. There being none, Bice closed the public hearing at 11:50 AM. Nelson made a motion to approve the Conditional Use Permit, Geske seconded. Bice expressed his appreciation for Hunter being one of the first persons to indicate having worked hard with the neighbors to resolve issues and their concerns. Brandt noted that the truck traffic appeared to be very close to the buildings that are nearby and inquired what sort of buildings they were? Bragger responded it was a dairy facility and he and the owners have talked to each other. Bragger stated he talked to his neighbor, Olson and stated that potentially 10K International may be interested in moving into territory that he owns. Olson was happy to hear that because he has a big mound behind his barn and it would be great if he could get rid of some of the hill so that he could farm it. Bragger stated he and Olson have been conversing and apparently Olson hasn't responded against it. As neighbors go, Bragger felt they were doing all right. Hunter verified that it would not be a blasting site. Hunter explained this is a very different market today than it was three months ago, so because of that, as an operator and end user, they have to be selective of the type of sand that they take. They

are only looking for one variety of sand today. Three months ago they were looking for four varieties, today it is one. When Hunter states, the hill is still going to be a hill, it is because there is only one zone of sand that is acceptable in today's market. They didn't indicate any blasting because the marketable sand is in such a place that they would not have to go any deeper than what they are indicating. Upon Brandt's inquiry, Hunter stated they would not be changing their plans because the market changes are already incorporated into the site plan. Brandt stated 10K is obviously sensitive about the runoff, as they are creating buffers and silt fences around the wetland as well as the edges of the north side of the site on the west corner. Brandt asked if Hunter anticipated any issues with groundwater absorption and how that might affect the wetlands, in extreme weather events. Hunter responded they do not. Brandt stated if they were to go west on County Road X from the site, in a matter of 100 feet they would be in a different county. In response to Brandt's question, Hunter responded that they were working and communicating with Buffalo County on this project. Brandt asked what staff was recommending for the length of the permit. Brueggen responded it was 20 years which can be adjusted. If 10K feels some other timeframe would be substantial, that time frame can be adjusted. Brandt commented he has traveled County Road X and it is really a dangerous road. Bice commented it might sound naïve but he is sincere that he would really like 10K to purchase their fuel in Wisconsin. Before reading the recommended conditions, Brueggen stated that since there is no blasting at this site, condition #4 (well and foundation inspections within 2500 linear feet) probably could be eliminated.

1. Duration of the Conditional Use Permit is 20 years from the time of issuance. After the 20 year time period the applicant may apply for an extension in accordance with section 13.03 of the Trempealeau County Comprehensive Zoning Ordinance.
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 with the applicant and the land is within the permitted mine boundary. An adjoining landowner may sign a waiver, which has to be filed with the DLM, to allow the applicant to mine within 10 feet of the property line.
4. All structures and cased wells located on the properties within 2,500 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 practicable, whether or not damage has occurred as a result of the mining operations. A third party independent inspector shall be used and costs associated should be borne by the owner/operator of the mining site. Landowners may sign a waiver declining the inspection 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 allowed number of loaded trucks leaving the site is 175 loaded trucks per day.
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 start. Until notification from the DLM no unauthorized land disturbance may take place at the mine site.

Brueggen stated these are also the conditions that the Town of Burnside included with the exception of Number 11 which was, "any non-producing mine, in inactive for a period of one year, must be reclaimed". Brueggen felt that would coincide with the lapsing clause in the Comprehensive Zoning Ordinance. Upon Bice's inquiry, Hunter responded they could live with all those conditions. In regard to condition #4, Vold mentioned that if one reads on Page 6 of 10K's description, it states, "in the event blasting will be

necessary”, so Vold felt that condition #4 should stay in the recommended conditions. Brueggen asked if it should be made subject to any “mining”, beforehand, or just any “blasting”, beforehand. Lien commented that in the past, it was conditioned as; “prior to any blasting” they would have to meet those requirements. Vold reiterated that wording should be added. Brandt made a motion to adopt the recommended staff and Town of Burnside conditions, Geske seconded the motion. Quarne asked what constitutes an active mine and was it one load a year. Lien responded there is a way that they can pay a fee which means the mine is active but there is no activity. In voicing the Towns’ concern on this issue, Boe stated these sites get opened up and are abandoned and then they just remain there forever. For the benefit of the new Town of Burnside Chairman, Lien gave a brief explanation of how the reclamation plan/bonding works. Boe understood Lien’s explanation, but stated he could not speak for the Board by saying not to include the condition. Boe stated the County knows the towns’ position. Boe and Lien agreed that if there is no activity the Town of Burnside Board would like reclamation started immediately. There being no more discussion on the condition, a vote was taken and the motion to approve the conditions passed with Quarne abstaining. Brandt commented if this site were in a place where there was a load out, this site would be perfect, but once again it is in a place where there are some really bad roads and that is an issue for Brandt. Upon Bice’s inquiry about 10K using the town roads, Boe responded they aren’t really using any town roads. The Town of Burnside stated their concerns within the letter that was read regarding the safety and conditions of County Road X. Boe felt that it was the County Highway Commissioner’s responsibility to ensure that he has whatever type of agreement he feels is necessary in place. Bice asked if Johnson was comfortable that this can work. Johnson replied he has had some discussion with Sylla about the agreement that the Highway Committee worked on yesterday. Johnson stated 10K is willing to work with the County. Brandt asked about a Traffic Impact Analysis (TIA). Brueggen stated with 175 loads per day, DOT looked at the two routes. The first one being State Highway 93 to State Highway 54 into Winona and the other going into Buffalo County. The recommendation for the first route would be a northbound left turn lane, bypass lane to State Highway 93 at County Road X. The route through Cooke Valley would be to upgrade that road and the State Highway 121 intersection to a WIS DOT Type B1. Additionally WIS DOT recommends upgrading the Buffalo County Highway B intersection with State Highway 37 to WIS DOT Type B1. With a motion and a second to approve the Conditional Use Permit on the table, Bice called for a vote. Motion to approve passed with Brandt voting in opposition and Quarne abstaining from the vote. Brandt commented that again the roads are an issue.

Public Hearing-Conditional Use Permit-Nonmetallic Mine-Rail Spur-Byron Boe and David Quarne, Landowners/Applicants, Blair, WI and Taylor Frac, LLC, Ripon, WI , Operator-Town of Preston Chairman Bice called the public hearing to order at 12:11 PM. Nelson read the public hearing notice aloud. At this time, Corporation Counsel Rian Radtke spoke to the Committee. Radtke mentioned to the Committee that since Quarne is a member of this Committee, it is important that this Committee does not give any special favors or special treatment to this application just because he is an owner affected by this. As most people have seen here, he has been abstaining in sand mine actions before this Committee. Radtke wanted to reiterate and state to the Committee to treat this application objectively. Do not give any special consideration just because Quarne is a member of this Committee or because you may know him.

Brueggen stated the application is for a rail load out. It is being treated as a Non-metallic Mine Conditional Use Permit because it is directly related to mining. The mine site is in Jackson County, it is the Taylor Frac site and they will be hauling into Trempealeau County to use this facility. It will only be a rail load out; there won’t be any actual mining there. There will be stockpiling, etc. The area is approximately 20 acres located in the Town of Preston. Brueggen is in possession of a letter from the town and they do have a road use agreement worked out. There is a reclamation plan in place for the time period when the rail load out would no longer be used and would be removed and the land returned to agricultural production as stated in the reclamation plan. Brueggen turned the meeting over to Rob Hargrave from Taylor, Frac. who worked on the permitting for this project. As Brueggen mentioned, Hargrave stated there will be no mining here it is just a transport facility from truck to rail. They will transport trucks down State Highway 95, 3/10ths of a mile to this site and unload with an RBT conveyor style with a dust collector on it and then an empty truck would return. All loads would be tarped. Hargrave explained it is a fairly simple operation and he is present to

answer any questions. Bice inquired where the material would be coming from. Hargrave responded it is two miles to the east on State Highway 95 – fairly close to County Highway P. Bice called for any testimony from the public.

Keith E. Nichols – Registered to testify in opposition. Nichols stated he lives in the township of Preston on County Road D. Nichols is not here to oppose this specific mine. He is really here to speak to the Committee members. Nichols thinks that one of the most important legacies that we can leave for the future is the sensible use of our environment and resources. We do not inherit this land from our grandparents, we borrow it from our grandchildren and we owe them something for the legacy that we are leaving. Nichols believes that sand is the natural filtration system for our water and aquifer. Nichols would be very careful if he were going to remove it because the long term consequences could be devastating if we do not act in a reasonable manner. As another lady mentioned, who spoke earlier, she was worried that we are doing this in kind of a rush. It seems to be somewhat market based and maybe not so much with some of the companies, but some of the other companies are coming from other states. The main motivation behind why they are here is one and one only – money. When the money through sand is gone, they will be gone and they will take whatever they took with them. If we are going to allow this to continue, he doesn't see the need for speed. Nichols asked the Committee members, in talking about mineral rights and human rights, where are the rights of Mother Earth in this discussion. Where are the rights of the water or the rights of the land and the animals, because it is all part of recreation and one cannot be separated from the other. The rights of them at least have to be in the ballpark of the right to human beings and what they do. Nichols finds it strange that the Advisory Committee to the County Board is made up of some members of the mining community. Nichols finds it difficult for himself to maintain any kind of a nonpious relationship with that. If they wanted to speak to the Advisory Committee, Nichols could see that but to be on it, seems a little bit twisted in the wrong direction. Nichols noticed there are no members on the Advisory Committee from the EPA, DNR, Sierra Club, Native American Elders or anyone like that who would speak more forcefully or eloquently than he about Mother Earth and what future we are leaving for our kids and that is Nichols' main concern. Nichols is worried that we are doing things that he has seen done in other places. Nichols is not originally from here and he has no blood ties to this land. He has only lived here twelve years. He lived outside Chicago for part of his life and in Indiana for the other part of it. Nichols has seen what they've done to the overdevelopment of the land and he has seen what the long term effects are on the water aquifers and the quality of people's water and how badly it has been degraded. Nichols thinks that is something that we really need to be clear about and cognitive about and have some foresight in this. Hindsight won't matter, it will be too late. We see what is going on with some of the over drilling of the earth, some of the bad things that have happened with people lighting their faucet on fire, etc. Mining companies are trucking in water to provide these people with water, but when they're gone, what are these people going to do with their land. What is the future use of this? If we manage this area properly, as it has been in the past, we can manage it for thousands of generations, but one has to have good clean water to do that. It is thee most important thing and is something that we really can't see – the potential damage that we could cause, but is it possible, yes. Probable, Nichols did not know, but the point is, how much filtration is needed between the groundwater and the aquifer. We've let the mines in within 10 feet. Is that enough? It seems like a pretty thin buffer to Nichols. Someone made this land that is a lot smarter than we're ever going to be. The contours and the way it is laid out and the way it drains and percolates is something that is natural. There are people that will argue that in 5 million years the hills will be gone due to natural erosion, etc. but that is really not a viable point right now. Nichols just wants this group to consider the generations and beyond their lifetime and what we are leaving for them.

Keith Nestingen voiced his concern about the flood plain. Nestingen understood that they are actually lowering the land down to compensate for what they are putting in. Hargrove responded that is exactly what is happening. One is not allowed to put fill into a flood plain area, so basically they are going to move the overburden and put engineered fill in there to compensate so that there are no effects on any natural flooding that is currently in the area. Nestingen mentioned they are a quarter of a mile from the site and is concerned about the dust and noise.

Brueggen read a letter from the Town of Preston, dated March 27th, 2012 which stated the Preston township has given its' approval on the Conditional Use Permit for the rail spur adjacent to the north end of South River Road in the Town of Preston as requested by Taylor Frac. Conditions are the attached Road Use Agreement. Brueggen commented it was a fairly lengthy Road Use Agreement and it would be available for Committee members to review. There being no other public testimony, Bice closed the public hearing at 12:23 PM. At Lien's questioning, Hargrove stated at the worst case scenario, from 6 AM- 6PM it would be approximately 60-70 loads. Hargrove explained they are hauling finished product so it is not like the other facilities that are hauling raw product. Vold made a motion to approve the Conditional Use Permit, Thompson seconded. Brandt commented that the level of the railroad spur is going to be at the level of the river. Hargrove replied stating it will not be at the level of the river, it will be at the current level of the farmland (about 6 feet above river level). To clarify, Brandt stated one can't add things to it, but stuff can be removed and filled back in to allow for the bedding and weight of the rail spur. Brandt asked if there was a TIA? Brueggen reported they proposed six loads per hour in the TIA. The proposed haul route is from the site in the Town of Springfield in Jackson County along State Highway 95 on to South River Road. Trucks will be making a right turn from South River Road to State Highway 95 and left turns from State Highway 95 to South River Road. That intersection exists as a WIS DOT Type D. In light of this information, WIS DOT recommends the following: to accommodate the left turns off of State Highway 95, WIS DOT recommends adding a west bound right turn lane to the County Highway W intersection leg. Brueggen noted that intersection is actually on the County border. Hargrove commented they actually talked to the DOT and mentioned there are some possibilities of additional truck traffic with other mines, later on in future years, just to make sure that they didn't spend money up front on something that, two years or a year from now, was going to have to be redone. According to Hargrove, DOT responded that even with additional traffic there wasn't the need for above a B1 intersection (which is out for bidding right now). In an answer to Brandt's question, Hargrove responded this is a Taylor Frac facility being built specifically for Taylor Frac's 60-70 truck loads per day. To further explain, Hargrove had heard that there are other people that are looking at it, so they wanted to make sure that their improvements on that intersection weren't for no reason at all, that if traffic did increase, they wouldn't have to redo it at that time. Nelson asked if this spur would only be used for sand. Quarne responded it is in the contract that Quarne can put on extra rail if necessary and load corn or any other agricultural product. Hargrove responded to Brandt's question by stating there would be five sightings capable of holding 40 cars on each track and 50 on the fifth track. Brueggen did have staff recommendations which were a little bit different than the typical ones since this is a rail load out site and not an actual mining site.

1. Duration of the Conditional Use Permit is 20 years from the time of issuance. After the 20 year time period the applicant may apply for an extension in accordance with section 13.03 of the Trempealeau County Comprehensive Zoning Ordinance.
2. The applicant shall work with Town Board and/or the County Highway Commissioner to develop a road use agreement.
3. No facility activity shall take place within 50 linear feet of neighboring property boundaries unless the adjacent parcel is under common ownership with the applicant and the land is within the permitted site boundary. A waiver may be signed by an adjoining landowner and recorded with the DLM to reduce this setback to 10 feet.
4. In areas where the topsoil is stripped and replaced with other material (i.e. gravel, pavement, concrete, rail, etc) topsoil must be kept onsite for use in reclamation.
5. All truck trailers/dump boxes entering the site shall be covered or enclosed.
6. All required permits or permit exemptions from the Wisconsin Department of Natural Resources or Trempealeau County shall be acquired prior to any mining activity.
7. Financial Assurance for Reclamation will be established and filed with the Department of Land Management prior to any mining activities.
8. The Department of Land Management will notify the owner/operator of the mine site when all conditions are met and activity may start. Until notification from the DLM no unauthorized land disturbance may take place at the mine site.

Brandt made a motion to adopt the conditions as recommended by staff, Low seconded. Brandt did have a question on condition #4. If they keep the topsoil there after they replace it with whatever bedding they are going to use on the rail, they are basically hauling stuff into a wetland. Brandt asked if it is possible to indicate, that in the area of the wetland that the material has to be removed. Lien stated there are areas of that site that are not wetlands and not floodplain in which that material can be stockpiled. Brueggen added it could be used as a berm around the site to keep the internal drainage from the site. Upon Bice's inquiry, Hargrove responded he felt they could meet the conditions. Bice commented due to that fact that it is a railroad bed, the conditions seem excessive to him. Motion to adopt the conditions carried with no opposition, Quarne abstained from the vote. Bice called for any further discussion on the motion to approve the application for the spur. There being none, motion to approve the Conditional Use Permit carried with no opposition and Quarne abstaining from the vote. At this time the Committee took a five minute recess.

Public Hearing-Conditional Use Permit-Nonmetallic Mine-Darrel Gilbertson and Larry Gilbertson, Kevin Werlein, Allen, Karen and Kenneth Husmoen and TKC Real Estate Holdings, LLC, Landowners/Applicants, and The Kraemer Company, Plain, WI Operator-Town of Preston Chairman Bice called the public hearing to order at 1:43 PM. Nelson read the public hearing notice aloud. Brueggen stated this site is already permitted with a Conditional Use Permit for non-metallic mining. It has been in operation for a number of years for the extraction of rock, limestone, etc. Their new proposal is to dig down deeper through the limestone and extract sand to sell. At the point that this was brought to the County, it was required that they come back for an amendment to the Conditional Use Permit to address such issues as a different reclamation plan (going deeper into the ground) as well as increased truck traffic in different areas. The quarry is a total of 180 acres and there is going to be about 60 acres disturbed. Essentially what is going to happen is the same outline that is already there. As far as the mining operation, they will just be digging down deeper. Their proposed haul route is to go down County Highway D to State Highway 95 and then either go east or west. Jewell commented he had given Brueggen three different routes: one towards Hixton, one towards Winona and the third towards Chippewa Falls. Brueggen elaborated on the different roads used in the haul routes. Sweeney introduced himself once again. Sweeney stated two of the landowners are here to answer any questions the Committee may have. Sweeney mentioned the Kraemer Company has been around for numerous years working in Trempealeau County and the surrounding counties. They have a lot of ongoing quarry operations; primarily in the limestone area is where they have been historically moving. Sweeney felt this CUP was easy from his prospective because they are really not doing anything differently, horizontally. If one looks at the maps and the footprint that they are taking out, all they are doing is, at the bottom where they had stopped with the limestone level; they are going down and taking out sandstone. So it really isn't much different than the current operation that we have. Arguably, if they hadn't been specific with their plans, saying that they were taking out limestone, they might not even be here. From a lot of the limestone quarries that Kraemer's have they sell fill or bedding sand for the farm industry, and it is kind of secondary product that they have sold for years and it never hit the radar screen. Sweeney stated the reason they are back is because this going to be a lot higher volume of material than selling a few loads of sand to a farmer down the road. It is a little different application, so Lien had suggested that they come in and amend the CUP. Sweeney reiterated that what they were doing is simply taking the existing quarry and going down. The amendment to their reclamation plan is relatively simple. It is just a deeper elevation than what they currently would have in their reclamation plan. They have to stabilize the area and depending on where they are going they will still have the same issues such as the high wall. On this particular site, they have a lot more area so it makes the reclamation easier. Kraemer looks at it as another product coming out of the same permitted use. Sweeney added they don't have a final user or rail site that they have selected for the product so they are unsure of which truck route they will use. Sweeney stated they have worked with the town and the county. They have bonded the roads and they have been through all of those issues. Kraemer has worked with DLM staff. Jewell felt an important thing here was that the elevation of the floor will just be lowered approximately 40 feet. They may go a little wider with the exterior of the mine, but the trees are going to remain and they are going to try to keep this site hidden as best they can with trees and vegetation as it helps aesthetically, with dust and it kind of controls the noise, etc. Sweeney commented the site is pretty well screened from the road. Bice stated this is considerably different because in most reclamation they start out with the overburden and store

that. Kraemer, apparently, doesn't have a whole lot of overburden to work with, so what will it be like in the bottom of the "hole". Jewell responded there will be some sandy limestone that they can't sell for road aggregate that will get returned. On Gilbertson's property there is a large field with Type A and Type B horizon and that would be taken off and utilized to cover up everything. There will be at least a few inches of topsoil and overburden on top of that for vegetation. Sweeny added they are still keeping the A and B horizon materials like they would in a normal quarry, it is just that they are going to have some additional materials when they get to more of the existing pit. Some of that material is kind of a combination limestone/sandstone and that won't be able to be sold as a product. That will be stockpiled and put back in the hole and then the A and B horizon will be placed over that material. In the information that Kraemer submitted, Bice stated it suggests that in places there will be ¼ of an inch of soil placed back there for reclamation. Jewell thought it was going to be a ¼ of an inch that might be raked. Lien referred Jewell to Page 7 of the plan under "seed bed preparation". Lien stated it reads "rake to cover this seed with approximately ¼ inch of overburden material or topsoil". Lien felt that was a gray area and asked if that is the amount of material that is there or is it that they are going to disturb a ¼ inch. Jewell responded there should be more than that. Jewell referenced Page 6 of the plan which read, "the total combined depth of the overburden and topsoil shall be at least five inches. Jewell added there isn't an overabundance there, but bear in mind that they have already done some reclamation there on Werlein's and Gilbertson's property, so some of that might have to get taken back off. Bice asked for any TIA information. Brueggen reported the original TIA on this plan was based on 400 loads per day and then it was revised down to 80 loads per day with day cab aluminum end dump quad axle trucks and three proposed haul routes: County D to State Highway 95 to Hixton, County Highway D to State Highway 95 to State Highway 93 to 54 to Minnesota and the third route would be County Highway D to State Highway 95 to US Highway 53 to US Hwy 10 to Interstate Highway 94 to Highway 93 to Chippewa County Highway S to Chippewa Falls. Currently, County Highway D and State Highway 95 intersections are currently constructed to the full WIS DOT Type B1. The mine is proposing 160 truck trips and a 2009 count of average daily traffic on County Highway D is 220. In light of this information, WIS DOT recommends, based on the reduction in anticipated loads per day, from 400 to 80, the current roadway configurations are adequate to serve the amount of truck traffic that this facility would generate. Brueggen summarized that the Type B1 intersections that are on Highway D and State Highway 95 are adequate for the 80 trucks per day.

Since Werlein is one of the applicants, Bice offered him a chance to speak. Werlein stated he was in favor of the project and the quarry has been in existence for close to forty years and they have been doing almost the same thing.

Thompson inquired (coming from the south, up the hill, out of the quarry (right by the quarry gate) if Kramer's could shave some of that off because there is poor visibility. Jewell responded they did that just last year. They worked with Trempealeau County (they needed some fill in the area) and had them take that out of there. Bice called for testimony from the public.

David Appleyard – Registered to testify in opposition. Appleyard stated he lived on County Road W next to Badger Mining for about fourteen years. Seven or eight years into their stay there, Badger Mining bought a couple farms and moved closer to Appleyard and made life for him and his family a living hell for several years. The noise is unbelievable. Appleyard's experience is that within two miles of operation, one can hear the operation continuously. At a mile and a half it is irritating, often, but one is always aware of it. Within a mile or closer, one can hear it constantly and often it is if the operation is in your front yard. They sold their farm for a loss and escaped. They felt lucky and fortunate to be able to get out of there. They moved to the middle of Trempealeau County where they were surrounded by a Zoning Ordinance that would protect peoples' property rights. Appleyard was not present to try to curtail Mr. Huesmoen's property rights (he has known those folks for many years and they are very pleasant people). Appleyard was not present to try to curtail their ability to use their property. Appleyard is present to inform the Committee that there are forty eight different landowners within a mile of this operation. Most of them didn't get any kind of notice that this meeting was going to take place today, so they have no opportunity for input. Appleyard stated he and those forty eight people have property rights. This operation has been going on for forty years, but it has been going

on sporadically. It happens occasionally. They take hard rock quarry materials out of there, on occasion. Appleyard continued there are hours of operation as a condition for these permits. Unfortunately, these hours were created for the hard rock industry with the understanding that these operations were going to take place now and then, a week or two weeks at a time. If there was going to be a major road upgrade it might be a few months. We are now talking about these operations lasting 20 or 30 years, so what was acceptable for hours of operation for sporadic, periodic times, is one thing. This is totally different. Appleyard asked the Committee to adjust the hours of operation, for this permit, to be allowed to operate from 8:00 AM until 6:00 PM which is 10 hours per day, Monday through Friday and 8:00AM until noon on Saturday. That is 54 hours a week and they should be able to get done in 54 hours a week what they need to get done. Again, Appleyard was not trying to curtail their ability to use their property in a way that would profit them, but he wants to have a quality of life and the neighbors should have protection so that they have a quality of life. We should all be able to live together in the same community. They can have their operation, they can operate, but we should be able to enjoy our property and now hear continuous mining operations for the next twenty years for the hours that currently exist. It is unreasonable. It is an unreasonable burden for the neighboring property owners. In regard to noise, of concern are the backup beepers which produce a horrendous amount of noise. It goes beyond irritation. There is new technology that can be used so that only those persons behind the trucks are exposed to that backup beeper noise, so that it doesn't go in every direction, it is just in the back of the truck where it is needed. In that way, the neighbors are only subjected to that noise when the back of the truck happens to be facing in your direction. That would be a big benefit to the surrounding landowners, in his opinion. Bice asked Appleyard to restate the hours that he felt would be satisfactory. Appleyard responded 10 hours per day, 8:00 AM – 6:00 PM- Monday thru Friday and Saturday (if needed) 8:00 AM – Noon, is adequate for their needs and would allow for the enjoyment of the 48 personal property owners that surround it. Appleyard added that another concern that people have is truck traffic. This is not going to be the last mining operation that is going to be making an application. If you can limit the trucks coming out of that operation in the hours of 9 until 4 that would allow people that are travelling back and forth to work to not have to be competing for the road way with increased truck traffic. Appleyard felt that would allow them to move their product, when people who normally use those roads wouldn't be there. Bice asked Kraemer's if there was any way they could live within those hours of operation. Sweeney responded that if the Committee is going to limit this operation, then it is really putting Kraemer Company in an unfair advantage. Sweeney stated Lien talked about consistency prior. Kraemer Company felt the Committee needed to be consistent with that. Appleyard responded this Committee has already lower hours of operation for one operation (Nelson-Bue) in this County in the Town of Ettrick, so precedence has already been set in the Committee's willingness to reduce the hours of operation to accommodate surrounding landowners concerns. Sweeney questioned how anyone would know whether they are operating in limestone or sandstone, etc.

Tom Stoner – Registered in opposition but not testify.

Alfred Hanson – Hanson stated his land borders the site. Hanson felt there were some good points brought up. The gentleman that designed a cattle pass for him said at that time (2 years ago) there were almost as many trucks driving on Highway 95 as there were cars. One can only imagine with these additional trucks coming just how congested Highway 95 is going to be. Hanson has people who come and use the house on this farm and they hunt for free. Some come with horses from the city in Minnesota. They pay for licenses to hunt deer and turkeys so there are some financial rewards to be able to hunt and enjoy the environment like they have been in the past. With the noise that Appleyard talked about and the long hours that they want to operate, there will be almost constant noise up on that farm. Hanson felt it was a good idea to curtail some of this operation. Hanson has relatives that drive semi's and they couldn't get near the city's until around 6:00 or 7:00 on Sundays because they would congest and hamper the other people that were travelling or something of that sort. Hanson felt it was a good idea to have some restrictions on the number of hours that these trucks can be operating. It is unfortunate that they can't use rail traffic because it is so much cheaper and wouldn't interfere with the cost of repairing these roads and also with other people that need to use them. Hanson asked if there was really a need for this "stepped up" operation. Hanson elaborated on the need for the gas and oil in the United States. Hanson mentioned that in a city in Sweden, officials decided they were spending too much

money on importing fossil fuels. Sweden doesn't have any oil reserves and very little coal. They looked into alternative methods for getting their energy within two years. It is called eco-municipality and they changed over in less than two years and they don't use any fossil fuels at all, just the methane gas from the sewers to run all the municipal vehicles. The people from Ashland, Washburn and the Indian communities went over there to study their ways and the Swedes have been over here. Ashland and those communities are going to be the first eco-municipalities in North America. If the Swedes can do it, why can't we do it? We need to use the knowledge we have. Hanson added a lot of the cancer is related to the overuse of fossil fuels. Werlein commented, that as far as the closest residence, he thought it was over half a mile from the existing quarry. Brueggen had a few letters of testimony.

Darcy Sonsalla letter - This letter is in regards to the Gilbertson/Werlein/Husmoen sand mine hearing. There are several reasons why not to do this mine along with many questions that the sand mine companies cannot answer as well as questions pertaining to the frac process in general. I strongly disagree with the possibility of a sand mine operating this close to my home for the following reasons. First of all, it would have a major negative impact on the environment and our landscape. At this time, we don't know the possible ramifications of the sand mining process. Our landscape is valuable, and it draws many tourists just in its pure beauty alone. Tourists would not wait in line to view a sand mine. They will not rent hotel rooms and buy meals, creating revenue for businesses in the area. Many of these people ride motorcycles and bicycles. I drive County Rd D every day, and even in ideal conditions, this is a dangerous road. The road that these trucks will be coming off of is very steep and frequently washes out after it rains. I have seen several dump trucks have trouble stopping at the bottom of this hill to turn onto County Rd D, now they want semis using this road. That is an accident waiting to happen and if one human life is lost the cost is too high. The intersection itself is very dangerous because it's at the top of the ridge, a steep grade onto a steep grade, and completely invisible from the south. Now add in 200 semis, overloaded; what kind of damage would that create to our roads, but also potentially to the people on them? And who is expected to pay for this, the taxpayers? Secondly, I am informed that there will possibly be a sand washing station on this ridge. This well is said to go 600ft deep, which means all surrounding wells above this depth would go dry. Now if I'm outside of the 2500ft boundary line, and my well goes dry, who pays for that? It is said that frac sand dust is almost as fine as coal dust, and therefore potentially as dangerous, and should be treated as such. I purchased my property because of its location, and really for no other reason. I want to be able to live here without having the risk of well contamination, run-off, animal sickness, dried-up wells, unexplained illnesses, etc. This land has been undisturbed for a millennia, and should stay that way. We are blessed to live in an area surrounded with such natural beauty. Finally, the real reason why this hearing is called to order is because of greed. Two of the participants do not live in this county. The only people that are going to benefit are those two people and the sand mine company. Sand mine companies are very tough to deal with, have their own lawyers, and play by their own rules. All of which does not bode well with the surrounding land owners and residents. Kevin Werlein is family to me, and I know, from a very young age, that he cannot be trusted. His only motivation is money in this whole situation and in life. I do not want this passed, and then have to deal with ramifications after the fact. So as a proud resident of Trempealeau county, and passionate Wisconsinite, I strongly urge for the rejection of their sand mine proposal.

Neil and Cindy Moe letter – We have some real concerns in regards to the proposal of sand mining near our home on Shay Lane. The noise and the traffic on this already busy and winding road and sometimes tricky hill - in the winter with snow, ice and drifts and in the summer with increased traffic, motorcycles, cars and tractor parades, this should be a real concern to all. We firmly believe this is all for financial gain for the few with total disregard for the environment and the people, good folks who have lived in this area for generations and have raised their families here. I can only find these people in the highest of contempt? We pay our taxes also. The land can not be abused without something suffering the consequences. We have heard it could even affect ground water. We live in this area of the County because of the beauty of nature, the hills and the wildlife. Not to mention the serenity of rural living. We believe this could upset all of this just for the greed of a few people. Where will it end?? Furthermore, your own letter clearly states that the Gilbertson's address as Madison, WI and Mr. Werlein, although his address is Shay Lane, has not lived in the valley for some

time. So the traffic and noise of the blasting most certainly will not bother them, will it? Ask the people who actually live here if it will affect them! WE VOTE NO TO MINING!

Michael and Sherry Brady letter - In regard to your conditional use permit for the old gravel quarry on County Road D to a sand pit mine, my wife and I are 100% against it for the following reasons:

1. No one knows the impact the dust is going to have on neighboring properties.
2. No one knows the amount of noise involved from blasting, machine to move and process the sand. Remember, this is on top of a high hill and the noise and disruption will be heard for miles.
3. Galesville's Apple Affair bike runs go up "D" and if they have a sand mine there, the truck traffic would be horrendous. They have it there now because it is a challenging course and beautiful scenery. The sand mine would end all that.
4. After all is said and done the roads would deteriorate and the taxpayers would have to pay for resurfacing the roads at the hands of a few greedy people.
5. The peaceful, scenic valleys and hills of our countryside would soon be gone and never be able to be brought back.
6. From what I have seen from other sand mines, I don't think you would want one in your valley. Hell, Kevin doesn't even live there anymore. What would he care what happens to or what other land owners want. All he wants is the money. Because he doesn't have a job.
7. Right now poker runs travel up and down that road. People drive it just for the quiet and scenery. The mine would stop that forever.
8. In addition the entrance coming onto County "D" is unsafe. For a not much used quarry it is ok, but for 100 trucks a day it is not safe. It washes every good rain we have. Also if you are traveling east on County "D" the entrance to the quarry is hidden. You cannot see the entrance until you are right on it.

So before you pass the conditional use permit application, please think of the consequences. Once you allow a conditional use permit for one you can't stop another in doing the same without legal consequences. Also you have lost part of your beautiful country forever.

Brueggen read a letter from the Town of Preston which stated the Kraemer Company at the Twesme quarry has requested a Conditional Use Permit to expand into frac sand. Vernon Back made a motion to approve the request, Gary Everson seconded, Robert Tenneson abstained. Bice closed the public hearing at 1:20 PM. Geske made a motion to approve the Conditional Use Permit, Thompson seconded the motion. In reply to Brandt's question, Osegard stated this is not a wash plant so would be permitted as a screening operation. Brandt felt Sweeney had made some good points about the nature of the operation being just digging down deeper in the quarry floor, but Brandt is seeing from the existing footprint of the quarry and the end result that there will be a considerable expansion from just the quarry floor as it exists now. There will be some widening and some lengthening through the 26 phases of the mining operation. Brandt mentioned there is a pretty significant high wall on a couple of sides. Brandt wanted to verify if this was going to be just digging down or if it was going to be a significant expansion in terms of width and length. Jewell stated it is going to be an expansion and they are proposing to have high walls remain which has been talked about earlier and that is an option. Osegard added they are going to continue to operate the limestone quarry. Brandt stated he has traveled the access road to County Road D and it does wash out. There are some good plans for keeping the water inside the mine site, but asked how they are going to deal with the road. Brandt noticed it has been flattened out a bit, but it still meets the road at a slope. Osegard responded they had the County come in to open that section up and at that same time dug down deeper than the driveway and they channeled the water into the ditch rather than going across the road so it doesn't wash across the road onto County Road D. Bice inquired if there was anyway Kraemer's could do with less hours of operation on this site. Osegard didn't feel the owner would go along with reducing the hours as he feels very restricted with the operating hours that Trempealeau County has right now. Osegard has a hard time getting equipment into the quarries to let it sit for twelve hours without being able to operate it, so if it is restricted even further, it is going to make the equipment even more scarce. Osegard thought that where this quarry is located and that fact that they will be going deeper will make the quarry even less noisy. They have about 20 feet of fill to remove before they get

to the sand so they will be down even deeper. Bice asked if they could use the new hi-tech alarms. Osegard stated they could on equipment that is specific to that sand operation, but Osegard didn't know if they could outfit everything. Marino commented they are trying to make those changes, there are other alarms that they have been working with, they just have to find the right one that works and gives them the same safety. Kraemer's understand that is a concern. They do use strobe lights at night. Sweeney stated they are committed to working on that and they will find something with a caveat that it has to meet OSHA and MSHA requirements. Thompson commented they are also going to have trucks coming in to get rock that they will have no control over. Sweeney responded if they can control the loaders, etc. it will cut down on the noise obviously. Brandt brought up the issue of sand mining and the cyclists which had been mentioned in one of the letters. Thompson mentioned when the Apple Affair is going on they always contact him because he is the town chairman for that area. Brandt stated he was going to add to the conditions, that on the day of the Apple Affair (usually the first Saturday in October), that Kraemer's minimize or not run the trucks. Jewell mentioned they don't usually run on Saturday's. Upon Bice's inquiry, Jewell responded they occasionally run on Saturdays, but not typically as they try to do most of their work Monday through Friday unless there is a State job or there are weather related issues. In addressing Appleyard's issues about sound, Brandt felt what he was referring to was if Kraemer's are on top of a hill and Appleyard is on top of a hill, the sound goes out at that level. For clarification, Lien elaborated on the special hours of operation (the most restrictive in the County) for the Nelson quarry stating the hours are up until 5: 00PM Monday through Friday and Saturday until noon, because of one neighbor's noise and dust complaints. Thompson commented the road goes right through their property. Appleyard asked for a compromise, since they can operate 14 hours a day and he gets ten hours of "peace" during the summer, of 12 hours a day because then his property rights mean as much as their property rights – it's even. Osegard didn't see Kraemer's getting more restrictive as part of the problem it is the ag lime industry. Osegard has talked before with this Committee and with others that he has a really hard time getting the ag lime machine into this area because he can't run it. Geske commented he had to wait two weeks to get lime this year because Kraemer's were out. Osegard stated they are hauling it from Mondovi to Arcadia and he can sit in Buffalo County and run it 24 hours per day. Osegard added if they are restricted further then farmers will face the costs of hauling stuff in. Discussion followed on the work shifts, etc. for producing the ag lime. Lien commented it is really just a planning issue as one contractor is making lime and riprap at the same time. Lien added that same machine that is making lime can be making rock at the same time. Osegard stated all he is doing is pulling it off and crushing it, but what Osegard is saying is that there are very few lime mills in the State. Lien commented then it is an economics issue. Osegard responded it may be an issue of supply and demand, which Trempealeau County will feel it directly, because Kraemer's can't afford to stay in the County and produce lime for the farmers when they can run 24 hours in the neighboring counties. Osegard added the local farmers are going to end up paying more for transportation for their lime, because what is being put out can't meet near the demand for it. The farmers have been doing well, people have put on fertilizer for years and found that it doesn't work unless it is neutralized and there has been a severe shortage. Sweeney added a lime mill is very different from the standard that Lien is talking about as Lien is talking about getting a small amount of ag lime as part of an overall crushing operation but that is miniscule compared to when a mill is set up and plug that mill to make lime, that is when it is crushed way down. Those plants are very expensive and the people that have gone out of business are the ones that have way too much equipment. Kraemer's try to do what they can, but the equipment also has to be running and be cost effective. Quarne stated they have a CUP for lime; this permit is for sand so why are we even discussing the issue and suggested moving on. For clarification, Lien stated this CUP is open so that means all conditions are open for this site. Any conditions placed apply to the entire site. Lien added if the hours of operation are changed, it is for the entire site, not just for sand versus limestone/aggregates. Sweeney added the Committee has the option of doing whatever they want with the conditions and Kraemer's option is also to withdraw the request. Bice asked how the long the ag lime operation had been in place. Osegard replied probably close to forty years. It is a hammer mill which is extremely expensive to run. Staff recommended the following conditions.

1. Duration of the Conditional Use Permit is 20 years from the time of issuance. After the 20 year time period the applicant may apply for an extension in accordance with section 13.03 of the Trempealeau County Comprehensive Zoning Ordinance.

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 with the applicant and the land is within the permitted mine boundary. An adjoining landowner may sign a waiver, which has to be filed with the DLM, to allow the applicant to mine within 10 feet of the property line.
4. All structures and cased wells located on the properties within 2,500 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 practicable, whether or not damage has occurred as a result of the mining operations. A third party independent inspector shall be used and costs associated should be borne by the owner/operator of the mining site. Landowners may sign a waiver declining the inspection 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 allowed number of loaded trucks leaving the site is 80 trucks per day 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. A site-specific engineering analysis must be performed by a registered engineer to demonstrate that an acceptable slope stability factor is attainable at steeper slopes for the proposed high walls in the Reclamation Plan. If high walls are not deemed to be safe and stable the applicant must develop a new plan that is approved by the DLM and meets the requirements of Chapter 20 of the Ordinance and NR 135. All costs associated with engineering reviews for reclamation shall be at the cost of the applicant.
11. The Department of Land Management will notify the owner/operator of the mine site when all conditions are met and mining activity may start. Until notification from the DLM no unauthorized land disturbance may take place at the mine site.

Brandt made a motion to approve the conditions recommended by staff, Nelson seconded the motion. Jewell asked to separate the 80 loads from silica sand versus limestone as it is 80 total. Thompson asked if the tarping of loads was just for the sand. Sweeney asked that the Committee consider modifying those conditions so that the limit of 80 loads is on the sand alone and that the tarping be limited to the frac sand that would be coming out. Lien noted that Osegard sits on the Non-Metallic Mining Committee and one of the things they are struggling with is that separation of what has been referred to as "industrial sand" versus "aggregate" mining. Lien elaborated on the tarping and eventually stated that he would like to see everything tarped. After some discussion, Vold made a motion to amend and add to Condition #7 that the two types of mining be separated, Nelson seconded. The condition should read "maximum number of loaded trucks leaving the site with "industrial" sand is 80 trucks per day". Discussion followed on the definitions. Sweeney suggested using Ron Garrison's definition which is, "a high purity silica sand product sold for any of the following uses; glassmaking, metal casting, metal production, chemical production, painted coatings, ceramics, in factories, for oil and gas recovery, i.e. frac sand". This sand is classified as 2,1,2,3,2 3,2,2, industrial sand mining according to NAICS North American Industrial Classification system standard, industrial classification SIC. Lien felt if they called it industrial, they would be pretty close. Motion to approve the amendment to Condition #7 passed with no opposition, Quarne abstained. Brandt wanted to add Condition #12 that for any special event (Galesville Apple Affair) that should occur on County Road D that no sand would be hauled out during that time. The event holder should notify Kraemer's one week prior to the event, Geske seconded. Discussion followed on notification issues etc. Motion to add condition #12 carried with Quarne abstaining. Motion to approve and add all staff recommended conditions to the CUP passed unopposed with Quarne abstaining. Brandt stated in the past the CUP was approved with the haul route known. Multiple options for

haul routes are something new. Osegard commented that right now the purchasing people are so “gun shy” about signing up with anybody, to commit to any material, that they will not do it until one has an approved site and a producer. One can’t sign a contract just to sell the material. Osegard added it may not all go to one source. Brandt and Osegard agreed that when Kraemer’s know the haul route, they will notify DLM staff. Sweeney added that the CUP approval is broad enough so Kraemer’s have to come back with a road agreement when they know the haul route. Motion to approve the CUP application passed unopposed with Quarne abstaining.

Public Hearing – Conditional Use Permit and Reclamation Permit – Nonmetallic Mine -Theodore Konkel and Roman Lilla-Landowners, Trempealeau, WI, Stephen J. Doerr-Operator-Town of Trempealeau Chairman Brandt called the public hearing to order at 1:59 PM. Nelson read the public hearing notice aloud. Lien stated the public hearing has already been held on this application. At the public hearing the CUP was approved contingent upon getting conditions from the Town of Trempealeau. The conditions came out of the Town of Trempealeau which the Committee was somewhat bound to accept. After staff reviewed the conditions with Corporation Counsel, some of those conditions are difficult for DLM staff to enforce. The public hearing, today, is being held to be able to revise some of those conditions to be more consistent with other conditions that have been set in the past. At this point, Lien turned the meeting over to Corporation Counsel - Rian Radtke. Radtke began by saying those persons that were here last month remember that this was on the agenda to discuss whether this should be revisited and the decision was made to do so. The permit was approved and basically the Committee was approving conditions that were going to be provided by the Town of Trempealeau at a future time. The Committee did not get an opportunity to look at each condition and determine whether or not it was appropriate for the County and for this site. There are a variety of conditions that Radtke has concerns about, but what Radtke feels is more important is that the Committee go through each of these conditions that were presented by the town and scrutinize whether or not they are appropriate. Obviously these are conditions provided by the town which they asking this Committee to consider for this site. This Committee is not bound by these conditions, but can consider them and they’re discretion when adopting conditions. Radtke did provide a guide or a handout to everyone. In referencing that guide, Radtke stated when establishing conditions they do need to be related to protecting the health, safety and welfare or helping to alleviate some affects of the sand mining operation on things that the County is to consider when granting or denying a permit. Radtke felt it was appropriate to go through these conditions to see what is or is not appropriate. Radtke stated this is not to cut short the Town of Trempealeau’s input or anybody in the public, but really just an opportunity to go back and look at them to decide if this is in fact what the Committee wants to adopt and approve. Discussion followed on public hearing procedures and public input.

Radtke addressed the first condition, “Require the operator to post a bond or other type of financial assurance in an amount of not less than \$500,000 for damage to Bortle Road and \$500,000 for damage to Bear Coulee Road resulting from operations”. Radtke has talked to this Committee before about requiring a bond. The only way that can really be in effect is to require the operator to accept any and all damages even if they are caused by somebody else. For a variety of reasons, Radtke’s recommendation is to have the operator work with the town and County Highway Commissioner and come to agreements independent of this Committee, so this Committee is not dictating the terms or enforcing the terms of the exact bonds or reimbursement agreements. Radtke mentioned in the first condition there are terms that are incomplete as well. In the second to the last sentence it says, “the town requests that any funds collected by the County be shared with the town to defray the expense of damages to town roads”. Radtke commented that was very vague, what expenses and what is meant by sharing – 50/50? Radtke understands that the reasoning is to provide reassurances for road damage, but there is a better way to do it than this proposed condition. Geske commented we just tell them that they have to have a road agreement before they come to the Committee. Radtke responded that was correct and would be consistent in what this Committee has done for other CUP’s. Attorney Ben Quackenbush mentioned they had met with the Town of Trempealeau since this Committee’s last meeting and did what this Committee is now doing. He doesn’t have those conditions as they were going to speak to their attorney and get back to him. They have had 30 days to do so and have not and Quackenbush has contacted them twice within that

time for an update and have been told to wait. Quackenbush stated that Condition #1 is one that would fall under an agreement and they are willing to work on that agreement. Quackenbush stated that what was originally applied for listed Stephen Doerr as an operator. They are removing the operator and the owners are going to be the operators. At this time, they are hunting for a new operator, so what is approved today – they will be back in front of this Committee once they get a new operator and there may be more land added. They will be back shortly, but they would like to work with the Committee on getting these types of things approved so that they can get an operator, get those agreements and come back. Quackenbush added the Town did understand that would be something that could be worked out as an agreement. They just haven't gotten back to Quackenbush and they are not here today to tell him where they are at. Upon Bice's inquiry, Geske responded our condition will be that they have to come with a road agreement. Radtke suggested taking the conditions up one at a time. Geske made a motion that the owner/operator shall work with the town and county to have a road use agreement in place prior to mining activity. Quackenbush mentioned he didn't have a copy of what the County's conditions were. Lien replied the County conditions were pretty much the standard ones. Quackenbush noticed the ones put up by the County today are quite a bit different. Brandt felt this was already in the standard conditions so it might be appropriate just to eliminate #1 in the Town of Trempealeau conditions. Geske voiced that the Committee is not changing what Town of Trempealeau came with; it is just being put in their court to deal with them. Robert Walske who was present asked if the proposed site is all in the Town of Trempealeau. Bice responded that was correct. Quackenbush stated the original application included part in the Town of Dodge and that has not been approved under this current Conditional Use Permit that they have. They do plan on bringing it back in front of the Committee again once they have things ironed out with the Town of Dodge to include that area in the Conditional Use Permit. Quackenbush added that today we're just talking about the Town of Trempealeau. At this point, the Committee was waiting for Gamroth to return to the meeting with verification about the additional staff conditions placed on this CUP. Bice apologized to the public present for the fact that this was listed as a 9:30 AM meeting and it started about 2:00. If Bice can, he is going to redesign this a little bit so the schedule is a little closer. Brandt commented the hearings can start after the time, but never before. Bice and Nelson agreed it really isn't fair to the public.

Stephen Doerr – Registered to testify in favor. Doerr strongly encouraged that the Committee continue to support the mining application that was approved December 14th. Doerr shared that he has been removed but at the time that he came to the meeting today, he was still the operator legally. So he did a diligent job of preparing for this meeting today and presented each Committee member with a packet and he strongly encourages that the Committee support the Conditional Use Permit. Doerr respects the landowners and holds nothing against them. Despite getting a college education he learned a hard lesson from Ron Jordan who told him, "you don't own any land there is no reason for us to pay you anything". Doerr invested his life in this "career". The landowners have been through an ugly ride as Doerr failed them. Unfortunately, Doerr believes that their attorney is failing them as Doerr fought for fairness and that is the one thing that Doerr has worked at very hard in Trempealeau County despite being pushed down several times. Going to the County, and getting kicked around. Most people have been respectful to Doerr and he thanked them for that. Jim Johnson has been the most respectful in the County in dealing with this business. Doerr thanked Johnson for being respectful and for treating him as a professional. Doerr has completed a Master's degree in education and a graduate in Educational Administration after completing his criminal justice degree. Doerr has studied a great deal and to be disrespected in public meetings has been very damaging and obviously as one read the packet, Doerr acquired a buyer for the product over a year ago. He was retained as an employee in addition to an entrepreneur, but as one probably observed, over the last year another person (whom he had contracted for work) ultimately now works for that employer and Doerr's job has been eliminated because he does better with the contractor. Doerr respects that as that is business, but it is unfortunate that is how it works. Doerr differs with the attorney that spoke briefly here, in that, someone asked about the Town of Dodge because the permit was approved December 14th, 2011 and that vote was on fairness. Doerr knows some people have to protect their reputation and political position (if you will), and some people have told the Town of Dodge that they are not in this. Doerr stated if one looks at the public notice it specifically states the same application that Doerr filed July 18th and that it includes the portion of land in the Town of Dodge. They have been

summoned here, legally, given notice and they chose not to come here. In the packet, Doerr has shared with the Committee, despite a year of working with them, the only letter that they actually wrote (the voted to write letters but then they got into a little personal argument because Lilla's will is for this not to be successful because he does not want increased road traffic on Bear Coulee Road), so he (very sadly in Doerr's opinion) is unable to separate his will and his township judgement. This is why, in Doerr's opinion, they are not here today. However, just like earlier today, this Committee passed a Conditional Use Permit for the Kraemer mine company (their sister company) along with the landowner, Swanson, and the zoning of that property wasn't appropriate yet. Doerr has been arguing with the Director of the Land Management Department that not being zoned correctly is common practice in Trempealeau County. It is not unheard of for a Conditional Use Permit to be approved, without the zoning in its' appropriate place. It happened again today and it happened a couple months ago with a restaurant in Hegge. Doerr would like to see (Doerr has nothing to gain but is fighting for fairness) this Committee, (rather than "kicking Doerr in the face" when someone comes in and comes in and asks what is the deal with the Town of Dodge portion) do it fair and treat it fairly. Doerr reiterated this permit was already approved December 14th. This Committee has in front of it, Chapter 10, Comprehensive Zoning Ordinance, which requires a letter. This Committee received a letter and Doerr gave it to the Department and with that letter came the Town of Dodge conditions. They finally did it despite many of the things that they didn't do that they said they were going to do and voted to do. Doerr brought it here today. Doerr hoped that this Committee would treat this application and landowners respectfully, in the fact that the application was approved on December 14th as the application was submitted. That application was never amended, nothing was ever taken out of it and on December 14th it was approved. Now granted, for Lien, it is difficult for him to explain to Lilla that it was approved even though he didn't physically show up here; it is a reality that is legally acceptable, by practice and by Chapter 10, Comprehensive Zoning being met, as well as them weighing in with conditions from the Town of Dodge. It is not the perfect scenario, but then again, Doerr has watched this Committee observe a lot of applications come here and things weren't always perfect. Sometimes there were cities begging the Committee not to pass something. There were people begging because their children died from water pollution allegedly from the City of Arcadia dump. Doerr has some investigation on that and the reason he does it is because of fairness. Doerr sees things and it just upsets him and that is why he keeps fighting. Doerr accepts that he has been removed now as operator because he cannot separate himself and he understands why and that is because he could not separate himself emotionally from the lack of fairness that he has observed through the process. Doerr hopes that this Committee will actually see the evidence that sets before them, with respects to the Town of Dodge, and if the attorney that now represents them would allow that, Doerr felt that would be a wonderful thing for them to address it professionally. Geske clarified that on December 14th, 2011, the Committee gave an ok for the Town of Trempealeau, not for the Town of Dodge. Dodge was never brought up and it was just the Town of Trempealeau and their conditional use. It was only for the Town of Trempealeau. Doerr stated he would like to hear an intelligent man like Rian Radtke refer to, what was the application, and legally what was or was not removed and what was ruled on December 14th. Geske stated the motion made was for the Town of Trempealeau only. Doerr asked Radtke if that was a legal maneuver by the County to separate it out (pieces of an application) without permission of the applicants. Radtke apologized and stated that he answers questions of the Committee. Thompson commented that Doerr asked the Committee to remove that part so the Committee could act on it. Geske agreed. Bice stated to the Committee that they needed to move forward.

Lien stated he believed that he set forward the standard recommended conditions that are done on every site. Brueggen had e-mailed those conditions to Quackenbush. Lien felt, at this time, that the Committee could go through and add and delete from the Town or County conditions, like would be done on any other permit. Lien stated the Committee had already gone through #1. Lien was going to type in red, the additions or amendments. Lien felt the language need to read only that "the owner or applicant will work with the town or county to enter into a road use agreement".

Condition #2- Lien felt that was a town issue. Not something the County should probably have as a condition, but it is something that the town could enter into as part of their agreement. Quackenbush stated they discussed that with the Town as well and negotiating it into the agreement. Quackenbush added that Town

Chairman Wilber stated he wasn't agreeing to any of it until their attorney got back to them, but Wilber understood where Quackenbush was coming from. Quackenbush commented it is something they would prefer to put in the agreement. Radtke commented that what this provision is actually requiring, the County requiring a condition that the operator insures the town, is something the Radtke felt this Committee shouldn't really be in a position to do. Radtke recommended deleting this provision in its entirety. After some discussion, Quackenbush asked if the same thing could be done to Condition #1 so it is the County's condition. Radtke responded in the end these should all read that they are County conditions and shouldn't be under the heading of Town of Trempealeau. Upon Radtke's inquiry, Lien stated action was taken on Condition#1 as Geske had made a motion and Nelson seconded it. After some discussion, it was decided that the changes would be made to the Town of Trempealeau conditions and then they would be adopted at the end. At this point, Geske withdrew his motion and Nelson withdrew his second to the motion.

Condition #3- Require all trucks in the operation to be covered with tarps to prevent fugitive dust. Lien commented that has pretty much been a standard one.

Condition #4 – Lien stated there was a lot of debate on that, “prohibit drilling or blasting of explosives on the Konkel/Lilla properties. Lien added there were discussions pertaining to the CNC Shop adjacent to this site. CNC had brought in information and testified that there could potentially be damage to the CNC machines if blasting would occur. At one point in time, blasting was recommended to be withdrawn and there would be no blasting. Lien asked if it was the applicants wish to have blasting in there as an option. Quackenbush responded that being that there will be a new operator, there may need to be some blasting, at some point. Quackenbush stated he has sent letters to all neighbors within 2500 feet. He received a response from one neighbor, but Mr. Ratacjek did not respond. Quackenbush will try to address him personally and Quackenbush would like to get an agreement with him in order to settle his concerns on blasting. Quackenbush added the applicants would prefer to be allowed to blast. If the Committee is not prepared to do that until Quackenbush has an agreement with Ratacjek, Quackenbush stated that could be discussed when they come back in front of the Committee. Bob Walske was present and stated he also does not want blasting and that was one of the biggest “hang-ups” for his family. Walske's property is within 1,000 feet. Brandt thought the Committee had accepted the rationale/concern of the machine shop and approved the conditions with the understanding that this would be a nonblasting site. Brandt suspects the reason Ratacjek didn't respond to Quackenbush is because they had already understood that “ship had sailed”. Brandt stated this was problematic for him as the Committee had already approved this with the understanding that there would be no blasting and the Committee was assured that there would be none. Lien suggested taking this up when the applicant comes back for the public hearing for the permit on the property that is located in the Town of Dodge. Walske commented he has property in both townships but his residence is in the Town of Trempealeau. Radtke stated if this was approved as a nonblasting site then he felt this was something that should be discussed right now – the issue as to whether or not it should become a blasting site. Radtke felt that was something that the applicant would need to bring back to change because there will have to be a variety of information that will need to be presented before this Committee can make a valid decision. Radtke continued that it would be more appropriate for the applicant to come back with that request, notify the public again, and present information and discuss it at that time. Quackenbush stated he was potentially ok with that, and to make sure clarified that he wasn't involved with this from the beginning. The application that the Committee received was applied for as a blasting site, so the Committee has the information as if it was a blasting site and has seen that information. It was withdrawn by the operator in hopes that he would be able to move forward with approval sooner, not because it doesn't necessarily need blasting. As far as the neighbors not responding because they thought it was a done cause, the letter that Quackenbush sent them does state that it is being brought back in front of the Committee and that all conditions can be changed. Quackenbush will do that again to try and make things clear before the applicants come back again. Geske stated doing that would change the Conditional Use Permit that the Committee already agreed on and the Committee is not doing that right now, the conditions are being clarified as to what the County can legally do. Geske felt that would be changing the permit (putting the blasting back into it). Doerr interjected stating the blasting was never withdrawn and that is the type of stuff that upsets him. Doerr stated he is not a part of this anymore, but the abuse of saying that

Doerr withdrew something from his application is absurd. Doerr added the yellow booklet is the application and it was never amended. Quackenbush commented it is just a confusion of words, it was never withdrawn from the entire application and it wasn't approved with that condition. Quackenbush understood that it was noticed as a public hearing to change the conditions so therefore all the conditions can be changed but Quackenbush is fine with the way they are because they will have to come back anyway. Walske stated that he had the letter that Quackenbush sent and nowhere does it state blasting. Quackenbush responded that he did not say it said blasting, it stated that all the conditions would be reviewed. Walske stated they are going by what the Town of Trempealeau letter stated and that it was passed as a no blasting site. Doerr commented this thing was legally published for a hearing for both the Town of Trempealeau and the Town of Dodge and everyone was notified and it had to be legally noticed to start over. Lien read from the meeting minutes, "Doerr asked the Committee to look at condition #22. Doerr stated that the township would ask this Committee to impose on Konkell/Lilla the expense of inspecting all neighbors' structures and wells, even though condition #4 states there will be no blasting, etc. Doerr felt with blasting, one could anticipate these types of expenses because one is spending less money to move material off the site, but if one is not blasting then one does not have the luxury of moving 10,000 ton off of the site, it is just slowly scraped off." Konkell/Lilla accepted Condition #4, in the Town of Trempealeau and in discussion in the Town of Dodge invited Condition #4 because it would help with neighbor relationships. Doerr knows the mining can be done without explosives. They have accepted that added expense of not using explosives, but to incur the responsibility of Condition #22, given that there is no blasting; it doesn't make any sense to Doerr and is abusive discretion in Doerr's opinion. Lien stated that is right from the minutes. Doerr responded those are totally out of text because he is referring to the approval of December 14th. Doerr stated December 14th is when the permit was approved and there were no conditions.

Lien continued with recommended Condition #5 from the Town of Trempealeau which stated "Prohibits hauling of residual materials to the site". Lien stated the applicant didn't have an issue with that, at the time of approval. Quackenbush commented that right now they can't wash anything anyway so he wasn't sure what would be brought to the site. Quackenbush stated the Town didn't want the applicant bringing stuff back in that had been hauled out and possibly rejected. No one expressed an issue with the condition.

Condition #6, "Restricting trucking hours to Monday-Friday, 8:00 AM-6:00PM May through September or 8:00AM-4:00PM, October through April, prohibit mining operations on Saturday, Sundays and State or Federal legal holidays. Maintenance in the mine will be allowed on Saturdays from 6:00 AM until Noon". Lien stated he believed this issue is addressed at the County level through the Standard Hours of Operation. Lien added that last month the Town of Trempealeau stated very clearly that they listen to the citizens and that is how they stated their conditions. Lien noted that the Committee listened to one lady when the conditions were set for the Nelson/ Bue mine, however citizens have not been listened to since that day when something more restrictive has been requested. Lien continued that the County does have standard hours of operation which have been held firm with the exception of the Nelson/Bue site. Brandt felt this might be the condition that the Town of Trempealeau is the most insistent on especially if they have taken input from their residents. Geske commented he could see the 8:00 AM because of fog, but otherwise the hours are 4 hours shorter than anyone else. Quackenbush asked for clarification of the standard hours of operation. Lien commented on the maintenance in the mine as he has repeatedly told mining companies that the hours of operation are stated for mining activity and if they want to sit there all night long and change a motor on something or repair a piece of machinery (and stay under 45 decibel levels), Lien has no issues with that. Doerr commented on the mining hours. Bice felt the Committee has always taken their guidelines from the Town and if that is what the Town has put in the Condition then Bice felt that the Committee needed to stand behind that and he didn't think the Committee should vary from what the Town has approved. Brandt made a motion to accept condition #6 as stated by the Town, Low seconded. Motions were then withdrawn as all conditions were going to be approved at the end of discussion on all the conditions. Quarne noted that the conditions restricted "trucking hours" not mining. Quackenbush commented that the applicants would like the County's standard hours for mining. Quackenbush felt the towns' main concern in regard to this condition was buses in

the morning. Discussion followed on bus times and road use agreements. Radtke suggested leaving the condition in place until such time when a road use agreement is in place with the Town.

Lien commented that Condition #7 refers back to the Road Use Agreement. Radtke and Quackenbush agreed it could be dealt with in a Road Use Agreement.

Brandt commented that Condition #8 is usually something that the County does. The Town is asking for 100 foot setback with a signed waiver and typically the County has been at 50 feet. Quackenbush stated the applicants did not have a problem with that condition.

Lien read Condition #9 and stated tracking pads are standard language in the Ordinance, however, Town of Trempealeau has put a length to it. Consensus in the room was that the condition was fine.

Lien read Condition #10 requiring a Reclamation Plan to require operator to grade property at no more than a 4 to 1 slope in the setback area. Lien stated it seemed conflicting because in setback area there is no mining activity. Quackenbush stated the Town was talking about changing the reclamation plan from a 3 to 1 slope to a 4 to 1 slope. Discussion followed on this condition.

Lien read Condition #11 which stated, “restrict trucks involved in operating from traveling at speeds greater than 45 miles per hour”. Lien commented that staff had issues with that immediately as they would need clarification on that because there is more of a tracking hazard travelling on State Highway 93 at 45 miles per hour. Quackenbush clarified that the Town was referring to Bear Coulee Road and Bortle Road. Radtke’s opinion was that this could be deleted as the speed limit on those roads is already posted as such.

Quackenbush clarified with Lien that Condition #10 would stand as is or be deleted. Lien felt there was no need for 4 to 1 because there will be no disturbance there.

Condition #12 – Radtke commented that this is something that is similar to what came up last December regarding indemnifying neighbors’ property values if they were to decrease. There is a variety of reasons why that is very difficult for the County to enforce such as what is meant by “decrease” in property values – is that assessed value or a sale value? Requiring them to provide a written guarantee secured by a mortgage – now we are recording documents on titles of properties all within one mile. Who would ever purchase a parcel within that mile area for more than one dollar because the sand mine company or the operator is going to be paying the balance through part of this financial assurance. Radtke stated it really just doesn’t work. It sounds good but it doesn’t work and it is certainly something that the County should not get involved in and try to enforce because the County would be put in a position where the County is going to have to know what the property value is coming in and where it is at the time of sale or at a later time. The County is going to have to be doing the assessments or someone else is going to have to provide one from each side (get an independent) and try to determine if property value has gone down and also maintain the financial assurance and make sure it is in place. Radtke added those are things that are very difficult for the County to get involved in. It is Radtke’s recommendation that if there are neighboring property owners who have concerns about their property value being decreased (which is a legitimate thing for this Committee to consider) then the Committee has to start thinking about whether or not this is a site that is appropriate for a permit. If it is not (because of property value concerns) then leave that up to the operator and the property owners to sit down and work something out, outside of the County’s context. If they come back before the Committee and say they have everything worked out amongst ourselves, then it becomes a site that may be appropriate for mining. Radtke felt this was a cleaner approach from the County’s perspective than trying to determine property values or maintaining those types of agreements. Radtke felt if it is done on this site it is likely that the County would be doing it on all sites and then perhaps a whole department would be needed to oversee that. For those reasons and others Radtke recommended that this be removed and taken up prior to the permit being granted. Discussion followed.

Quackenbush commented that at the Town of Trempealeau's meeting, the Town stated this was put in for one landowner, possibly two, specifically one that is not within 2500 feet of the proposed mine (Kiedrowski). Quackenbush stated he had told the Town basically the same thing that Radtke just stated. Quackenbush stated he has done this with other mines that he has represented. At this point Quackenbush asked if the Committee was moving in the direction of denying the permit after it has already been approved because he doesn't have that agreement? Radtke asked if there were any property owners that appeared and presented evidence of this concern. Bice felt the goal here is to resolve this so that it is clear what the County's ability is to enforce. The Town basically stated here are the rules and what we want you to do and some of those things the County is not in a position to enforce. Bice stated even though the application on the agenda talks about a reclamation, the Committee's goal is to try and sort out what they can and cannot enforce. Lien stated this is a public hearing where we can add or delete any of the conditions related to this mine and public input can be taken. Bice decided to hear the rest of the public hearing testimony. At this point Radtke left the meeting for a short time.

Kathleen Walski – Registered in opposition but not testify.

Robert Walski – Registered to testify in opposition. Walski commented he is sort of testifying as things move along.

It was decided to just leave Condition #12 as is and move on to Condition #13. Discussion followed on whether or not the Committee would be able to deny this permit today. Lien felt the Committee had the ability because it is a new public hearing but did not think that was their intention. Low stated he heard it was approved contingent upon the Town of Trempealeau's conditions. Geske stated that is the way it was done to start with, but the conditions that came forth put the Committee into a tizzy so the Committee is trying to sort them out because the applicants couldn't quite operate with the conditions the way they were. Brandt explained there are circumstances in which a permit can be re-opened and reconsidered and one of those circumstances is staff recommendation and that is where we are at right now. Thompson felt Lien's idea was to get rid of the conditions that the County can't enforce.

Condition #13 – "Prohibit staging or loading trucks and other equipment on Town of Trempealeau roads. Committee consensus was the condition was pretty standard and not an issue.

Lien continued with Condition #14, "if the operator desires an area for fueling equipment, require operator to establish that area in a non-open mine area on the site." Lien didn't recall seeing anywhere in the plan where there was a fueling station, etc. Lien didn't think this should apply unless the applicants plan to erect a fueling station on the property. Doerr gave an explanation of why he felt the Town of Trempealeau put this condition in place.

Condition #15 – It was felt that is why everyone is here today is to get a non-metallic mining permit.

Condition #16 – Require the operator to install a minimum of four (4) scientifically approved air quality monitors around exterior boundary of mining site and shall be available for Trempealeau County staff review and data collection at all times, with the type or brand of monitor to be pre-approved by Trempealeau County staff. Limit of 30 micrograms per cubic meter PM10 or lower shall be a personal goal for the operator to achieve related to air quality monitoring. Lien stated that language is probably verbatim to what the County has done on some other mining sites. Since then, staff has learned that is not an adequate way of assessing air quality. Lien thought this was something this Committee needs to address in the future, but there needs to be a type of monitor that actually collects the information because there are all kinds of PM 10's floating around out there that have nothing to do with mining activity. Lien explained staff didn't realize that when they required it on a couple of the mining sites and have since learned that even though they are not that expensive, they really aren't doing anyone any good. Lien understands the concerns and it is an issue that needs to be addressed, but Lien wasn't sure that this was the time or place. Lien suggested perhaps it should be done in

the Ordinance rewrite with the Advisory Committee. Bice inquired what Lien wanted to do with this condition. Lien responded the Town recommended it and he understood why, but the County has since learned that the public isn't really benefiting from the mines doing that. Doerr suggested the condition be deleted. Discussion followed on other permits that have this same condition and that it was usually only required when a mine had processing equipment. Lien recommended that the condition be deleted because of the type of operation that it is.

Condition #17 – Require operator to pay all expenses and legal fees resulting from mining operation. Lien wasn't sure what that meant. Doerr interjected stating the Town is seeking to be reimbursed for the attorney fees that are fighting the mining operation from being able to go ahead. Doerr added the Town of Dodge has the same condition but actually spelled it out. Bice stated this is something that is between the township and the operator. Upon Bice's inquiry, Lien stated he couldn't enforce something which he didn't understand or was unclear about what it meant. Lien clarified the County could delete this condition but the town could still take that up with the operators.

Condition #18 – Require operator to remediate any ground water contamination within 2500 feet of mining site at operator's sole expense. Lien felt this condition was probably duplication of what the County has in place in the Ordinance. If something like a well running dry or contamination would take place it becomes a civil issue and then it is out of the Committee's control. Committee consensus was that this should be eliminated because of duplication.

Condition #19 - Prohibit washing or other processing of non-metallic minerals on the site, screening permitted. Lien felt that was just a clarification because the plan does not have washing or any other processing proposed in it at this time.

Condition #20 - Prohibit a high capacity well from being constructed or installed on the site. Brandt felt this condition was also just for clarification. Lien noted that if they would want to put in a high capacity well or add processing to this permit, the applicant would need to come back before this Committee.

Condition #21 - Establish a term of not more than 10 years for permit and require operator to give notice to Town prior to renewing permit. Lien believed the application was for ten years and then the applicant would have the option to apply for a two year extension at the end of the ten year period. Doerr interposed that the application was for 20 years (as approved on December 14th) and the reason why is because of the unknowns of the viability of the market. Lien clarified that because the Committee approved this site, with the conditions of the Town of Trempealeau, the owner/operator had been able to move forward with this site. We are having this Conditional Use Permit hearing today to "clean up" some of the conditions and revise it, but since the site had been approved, the applicant could move forward under the conditions that were there. Some of the conditions that were there, Lien felt the applicants thought it was hard for them to obtain, and the County felt some of the conditions were hard for the County to enforce, but at no time has this Committee stopped or prohibited the applicants from moving forward. Lien asked if the applicants had an issue with the Town's condition of it being a 10 year permit. Lien clarified that there is no limit on the two year renewals. Upon Doerr's inquiry, Lien clarified that there was no application fee for a two year extension. Quackenbush clarified that the procedure was similar to this, where the conditions could be changed. Lien stated that was correct. Quackenbush stated they would prefer a 20 year permit. Lien felt they could apply for a two year extension after the 10 years.

Condition #22 - All structures and wells on the properties immediately adjoining the mining site shall be inspected and the condition of each shall be recorded prior to the commencement of any work at the site. These wells and structures should thereafter be periodically inspected to determine, to the extent practicable, whether or not damage has occurred as a result of the mining operations. Inspection costs should be borne by the operator. Lien stated this had only been required by the County when there was blasting involved or a high capacity well. This site does not have either, so Lien didn't feel this applies in comparison to other

sites/plans. According to Lien, Radtke's recommendation was because no blasting is involved that it should be deleted. From staff point of view, Lien felt they would have a hard time justifying this condition because there is no science behind it. With blasting there has been a lot of research done. Bice clarified that Lien was saying the town could do what they wanted, but the County would have a hard time enforcing that one. Lien wasn't sure about the towns' authority because the town doesn't have the authority to be more restrictive than the County. Lien understood the towns' recommendation but the County would be hard pressed to enforce this recommendation when blasting is not occurring. Quackenbush stated they would accept the condition if they were to put in a high capacity well or blast. Committee consensus was to delete this condition.

Condition #23 - Must obtain an operator's license from the Town of Trempealeau. Upon Brandt's inquiry as to what the Town was talking about here, Quackenbush replied that the Town of Trempealeau requires an operator's license for many different things.

Condition #24 - Any person or entity that violates the above will pay forfeiture according to the Town of Trempealeau's Citation Ordinance #2005-003. Quackenbush stated this is the forfeiture if one doesn't follow Condition #23. Lien stated that Radtke felt both Condition #23 and Condition #24 were town issues.

Condition #25 - No trucking will be allowed for one (1) week after blacktopping on Bear Coulee Road (pending receiving TRI-D grant). Lien felt this was a town issue because the town has jurisdiction over Bear Coulee Road. Lien stated the Committee has completed the recommendations on this site plus there are the standard conditions as well as the staff recommended conditions which are pretty much verbatim from the Ordinance. Lien clarified that the only staff condition was, "the owner/applicant shall work with the Town and County to enter into a Road Use Agreement". Brandt made a motion to approve the standard, staff recommended and Town of Trempealeau only conditions as amended, Nelson seconded, motion carried with Quarne abstaining from the vote. Bice hoped that the applicants could go back to the town of Trempealeau and work out any other issues. Doerr stated in the original motion the one condition was having the Town of Trempealeau approval and asked if that was recanted. It stated in the December 14th conditions that one could only go to mining if they had the approval of the Town of Trempealeau. Quackenbush stated Condition #12 was tabled when Radtke left and never went back to it. Upon Doerr's inquiry, Thompson stated they are free to go ahead as far as the County is concerned as long as they meet the Town of Trempealeau's requirements. Bice agreed. Geske clarified that the Town of Trempealeau would be receiving the information that this Committee went through today as they need to see what this Committee did. Brandt stated this Committee has just approved changes to the Town of Trempealeau's conditions and have incorporated them into the County, plus standard, plus staff recommended conditions. Upon Brandt's inquiry, Lien recommended that the Conditional Use Permit be approved again with the conditions stated. Brandt made a motion to approve the Conditional Use Permit with the conditions as stated for the Town of Trempealeau only. Currently, Lien stated he has received nothing from the Town of Dodge so at some point in the future the applicants will be coming back, Low seconded. Radtke returned to the meeting at this point. Lien updated on what had taken place. Radtke stated the permit has already been approved. This Committee is just modifying the conditions to read as such. Brandt and Low withdrew their motions on the advice of Corporation Counsel. Konkell and Lilla have a permit with a new set of conditions. Upon Doerr's inquiry, Lien responded that the condition that was set December 14th, 2011 has been removed. Lien responded by stating the new conditions today, and Committee approval, all other conditions prior to that are removed, only in the Town of Trempealeau. Geske reiterated they cannot start mining until they have met all the conditions. Bice closed the public hearing at 3:47 PM.

Zoning & Sanitary Specialist Position – Lien stated Emery Palmer has resigned from this position. His last day is May 16th, 2012. Lien continued it will be a great loss for the Department. Lien talked to Human Resources about contracting for Palmer's services. Palmer has responded to Lien with a proposal that he is willing to provide the zoning, Uniform Dwelling Code, construction, floodplain, shore land, DNR well delegation and POWTS inspection and consulting services for up to 20 hours per week at a rate of \$50.00 per hour and 55 cents per mile for inspections. Lien informed the Committee of what Palmer's salary amount per

hour was and also what his total hourly rate with benefits totaled. Lien needs Committee approval to fill that position. Lien's recommendation to the Committee was that the position be advertised and filled as soon as possible. Lien wasn't sure that the County could afford to pay \$50.00 per hour for consulting but it is allowed now because of the union situation. Lien explained that Palmer was an excellent employee and did very good quality work. Lien felt the position is not one that can be absorbed. Lien foresaw this coming so he has been encouraging DLM staff to get their POWTS and soil testing licenses. Lien holds the current licenses so he can fill that capacity until someone is hired. Nelson made a motion that Lien pursue hiring a person to fill that position, Brandt seconded the motion. Bice asked if, in the next year or two, is there was going to be enough work that it wouldn't pay just to go ahead and contract with someone. When one contracts with someone, it is kind of "cut and dried" if they only work five hours on a system. Lien responded Palmer is approximately \$20.00 more per hour than what the County is currently paying for that position. Lien didn't feel the DLM budget could absorb that. Lien added Palmer is only agreeing to do it for 20 hours per week. Lien stated someone is needed more hours than that. Lien explained with the economy there have been less new homes, but ironically there have been a lot of septic replacements, so that part has been very busy plus the State is requiring the DLM to do the maintenance program which is now requiring that every parcel in the County be visited to determine if there is a septic there and whether it is compliant. Bice inquired if private enterprise couldn't do a larger portion of some of that work and maybe just have Palmer go out one final time to look it over before they cover it up. Bice felt there was an overlapping of government here. Lien replied that the Uniform Dwelling Code went into place in 2005 because the State felt contractors weren't providing good equitable service to the public. Way before that, the POWTS program went into effect because there was private industry out there that was not providing good service to the public. The County's job is to make sure that septic systems do not go into floodplain and that soil tests are done in compliance with State requirements. Private industry is going to let things slide that County government will not as their job is to keep health, safety and welfare and the best interest of the public. A discussion followed about opening up the contracting to the public. Lien reiterated that he felt a full-time person was needed in this position and would like to expedite the process through Human Resources to do so. Discussion followed on possible help in the interim. Bice commented he has done several projects where he had the systems designed, and spent a fortune to get State approval. Not once did anybody from the State ever come and inspect. The idea was that the State said it wasn't a big deal as you have contractors and specs and everything is working and it will be fine. It did work well and that is why Bice thinks we should be able to allow the private individuals to get somebody to come in, design the system, lay it out, and submit their plans. Bice stated it is just less employment time for Trempealeau County, but either way, Bice would encourage Lien to look for someone to contract this out. Upon Nelson's inquiry about paying \$50.00 per hour for contracting, Bice responded what one would pay a contractor is not real significant when one adds up all the costs and benefits, a vehicle, etc. so if the County can get someone to do that efficiently, that would be a real bargain. Lien commented that he provided the position information for wages and benefits to the Committee. Motion to approve filling the Zoning and Sanitary Specialist position carried with Bice and Low voting in opposition. Discussion took place on how the position will be handled in the interim.

Board of Adjustment Appointments - Lien reported that Obert Lundberg and Nancy Horton's Board of Adjustment terms are up for re-appointment. Lien explained that this Committee makes a recommendation and it is forwarded onto the County Board Chair and he appoints them at the next County Board meeting. Lien stated Lundberg has expressed that he is at a point in his life where he no longer wishes to serve on that Committee. Board of Adjustment members are appointed and they need to be from different districts. At one point in time, Jim Schwartz who is the Director of Western Dairyland, was on the Board of Adjustment as was Obert Lundberg and both of them were in the same district, so Schwartz resigned so there wasn't any conflict. Schwartz had indicated that if Lundberg ever resigned, he would be willing to serve on the Board. Lien felt he was an asset to the Board. Schwartz has agreed to serve on that Board. Horton has stated she would be willing to serve another term. The terms are 3 year - staggered terms so there is some continuity on the Committee and there are five members. Lien stated the two alternates are Robert Tenneson and Randy Syverson. Bice wanted to postpone the decision so that he could have some time to research it. Lien responded the problem with postponing is there appointment deadline is in June. By the time this Committee

would meet again, they will have lapsed if it doesn't get to full County Board. Brandt made a motion to approve the recommended appointment of Schwartz and Horton to the County Board Chair, Quarne seconded the motion. Brandt stated both of these people have served before and they have served well. Lien explained that the Board of Adjustment structure is set up through State Statute as to how they are appointed, etc. Bice felt that this is a very critical appointment and that the backgrounds should be researched. Bice knew very little of these people. Brandt stated Schwartz has been the Director of Western Dairyland for almost thirty years and is living in and has an incredible commitment to this community for at least 30-35 years. Brandt stated Vold served on the Board of Western Dairyland for years so he can speak for Schwartz. Brandt stated Horton has degrees in biology, has served on a number of advisory committee's to the County Board including the DLM. She has been secretary of the Board of Adjustment and has attended not only the trainings, but takes the job so seriously that she always investigates the site and interviews the people that will be affected and has operated fairly throughout her time. Brandt stated these are excellent candidates. Nelson questioned whether someone from the agricultural sector shouldn't be in one of these appointments and Bice agreed. Brandt responded Horton has lived on a small farm and farmed for 30-35 years. Nelson commented we need someone from a farm that knows what is going on in agriculture. Bice commented if he gets his way, this will be voted down and Committee would take another month to make a decision. Committee members made some other suggestions for possible candidates. Bice felt the Board of Adjustment is a very, very important Board and they make incredible decisions and they need to understand what is going on, they need to understand people's rights and the laws. Brandt inquired if Bice was suggesting that the two candidates are not informed. Bice replied he didn't say that and he had no intention of saying it. Bice stated he would be voting no. Bice hoped that the Committee will be able to research these people and perhaps recruit someone. Bice wouldn't recognize these people if he saw them. It is important as this Committee has been elected to make sure that we do the best job possible. Bice didn't feel the Committee should take these appointments lightly. Brandt clarified the Committee is not appointing, it is recommending to the County Board Chair. Low commented he doesn't know these people at all and he takes the Committee recommendations. Low is elected by his community and he would like the chance to talk to these people before he recommends them in order to fairly represent his constituents. Bice clarified that a "yes" vote means to take the recommendation and approve them, a "no" vote would be to not approve them. For clarification Lien asked if member should be saying, "this issue is coming up I'm going to vote this way on it". Lien felt it might affect other votes. Geske commented that the Chair needs to be more neutral than anyone on the Committee. Quarne stated that what Roberts' Rules of Order recommends is that the Chair is neutral, votes last and only to break ties. Radtke stated that was true and Roberts' rules also says the body itself decides the level of formality. If someone is commenting of how they are going to vote, if the majority of the body says that is not acceptable, a point of order has to be made and if the Chair rules that it is in order, one can appeal the chair and say put an end to this, but if nobody says that, it just continues. Bice's goal is to say, he thinks we are doing an injustice here and he feels it is important because he is here for that reason. Bice asked how he could give the Committee his impressions if he doesn't specifically say that. Geske mentioned he has never been on a Committee where the Chair imposed himself on the other members. Radtke agreed. Geske stated the Chair needs to be in charge of the meeting, run it, and vote. Discussion followed on this issue. Low stated he needs to be brought "up to speed" on what the Board of Adjustment does. Brandt stated, that in his mind, when staff recommends something, they have done the research and to say that they haven't been researched or they're not qualified is to insult the staff's recommendations. Low felt he would feel much more comfortable knowing what he is voting on or giving approval to. Upon Lien's inquiry about giving an explanation on the Board of Adjustment, Bice didn't think there was time but asked that it be on next months' agenda. Geske commented if Low is unsure, an abstention may be the best. A voice vote was taken; Quarne – no, Low – abstain, Vold – yes, Thompson-yes, Nelson-no, Brandt- yes, Geske – yes, Bice – no. Motion passed 4 to 3 with Low abstaining. Brandt called for point of order as disgust was shown in the vote.

Appointment of Committee member to Western Area Association Board of Directors - Lien stated WALCE (Wisconsin Association of Land Conservation Employees) and WLWCA (Wisconsin Land & Water Conservation Association) has merged into one unit. Lien received an e-mail from Greg Stangl, the area coordinator out of LaCrosse. Lien read aloud from the e-mail "The WLWCA bi-laws state the for each

county within an area, the LCC shall appoint one person and the Conservation Dept. shall appoint one person to serve as the Area Board of Directors and vote in the elections of WLWCA Board of Directors. With upcoming LCC meetings in the month of May please include in your agenda's these appointments". Lien stated basically one person is needed from this Committee to serve as the area representative from our County and one person from the DLM staff. Lien is willing to serve as the staff person and as the County Conservationist if that is the Committee's wishes and then a Committee member should be selected to be the Board representative. Brandt recommended Bice if he had the time to serve. Bice commented he has no idea what this is or what they do. Lien commented it is agriculture based and is the Land Conservation side so it a whole different realm of people. A lot of the issues are funding sources because on the ag side of things funding has been declining. The State has put mandates on that need to be complied with but supplied less funding. Upon Bice's inquiry, Lien responded dues are paid to the WALCE organization, but dues have not been paid to WLWCA for many years. Bice inquired about just sending Lien. Lien responded if the Committee wants to have a voice and be heard then someone from the Committee should be sent because as staff, Lien would not be a voting member. Brandt added they talk about regulations. The issues, especially in terms of agriculture have to do with who it is that sets the standards and who it is that enforces those standards and what sort of funding is used to do that. There will be people arguing who want to strengthen these standards and enforcement and those who just want to ignore them. Bice expressed that he would like to save the county money by only sending Lien. Quarne stated that Bice should attend because he would get to vote as Lien would not. Geske commented Bice would be representing agriculture so he would appreciate it if Bice would go. Bice agreed to be the Committee representative. Brandt made a motion that Bice be appointed to the Committee of the Western Area Association Board of Directors, Nelson seconded, motion carried with no opposition.

Surveyor's Report – Lien referred the Committee to copies of the Surveyor's reports and bills in their packet. Nelson is working in Township 20 North, Range 8 W. Nelson is making a lot of progress there. At this time, due to another engagement, Geske left the meeting. Lien explained that we are in the last couple years of completing this 10 year project and then the entire county will be remonumented. Quarne made a motion to approve the surveyor's reports and bills as presented, Nelson seconded, motion carried with no opposition.

Director's Report – Due to the length of the meeting already, the Director's report was waived until the next meeting.

Next Regular Meeting Date – The next regular meeting date was set for Wednesday, June 13th, 2012 at 9:00 AM.

At 4:25 PM, Chairman Bice adjourned the meeting.

Respectfully submitted,
Virginette Gamroth, Recording Secretary

Michael E. Nelson, Secretary