

ENVIRONMENT AND LAND USE COMMITTEE
Department of Land Management

REGULAR MEETING MINUTES
July 11th, 2012 9:00 AM
COUNTY BOARD ROOM

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

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

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

Staff/Advisors present: Kevin Lien and Virginette Gamroth

Others present – Anne Gierok, Peter Gierok, John Cross, Dan Hedrington, Hector Casilas, Kent Conson, Kurt Oakes, Mike Allen, John Fitzgibbon, Daniel V. Sobotta, Sara Ecker and FJ Wesner.

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

Adoption of Minutes - Brandt made a motion to approve the meeting minutes from June 13th, 2012 as printed, Nelson seconded. A brief discussion took place on the minutes. Motion to approve carried with no opposition.

Public Hearing – Land Use Change/Rezone – Exclusive Agriculture 2 (EA2) to Residential -8 (R-8), John T. Fitzgibbon and Janice A. Fitzgibbon, Landowner/Applicant - Town of Hale Chairman Bice called the public hearing to order at 9:08 AM. Bice informed those present of the public hearing procedures. Nelson read the public hearing notice aloud. Lien stated the Fitzgibbon's are looking at rezoning 35.6 acres to create a parcel under R-8 zoning that would be less than 35 acres which is the minimum transferrable in Exclusive Ag zoning. Their intent is to create a parcel around the existing farm buildings to be able to sell off the adjacent land surrounding them. Lien added the purchaser has contacted him and it would be Lien's recommendation to the board that if the Committee approves a five acre rezone then the purchaser wouldn't have to come back at a later date and rezone to Exclusive Ag (as that is what he will want). Lien didn't feel all of the land had to be rezoned to R-8. Lien felt the five acres could be rezoned because that is less than what Fitzgibbons had actually asked for. Fitzgibbon acknowledged that his intent was to create the five acre lot and he can't do that with the present zoning, but if the five acres only can be rezoned, Fitzgibbon stated it did not matter to him. Lien stated that his recommendation would be to rezone the five acres instead of the 35.6. Lien presented a proposed map that was prepared by Surveyor Dennis Melichar. Lien noted this hearing was publicized in the newspaper for two consecutive weeks and notices were sent to all adjoining landowners. Lien has only received telephone comments from Jonathan Long who is the potential buyer. Upon Bice's inquiry, Fitzgibbon responded that his intent was to keep the buildings and five acres of land so that he can sell the land to Jonathan Long. Bice called three times for public testimony. Lien read a letter, dated July 10, 2012, from the Town of Hale which stated the Town of Hale board has agreed to the rezoning for John T and Janice A. Fitzgibbons property from Exclusive Ag to Residential 8 on approximately 35.6 acres for the purpose of a land sale. There being no more public testimony, Bice closed the public hearing at 9:14 AM. Brandt made a motion to approve the rezone on the 5 (five) plus acres, Nelson seconded. Motion carried with no opposition. Lien stated all rezones need to go to full County Board for approval so the DLM staff will notify the applicant of that date.

Public Hearing – Land Use Change/Rezone – Exclusive Agriculture 2 (EA2) to Rural Residential (RR) Scott Guthrie and Timothy L. Johnson, Applicants, Timothy L. Johnson, Landowner –Town of Pigeon

Chairman Bice called the public hearing to order at 9:15 AM. Nelson read the public hearing notice aloud. Lien stated this property is located in the Town of Pigeon and the intent is to separate out the buildings and create a 14 acre site. Lien referred the Committee to the map. Lien noted this hearing was publicized in the newspaper for two consecutive weeks and letters were sent to all adjoining property owners. Lien has not received any correspondence for or against this proposal. Neither Guthrie nor Johnson was present. Upon Bice's inquiry, Lien stated the Committee can move forward without them being present if they choose. Bice called three times for any public testimony. Lien read a letter from the Town of Pigeon which stated the town board voted unanimously at its' monthly meeting to approve the rezone request for Mr. Scott Guthrie. Bice closed the public hearing at 9:19AM. Low made a motion to approve the rezone as requested, Quarne seconded, motion carried unopposed.

Public Hearing – Conditional Use Permit and Reclamation Permit-Nonmetallic Mining-Borrow and Fill Site – Steven Lamberson, Landowner/Applicant – Whitehall , WI and Reglin and Hesch, Operator, Arcadia, WI - Town of Lincoln.

Chairman Bice opened the public hearing at 9:20AM. Nelson read the public hearing notice aloud. Dave Hesch and Gary Bautch were present representing the project. Lien stated the fill sand is going into the new Ashley expansion project. Lien stated this hearing was published in the newspaper two weeks prior and letters were sent to adjoining landowners. Lien did not receive any calls for or against this request. An aerial photo was provided of the borrow site which is right next to the Ashley property. Lien stated a discussion had taken place about the possibility of also taking material from the Tri-City Sanitation location but that would not have required a permit because it was waste material from excavation of the landfill; however that would still be an option too. Hesch reiterated what they are requesting at this hearing is to haul it from Lamberson's for the expansion of Ashley Furniture. They will come across the railroad tracks right onto Ashley's property. Hesch stated there would be no public road use whatsoever. Bice asked if the Committee understood that they are just basically going to use this site while they do construction at Ashley and that is all it amounts to. Upon Bice's inquiry, Hesch stated that when the project is done the site will be closed up when the project is done or at least that is the intent. Lamberson stated he didn't have any intention of doing anything else. Lien noted for clarification that, had this property been owned by Ashley, no permit would have been needed, but because it is coming from an adjacent property owner therefore a nonmetallic mining permit is needed. Bice called for any public comments. Lien read a letter from the Town of Lincoln dated June 13th, 2012 which stated the motion was by Paul Coburn, seconded by Donald Johnson that the town had no objection to Ashley Furniture moving fill sand from the Steve Lamberson property to the building site for the Ashley expansion. Motion passed. The only concern from the township was dust control and it was stated that a watering truck will be available if it becomes necessary. Bice called twice for any public comment. Bice closed the public hearing at 9:28 AM. Nelson made a motion to approve the Conditional Use Permit and Reclamation Permit as presented, Brandt seconded. Brandt inquired of Lien if there were any flood plain issues here. Lien thought the operator had contacted DNR. Lien stated they are not placing any fill, they are removing it, and so that really is not an issue. Lien looked at the aerial photos and commented that where the fill is being removed is not flood plain but everything around it is. They will probably create some additional flood plain area. Motion to approve the Conditional Use Permit carried with no opposition.

Public Hearing – Amendment to include blasting in the operations of the Conditional Use Permit and Reclamation Permit- NonMetallic Mining - Mark Rumpel and James Dabelstein, Landowners/Applicants – Arcadia WI and John Cross, Alpine Sands LLC, Operator, Shorewood, IL - Town of Arcadia

Chairman Brandt opened the public hearing at 9:30 AM. Nelson read the public hearing notice aloud. Lien stated the site is located outside of Arcadia on Soppa Lane. Lien recalled that when the applicants were in for the Conditional Use Permit he had inquired of them several times if blasting was going to be needed. At that time the applicant said they wouldn't need to blast. Lien was curious to hear what had changed at the site. Dan Hedrington, SEH Engineering firm, introduced himself stating they were the firm that represents the project. Hedrington summarized by saying the initial testing that was done on this material found it not to be as consolidated as it truly is. As they got into testing, after the original approval of the Conditional Use, they found that the underlying material is significantly more consolidated and needs to be

disturbed in order to extract it easier and more efficiently. SEH is in the process of finalizing all of the conditions that were imposed on the project by this body. Everything is nearly done. Some things have been scheduled such as meeting with emergency services personnel, etc. Hedrington brought up the conditions because Lien and the Committee brought up the fact of, is blasting really necessary? Hedrington noted there are four conditions on the Conditional Use Permit approval that are not a problem. Hedrington felt there were conditions, even without blasting, that still applied. After meeting with the town board and explaining the situation, they concurred that they thought it would be ok and they were ok with the existing conditions in place as well. Hedrington stated they have experts present for any questions the Committee may have. Hedrington closed by saying it basically needs to be “bumped” so that it can be extracted. Lien reminded the Committee that because this is a Conditional Use public hearing for this site, all conditions are up and open for debate for addition/deletion, however blasting was the main reason this permit was opened up. Lien asked the Committee to think about and question, (in light of the fact that he had asked the applicants three separate times about the need for blasting) on any site, who we are dealing with and what kind of expertise they are bringing to our county. Lien felt the blasting issue should have been addressed before, as anyone who has dealt in this industry knows that one can excavate the product but is much harder on machinery, it is slow and costly. Blasting adds about a \$1.00/ton to the process. Lien reiterated that county wide the Committee should look at what kind of permits are being issued and to what kind of companies and to what expertise we are allowing these Conditional Use Permits to be issued. Lien stated there have been engineering plans for storm water management, costing \$150,000, that have failed miserably. There is not a farmer in our county that would allow the kind of erosion to take place on their property comparable to what has happened with some of the land for which these expensive plans were designed. Lien felt the Committee needed to take a look at what is being allowed to happen. Lien expressed the opinion that the Committee needed to look at how they are managing this land countywide (he did acknowledge individual property rights) or they are going to cause some long term damage to the county that is not going to be fixed easily. Bice called for public testimony.

Mary Dubiel – Dubiel mentioned she is from the Town of Hale and their town hall meeting was held the previous day. Dubiel learned at that meeting that the Town of Hale has no jurisdiction on what goes on at the County level so she wanted to make the same statement here today. Dubiel asked to speak because of her concern regarding the mining explosion in Wisconsin and the County of Trempealeau and that it will change her life and others significantly. In addressing air and water pollution, it a difficult subject on which to reach a consensus. The mining companies say they have it under control and the concerned citizens say, “wait a minute what historical evidence do you base your position on?” These positions bring to mind such past events concerning DDT, lead, asbestos, mercury and the list goes on. Maybe just maybe we should slow down, do our own studies with people in the expert field that have no extreme environmental issues or no mining rules. People that are experts on it but have all of our concerns at heart. What is wrong with taking it slow? Couldn’t citizens with frac sand take the time to ensure that their community and their neighbors are protected? After all, they are no worse off than they were before they found out they had sand. There are plenty of mining companies wanting our sand so why not do our research (as Lien just mentioned) and if we decide to go forward, select a company that is willing to protect our land and our neighbors. Many of us may hope we have sand and this could blur our thinking. Dubiel suggested that we all take the position that we do not have the sand or the quality of the sand that is needed and decide what environment we want to live in, with a possible mine down the road. Because Dubiel lives 50 feet from the road, her immediate concern is traffic. Dubiel is aware that 80,000 lb trucks will be traveling continually; the estimates have been every 5 or even every 10 minutes. There are milk trucks, tractors hauling equipment and sand and gravel trucks traveling the road and that is fine as that is what the roads are for. They come and they go. They are not constant. Another concern Dubiel has is blowing sand from the trucks. Dubiel was told that the trucks could be tarped, but who enforces this? We do not have the personnel to handle this. Dubiel felt it would pretty much be her word against theirs anyway. Dubiel respectfully requested that we learn all what we can about this industry before we move forward because knowledge is power.

Daniel V. Sobotta – Registered to testify in opposition . Sobotta stated that at the August 11th, 2011 meeting, Rumpel had a hearing on a Conditional Use Permit and said he would not be blasting. Now the whole dynamic has changed from no washing to washing, no blasting and now blasting. Sobotta thought there was supposed to be a survey. Sobotta went down into the woods and found a bunch of big paint marks about 50 feet up in the woods. They did the marking and never got back to Sobotta with the information. Sobotta would like to know what kind of information the Committee has that makes them confident about past permits that other towns and counties have. Why are we the only county in Western Wisconsin and Minnesota that hasn't shut down Trempealeau County and we also keep changing operations. The reason Sobotta is concerned with the blasting is that he doesn't live very far from it so he doesn't know how it is going to be. Sobotta is probably only a couple hundred yards from the line fence. Sobotta added that his son-in-law works for probably one of the largest mining companies in the world and they aren't able to get permits.

Ann Gierok – Asked to make general comments. Gierok thanked George Brandt for voting “no” on the recent permit to approve the Bork/Bragger mine in the Town of Burnside. Gierok wanted to specifically acknowledge the fact that he recognized that County Road X (according to the minutes of what George Brandt said) “ was a really dangerous road”, so Gierok wanted to thank George Brandt for voting “no” on that recent hearing here with the Environment and Land Use Committee. Gierok wanted to express her disappointment that the Committee disregarded the restrictions that the Town of Burnside elected officials asked for, when that permit came up to the Committee. Specifically, the Town of Burnside officials were concerned about highway safety, the quality of life for residents adjacent to the mine and the need for immediate reclamation of the mine if it were inactive for one year. Gierok continued that as the Committee proceeds with additional permits that have been requested in the Town of Burnside that they revisit their own Smart Growth Plan and the survey results that were compiled from the residents of the Town of Burnside which indicate that 80% of those residents who live in the Town of Burnside identified the natural beauty of that township as the number one reason why they decided to live in that township. People do not consider jobs as the most important priority, as they plan for growth, according to that published survey for Trempealeau County. The residents of the Town of Burnside ask that you consider these three strategies in order: 1) Protect the drinking water quality – 96% of the residents identified that as the most important planning strategy the Committee should consider, 2) Protect the environment – 86%, 3) Preserve scenic views and undeveloped areas -69% and bringing up the rear was to promote economic development. Gierok would like the Committee to consider, carefully, the impact of future permits, including the wash plant at the intersection of County Road X and State Highway 93 (which has been proposed), the Weber mine (in Buffalo County) also operated by this same Corporation – 10K and has already been approved by that County, and the proposed Prokop mine(in the Town of Burnside). Gierok would like the Committee to consider the impact that all these entities will have on residents who live on County Road X and remind everyone that the published goals of this Land Use Committee are to 1) preserve, protect and enhance the land and water resources of Trempealeau County, 2) protect the health, safety, welfare and quality of life of Trempealeau County residents. Those are taken from the goals of this Land Use Committee. Gierok asked that those be considered as the Committee plans our future.

Peter Gierok – Asked to make general comments. Gierok stated he is a neighbor of the wash site. He lives about a mile and a half “upstream” from the proposed wash site. Gierok was present in reaction to the meeting held last month regarding the Bork/Bragger mine application. Gierok stated, we, in the Town of Burnside, thought this Committee would be protecting them, so they didn't show up for that meeting nor at the town board meeting. The notes from the town board meeting show that only one person showed up at that application for the Bork/Bragger mine and that was Mr. Bork. Gierok continued, “We all thought the Committee would be protecting us”, so they didn't think it was that much of a concern. The Town Board mentioned concerns that they had, at the meeting. In their approved permit, they said they were concerned about the roads and other matters. Gierok stated “more teeth” need to be in the conditions that are being put on these applications and elementary things like speed limits weren't even addressed. How are they going to stop if they are going 50 miles per hour down this road. There are four 90 degree corners on the first two miles from the wash site up the valley. There are also a number of other dangerous corners and there are no shoulders on this road. Gierok has come here because he is very disappointed in the lack of protection at the

last meeting. Gierok believes he is not the only one. Last night there was an informational meeting for a second mine, Prokops, and not one person showed up, but eight five and according to Gierok, 99% were against the application for this wash site and the mine. So that should tell the Committee that you guys need to do your job, because if you don't, you are going to lose all your power and you won't have anything to say because the townships are going to be asking for village powers and then the County won't have any say in it. Gierok finished by saying, "Do your job".

Sara Ecker – Ecker is just starting to gather information about the mining. Ecker lives on State Highway 54/35 just before crossing into Minnesota. Ecker is not aware of the conditions that already have been granted. Ecker asked if there was a way to review which conditions have been granted to this mining company thus far. Ecker was unaware by coming to this meeting, that by having an amendment, that all of the conditions would be available for discussion. Lien responded there are approximately eighteen conditions that were recommended from the Town of Arcadia that were approved and blasting was an option as one of the conditions if they decided to go that route and there would have to be a blasting plan. There were three conditions by a third party engineer and five additional conditions by this Committee. Upon Lien's saying that he would read them, Ecker responded she felt if this group has an opportunity to make any changes that it should be taken. Geske inquired what kind of changes Ecker was talking about. Ecker asked if these conditions were public information and were they in the meeting minutes. Lien responded they were. Ecker had not read the minutes and because this is an opportunity to make changes, Ecker felt that they should be reviewed as there are people in the room (and the Committee) that need to be refreshed and take a stand if needed at this time. Ecker requested that those conditions be read aloud so that the public knows what they are. Bice requested that Ecker make any additional points that she may have and then the conditions would be read. Ecker stated her main concerns are what roads are being used to haul this sand and what hours the hauling will take place. Ecker has an apple business on the State Highway and she felt that her business as well as the other businesses around her will be greatly impacted, especially by hauling on the weekends because that is when most of her customer base comes to her farm. Ecker questioned how many trucks per day will be passing by and can they be covered up. Ecker has not read the Wisconsin Administrative Code but she is willing to listen to what is suggested for reading to become more informed. Ecker inquired if there has to be no activity for one year before they start the reclamation process. Ecker asked what the incentive was for the companies to not haul one truck per year out of a mine so that they don't have to reclaim the site. As a business person, Ecker felt one needs an incentive to make those changes. Ecker stated she would ask any more questions she may have as she listens to the discussion by the Committee.

John Cross has been in the mining business for 28 years. He worked for a public company for 20 years and he has worked for years operating many mines around the country. Cross has also been doing consulting and design plans for building plants and operating facilities. Cross stated people have a right to be concerned because there are operators out there that don't have the experience and don't have the right attitude about being a good neighbor and understanding that one has to have a social license to operate in this industry. Cross explained there are a lot of things that are important to understand such as, if blasting isn't done well, there can be an impact. It has to be done well and one has to hire professionals. Seismographs have to be used to put in between the shots and structures to make sure that damage is not being created. Surveys have to be done of nearby structures before blasting is started. One has to make sure to do a very good job. All the things that were mentioned such as managing traffic - they have a zero tolerance policy (if one of their drivers break the rules they get fired). It is frustrating for Cross, growing up in the industry, to see the way some of the operators do things. Cross stated dust control is important, managing noise is important, having a really strong safety program is important. All these things are important to operate a mine properly. Cross has made a very large, personal, capital investment in this operation. Cross has hired local employees that are working there today. Cross has spent millions of dollars on the wash plant that is installed there and he is doing everything that he can to meet every single one of the conditions that are in the CUP. Cross gives his commitment that they are a good operator. Not only does he expect the Committee to hold them accountable to the promises that they make, but he expects the Committee to hold everybody in the industry accountable for the promises that they make. It is better for the industry that everybody is a good operator and should be held accountable. Cross stands here, in front of the Committee, and he is not hiding from anything and he can

answer all the questions. Cross went around the neighborhood and tried to introduce himself, however not everyone was home. Cross stated people can call him directly as he will give out his cell phone and he is not “skirting” anything. Cross stated he has a very good proven track record of success. He runs many operations and has a great team of people of which he is proud. Cross likes this community and he believes in this community and he has invested in it. Cross was as disappointed as anyone (Cross entered into this deal as a joint venture partner after the other hearings were done) as they ran into some very consolidated materials. Cross added they don’t want to spend any money they don’t have to on blasting but if they get into some of the harder materials the only viable way to economically remove this material is to blast. Sometimes in the original holes that they drill, the drill itself breaks up the material and perhaps that is why originally they didn’t think blasting would be necessary. Cross realizes that they would like to have the opportunity to blast. It won’t be hit real hard as this material is really just sand grains that are stuck together. They will just be “bumping” it a little bit. Cross reiterated that he didn’t want to “skirt” anyone’s questions and he is here to answer them. Cross had the fortunate ability to work for one of the largest mining companies in the United States for 20 years and a company that had a real dedication to doing things well. Cross grew up in that environment and he believes in doing things right. The buck stops with Cross, he is the boss and the CEO.

Lien stated he assumed that before Cross invested with Alpine, he read through the Conditional Use Permit (CUP) and all the conditions that applied to that site. Cross responded that he got the list of all the conditions. Lien verified that Cross understood that those were not Brian Senn’s conditions, but conditions of the site. Cross stated that was correct and he realized that responsibility. Cross stated early on he started working to try to get all of those conditions met and they are very close to having everything done. They will probably have those completed within the next 10 days. Cross added they have already bonded the road, got a reclamation bond, etc. Cross expects to have the entire list done and the drilling program that they had did not show the need for blasting. Cross has mined, in the past; several quarry operations, a million tons a month, 200 feet from a trailer park. Cross understands how to utilize the latest technology, how to avoid damaging anyone’s property and how to do this well. Lien inquired as to what kind of mines Cross had operated. Cross replied he has operated sand and gravel mines and limestone facilities. Cross owns American Bin and Conveyor in Burlington, Wisconsin and they have been doing industrial sand since World War II. Cross helped build the original Badger plant which isn’t too far from here so he was in the business way before it became “cool”, before it got to be the fad that everyone wants to be in. Cross stated they are real good at it and all of these steps that they have to go through, he encourages it as he likes the industry to have controls. Cross felt the industry should be held accountable to do the things that they say they are going to do. Cross understood it was his responsibility to meet all those conditions and he is almost there. Bice inquired if Cross intended to contract with a company to do the blasting and was it a company that Cross has worked with in the past? Cross responded that was correct and he has done work with these gentlemen, in the past, through several different companies. Bice stated blasting requirements are required to meet Comm. 7 guidelines. Bice continued that there are situations that may be over and above what is acceptable. Bice asked Cross to personally tell the Committee that he will accept all responsibility for whatever negative things that might happen from blasting, whether it happens from blasting or not. Bice knows this is very difficult, but if Cross is going to do blasting, he is going to have to accept that if someone has a basement that is damaged within so many feet (and it has been stable for years) and now they have a problem, Bice would like Cross to say that he will work to do whatever it takes to resolve that issue. Cross wanted to make the following distinction that before they do any blasting they are going to inspect those structures and put seismographs between those structures and the shots. They are going to be able to measure all energy that comes from those shots. The science is already proven. Cross explained that, in the past, when they have done blasting, one of the rules that they dealt with was a certain PPB limit and Cross would tell his guys to design for less than half of that. There is a lot of technology that in the past 25 years, has dramatically improved. There is a lot of technology that they are able to use to reduce the shots. When they do a shot, they don’t just stick a bunch of dynamite in the ground. Basically what they do is use delays to make many small shots. By doing those small shots, they are able to accomplish a few things. If one does a few small shots and they are timed well, some of that energy can actually be taken out. If it is done well one can really mitigate the effects. The right way to do it is to start out real small and get some results and then work your way up. Always stay well in line with what those requirements are. Bice stated the Committee has actually heard that before and that is good and

appreciated, but there have been situations where all of a sudden we have some very serious damage and everybody wants to “pass the buck” and that is not going to be allowed. Cross agreed with Bice. Cross added his commitment is real simple. They are going to hire a company to go in and inspect each one of these structures, take pictures, look at everything to create a baseline. Then they are going to prove through measurement, using seismographs, a performance of what they are trying to do. In addition, if anybody calls Cross (they can call directly to him) to say they have a problem with their structure, Cross will go in there with a third party expert and look at those structures. If they have caused any damage to the structure, they will pay to fix it. Lien explained what Bice is talking about is not a hypothetical situation. There have been numerous people standing in front of the Committee telling them exactly what Cross has just said about the many facets of mining. Lien stated the County does require the foundation and well investigations with 2,500 linear feet from any blasting site. Lien added the reality is that whoever is hired, in the State of Wisconsin they have to be under (COM 7) DSPS 177. DLM requires that seismograph readings be submitted to the Department after every blast. DLM receives it and understands how it is a bumping process and not a hole full of dynamite or keg of fertilizer and diesel fuel. Lien stated there was a blast and calls were received. We looked at the foundation investigations and the third party engineer had said it is flawless – no visible cracks of any kind. Lien went out there and took pictures of visible broken windows with fresh pieces of glass in the jams, visible cracks in block foundation. Lien looked at the seismograph readings and they are below COM 7. Lien called the mining company up and the mining company called their blaster. The blaster stated he was under COM 7 so his “hands are washed”. The mining company said, “my blaster did it, my hands are washed”. So Lien stated what his Committee is talking about is, what guarantee do they have that Cross is any different than any other company – because this is reality. COM 7 is what is supposed to be met and they met it. Yet, these adjacent landowners are forced to be put in a civil matter and hire lawyers to deal with something that this Committee approved. Lien, personally, feels that is unacceptable, yet there is no guarantee. Cross responded that he understood the Committee’s concerns. If Cross gets a call regarding damage, he will go to that property with Lien, personally and if they have caused damage he is going to pay for it. Geske stated that is what the Committee needs in writing. Cross understood the issue and added he has been doing it for years. Cross has done multiple blasting shots a day for years and years and stated one has to do a good job. Lien didn’t want to offend anyone, but stated that the Committee has heard this before. Lien stated he may be jaded because he has been in zoning for twenty years so he has the philosophy that everyone is lying unless they prove otherwise. Lien stated there are issues that the County needs to get a handle on because mining sand is completely different from mining aggregates. Lien added this industry deals with a lot more volume than other mining industries, so Lien told Cross he was not trying to pick on him, but Lien really wants to see some hard proof that Cross is the exception, because all of the other people that have been here and told the Committee all the same things have failed. Cross responded that he hates the fact that one thinks he’s a liar because the Committee has been lied to in the past, because he is not a liar. Cross does what he says he is going to do and they are going to take good care of these neighbors and do their job right. Cross reiterated that he understood the Committees’ concerns and for 28 years Cross has kept his promises and fulfilled his obligations and he is going to keep doing that. Cross explained some of the blasting techniques to Sobotta. Dubiel stated she understood that Cross did not have any problem giving the Committee written notice that he would not do any harm. Discussion followed on trucking issues and tarping. Committee consensus was that they would like Cross to put in writing that if there is any damage to any property perceived to be from Cross’s blasting or operation that he will take care of it (Cross had stated publicly that he would). Cross responded “yes” he would put that in writing. Sobotta asked if the nitrogen, used for the blasting, goes into the water. Kurt Oakes – General Manager with Olson Explosives introduced himself. Oakes stated he has been working with Alpine Sand and Mr. Cross since this mine started out. They do blasting with some of the other sand operations in the area. In answering Sobotta’s question, Oakes replied they are staying above the water table and the nitrogen (the ammonium nitrate and fuel oil mixture) won’t get into the groundwater in that case and when it detonates there is no residual nitrates that get into the water from that process. In the event that the holes are wet, from groundwater or rainwater, they will use a different emulsion product that doesn’t break down in the water and is water resistant. Bice called for any public testimony. Gierok asked Cross what he knew about 10K International and their CEO? Cross responded he did not know who they were. Discussion followed. Bice again called for any other public testimony relevant to this permit. Ecker

had several questions which Lien stated would be answered when he read the conditions and Cross also answered some of her questions in regard to length of mine site, reclamation, etc. Geske added the mines have to bond however many acres that they have opened up so it is advantageous to them not to open up more than they need because then their bond has to be bigger. They are better off to keep moving and reclaiming and so on so that it costs less money. Ecker wasn't aware of how much information the Committee had and what information their decisions are based on.

Ann Gierok – Gierok thanked Ecker for raising some very relevant questions. Gierok thought one of the most interesting questions that Ecker raised was, “What can be expected in terms of truck traffic on that Highway?” Gierok reminded the Committee of the cumulative affects of all of the mines that are being granted. For example, the one that was granted here in Trempealeau County for the Bork/Bragger mine is supposed to send 175 loads to Winona originally. The Weber mine was supposed to also go there and that was Buffalo County. Now, if 10K opens a wash site at the intersection of County Road X and State Highway 93, and if the Prokop mine is approved, then there will be 175 trucks from the Bork/Bragger mine on County X coming down to perhaps the wash site and 175 trucks going back. That is 350 trucks going back and forth in front of Gierok's house everyday. The Prokop mine proposes another 175 loads so that is another 350 trucks, so now that number is up to 700 trucks plus with the Weber mine in Buffalo County also permitted to go through the City of Independence, they may stop at that same wash site as that company owns all three of these properties. Gierok felt potentially more trucks could converge in this little area than are currently traveling on State Highway 93. The cumulative effects of all of these permits are having huge ramifications for citizens in any one location.

Paul & Nancy Winey – Email - I wish to speak in opposition to the blasting permit for Alpine mine. I do so from the standpoint that we are within close proximity to the mine and overlook their operations from our home. Even with these two facts, we have never received any official notification of their operation, or wish to add blasting, from the mining company, Arcadia township or the County. I feel that all neighboring property owners within a reasonable distance, not just adjacent property owners, should receive adequate notification of additions/deletions of the current CUP and further should receive the same 24 hour notification if and when blasting would occur. It is really only a good neighbor policy to expect that this courtesy be extended.

Lien read a letter from the Town of Arcadia dated May 26th, 2012 stating the Town of Arcadia Board of Supervisors passed a motion at their May 15th, 2012 board meeting stating they have no objection to Tremp Co. E & LU Committee issuing a blasting permit to Alpine Materials. In addressing Ecker's questions, Lien stated that there are four proposed haul routes from this mining site

Haul Route 1: West on State Highway 95 to State Highway 93 South to State Highway 35/54 to Winona.

Haul Route 2: State Highway 95 East to State Highway 53 then North to Whitehall.

Haul Route 3: West on State Highway 95, South on State Highway 93 and then State Highway 54/53 to Galesville down to LaCrosse.

Haul Route 4: West on State Highway 95, North on State Highway 93 to Chippewa Falls.

Lien noted that these haul routes have also been submitted to the Wisconsin Department of Transportation for a Transportation Impact Analysis (TIA) study of which the operator had to do improvements to the intersection of Soppa Road and State Highway 95. Bice mentioned that since they are intending to do a wash plant that does cut down on the truck traffic. Basically the wash plant cleans the product and what they ship is a usable product which sometimes involves 60% less shipping and sometimes even more than that. Bice added what they are trying to do here, in general, is a much more efficient plan than what we have been doing. It is actually a good thing if we clean it before we truck it. Cross explained the routine of washing and shipping the sand. Lien read aloud the following conditions set for Alpine Materials Conditional Use Permit.

Conditions as set forth by the Town of Arcadia

1. Alpine Materials Corporation shall assume all costs associated with the improvement, maintenance and repair of Soppa Road and bridges used by Alpine Materials Corporation commencing prior to any work on the Conditional Use Permit site and continuing until all mining activity has permanently ceased. A bond to be posted for \$100,000 per occurrence on the portion of Soppa Road and bridges used by Alpine Materials Corporation. The bridge or bridges shall be inspected annually at a cost to Alpine Materials Corporation with a copy submitted to the Town of Arcadia.
2. All structures and wells on the properties immediately adjoining the Conditional Use Permit site shall be inspected and the condition of each shall be recorded prior to the commencement of any work at the site. These wells and structures should thereafter be periodically inspected to determine, to the extent practicable, whether or not damage has occurred as a result of the mining operations. Inspection and damage costs shall be borne by Alpine Materials Corporation.
3. The opening of the mining pits, depletion of those pits and reclamation of those areas shall occur in the order presented to the Town of Arcadia by Alpine Materials Corporation.
4. Existing perimeter tree canopy (at highest points of elevation) must remain to keep the visual appearance, aesthetics and reduce dust from leaving the proposed mining area.
5. If the Wisconsin Department of Natural Resources changes permitted air quality standards as they relate to Silica, and/or Silica related compounds, the Conditional Use Permit shall be modified accordingly so that Alpine Materials Corporation activities must always comply with the most recent DNR standards.
6. The Town of Arcadia Board review and approve final site plan and equipment list when available and prior to issuance of conditional use permit.
7. A notice shall be given to adjacent landowners within 2500 feet of blasting area, 24 hours prior to blasting.
8. Blasting plan submitted and approved by the Department of Land Management prior to any continual blasting.
9. Financial assurance amount will be established after final site plan approval and prior to any excavation activity.
10. The Town of Arcadia Board should meet with Alpine Materials Corporation a minimum of every 6 months for the 1st two years then if mutually agreed annually after 2 full years of mining activity.
11. The Town of Arcadia shall be responsible for signage of Soppa Road.
12. The Town of Arcadia Board shall review the conditions, compliance and complaints of the Alpine Materials Corporation mining permit with the owner/operators on an annual basis.
13. A 50 foot setback adjacent to the property line must be reclaimed fill at a 4 to 1 slope. (Lien clarified with Tuschner that the Town meant that a 50 foot setback must be maintained and a four to one slope after that. Tuschner responded that was correct).

14. A 20 foot berm shall be established along property lines and along Soppa Road specified under Figure. 3 on Post Mining Contours dated May 2011.
15. No truck or equipment staging on Soppa Road.
16. Entrance and exit driveways shall be black topped prior to operations.
17. Alpine Materials Corporation shall be responsible for picking up rocks and/or debris on adjoining land at the land owner's request.
18. Alpine Materials Corporation shall provide an initial training and site visit to Emergency Responders for site specific dangers and chemicals that may require additional precautions during an emergency response situation.

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

Conditions as recommended by the third party engineering firm.

1. All loaded trucks leaving the mine site should have tarps to keep particles from becoming airborne.
2. Water table drawdown analysis be conducted for the high capacity well.
3. A cultural resource report be obtained and provided to the Department of Land Management.

Conditions as set forth by the Trempealeau County Environment and Land Use Committee

1. CUP is subject to the Department of Transportation review.
2. No blasting.
3. Maximum number of loads per day will be 180.
4. There will be a clarifier used at this site.
5. Life of the mine activity is to be 20 years.

Bice inquired of Ecker as to how many sand trucks go past her house today. Ecker responded the first one went past today at 5:58 AM. At 9:00 AM, Ecker counted a truck a minute, but she wasn't positive that they were all sand trucks as they were covered. Upon Ecker's inquiry, Cross stated they do have a sand washing facility already and the chemicals they use to wash the sand must be disclosed. Cross elaborated that right now they are using high capacity well water. They do use a potable food grade flocculent to help settle the mud in the clarifier, so it is edible. Ecker asked how many gallons of water they would be using per day. Cross responded they are not using any yet. Lien stated because this permit was issued a while ago and things change. Lien made sure that Cross understood that a clarifier is to be used. Lien stated in the original plan there was going to be a wash pond. Lien questioned how they were addressing that issue with the water from the clarifier today. Cross responded that basically the plan is to blend the byproduct sand with the clarifier mud and blend those together and make it a stackable, reclaimable product for them to use. Lien verified that there would be plans somewhere on the site for a very large dewatering stockpile area where that stuff will be blended. Upon Lien's inquiry, Cross responded the stockpile is dewatered and downstream there is a small clay lined pond. Lien inquired if that pond would periodically have to be cleaned out. Cross responded it probably would have to be. Lien noted that on the Proppant Specialists site this Committee determined that know matter how good of excavator one has, the potential is relatively easy to go through that clay liner while cleaning out that pond. The Committee made a condition that Proppant Specialists put in a concrete lined pond so that the possibility for contamination of ground and surface water would be reduced. Both waters are relatively close to this particular site. Lien stated that is a recommended condition from staff in order to be

more consistent with what has been done in the past. Secondly, Lien noted that the standard conditions are the 2,500 linear foot foundation and well inspections which have been required. The onus is on the mining company to hire a third party professional and forward the inspection information to the DLM. The 24 hour blasting notice is required only within the 2500 linear feet, although there was a written request by Winey's that it be extended out that far and beyond. Lien told Cross to encourage the blaster to come up with a good plan, start out with those small blasts and work up to a tolerable level to reduce any impacts to the neighbor. Cross stated he would make that commitment and that his plan is to sit down and go through the entire plan with them and review the results that have been shot and to be part of that collaboration. In regard to the concrete lined pond, Cross suggested, because he has already constructed the pond and there is a significant investment there, that at the time that the pond has to be cleaned that he concrete it at that time. Bice asked when Cross anticipated the pond having to be cleaned for the first time and how big the pond actually was. Cross stated he did have a clarifier and he considered some of his process proprietary and he didn't care to share it with the world, but the process that they utilize eliminates the need for them to have a big slurry pond to put all their mud in. Because they have developed a process of being able to "blend" the byproduct sand with mud and make that a stackable, reclaimable product, it really keeps Cross from the need to have a slurry pond. Upon Bice's inquiry, Cross responded that surface feet of the pond is approximately 50 X 60 feet. In order to meet the specifications when it comes off the stacker, Cross stated the sand has to be clean so that water that is running in there is clean water and the water is recycled. Lien explained that he thought where this all came from is testimony that has been given over the last two years and the food grade polyacrylamides that are commonly used in this industry have been researched in drinking and wastewater treatment use. All of that byproduct is land spread, open to air and UV breakdown. No one has ever done any research, where this chemical is kept in a wet slurry, put into a type of reclamation area where the majority never sees sun or wind. There is no breakdown analysis or long term study for this use in this industry. In keeping that in mind with surface and groundwater close to a site like this, if a point of contamination would develop through the liner, where some of this stuff could contaminate ground or surface water, it is an oxygen eating agent and will kill surface water fish and other things. This Committee's charge is to protect health, safety and welfare so to error on the side of caution, they went with a concrete liner. Cross was fine with putting a concrete liner in it as one could puncture the clay liner when it is cleaned, so when the pond is cleaned Cross would put the concrete liner in. Discussion followed on when the concrete liner would be put in. Geske suggested putting a time frame in the condition as to when the pond needs to be concreted. Lien provided an overhead aerial photo of the site for all to view. Bice called for any other public testimony. Ecker asked that since it is cumulative in nature, trucks not haul on State Highway 54. Bice closed the public hearing at 10:52 AM. Geske made a motion to grant blasting, (as worded in other conditions) also within three seasons to cement holding pond, all structures and cased wells located on the properties within 2,500 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 3rd 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, plus a written guarantee from Mr. Cross that he will handle any problems that come from blasting. Low seconded the motion. Brandt stated he spent some time going over the minutes from last July and August meetings specifically descriptions of the process given. Upon Brandt's inquiry about their process, Cross stated that at this stage of the game Cross anticipated just to ship the high grade washed sand. If Cross had a customer that wanted washed sand, he would be more than happy to sell it to them, but there are raw sand pit all over. Brandt asked if Cross has identified a buyer yet. Cross stated they use themselves. They have a facility that they are building down in Texas and they are going to take this material down there. Cross added that the additional haul routes are in case some other customer calls up and would like additional material. Cross's plan today is to take the stuff to LaCrosse and ship it out. In regard to the road plan, Cross stated he has a Letter of Credit instead of a bond. At some point in the future, they will go ahead and upgrade the road. Hedrington stated they have been in contact with WISDOT about the road and DNR regarding the wetland impacts. Brandt added there has been a lot of discussion on that intersection. Brandt asked what the plan was for the intersection. Hedrington responded they have been working with WISDOT on an improved

intersection design. Brandt understood that the archeological survey has been completed and inquired if that has been filed with the DLM. Hedrington responded he thought it had been. In addressing air monitors, Lien responded that his understanding was that currently they are not effective. Brandt stated Lynn Axness had raised a number of issues at the initial public hearing and the Committee had put her concerns on file because they were related to blasting. Brandt thought most of those conditions had been dealt with. Brandt inquired if any concerns had been mitigated with Ms. Axness particularly the issues with the spring in a pasture that she rented for watering cattle. Axness requested that if the spring dries up, the mining company would drill her a well. Hedrington responded that he was not familiar with Ms. Axness, but they have done the water draw down analysis that was requested and they have done monitoring well installations on the site. Brandt asked if DLM has the equipment list. Hedrington stated they have provided the town with an equipment list as well as a drawing to show the placement of the equipment, etc. Alpine has been working closely with the township to make sure they are fully aware of what is going on and right now they should be up to date on everything. Brandt inquired if they were still thinking about the eight phases in the mine that they were a year ago. Cross stated they were the same. Brandt stated Lien had mentioned the significant failure of a storm water management plan on a mine site. Brandt felt the common wisdom was because they had opened up everything up at once. Brandt commented that the staging plan is part of the CUP. The other thing that is part of the CUP is the number of trucks and 180 is the number. Brandt is concerned about the “fuzziness” of the haul route because of the very concerns that are raised by the public that is here today. Graphically what happens when all of these mines, if they are up to the maximum trucks per day, start converging is a pretty dramatic illustration of what happens on State Highway 35/54 coming from both directions to the State Highway 54/43 Bridge. Cross stated he thought the current plan is State Highway 95 to State Highway 93 to LaCrosse. Geske asked where they would be loading in LaCrosse? Cross wasn’t really sure which location it was because someone else handles that. Upon Geske commenting that there wasn’t any place down there right now, Cross replied there is a rail yard down there – perhaps a short line. Brandt reminded Cross that if the conditions are not abided by, the DLM Director has the authority to pull the CUP, so if it is 180 trucks – that is what it is and if that is the designated haul route than that is what it is to be. Cross stated he thought right now they were approved for four possible haul routes. Brandt reiterated that the site plan is the site plan. Quarne commented that when one mentions 180 trucks per day, in a 12 hour day, that would basically be unloading one truck every four minutes and that isn’t very easy to do into rail cars unless it is a “dump”. Upon Bice’s inquiry about putting the sand on rail, Cross responded there are certain opportunities that present themselves and if it was close by, Cross would probably take that opportunity. At this point Gamroth re-read the motion as to include blasting, within three seasons to cement the holding pond, a requirement that landowners be notified within 2500 linear feet be notified of blasting also to be included are inspections of wells and foundations within 2500 linear feet (as has been required in the past) plus the written agreement from Mr. Cross guaranteeing to cover blasting damage plus the assumption that all other conditions stay in place with the exception of “no blasting”. Bice called for a voice vote with yes being to allow the amendment to the CUP and “no” to not allow it – Low –yes, Quarne-abstained, Nelson – yes, Brandt – yes, Geske – yes, Bice – yes. Motion to approve the amendment to the CUP passed with 5 yes votes and one abstention. Bice commented that there are people that are probably disappointed with that, but he wanted to mention that the Committee’s responsibilities have been read to them at almost every single meeting. Bice listens to those responsibilities and Bice thinks that this meets those criteria. Bice knows that some people do not think that this is looking out for the welfare of people in the County, but Bice believes that it does, when one adds to that the idea that private property owners do have rights also. If one wants to have mining in Trempealeau County on their land they do have rights. If one lives next to that mine they also have rights, however those rights cannot supercede others rights as long as there is no actual physical harm. Bice realizes that the world is not a perfect place so there are issues that can and do come up, but in general the Committee has to base their decisions based on what is fair for everyone so that is the approach that he is taking. At this time the Committee took a five minute recess.

Surveyor’s Report – Lien referred the Committee to copies of the Surveyor’s reports and bills in their packet. Joe Nelsen is working in Township 20 North, Range 8 W which is the Ettrick/Arcadia area of which most of that is finalized. Nelsen is having some difficulty (hilly terrain and wind damage) on the western side where

the issues are controlled and not finalized yet. Lien also presented a report and bill for Township 20 North, Range 9 W where all the positions are controlled and finalized. Quarne made a motion to approve the surveyor's reports and bills as presented, Nelson seconded, motion carried with no opposition.

LWRM Cost Share Payments/Requests – Lien presented the following LWRM payment request for approval.

<u>Name</u>	<u>Type</u>	<u>Amount</u>	<u>New CSA Total</u>	<u>Reason for change</u>
Robert Gierok	Contract	\$5,736.20	\$5,736.20	Streambank Protection & Access Road
Robert Gierok	Pay Request	\$5,736.20	\$5,736.20	Certify Streambank & Access Road

Brandt made a motion to approve the payment request as presented, Low seconded, motion carried unopposed.

Discussion on whether E & LU Committee should attend visit to mine site along with the Non-Metallic Mining Advisory Committee on July 26th, 2012. Lien stated at the last meeting of the Advisory Committee noise levels and decibels in proximity to property lines versus residences were discussed. A lot of the group had never been to a mine site so wanted to meet at the gate of a mine site to view and listen to the mine in operation. Lien received a call from the mine representative who stated they really weren't in favor of that and it probably should be cancelled. Lien stated this visit is not going to happen. Discussion followed. Bice asked if they eventually do visit an operating facility should the Committee go along and see the operation. FJ Wesner spoke and stated their concerns were the concerns of the public, size of the special committee and logistics, etc. Wesner stated anytime anybody wants to come and visit, the offer still stands. Geske felt if the Committee is sitting here ruling on this stuff they should have some kind of insight. Lien suggested setting up another fall tour as has been done in the past. Quarne stated, in Jackson County, before they approve any of these mines, they have a meeting the day before and look at the site so they actually know what they are talking about. Discussion took place on different mine sites and the operations of each site. Geske suggested asking his successor to come along on the tour also so that he would have some kind of an idea as to what is going on. Upon Lien's inquiry about DLM staff attendance, Bice replied it would be good for any relevant staff to attend.

Directors Report – Lien reported that applications are due July 16th for the two vacant positions. Notices were sent to the WCZA and the WLWCA.

Brandt mentioned it is budget time. Brandt felt it was clear that the DLM is short staffed. Brandt would like to see some discussion on the possibility of hiring at least one other staff person whose responsibility would be towards the mining issue and another office person. Upon Lien's inquiry, Brandt stated this would be in addition to the two vacant positions that are currently held. Discussion took place on the current computer program and staff needs. Lien didn't foresee any issues with the budgets. Quarne asked about UDC inspections, specifically when someone signs off and then there is a plumbing code failure, who is responsible. Lien responded the plumber is responsible. Bice commented that highly competent people don't rely on the government because if one relies on the government it is their own fault. Lien updated the Committee on what is going on currently in each township with mine sites/meetings. Upon Nelson's inquiry, Lien responded there are sixteen "frac" sand sites permitted and probably six are actually operating.

Bice requested that a Closed Session be included on the next agenda to discuss employee compensation.

Discussion took place regarding an e-mail that Corporation Counsel received regarding a Committee members' quotes. Brandt felt the information in the e-mail as he was quoted was inaccurate. Bice added that

he felt that what Brandt was quoted as saying, in the LaCrosse Tribune, was 100% accurate and appropriate and not what the e-mail had stated.

Next Regular Meeting Date – The next regular meeting date was set for Wednesday, August 8th, 2012 at 9:00 AM. Brandt suggested that Lien bring a couple of budgets to the meeting which included the hiring of extra staff persons.

At 11:59 AM, Bice made a motion to adjourn the meeting, Thompson seconded, meeting adjourned.

Respectfully submitted,
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary