

ENVIRONMENT AND LAND USE COMMITTEE
Department of Land Management

SPECIAL MEETING MINUTES
September 20th, 2012 9:00 AM
TREMPLO ROOM

Chairman Bice called the meeting to order at 9:05 AM.

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

Staff/Advisors present: Kevin Lien, Virginette Gamroth, Jake Budish, Keith VerKuilen and Corporation Counsel Rian Radtke. Judy Betker was present for the Farmland Preservation agenda item.

Others present: Eric Franson, Jeanne Nutter, Gerald Hawkenson, Deanne Sczepanski, Karen Franson, Gary D. Christen, Judy Christen, Beth Segerstrom, Tom Segerstrom, Jared Riesenweber, Greg Heit, Cammi Dwyne, Matthew Segerstrom, Travis Adams, Chad Dwyer, Debra Erickson, Mike Bautch, Dave Lyngen, Donna Davis, Nicole Aiona, Josh Segerstrom, Danie Johnson, Tim Johnson, Beth Killian, Josh Segerstrom, Rhonda Segerstrom, Paul Millis and John Dustman

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

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

Revisit - Conditional Use Permit and Reclamation Permit – Nonmetallic Mine- Thomas A. and Rhonda J. Segerstrom, Applicant/Property Owner, Strum, WI and Paramount Sand of WI, LLC, Eau Claire, WI, Operator– Town of Hale Bice asked Lien for whatever legal information that he had. Bice stated the public hearing portion is over, so there will be some discussion and then the vote will take place. Lien stated he received two letters, one from Tavy McMahan, Special Prosecutor for the District Attorney’s office and the other from the Town of Hale. Lien read the following letter from Taavi McMahan which stated, “Please note that our office has received a complaint regarding an open meeting violation. The complaint alleges that the March 13th, 2012, Town of Hale meeting improperly addressed the rezone for the property owned by Alan Erickson from residential to agriculture without noting this on an agenda prior to that meeting. The complaint our office received alleges that in no place did the agenda, that was published, state that there would be any discussion of rezoning of the property and/or sand mining in general. After reviewing the documents presented in reading the agenda for a meeting dated Tuesday, March 13th, 2012, 11:00 AM, at the Town Hall, it is clear to this office there, in fact, was a violation of open meeting notice requirements and therefore we will take action if this situation is not rectified. It is incumbent upon all government entities to publish the notice of meetings and topics to be discussed at those meetings. Wisconsin law requires that the District Attorney or Department of Justice review complaints filed with them regarding the Statutes. In order to resolve this matter, the Town of Hale will need to stop any action in regard to the rezoning of the aforementioned property, the Town of Hale will need to re-announce that agenda item and properly publish the notice allowing for public debate at an open meeting. We look forward to hearing from the Town of Hale as soon as possible regarding this matter”. Lien added that at the last meeting, it was discussed that there was an alleged open meeting violation. This verifies that, in his opinion, there was indeed one. The Town reposted their agenda, and held a meeting on Tuesday evening. Lien stated he does have a letter from the Town, but questioned Radtke as to whether a motion was needed to bring the issue back. Corporation Counsel Radtke stated he understood at the last meeting there was a motion to move forward with the permit and then there

was a motion to postpone until after the 18th of September. The question arose as to whether there was in fact a motion on the table for approval prior to a motion to postpone or table. While waiting for verification of that point, Lien read the letter from Schaumberg Law Firm, LLC regarding Town of Hale – Segerstrom and Paramount Sand Conditional Use Permit which stated, “ The Town of Hale at its’ September 18th, 2012 considered the request from Tom Segerstrom and Paramount Sand for an approval from the town to your Committee regarding their mine application. This meeting was, in essence, a reconvening of the previous March 2012 hearing from which the town board sent a letter indicating that they approved the mine application. As I noted to you in my last correspondence, the September 18th meeting was scheduled in light of the Trempealeau County District Attorney informing the town that it may pursue an alleged open meeting violation for acting on the Segerstrom mine request without it being properly listed on the March 2012 agenda. The Town Board on September 18th by unanimous vote, decided to take a neutral position on this matter. The town board will neither request approval nor denial of the mine application. The Board would request that if the application goes forward that the Land Use Committee please consider those proposed conditions previously provided to you”. Lien stated he had passed out a list conditions, 24 which are from the Town of Hale and were given to the Committee at the last meeting. Also included in the list are staff recommended conditions that are actually modifying some of the towns’ to be more consistent with what has been done in the past. Lien read aloud the proposed staff conditions. Condition #1 – Settling ponds will have an impermeable layer to prevent migration of liquid or other materials from escaping or migrating from the settling ponds. Bice announced that the condition will be read aloud, if there are issues that Committee members want to discuss, then the Committee will go through it. If Committee members accept it as a reasonable condition and there is no question about it, then we will just move on. Thompson and Nelson agreed that they had made all the others have a concrete bottom. Condition #2 – Originally stated installation of at least 4 air quality monitors installed around the perimeter of the mine to analyze for silica dust and air pollution levels are above safe standards, 3 micrograms per cubic meter – annually average of PM10 size particles, mining activity ceases until changes are made to ensure safe levels of silica dust. What staff added, “owner/operator will comply with all requirements of the DNR’s clean air permit (NR-404), one of the requirements will be the installation of an air quality monitor in the prevailing headwinds of the plant. Under the DNR rules prevailing headwinds are based upon the most recent and available meteorological data from the nearest airport. The own/operator will also agree to not file a waiver on the air monitor equipment as permitted under state law. Copies of all air monitor test results will be submitted to landowners within 2500 linear feet of mine perimeter on a quarterly basis and a copy will be filed with the town clerk and the Trempealeau County Department of Land Management. In the event the air quality standards change on a state/federal level that would ensure even a higher quality of air than those standards would be adopted according to Wisconsin’s NR-404. For clarification Lien stated that staff had made one of the mines put in three air monitors and it was sort of a waste of time and money because they really don’t detect anything. Lien continued that if we are going to require an air monitor, Lien would like to be able to work with the applicant that it is an air quality monitor that actually has a removable filter which can be removed and analyzed so that we would actually know what we are looking at. Lien felt that would meet the mining company, public and staff requirements in order to know what we are dealing with. In referring to the recent study done by Buffalo County Health Department, Brandt stated in that report they talk about the issue that has been raised, that there hasn’t been much data collected which has to do with fugitive dust. To control the dust within the mine site for the safety of the workers is something that has been studied considerably, but the question is what happens, does anything get out of the mine, where does it go and what direction does it go? Brandt added there were a lot of recommendations based on a small sample of studies. Brandt mentioned the one thing he came away with from this study is that the monitors should be installed now, before any mining activity begins, so a baseline is established so one would know what they are comparing it to. If there is nothing to compare it to, one doesn’t know what is coming from the mine and what is just out there. As an amendment to this condition, Brandt made a motion to add that those monitors be installed as soon as possible in order to monitor pre-mining conditions, Thompson seconded. Lien added from the town they had at least four on their recommendations, so it is a little unclear as to how many. It is Lien’s understanding that these things are movable and they are not fixed. Lien felt the data collection should be always downwind as staff had worked with Preferred Sands on the strategic placement and it really varied. They were fixed and had

cages around them so they were somewhat protected. The town had asked for four, but Lien reiterated that if there was one really good one that was utilized in the proper spots, there would be more benefit than four. Lien understands the public concern because the wind isn't always from the same direction, but if it was a movable one, it might still meet the needs. Bice inquired if three is what was required for all of the other sites. Lien stated not all of them, but when there have been processing plants there have been three required. Lien felt that was prior to realizing everyone's time and money was being wasted because the type of monitors that were being put up weren't giving the information that was needed. Discussion followed. The monitor that Lien was thinking of would be a more expensive monitor but would provide better information to the applicants, neighbors and to staff. Because of the increased expense in obtaining the better monitor, Lien's recommendation would be to require one. Radtke commented he didn't think a "motion to amend" was necessarily in order to make changes to this. The motion that is "on the floor" is to approve the permit application and the motion wasn't also to approve staff recommended conditions. Radtke suggested the process would be to just go through these, one by one, and generally consider where the Committee wants to go and then ultimately when the Committee is done, a motion to amend the original motion to include any other conditions that are agreed upon would be the better approach. Brandt then withdrew the motion to amend, Thompson agreed. Condition #3 – All lights to have full cutoff shrouds and owner/operator will work to limit lighting impact to off site owners in conjunction with the lighting requirements under the Mine Safety and Health Administration (MSHA). Staff eliminated, "shall not be visible from adjacent property or road right of way" because of redundancy, and also, "no lighting shall be directed upward or onto buildings". Lien commented the language already exists in the County Ordinance, but these conditions came from the town, so staff modified them to be consistent with the Ordinance. Condition #4 – All onsite equipment shall be equipped, maintained and use the new style low tone alarm in accordance with MSHA requirements. Condition #5 - A buffer zone of 50 feet will be maintained around the perimeter of the mine. Existing perimeter tree canopy at highest points of elevation will be maintained to assure visual appearance of aesthetics to reduce dust from leaving the proposed mine area. Lien and Nelson noted that the town had 75 feet in their conditions and the County Ordinance states 10 feet. Almost every one of the towns' have come forward with a recommendation of 50 feet and the E & LU Committee has adopted them, so again Lien likes consistency's so staff is recommending 50 feet. Condition #6 - All water wells within a 2500 foot (town had ½ mile) radius of the mine site will be tested prior to the beginning of any mining. The owner/operator (town had permit applicant) will contact and offer well depth and water quality testing to enter into agreements with all existing well owners within a 2500 linear foot radius of the mine site to assure that, in the event that mining activities contaminate or otherwise impact the current flow of water through such wells, that the owner/operator will be responsible (at owner/operator's expense) for providing temporary and permanent water supply equal to what the initial testing indicates. A copy of the baseline well depth and water testing results will be shared with the homeowners and a copy shall also be filed with the town clerk and the Trempealeau County Department of Land Management. Lien expanded on this, because Dustman had completely "sold him" on a system that Dustman has come up with that actually has real time data and there are monitors that can be placed in adjacent wells and as the high cap well is running, Lien would have the capability of monitoring it from his office, etc. to see what levels happen. Lien would somehow like that information incorporated in. It has always been a gray area, in Lien's mind, where applicants come in and say, "we're going to do the drawdown analysis for a high cap well" and they show how it affects property owners but yet we are repeatedly told, on the other side, that most wells are in the Eau Claire formation water and these high cap wells are in the Wonnewoc, so there really shouldn't be a comparison. Lien felt if we had Dustman's information, this would be a step in the right direction, so we could really see that comparison. Dustman commented the only two changes he would make to this are that it is "water" depth test measurements not "well" depth. Lien verified that where it states "offer well depth" it should read "water depth". The other caveat that Dustman had was that in order to get the high capacity well the DNR is going to require that a drawdown analysis be done for not only the pumping aquifer but other aquifers above it, but for long term monitoring, it wouldn't make sense to monitor the Wonnewoc or the Eau Claire if one is pumping out of the Mount Simon, if one has shown that there is no connection between the two. Dustman stated it is not like there is going to be a connection tomorrow when there isn't today and when one pumps that well to test it, to see if there is even enough water available. Dustman stated this isn't any sort of requirement or

condition, the owner/operator has to do a test on the well to see if it faltered and when one does that they would have transducers placed around the neighborhood. That test is then run for a sufficient period of time to have the aquifer stabilize and once that happens it is called equilibrium conditions and it won't draw down any more regardless of what happens (other than a thirty year drought). Upon Lien's inquiry, Dustman stated it has to be done before the high cap well because one needs a base line, just like with the air. Brandt asked, when talking about real time, if Lien was talking about during the drawdown test or during the operation of the mine. Lien responded, initially, it can be whatever that high cap well is on and from the program Dustman has put on one can actually see how it affects the wells. Dustman stated the DNR has a rule of thumb that if you impact someone else's well over 10 feet that is a problem, but less than 10 feet if there is plenty available drawdown and the pump is set and there is water over the top. If there is no way this well is going to run out of water because of drawdown they don't necessarily make do that long term, but in this case, where one did do a test and a neighbor's well draws down to nine or eight feet, the DNR is going to say, "absolutely, leave it out there". Dustman stated in a lot of these conditions, "if" should be in there. Lien explained that neither he nor the Committee wants to put anyone in a matter that requires a civil law suit, so if we have data prior to the mine (during the high cap well use), Lien feels that give some accountability to the applicant and the neighbors. Dustman added that the test that is run to get the high capacity permit is a continuous test, the well is never off whether it be for seven, ten or thirty days. Lien reiterated that based on Dustman's presentation, Dustman has the capability of putting in monitors that Lien can view as well as the public. Lien stated we have never had that capability before from the DNR. Lien feels that would put some of these issues to rest between DNR and staff. Upon Matt Segerstrom's inquiry, Lien verified that the presentation that Dustman gave was not for this application and not before this Committee, it was a private presentation. Paul Millis, Attorney for Paramount Sands commented that unless such requirement is released by the DNR and Trempealeau County DLM, if there is monitoring and it is not affecting the wells then that requirement could be lifted by Lien's discretion. Lien replied absolutely. Condition #7 – Ground water elevation measurements will be continuously monitored through the placement of three perimeter monitoring wells on the mining site and in conjunction with the County issued reclamation plan. Location of the monitoring wells will be implemented on the direction of the Trempealeau County of Land Management. Lien stated the following was lined out, "done continuously while the wash plant is drawing down water. Testing will occur anytime there is a drawn down and especially during the summer months when there is an increase of agricultural water use. In severe drought conditions, washing operations will cease. Water pressure transducers shall be installed in three monitoring wells around the mine perimeter and in all currently existing wells within a one-half (1/2) mile radius of the mine site to make sure that drawdown is not impacting such water sources" Data collected from the monitoring wells will be provided to the owners of the wells within 2500 feet of the radius of the mine site. Further when a report is required to be filed to the County requiring the monitoring wells such report shall also be filed with the town clerk. All costs associated with this monitoring shall be borne by the owner/operator. Lien stated it duplicates a little of what was talked about with the exception of the three monitoring wells. The County has made that a standard requirement in other areas, sometimes only one was required between the source of the high cap well and the nearest adjoining property, etc. Three is what the town had suggested. Condition #8. The first line, "Because there are at least seven residences within 2,500 feet of the mine, no blasting shall be permitted". It was changed to, "In the event that blasting is permitted, the only/operator will retain a videographer who shall inspect and record the foundations of all the residential and agricultural buildings within 2500 feet. Such video footage will be filed with the town clerk, the Department of Land Management and also be kept on hand by the owner/operator in the event a concern is raised regarding damage based on blasting. The owner/operator is determined to be responsible for any cracking in building foundations and shall bear the cost of retaining a third party to repair the damage to foundations. The next part was lined out, "one ½ mile radius will receive written assurance from the applicant and adequately protects all residential/agriculture buildings, foundations and water supplies. The assurances shall be a written agreement between each residential/farm building owner within ½ mile radius of the mine. Blasting will only occur between 10:00AM and 3:00 PM, Monday thru Friday. All landowners within 2500 feet radius will be given 24 hour notice prior to blasting, owner/operator will comply with all state, federal, local and other rules concerning blasting". Lien stated that language is in there now, that the County actually gets a call 24 hours prior to a blast and seismograph readings are collected from each one. Lien felt the

videographer is a really good addition because there have been two reported, alleged, problems/damage to structures from blasting. Unfortunately both blasts are right under the COMM 7 requirements, yet there are issues. If the third party engineer videotapes the structures and all parties keep a copy of that, Lien felt that would be another step in the right direction even though some of these issues are civil issues. Radtke has instructed Lien and the Committee not to get involved in civil matters. Lien added we do know that blasting is a concern and have consistently required the well and foundation inspections within 2500 linear feet. Condition #9 – Separation between mining activity and the water table shall be at least 10 feet. Condition #10 – The mining operation shall not make any processing discharges to surface water and it shall be directed to sediment ponds. Mining activities shall not cause drainage from the mine site to any of the abutting properties. The discharge of storm water shall always be contained to the mine site, but will not be required to be discharged to sediment ponds. Brandt commented he understands the DNR has not approved this and it is an internally drained site. Lien didn't think DNR was viewing any of them as internally drained until they can establish that the mine can successfully do that. Dustman commented that some language should be put in there, other than for testing purposes. When the high capacity well is tested, it will be going into the local water source on a very temporary basis. Lien stated that is not processing discharge. Brandt felt there needed to be some language there in regard to the DNR permit for discharge internally. Lien responded that getting a DNR permit is a standard condition. Condition #11- There shall be no harvesting, cutting or trimming of oak tress between March 15th and July 15th of each year to assist in minimizing the spreading of oak wilt. Condition #12- (Consistent with County code) Noise and sound generated by the facility shall not exceed 45 decibels at non-operational times. Lien explained that language is actually in the County Ordinance. Condition #13 – The mine shall minimize the generation of air borne dust. Water trucks shall apply water around the mining site daily, if necessary, so as to minimize dust conditions and to minimize tracking of material outside the mine operation. Condition #14 – The mine operations shall maintain a minimum 500 foot blacktop drive from the town road to the mining site to assist in the prevention and migration of material from entering the town road. Bice asked if that meant they have to pave a 500 foot road. Lien responded that has been done in the past and basically it is a tracking pad. Some of them have also put in the tire bath. Matt Segerstrom and Travis Adams stated they actually gave the town that recommendation. Condition #15 – The owner/operator shall enter into a Road Agreement with the Town of Hale to construct all town roads used as haul routes up to grade and for additional maintenance costs due to the mining activity. Lien understood they were working with the Town of Hale and the Town of Chimney Rock (some of the roads are in that township) but no agreement has been met yet with Chimney Rock. Upon Lien's inquiry, Matt Segerstrom stated they have submitted a road use agreement to the Town of Hale but have received no response yet. The suggestion was made to add the Town of Chimney Rock into the condition. Condition #16 - Lien stated "excavating" was lined out. Hauling of materials shall occur only from Monday to Friday unless any such day is a holiday then such activity is also prohibited on that holiday. The hours of operation shall comply with the county requirements. Upon Attorney Millis's inquiry, Lien responded the Ordinance has federally recognized holidays defined. Condition #17 – All trucks entering or leaving the site and hauling materials shall be properly tarped to prevent the escape of fugitive dust. Condition #18 – All materials which contain or could possibly contain flocculants will be disposed of in a safe manner in consistent with the County's issued reclamation plan. The owner/operator agrees they will provide a list of flocculants used as part of their process to the township on an annual basis. Lien stated what was lined out is, "area which shall be constructed such that any such flocculants cannot leach back into ground water or surface areas. Such materials are not to be placed back into the ground as part of the reclamation process". Lien stated he personally struggled with this condition because he agrees with the towns' concerns, yet DLM staff can't regulate it. After being at the tour of the Hi-Crush site and seeing flocculants placed in 77 feet of groundwater, Lien has concerns with that because he doesn't feel flocculants have been studied for this industry's use, but right now DLM cannot regulate that and that is why it was lined out. Lien added it really can't be prohibited at this point because right now it is an acceptable reclamation process. Condition #19 – The owner/operator (applicant was removed) shall cooperate with local emergency responders and fire department personnel in training, advising or otherwise informing said responders of all potential and known hazardous materials or special conditions that said responders need to be made aware of. Condition #20 – Only products excavated or extracted from the property may be processed at the site. No sand or other

products shall be transported into and processed at the mine site. Condition #21 – The owner/operator shall comply with all local, county, state, federal and administrative agencies, conditions, rules and laws. Condition #22- There will be no compression or jake-brakes except for emergency use. Condition #23 – There will be no staging or loading of trucks on township roads or outside of the mine site. Condition #24 – No truck traffic during morning or afternoon school bus delivery/drop-off times pertaining to that portion of the town road to be used as a haul route. Actual prohibited hours will be coordinated with local school districts. Lien stated he didn't think that has happened yet, but he wants that language to stay in there so that the applicant can work with the school district. There may be no school bus that travels this road, but if it does there shouldn't be any hauling, which has been consistent with other conditions, during those pick-up and drop-off hours for public safety reasons. Brandt suggested eliminating the "the" and turn it into, "pertaining to that portion of town roads (adding "s") used" because there will be another townships' roads being used. Condition #25 – The duration of the Conditional Use Permit is 5 years (25 years was lined out) from the date of the permit. After the five year time period the owner/operator may apply for an extension with both the County and the town. Lien commented that the County has been consistent, recently, with the five year period as it gives the operator the opportunity to demonstrate that they are good land stewards/good corporate citizens. Therefore, the Ordinance states very clearly that if one is meeting all the conditions of the permit at the end of the five years, one can automatically get a two year extension and repeatedly get a two year extension after that. Lien added the reality is that anytime one is out of compliance with the conditions the permit can be revoked, so whether it is 5 or 25 years the County still has jurisdiction. Attorney Mallis stated the concern the operators have with that is that a five year permit would be fine with merely an extraction site, but when there is a processing facility (a wet and dry plant) there is going to be a huge capital cost – up to \$20 million investment and to be limited to five years is really very restrictive. Mallis understood what Lien was saying as far as the Ordinance, however there is a provision in there that states there shall be no limitation upon the number of permit extensions which may be applied for, but it is subject only to the right of the county to deny extensions on a case by case basis. Mallis stated there is no guarantee, after five years, that they would be able to get that extension. It didn't appear to Mallis to be automatic. To address the County's concern, Mallis felt they could be comfortable knowing that if there is any violation of these conditions or if there is any violation of the DNR or MSHA regulations, the County has the ability to issue a "Cease and Desist" order and that would remedy that situation. Additionally if something came up "down the road" where it would be appropriate to have additional conditions added, the Ordinance provides for that – permit modifications. The Ordinance states, "in the event the County recommends further or additional permit conditions as being required to meet the concerns of the County, under this Section or under the Ordinance in general, upon request of either the operator or the Zoning Administrator, the County shall hold a public hearing and consider altering the original permit conditions for the remaining life of the permit". Mallis explained it is going to be very difficult for them to move forward with their plan, to get the investments or financing that they need to do a \$20 million project, if that financial institution or those investors see that there is only a five year life on this permit and there is no guarantee that will continue, so Mallis was asking that the permit be issued for a 25 year period knowing that the County does have the ability to monitor this permit and that the Ordinance provides annual inspections. Mallis felt they would agree, if the County wanted to do it more often, maybe semi-annually at their cost, then they would agree to that. Mallis reiterated that it was really important, from their perspective, given the cost/investment that they are putting into this that it be a 25 year permit. Bice responded the Committee would consider that. Lien commented that he understood Millis's concerns and the County has been consistent with the five year life with past permits. Lien felt it shouldn't matter if it is raw extraction or processing facility or a \$5 million or \$20 million investment, the Ordinance is very clear that if they are compliant they can apply for that extension. A five year permit puts the onus on the operator to show that they are different than some of the other operators the County has seen in the past. Condition #26 – Only products excavated or extracted from the property may be processed at the site. No sand or other products shall be transported into and processed at the mine site. Condition #27 – Concrete bottoms must be in all wash ponds that may contain flocculants. Condition #28 – We want the mine to acknowledge the concerns expressed about the effects on the quality of life and the decline of property value for the homeowners and landowners on Erickson, Linberg and Gunderson Roads. An acceptable agreement must be reached between the property owners and the mining owner/operator regarding the

concerns before mining commences. Lien commented this condition was added after reviewing the public comments. It is not stating that they have to purchase properties or anything, but it went back to the conversation that was held with 10K last week that there are people in close proximities. We would like to give the applicants the opportunity to work with the neighbors to make some agreements. Those particular named properties are very close to the site. Lien felt the Committee wasn't concerned about the type of agreements being made but that some compromises/agreements were made with them. Lien received two public comments that he wanted to read into the record. #1- Buildings will enclose crushing, washing, and drying to minimize noise and dust. The proposal suggests that crushing equipment will be mobilized to the site as needed. All crushing should be enclosed to minimize airborne dust. Lien commented he has seen a lot of different applications over time and he has seen where some of the crushing operations have a small, little house over them that actually has curtains hanging in front of it so that when there is dumping it minimizes airborne dust. #2 – Billowing dust from dumping will be controlled with an enclosure with staging curtains and/or plastic stripping inside of an enclosure. Water will be sprayed inside to “knock down” dust. Lien added that these are public recommended proposals and felt that these were both good ideas to minimize noise and dust. These comments were not included in staff conditions yet Lien felt they were valid concerns. Bice stated the Committee would now go through the conditions and if there was something for discussion then it would be addressed. Brandt made a motion to amend the original motion to include the standard conditions, and the staff recommended, already modified, conditions of the town, Low seconded the motion. At this time, Corporation Counsel, Radtke, asked to go through the Ordinance with the Committee, as has been done in the past, analyzing what needs to be considered here. Radtke read aloud from the Ordinance Section 13.01, “The County must specifically analyze non-metallic mineral mining proposals in light of the County’s interest in providing for the wise use of the natural resources of the county, aesthetic implications of the siting of such a mine at a given location and the impacts of such a mining operation on the general health, safety and welfare of the public. Radtke stated (reading from Chapter 10.04(a)) in approving Condition Use Permits the Committee shall also determine that the proposed use and the proposed location will not be contrary to public interests and detrimental or injurious to the public safety or character of the surrounding area. Radtke stated the appropriate land use factors to consider are, in order to grant a Conditional Use Permit for non-metallic mining, the county must find that the proposed operation is an appropriate land use at the site in question based on the consideration of such factors such as: existence of non-metallic mineral deposits, proximity of the site to transportation facilities and to markets, the ability of the operator to avoid harm to the public health, safety and welfare, the ability of the operator to avoid harm to legitimate interests of properties within the vicinity of the proposed operation. Radtke added those are the things that the Committee needs to analyze, review, and consider, in whether to adopt or approve a Conditional Use Permit. Radtke asked the Committee to consider those things in it’s’ analysis here. Specifically, as to the motion on the floor for amending the added conditions, Radtke stated as this Committee knows there are standard conditions that would be included on any granted permit, but the Committee also has the ability to add additional ones and in approving those, the Committee can impose such restrictions and conditions that it determines are required to prevent or minimize adverse affects from the proposed use or development of other properties in the neighborhood and on the general health, safety and welfare of the County, such conditions may include financial surety. Radtke read from Chapter 13.03; Factors to Consider for Adopting Conditions the following, “When considering an application for a non-metallic mineral mine permit, the County must consider, among other factors, the effect or impact of the proposed operation upon: 1) public infrastructure, including but not limited to streets and highways, schools and other public facilities; 2) present and proposed uses of land in the vicinity of the proposed operation; 3) surface water drainage, water quality and supply; 4) soil erosion; 5)aesthetics, including but not limited to scenic beauty and the conservation of natural resources of outstanding quality or uniqueness; 6) the market value of lands in the vicinity of the proposed operation; 7) the physical practicality of reclamation of the site after the operation has been concluded; and 8) the public interest from the stand points of smoke, dust, noxious or toxic gases, and odors, noise, vibration, blasting and the operation of heavy machinery and equipment”. Radtke commented the latter factors are to be considered when considering whether to adopt conditions to attach to any approved mining permit. Radtke stated that and that alone is what this Committee is to consider, apply the facts that it has been presented in the public hearing and in any meetings prior to today, consider those facts and the Ordinance factors and consider those in making your

decision here today. Brandt stated the changes he would make to the modified town conditions would be to require some pre-mining monitoring of air quality which comes under Condition #2. Brandt would return to the towns' recommendation of a 75 foot buffer. Discussion followed on whether one or three air monitors should be required. Upon Bice's inquiry, Lien stated the mining ordinance states we will address this issue for the health, safety and welfare of the public, it doesn't require a certain number. Lien noted there has never been a study done on ambient air, so unless there is a filter that can analyze that, we have no idea what we are collecting. Low suggested going with Lien's recommendation of one, updated monitor, that will give us a time lapsed picture before and during, of what particulates are actually in the air and that is what we are looking for. Brandt specified that the condition read, "Prior to beginning mining operations" to collect data. Upon inquiry from the Committee, Radtke advised them to address each condition individually, bring a motion to amend and then vote on it. Brandt proposed to amend Condition #2 to include the requirement for pre-mining monitoring of air quality using one high quality monitor (will be portable) to be placed in the most effective area, Thompson seconded. Motion carried unopposed with Quarne abstaining. Bice addressed Condition #5 stating that he had no problem with the 50 foot buffer zone but it should be specified "from an actual residence also" because 50 feet is too close to be up against someone's residence. Bice did not make this a motion but added that at some point in the future the Committee will need to deal with that issue. Bice addressed Condition #6 where the change was made for it to read, "Baseline water depth" rather than "well depth" and clarified that it got in the minutes as a change. Bice made the motion to officially make the change to Condition #6, Brandt seconded the motion. Motion carried with Quarne abstaining. In addressing Condition #11, Bice asked if the applicants understood the concept of the timeframe between March 15th thru July 15th and inquired if that would be a problem. The applicants acknowledged there would be no problem; therefore Bice did not make any change to the condition. Condition #12 stated "this must be consistent with the Trempealeau County code" and talks about 45 decibels. Bice suggested changing this to agree with the Mining Ordinance. Lien stated if it changes it would change by default. Radtke commented if the Committee wanted to stay consistent with the Trempealeau County code it should just state that the noise of the sound generated by the facility shall not exceed the decibels in Trempealeau County code, so that if it changes later then there would not have to be changes made here, otherwise as it is written there would be a question/conflict as to whether it is 45 decibels or whatever the code says. Lien clarified that currently the code says 45 decibels. Radtke reiterated, according to Bice's suggestion, if the code changes at some point then this condition would not have to be changed if it read, "consistent with Trempealeau County code. After some discussion, Bice moved to strike Condition #12, Low seconded, motion carried with Quarne abstaining. Brandt noted that at this point, all conditions will have to be renumbered. In addressing Condition #15, Brandt made a motion to add the language "adding 's' to agreements with the Town of Hale and included/adding the Town of Chimney Rock". In regard to Bice asking if the County could have final say on those agreements, Lien commented that the County has no jurisdiction on County roads. Radtke recommended that the County not be reviewing and approving the Town road use agreements as they are independent contracts between those entities and because of the resources needed to follow and maintain those agreements. Vold stated it should just read that an agreement needs to be in place. Radtke commented that requiring one party to enter into a contract could in fact impair the contract itself, so the requirement that there is an agreement in place should be sufficient. Attorney Mallis commented Chapters 349 in the Statutes provides exclusive jurisdiction over the town roads/towns and they are the only municipality that can enter into those town agreements. Thompson seconded Brandt's motion, motion carried with Quarne abstaining. In addressing Condition #16 – "all trucks entering and leaving the site and hauling material shall be properly tarped" – Bice was ok with that, but after that comes "to prevent the escape of fugitive dust" and Bice was ok with that also but wasn't sure if 100% escape was going to be eliminated by a tarp. Discussion followed. Low made a motion that there be a period placed after "tarped" and the rest of the condition would be eliminated, Bice seconded, motion carried with Quarne abstaining. At this point Vold stated Condition #20 and Condition #26 are actually the same, so Vold made a motion striking one or the other. Committee consensus was to strike #26. Brandt seconded the motion, motion carried with Quarne abstaining. Brandt made a motion change Condition #24 by suggesting that "the" before town be eliminated and put an "s" after road so that it reads, "no truck traffic during morning or afternoon school bus delivery/drop-off times pertaining to that portion of town roads being used as a haul route". Brandt stated that would basically include the other town. Nelson seconded the motion, motion

carried with Quarne abstaining. Brandt verified with Corporation Counsel that the renumbering of the conditions by staff would not be an issue. Bice called for discussion on Condition #25 – the duration of the Conditional Use Permit. In Bice’s opinion he didn’t think it needed to be 25 years but for a person to go into a business venture for this long they kind of need some sort of guarantee for more than five years. If Bice were an investor, he wouldn’t be able to say that he’s not sure that venture is not going to be shut down before there might be a return on an investment. Bice made a motion to change the condition to duration of 10 years, Low seconded. Bice clarified that the last few permits have been approved with a 5 year duration. Lien felt five years was an adequate timeline for the applicant to get completely established, up and running, the erosion control and storm water plans in place and to demonstrate they are going to do everything that is in the plan. Lien added we have 150 acre plans that state there is going to be 15 acres open when in reality we have 150 acres open and there has been discharge from five points. Lien isn’t saying this applicant is going to be that type of operator, but Lien reiterated that five years gives them plenty of opportunity to show that they are not. Lien added that at any given time if the applicant is out of compliance, the County can revoke the permit and shut them down so there is no business guarantee for this type of process and any investor should know that. Lien felt five years was an adequate timeline. In response to Bice’s comment about a guarantee, Brandt commented the onus is almost exclusively on the applicant to prove to the County that they are in compliance with their Conditional Use Permit and we cannot guarantee them anything. Brandt pointed out that Radtke had gone through the Ordinance again and no where does it suggest that economic success of an operation and whether or not they are successful is something that this Committee should take into consideration. Nelson inquired, if after five years, the applicant has to come back and buy the permits again. Lien responded no, as long as they’re compliant with the conditions, the County can just renew it. Lien added that, as Millis had stated, there is an annual review through NR-135, but the County does more current reviews and especially every time there is a complaint. Lien reiterated that at any time the Zoning Administrator or the applicant could come back before this Committee to have any of these conditions modified. At the end of five years, if there are no issues with the site, the applicant can come back, state that they have done everything that they told us they were going to do, having demonstrated that they are good land stewards/neighbors and request a 10 or 15 year permit, or by Ordinance continue to get two year extensions. Millis pointed out that the Ordinance does say, “the County has the right to deny that extension on a case by case basis”. Millis stated if it would be this Committee or Lien present, five years from now, it would be comforting to them, but the whole make-up of this Committee could change and that could jeopardize this whole project if they are granted five years. The Ordinance does have the provision that the applicant has to re-apply for the extension so that is a huge concern for Paramount. Mallis asked the Committee to please consider a term longer than five years. Bice reiterated that the motion is to establish this permit at a 10 year initial life, from where it is stated now. Bice called for a vote. Bice and Low voted in favor of the 10 year life with all other Committee members voting against, therefore the permit life stayed at 5 years. Condition #28 read that “an acceptable agreement must be reached between the property owners and the mining owner/operator regarding the concerns before mining commences”. Bice’s concern was with property owners that cannot come to an agreement with the mine owners, then how are they going to move forward. Radtke’s opinion to the Committee, in the past, has been to not include property values of neighboring properties as a condition of the Conditional Use Permit on the grounds that the County then becomes essentially a party that has to oversee that contract or that agreement and act as an arbitrator. We then have to make decisions, as a County as to who is right and wrong and do an investigation and decide whether or not to revoke a permit. Radtke continued that his opinion has been that if there are neighbor’s that have problems with a specific mining site that it is the mining companies best prerogative to get that resolved and if the two parties cannot get that resolved, the Committee should consider what the problems are and whether the neighbors can get that resolved on their own or the circumstances of how they did not get it resolved. Radtke didn’t think the County should get involved acting as a third party arbitrator between civil agreements between neighbors. Bice’s opinion was that we need them to try and work very hard to resolve whatever issues are there but if we, as a Committee, feel that the public is being abused, and we have the ability to pull the Conditional Use Permit, then to put that wording in there is very complicated and Bice would prefer to strike that line. For clarification, Lien stated, in the past we have had four, very similar agreements to this, on three different applications. The Committee was not involved as to what the agreement was, but just acknowledged that an agreement was made. Brandt

commented those were made when specific landowners were named and unless one can come up with specific property owners who have claimed to be adversely affected and we require some agreement, the he made the motion to strike Condition #28, Bice seconded the motion, motion carried with Vold voting in opposition and Quarne abstaining from the vote. Bice then moved on to two public recommended proposals. Lien stated these proposals were included as part of staff recommendations but noted that they came from the public and not from DLM staff. Thompson inquired if Paramount was planning to run through the winter with the drying process because if they were, they would probably have a building anyway. Lien clarified with Paramount representatives that the plan already had a building for the dryer but there wasn't one for the crusher and washer. Lien stated because it is a wash plant by nature and everything will be wet it is probably not as important and sometimes, depending upon the time of the year, the crusher isn't as important, but that is definitely a point where one gets some dust and ambient air. The only time Lien has seen a proposal for an enclosed wash plant is when they have proposed to operate year around. Thompson made a motion to eliminate the "washing". Discussion took place about removing "crushing" Dustman suggested putting the moisture in there, and if over 10 % of the material is less than 2% moisture than that needs to be done in an enclosed area. Low seconded the motion for discussion purposes. Low stated if the material has more than 2% moisture content than there is no dust. Bice noted that would pertain to the crushing part. Motion to eliminate "washing" in #1 of what was originally public recommended proposals passed with Quarne abstaining. Dustman commented, that one trend in trying to save on fugitive dust coming from haul roads and costs is to actually convey the material from the mining area to the processing area and that would be impossible to put undercover as that is constantly moving. Dustman clarified that material is conveyed from the extraction site to the wet plant. Lien stated it would have to be a covered/hooded conveyor because that is not moist material. Dustman noted with the open Grizzly with the screen it is just as moist going down the conveyor as it was going into the Grizzly. Lien inquired why there is a dust plume after a blast if the existing ground is more than 2% moisture. Dustman responded that is a function of the rocks coming out of the hole and has nothing to do with the moisture of the material. Dustman has not seen any "fresh" material be under 4%. Bice inquired of the Committee if the rest of the conditions would remain as is. Lien asked if the applicant was going to be extracting and hauling to a fixed crusher or are they going to have a mobile crusher and conveying, because that would be a change to the operation and what the plan stated. The applicants responded it would be a mobile crusher with a conveyor, as there is the option for conveyors or haul trucks. Lien is around crushing equipment all the time and he felt to put a roof over a mobile Grizzly would be impractical, but in most operations with this type of investment, the crusher is closer because the conveyor system is not mobile and one mines around the site. Either one is hauling to the crusher or the conveyor. Conveyors are almost always covered and conveyed as they don't want the material drying and the wind blowing. Dustman felt this is an area where some of these conditions can start overlapping because if there is an air monitor and then there are problems indicated by the data collected from the air monitor, the operator then has the obligation to determine what is causing those things and certainly this would be one thing in the case they are crushing dry material. In crushing wet material there will not be an air quality issue. In regard to Bice's inquiry as to whether the County could shut down an operation for dust issues, Lien responded the term "unsafe dust issues" becomes debatable at that point and if Lien shut someone down from that he is likely to get a call from an attorney asking how Lien knows that is an unsafe dust plume. Lien doesn't like to be put in that type of a position. Discussion followed on moisture content and dust plumes. Thompson commented if one of the conditions is taken out then both should probably be taken out. Lien stated he felt perhaps the plan wasn't detailed enough where one could address it one way or the other and the applicant has asked for the option of going either way. After some discussion Low made a motion that "Billowing dust from dumping will be controlled on fixed crushing operations with staging curtains and or/plastic stripping inside an enclosure. Water will be sprayed inside to knock down dust" and striking from the record #1. In discussing the difference between a "structure" and a "building", Dustman stated it is one thing to put up an overhang and enclose it with curtains to try to do a good job to knock dust down, but if one puts a building up with foundations and walls, etc. and now things can move, it just doesn't work. Thompson seconded the motion. Motion carried with Quarne abstaining. Brandt stated there were two haul routes that were suggested in the plan, they were similar out to State Hwy 93 and then one goes south on 121 with a potential load out in Whitehall, the other would be going north and out of the County on State Hwy 93. Upon

Brandt's inquiry about the traffic impact analysis (TIA), Lien responded that has not been received as the DOT is backlogged, but the operator and staff understand that whatever recommendation comes back will be part of the conditions. Brandt stated the plan also talks about 150 loaded trucks per day which would be 300 trucks per day and asked if that is part of the conditions as well. Lien responded it would be whatever comes back in the TIA. Lien had submitted whatever Paramount gave for a haul route and number of loads per day. Brandt made a motion to add as a condition that the recommendations from the DOT in the TIA will be followed, Thompson seconded. Vold noted this should also be added into the Standard Mining Conditions. Motion carried with Quarne abstaining. Vold requested, as part of the Standard Conditions, that any time any of these properties/mines are being sold they have to come back for another Conditional Use Permit. Bice suggested that be an item on next month's agenda. Attorney Millis requested a compromise, to alleviate their concerns regarding the language in the Ordinance that if the owner/operator is in compliance with these conditions, all the town, county, state and federal rules and regulations the permit would automatically be extended for five year terms. Lien responded he didn't feel comfortable with that as that would be in conflict to the Ordinance as the Ordinance states two years. Millis felt without stating it in the Ordinance, the Committee couldn't just arbitrarily deny the extension and that should be some reassurance as there needs to be some basis for denial. Bice stated there has been a motion (made by Brandt) and a second to that motion (made by Low) to amend and include staff proposed conditions (the ones that were just gone through), motion carried unanimously with Quarne abstaining. Bice stated there has been a motion and a second to approve this Conditional Use Permit application. Brandt commented that the one thing that stands out for him, at this point, is the incompatible use with the zoning in the area as well as the nature of the area. Brandt questions where this is all going which is just an issue that he has. Bice commented he has reviewed all the information that he has received which is more than he received on any other application, he has evaluated it very carefully and fully and he is comfortable that we can move forward. Nelson stated he received a map from someone living in that area and inquired how close the neighbors are. On the map he received one residence is 519 feet away and another residence is 706 feet. Chad Dwyer responded he has Donald Lindner at 604 feet and Patricia Erickson Barnes at 859 feet which is from the mine extent. Dustman stated the first residence is 1240 feet from the mine area extent. Bice took a roll call vote on the approval of the CUP, Brandt- no, Thompson -yes, Low - yes, Nelson -yes, Quarne- abstain, Vold - no, Bice - yes, motion to approve the CUP carried 4 - 2 with one abstention. Bice stated he has tried and will continue to try to make sure that this mine is done in compliance with all the rules. Bice commented, if he and Lien can, if the rules aren't followed they have a CUP and will work to stop it so it is very important that they will follow the rules. Millis responded the Chairman has their assurance that they will comply with those rules and that this will be a very well operated mine. At this time the Committee to a five minutes recess.

Thomas A. and Rhonda J. Segerstrom Farmland Preservation Special Use Application - Judy Betker stated the Segerstrom property is under a Farmland Preservation Agreement that went into effect in 2008. That contract expires February 4th, 2018. For the record, the Contract number is 15922. They have filed a Special Use Modification of a Farmland Preservation agreement for non-metallic mining. Betker explained once a Conditional Use Permit is approved the conditions that are placed on that contract apply to the Special Use and this paperwork is forwarded to DATCP in Madison and the county Conditional Use Permit is basically the law and this "piggybacks" on the back of it with the reclamation plan and all the attached documentation. Being that a Conditional Use Permit was approved, Betker asked the Committee to entertain a motion to approve the Special Use Application for Farmland Preservation as stated in their plan. Betker asked the applicants to furnish her with a listing of acreage for each parcel involved in the mine along with the parcel number. Betker noted she had a map of everything that Segerstrom's owned but she needs a breakdown of each parcel and the acreage that is being mined. Nelson made a motion to approve the Special Use Application, Brandt seconded the motion, motion carried with no opposition.

At this time, the Committee left for a tour of the following mine sites.

1. Preferred Sands Mine, N33005 Helmers Lane, Blair, WI
2. Taylor Frac, South River Road, Blair, WI
3. Q-Rail Spur, LLC, South River Road, Blair, WI

4. Alpine Materials Mine, N28271 Soppa Road, Arcadia, WI
5. Patzner Mine, W23748 Patzner Lane, Arcadia, WI
6. Schneider Mine, State Highway 95, Arcadia,
7. Proppant Specialist Mine, State Highway 95, Arcadia, WI
8. Soppa Mine, State Highway 95, Arcadia, WI
9. Suchla Mine, N26892 County Road J, Arcadia, WI
10. Guza Mine, N32706 River Valley Road, Arcadia

At 2:30 PM Thompson made a motion to adjourn, Low seconded the motion, motion carried with no opposition.

Respectfully submitted,
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary