

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

**REGULAR MEETING MINUTES
March 14th, 2012 8:00 AM
COUNTY BOARD ROOM**

Chairman Brandt called the meeting to order at 8:05AM.

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

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

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

Others present – Daniel Marks, Jeff Bawek, James J. Liss, Nancyanne Winey, Paul Winey, Margaret Olsen, Kyle Slaby, Stephen Doerr, Verle Deetz-Town of Albion Chairman, David L Larson, Rodger Forsythe, Buck Webb, Cristeen Custer, Travis Cooke, Administrator-Village of Trempealeau, John Vehrenkamp- Town of Ettrick, Chairman, C. Michael Chambers, LaVerne Michalak, Gordon Gibbons, Mark Nelson, Mark Palmer, Kathleen Kupka, David Steig-Town of Pigeon Chairman, Roman Lilla, Ted Konkell, Ronald Tuschner-Town of Arcadia Chairman, Gary Monson-Town of Unity Chairman, Jamie Punt, Paul McLean, County Surveyor, Joe Nelsen and County Real Property Lister, Nick Gamroth were present for part of the meeting.

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

Adoption of Minutes – Bice made a motion to approve the meeting minutes as presented, Thompson seconded, motion carried unopposed.

Consideration of Ethics Advisory Opinion

Convene to Closed Session per Wis. Stat. §19.85 (1)(h) for consideration of request for confidential written advice from the County Corporation Counsel pursuant to Wis. Stat. § 1959 (5). At 8:07 AM Bice made a motion to move into Closed Session, Nelson seconded, motion carried unopposed. Geske made a motion to make public the discussion on the opinion, Thompson seconded, motion carried unopposed. At 8:42 AM Bice made a motion to return to Open session, Nelson seconded, motion carried unopposed. At this point the meeting recessed until 9:00AM.

Chairman Brandt called the meeting to order at 9:07 AM. For the benefit of the public present, Brandt gave an overview of the public hearing procedures.

Public Hearing – Land Use Change/Rezone- Daniel A. Marks, Land Owner-Rural Residential (RR) to Commercial (C) – Town of Ettrick. Chairman Brandt called the public hearing to order at 9:08 AM. M. Nelson read the public hearing notice aloud. Palmer stated Marks is requesting a rezone at W11982 County Road C (at the corner of County S and County C), which is the former Hegg Store. He is looking to rezone to Commercial and the purpose of that rezone is to put in a restaurant. Following this hearing is a hearing for a Conditional Use Permit to allow an accessory dwelling unit in that building? Part of the building will be restaurant and the other part single family dwelling. Palmer referred the Committee to the aerial photo on the overhead projector. The Land Use plan for this property call for Rural Residential, however, a commercial use with an accessory dwelling would be consistent with the goals and objectives of the land use plan. Marks stated he will begin with a catering license (lower intensity than a restaurant license) because of necessity.

Marks operation will center on taking food prepared in the Hegg Store and going anywhere with it in a mobile unit. It will be a recharge station for a street food operation which will have a radius of about an hour and a half. Marks didn't know how many units he would have but he felt possibly two this season. Eventually Marks would like to not go "on the road" and to open up the Hegg Store for a variety of functions, everything from regular Sunday morning brunches to a cafe/diner type. Brandt inquired about the pizza ovens. Marks responded he builds pizza ovens and makes pizza but it is far beyond pizza. Marks added he would like to eventually add live music on weekends and apply for a beer and wine license so he could have a regular weekend event. Marks requested that, if the Committee passes his request, they put a mandatory "no parking zone" in front of the building. Anything that Marks does with parking will be outside of that danger zone. Lien stated that would be addressed at the CUP hearing. Brandt called three times for any public testimony.

Mark Palmer – Registered to appear and testify for information only. M. Palmer stated Marks has addressed the septic system there and has installed a new system that would probably handle the needs of that and M. Palmer was sure that was an issue that the Health Department (or whoever the regulatory agency is) looks at when they issue a food service license. M. Palmer added the only thing that might be required on their part is the installation of a grease interceptor on any food preparation or restaurant type facility. M. Palmer stated he was not in opposition to what Marks is doing or what he is proposing.

Brandt reminded Marks that since this was a food service business, the State and local food health codes will need to be dealt with. Palmer stated he and Marks have spoken regarding his septic system and basically that septic is sized for a multi-family dwelling right now and the intent is, that by removing that status of the building and making it a single family building, waste water flow will be reduced. Palmer has calculated seating capacity based on the existing septic system size. Palmer and Marks have discussed what can and cannot be done with the system in its' current state. Palmer felt Marks was in agreement that at the point things went beyond that the system would need to be addressed.

Brandt called for any additional testimony. There being none, Palmer read a letter from the Town of Ettrick, dated January 13th, 2012, which stated the Town of Ettrick supports the request of Dan Marks to rezone the Hegg Store to Commercial in order to operate a restaurant and grant a Conditional Use Permit for an accessory dwelling unit. Brandt closed the public hearing at 9:17 AM. Bice made a motion to approve the rezone request from Rural Residential to Commercial, Nelson seconded, motion carried unopposed. Brandt reminded Marks that a rezone requires final approval by the County Board of Supervisors. The rezone is on the Monday, March 19th agenda, so Marks should plan to attend.

Public Hearing-Conditional Use Permit - Daniel A. Marks, Land Owner/Applicant-Commercial Restaurant with Living Quarter - Town of Ettrick Chairman Brandt opened the public hearing at 9:19 AM. Nelson read the public hearing notice aloud. Palmer stated since Marks is rezoning to Commercial, in order to having living quarters on a commercial property, he needs a Conditional Use Permit for an accessory dwelling unit. Palmer added (assuming that the rezone is passed by the County Board) this Conditional Use Permit would address any concerns that the Committee would have, such as parking restrictions through conditions. Brandt called three times for any public testimony. Brandt noted that the town had weighed in on this permit in the last hearing. Brandt closed the public hearing at 9:21 AM. Palmer listed the following staff recommendations: For safety reasons, Palmer would like to request no parking between the building and County Road C or County Road S and see parking provided, as required by the Comprehensive Zoning Ordinance, which is off-street parking of one space for every 100 feet of floor space or every three patrons. Palmer provided overhead photos of the intersection for all to view and discussed the parking and visibility issues of the business. Palmer reiterated the request that the Committee putting a restriction on parking between the building and the road (both on County C and County S) on both sides of the intersection. Brandt noted there could be parking on the other side of C or the west side of S. Marks agreed and stated he hoped to have that problem down the road. Brandt reminded Committee members that they had a map of his plan, etc. Upon Brandt's inquiry about the septic system, Palmer responded that is something that is dictated by the County's Private Onsite Waste Treatment Systems (POWTS) and there wouldn't be a need to do anything

special on it. Thompson made a motion to approve the Conditional Use Permit with standard and staff recommended conditions, Quarne seconded, motion carried unopposed.

Public Hearing – Land Use Change/Rezone – Patric and Kathleen Kupka – Industrial (I) to Rural Residential (RR) - Town of Pigeon Chairman Brandt called the public hearing to order at 9:26 AM. M. Nelson read the public hearing notice aloud. E. Palmer stated the property is at N36699 County Road S and is currently zoned Industrial. The Kupka's are looking to rezone to Rural Residential. The Land Use Plan calls for Rural Residential zoning district in this area so a rezone would be consistent with that plan. Palmer understood that Kupka's are looking to get this rezone in order to be consistent with the Land Use Plan as well as provide for the future opportunity of putting a campground in. Mark Palmer stated he is present today to speak on behalf of Pat and Kathy Kupka's proposal. Palmer added this site, that they have purchased, was previously used as a sawmill and that is how it came to be an industrial zoning district. The industrial zoning is inconsistent with surrounding parcels, at this point in time, so the request is to have this rezoned so that it is consistent with adjacent property uses. If this is rezoned, a permitted use would be a campground. It is possible in the future, they may pursue that, but presently it isn't a proposal, they are just looking at trying to get everything consistent within the neighborhood. Brandt called for public testimony. Town of Pigeon Chairman, David Steig, was present. He stated his concerns as being that Palmer had stated at the town board meeting that anyone should be able to do whatever they want with their land and Steig doesn't agree with that. Steig wanted to know if anyone had any objections. Steig referred to the letter from the town which stated they agreed to the rezone, but Steig has some unanswered questions. Steig had heard about the campground and has heard that there might be a bar. Steig heard that all the other properties had Rural Residential zoning and Steig didn't know if that was true or not as there is a autobody and repair shop near there and Keenan Ford and another store were nearby at one time. Steig has no personal objection to the rezone, but he had questions. Steig had heard that they would put in a 750 gallon septic tank, but if the rezone is approved, then they would put in a 1650 gallon septic tank so that campers can be hooked up to it. Steig didn't have a problem with that either but a campground will require electricity, sewage, and water which Steig understood will all come later. Upon Brandt's inquiry, E. Palmer responded that a campground is a permitted use in a Rural Residential zone. Lien noted that as far as a bar or restaurant associated with it, it would require a rezone or Conditional Use Permit depending upon what level of business, but anything that would be open to the public would require commercial zoning. Discussion followed on the possibility of obtaining a liquor license. Brandt called for any other public testimony. M. Palmer added that Pat Kupka's future ideas might be the possibility of campsites there, but at this time no plans have been drawn up for that. Soil testing has been done so that he could explore those options further. There are suitable soils for onsite waste disposal. M. Palmer mentioned there was discussion on trying to get a bathroom in one of the existing buildings prior to a wedding that is to take place, but that is all something that can be handled under standard permits with the County. If a septic system were to be put in, a tank would be set that is large enough to accommodate possible future use, but only enough drain field would be put in to meet immediate needs. E. Palmer read a letter from the Town of Pigeon, dated March 9th, 2012, which stated the Board voted to approve the request of Patric and Kathleen Kupka to rezone property owned by them from Industrial to Rural Residential. The vote was 2-1 with Chairman Steig voting against the rezone. Mr. Steig believed the town should be aware of any and all objections/concerns of the other property owners in the township prior to the town board vote regarding a proposed rezone. As the process is currently set up, it is possible that the E & LU Committee will hear residents' objections/concerns at a public hearing that the Town of Pigeon may not. Chairman Steig believes that citizens in the Town of Pigeon must be afforded every opportunity to make their objections/concerns known and he feels the best way to facilitate this objective would be to have the town board vote after the E & LU Committee public hearing thus allowing the town board to review any and all objections presented to the E & LU Committee. E. Palmer clarified the information in the letter for the Committee. Upon Brandt's request regarding zoning, E. Palmer stated some of the other zoned areas on the map were former sawmills, but are no longer in business. Palmer added in looking at the land use for the area, everything in that area is projected to be a Rural Residential use in the future. Discussion followed about other zoning in the area. Steig asked what the difference was between Industrial and Commercial. Lien explained Industrial zoning was more processing and Commercial is where goods or services are offered for

sale. Lien stated Section 2.05 of the Comprehensive Zoning Ordinance has a Table of Uses which gives general guidelines for what is not permitted, permitted or requires a Conditional Use Permit. Palmer stated basically an Industrial zoning is much more restrictive than a Commercial zoning. Brandt closed the public hearing at 9:40 AM. Bice made a motion to approve the rezone of the Kupka property from Industrial (I) to Rural Residential (RR), Nelson seconded, motion carried unopposed. Lien reminded the applicants that the rezone will go before the County Board of Supervisors on Monday evening for final approval and that one of the applicants needs to be present.

Public Hearing – Land Use Change/Rezone-Paul and Nancy Winey, Landowner- Exclusive Agriculture 2 (EA2) to Rural Residential (RR) – Town of Arcadia Chairman Brandt opened the public hearing at 9:42 AM. M. Nelson read the public hearing notice aloud. Brueggen explained the request is at address N28690 Paul Sonsalla Lane in the Town of Arcadia. Brueggen displayed the two parcels totaling approximately 10.45 acres being rezoned on the overhead aerial photo. Brueggen stated the zoning in the area is primarily Exclusive Agriculture 2 (EA2). In rezoning the area that Winey’s own, it would limit some of the uses on the land. Winey explained this process actually started last fall, as he became aware of some information, that there may be a potential impact at the neighboring tavern. Winey’s felt they wanted to protect their property and it is also in anticipation of the town updating their Land Use Plan. Winey stated at this time, they don’t have any plans for property development, however that is something they may look at, but that would be far into the future. Space is a factor and they rent out about six acres to a neighbor for tillable land and they would want to continue to do that.

Kyle Slaby – Registered to testify in opposition. Slaby read aloud from the Comprehensive Land Use Plan 2009-2029. Slaby wanted to read what the Town of Arcadia has thought about for future land planning. “A questionnaire was sent out to approximately 651 property owners in the Town of Arcadia. The questionnaire asked landowners to respond to twenty-five questions pertaining to land use. The purpose of the questionnaire was to obtain input from the landowners and gain an understanding of their attitudes towards land use and land use planning. Approximately 651 questionnaires were mailed out and 308 were returned. This equates to a 47% response rate, which is excellent for this type of questionnaire. The summary of the questionnaire results were: over 50% of the respondents agreed with the following statements: agricultural land preservation should be encouraged, most new growth should occur in and near cities, wooded areas should be preserved, wetlands, wildlife acres, and open spaces should be preserved, develop long range plans to control development, the rural, farming appearance of the town is important to me, there should be restrictions on the location of rural, non-farm houses, land use in the township should be guided by a plan, new housing in prime farm areas should not be allowed, farm operations should not be restricted by neighbors who are not farmers, most new housing should be in or near cities”. Slaby stated if one goes through the goals and objectives of this plan, 1) Manage the location and density of future non-farm developments (commercial, industrial, residential) and the points under this are: determine minimum lot size, ensure there is adequate infrastructure to support future developments, develop criteria that future developments must meet. Slaby mentioned that Winey has stated that perhaps in the future he could use development. Slaby pointed out that infrastructure for that is not in place. The Town of Arcadia Land Use Plan also mentions to develop criteria that future developments must meet and encourage flexible regulation of home businesses. Slaby stated Exclusive Agriculture and Exclusive Agriculture 2 (EA2) zoning districts are developed primarily to serve the purpose of preserving agricultural land and a rural atmosphere in the town. It is intended that the area that is designated in the agricultural districts are for properties with better soils, which this property has, and topography favorable for agricultural and consists of contiguous farm areas. Mr. Winey has also pointed out that he rents this property out for agricultural land. Agricultural districts will be limited to uses, structures consistent with agricultural uses. In addition, these districts will be designed to be consistent with the state requirements for an Exclusive Agriculture district so that property owners can take advantage of the Farmland Preservation tax credits. In addressing the Town of Arcadia transition area, the Paul Winey property is not located in the transitional ag area. Areas just adjacent to the City of Arcadia primarily consisting of agricultural properties have been designated as a transition area consistent with State Statute 91.55(1) (b). A transition area is an area of predominantly agriculture use, which is identified for future development. This

area has been designated as a transition area for several reasons. First, more residential and commercial uses historically have been located in this area. Secondly, public sewer and water could be more readily extended to this area versus other areas in the town. Slaby reiterated that the infrastructure is not in place. Finally, U.S. Highway 93 and U.S. Highway 95 are located within this area and the potential for future agricultural uses within this area is limited due to the scattered commercial and residential developments already existing within the transition area. In addressing the rezone process in the Land Use Plan, Slaby read aloud, “The Town of Arcadia has drafted this Land Use Plan. A property owner may request a rezone at any time. The first step would be to contact the Town Board Clerk or Chairman and ask to be placed on the next agenda. They will then refer the proposed request to the Advisory Planning Committee Review Board (APC). The APC Review Board reviews the proposed request looking over the Land Use Plan. The APC Review Board sends their recommendation to the Town Board. The Town Board approves or denies the proposed request and sends a letter to the County Zoning Department stating the Town approval or denial of the request. The applicant will need to complete a rezone application form from the County Zoning Department with a fee of \$200 for publication fees and the public hearing. The Zoning Committee then holds a public hearing and either approves or denies the proposed request, based upon the Land Use Plan and public input. If the Zoning Committee approves the proposed rezone the proposal is then forwarded on to the County Board for final approval and must be passed there before the official County Zoning map is amended”. Slaby stated, right now, where the Winey property is, the Town of Arcadia Land Use map for future development states that it is Rural Residential. As one can see, the Town of Arcadia zoning map shows it all as Exclusive Agriculture in that area. Slaby does not feel that a Rural Residential development is needed in the country.

Stephen Doerr – Registered to appear and testify for information only. Doerr stated being that the same Committee members were here in January, they are aware that Winey came in and spoke to the Committee, with an attorney, and fought very viciously/aggressively (his wife spoke also) about the road and they demanded that other landowner on that road not be given any permission to increase the traffic. Doerr has also been attending the Town of Arcadia meetings and observing the disagreements between these families. One would like to use that road (Doerr stated they got permission from the County), and then the township recently, contrary to last months meeting about lining up the two roads (Soppa Road and Paul Sonsalla Lane), agreed to allow one use of the neighboring road and dismissed the idea of lining up the roads and approved someone to work in the right-of-way. Despite what happened last month at the E & LU meeting, the town changed their mind and went with just one landowners’ desires and therefore it looks like that road is less likely to be improved now for safety. Brandt requested that Brueggen pull up an aerial photo of the area for the Committee to view. Doerr continued that unfortunately the Town of Arcadia board approved work in the right-of-way of Soppa Road ignoring last month’s E & LU Committee desires. Winey demanded this Committee to not allow increased traffic on that road, now Winey is here today stating that he may want to do some property development there and obviously changing the zoning, taking it away from agriculture, which is going to increase the traffic on that road. Typically Doerr sides with people like Bice on issues like this because it is the property owner who pays the taxes, etc. Doerr reminded the Committee that this same landowner came before this Committee in January fighting his neighbor because he did not want to increase traffic and now today he is here saying he may want to increase traffic.

Ron Tuschner, Town of Arcadia Chairman, in response to Doerr’s remarks, wanted to clarify or make the point evident, regarding last months’ meeting, that at the County level Tuschner was told that it was in the towns’ “ballpark” to make a decision on the roads. Throughout conversations with the DOT and Brueggen, it turned out, it was not the town’s responsibility and they could not control the roads or that intersection. Kyle Slaby inquired of the Town Chairman and Winey, if Winey’s had gone through the process of going to the Advisory Planning Committee as stated in the Comprehensive Land Use Plan. Brandt responded that question would be addressed during discussion. Brueggen read a letter from the Town dated October 18th, 2011 which stated the Town of Arcadia Board of Supervisors has been informed by Paul & Nancy Winey that they have applied to the County to rezone their property from Exclusive Ag to Rural Residential. The Town of Arcadia Board of Supervisors passed a motion at their October 11th, 2011 board meeting stating they have no objection to the County rezoning the property. Winey stated he was glad Brueggen read the date on the

towns' letter because this rezone issue was started in September before Winey's were even aware of any of the sand mining issues in the area. The rezone was basically involving another business in the area. Also, Winey's would not increase any traffic at the intersection of Soppa Rd and Paul Sonsalla Lane when they don't have any intentions of property development at this point nor at any time in the near future. Winey's have an easement off the east end of the property to the private driveway which would allow access to the property, so it would not impact the intersection. Brandt closed the public hearing 10:00 AM. In response to Kyle Slaby's question, Brandt asked Tuschner if there was a requirement at the town level to go through the Advisory Planning Committee. Tuschner responded the Advisory Planning Committee is not in place simply because the town has a resolution/ordinance within the town which addresses the issue. Lien stated the County used to have a planner that was full time and back in the late 90's when the planning process was started with each of the towns', they developed a Planning Commission/Advisory Committee that would oversee the planning. There was a three year planning time line in which they would meet and revise their Land Use Plan. In 2010, when the Smart Growth Plan was adopted countywide, the County eliminated the planning position and the E & LU Committee made the decision, at that time, that the updating process would be done on five year intervals. Winey had felt that if the town had updated their Land Use Plan in that time frame he would have done the amendment at the town level and it would have been adopted in the Land Use Plan. Because of the five year intervals for planning, the Town of Arcadia land use plan will not be adopted until 2015. The town is required to provide a letter to the County as to their opinion on the rezone, but it is the towns' decision as to whether they want to get their Advisory Planning Committee involved. Tuschner commented on the Towns' and use planning. Bice made a motion to approve the rezone for Paul and Nancy Winey, Geske seconded, motion carried unopposed. Brandt reminded the applicants that the rezone will go before the County Board of Supervisors on Monday evening for final approval and that one of the applicants needs to be present.

Public Hearing –Conditional Use Permit –Trempealeau Municipal Electric Utility, Travis Cooke, Village of Trempealeau-Administrator, Electric Substation –Town of Trempealeau Brandt called the public hearing to order at 10:04 AM. M. Nelson read the public hearing notice aloud. Brueggen explained the request is for a Conditional Use Permit for the Trempealeau Municipal Electric Utility as they changed wholesale suppliers and are planning for the construction of an electric substation on tax parcel #028-01194-0005 in the Town of Trempealeau pending State and local approval. Current use of the 2.01 acre parcel is primarily ag and located in Primary Agriculture zoning which is pursuant to Trempealeau County Comprehensive Zoning Ordinance, Section 10.04. Brueggen stated all application materials have been received. Brueggen referred the Committee to the overhead screen and pointed out pertinent information. Travis Cook-Village of Trempealeau Administrator explained because the existing transmission line runs to the north of the proposed parcel they weren't able to purchase the existing substation because those facilities are actually underneath the transmission line so that is why they looked at the parcel across the road to build a new substation. Cooke believed Excel's plans are to take out that existing substation but that is not definite at this time. Brandt called for any public testimony. Brueggen read a letter from the Town of Trempealeau, dated February 13th, 2012, which stated at the February 9th, 2012 regular Town of Trempealeau board meeting, Travis Cooke –Administrator for the Village of Trempealeau appeared requesting approval for the Village of Trempealeau to build an electrical substation on a lot off of Schubert Road, Town of Trempealeau. The Town Board has no objections to issuing them a Conditional Use Permit for this structure. Lien reminded the Committee that since this is a Conditional Use, the Committee can place conditions. Lien referred to an overhead photo of a similar substation located on Bisek Road near Independence on which conditions regarding vegetative screening had been placed. Lien noted that letters had been sent to all adjoining property owners and the hearing had been published in the newspaper for two consecutive weeks. Lien has received no correspondence for or against. Brandt closed the public hearing at 10:10 AM. Nelson made a motion to approve the CUP with conditions, Smick seconded. As this is a fairly large parcel, Brandt inquired if the Village intended to use the whole parcel. Cooke responded the substation itself will be a fenced in area of approximately 140 X 170 feet and there will be a 16 X 20 foot control house and the majority of that area is going to be fairly empty space with two transformers located in that space and a two tap connection into the transmission line. There will be an area in the back of the parcel that will be maintained. Brandt inquired if

this was the CAPX2020 transmission line? Cooke responded it was not. The Village switched power suppliers so they are no longer on Excel's system for wholesale power-fractal energy, but they still own the transmission lines. This project is going to allow the Village to have independent infrastructure to purchase power from anywhere on the grid via Excel's transmission, so there is a little bit of a difference between a whole sale customer and a transmission customer. This substation will allow the Village of Trempealeau to be strictly a transmission customer. In response to Brandt mentioning the possibility of screening as a condition, Cooke responded that his concern with that condition is that Federal Electrical Liability Standards have their own standards. Brueggen read the staff recommendations into the record:

- 1.) Vegetative screening must comply with Section 3.10 of the County Comprehensive Zoning Ordinance. Evergreen trees should be planted as a visual screen around the utility site. Trees should be 6-8 feet wide and 12-15 feet tall when established. Trees should be planted 7 feet on center. Maintenance of vegetative screening should be done by property owner.
- 2.) Section 4.09(5) (C) Electrical substations shall be enclosed by a chain link fence at least 10 feet high. Such structures shall additionally be located at least 75 feet from a dwelling unit and 50 feet from any residential lot line.

Brandt asked Cooke to elaborate on the Federal Electrical Liability Standards and tree screening. Cooke responded that he would need to check the federal regulations as to how far off of the fencing a visual screen/arborvitae would need to be. Cooke reiterated the rest of the property would be maintained by either mowing or farming, etc. Cooke noted they are 50 feet off of the residential lot next door. Bice asked what route the Village of Trempealeau would take to supply power from their grid to the Village – is there any ,already existing, line there. Cooke responded the existing substation is the step down transformer which takes it off the high voltage transmission and it runs along an existing line down Schubert Road which ties into the Village as will be the case with the new substation. Cooke added by owning the new substation there would be a customer transfer process for their existing customers along that line. Bice inquired if those lines would be a 2000 volt line into the Village? Cooke responded that was correct and there will be eight or nine customers that will become Village customers on Village power including the lock and dam. Motion to approve the Conditional Use Permit with conditions carried with no opposition.

Public Hearing – Conditional Use Permit and Reclamation Permit – Nonmetallic Mine –Vernon Bue, Land Owner, Ettrick, WI and Mark Nelson, Applicant/Operator – Nelson Diesel and Dozing, Ettrick, WI – Town of Ettrick Brandt opened the public hearing at 10:15 AM. M. Nelson read the public hearing notice aloud. Brueggen gave a summary of the proposed operation. Brueggen stated Nelson Diesel and Dozing is proposing to operate a sand pit on the Vernon Bue property for the purpose of extracting sand and improving the land for future cropping purposes. There will be occasional blasting. Crushing and screening of the material may be required prior to trucking the product off site. If blasting is required the operator will meet the DSPS 307 requirements that are stated in the Conditional Use Permit application. There are no wells planned and there will be no washing of the product on site. Entrance to the site will be on an existing field road on State Highway 53. The entrance will have an approved tracking pad installed to reduce tracking onto the public road. Brueggen referred the Committee to the overhead aerial map for a view of the site which is west of State Highway 53 and owned by Vernon and Carol Bue. The entire site acreage is 42 acres and the proposed mine site is approximately 22 acres. There are three phases to the proposed mine site which would limit the amount of open area. Brueggen explained the proposed plan to mine the site. Brueggen noted there is a stream nearby. The proposed storm water plan shows that they would stay over 300 feet away from that area which is in accordance with the County Shoreland Zoning Ordinance. Brueggen has some recommendations as to how that shoreland area should be controlled. This site is proposed as a borrow site and for bedding and road sand. The operator would like the option, if there is frac sand, to be able to use that material as well. Mark Nelson – Nelson Diesel and Dozing introduced himself. Nelson stated Brueggen had pretty much explained everything about the proposed site. Nelson explained he needs a site in the area for bedding sand for farmers and also fill sand for Nelsons' own projects. If the sand would be screenable for townships for winter sand that would also be an option. Nelson stated he has the access to the highway where there would be no road bans for restrictions on that. Nelson mentioned he did try another site, further up the road, towards Beaches Corner, but the County would not give Nelson access to the state highway

because of the intersections and the curve of the road, so that is why Nelson moved to this site. Nelson added obviously when he goes into this site; he doesn't know what material is on the site other than the material he can currently use.

Jamie Borths – Registered to testify in opposition. Borths pointed out on the aerial map where his property is located. Borths stated if they go ahead and do this, it is going to have a major impact. Borths pointed out wildlife area. Borths is a hunter and nature lover. Borths has owned this land for 15 years. He has been protecting the wildlife and making the land into a beautiful wildlife scenery/sanctuary. Borths stated if they go ahead and do this with the blasting, noise, crushing and the continuous 24 hour a day noise, along with the dust plumes and anything else, we don't know what may happen. As a hunter, Borths spends a lot of time in the woods and in the evenings the air moves/sinks in a certain direction. Borths has a neighbor, Smith, about 300 yards from his property. In the evening when the air moves/sinks, the air moves into the big valley nearby. Borths can expect on some evenings for the plume/fugitive dust to move into and fill the valley and that is one of Borths main concerns. Borths doesn't want to breathe the micro dust in the valley. Borths stated obviously it is going to destroy the wildlife with the blasting and the twenty four hour noise. It will destroy everything Borths has going on his property. Between the dust, truck and digging noise, Borths is only a "stone's throw" away from where this is all going to happen. When it is real dry out and the wind starts swirling stuff around all the neighbors here are the one's that are going to have to breathe the air and put up with it along with the 24 hour noise. Brandt informed Borths that Trempealeau County has Hours of Operation. Borths responded he has seen no plans. This is the first information Borths has seen on any of this. Borths doesn't know the plan as no one sent him a copy of the plan, so Borths doesn't know what the intentions are or anything. Borths had heard that it could be frac sand, maybe not, it sounds like an open ended permit where they can basically do whatever they want. That is what Borths is worried about as he doesn't want noise 24 hours a day there. The dust won't always affect Borths but the noise will affect him, all the time, as there will be activity nearby. It is a major problem for Borths. If there is anything running on the mine site it is literally a "stone's throw" away. Borths has researched the environmental impacts on this stuff and nobody in this room can tell him that they know exactly what is going to happen when they do all this. As far as the water or the air or the wildlife nobody is really sure of what is going to happen. Borths knows one thing and that is he doesn't want to listen to noise 24 hours a day, 100 yards from where he stays. Borths is the only one in the immediate area that has any kind of nature worry. Everything else is all open. Borths explained some of the neighbors' property. Borths could only imagine the Committee giving him an open ended permit where they are allowed to do anything. Brandt stated the County Ordinance requires that during daylight savings time, operations cease at 8:00 PM and during standard time it is 6:00 PM, so it will never go past 8:00 PM during Daylight Savings time. Borths reiterated his concerns again about the dust. Borths felt this was taking away any landowner rights that he has and a total infringement. Borths felt they should find a mine site that is not going to affect everyone else because anybody who is going to make money off this mine can go home and they don't have to deal with noise, etc. Brandt stated some of Borths' issues would be dealt with when the Committee attaches conditions to it as Borths will then hear what staff recommendations are and what the permit requirements are from the DNR. Borths stated he has a right as a landowner and as a citizen to breathe clean air and not have 24 hour noise.

Stephen Doerr – Registered to testify in favor. Doerr has traveled to Texas where they are in need of quality sand to help supply Minnesota and Wisconsin with petroleum products. Doerr has recently been out to 84 Pennsylvania, home of 84 lumber and several different companies out there are building infrastructure to receive materials. There is no certainty that this applicant has quality sand, maybe the fines are too "fine". In the event that it is appropriate material, Doerr thinks it is appropriate for the Board to consider the advantages that it would bring to Wisconsin as we continue to demand petroleum products. Doerr stated 80% of North Dakota's current need of sand comes from China and the lack of approving these local mines, will provoke the need for more investment from foreign groups.

Kyle Slaby – Registered to testify in favor. Slaby questioned if there would be some kind of fugitive dust control plan. Brandt responded there is an Air Quality permit application with the DNR. Slaby asked for

some of the fugitive dust control plans to be explained to address Borths concerns. Borths interjected stating he has concerns, on the day when it is dry out, and it is all blowing over by him. Then we can all get together and stand in it and breathe it together because that is when Borths is going to have a concern. Brandt reminded Borths that Slaby was testifying. Slaby reiterated that some of the points of fugitive dust control should be elaborated on. Slaby inquired if there was an intention to put visible screening along the perimeter of the property to eliminate an eye sore for the neighbors which are in opposition towards it.

Brandt called for any other public testimony. Brueggen read a letter from the Town of Ettrick dated February 14th, 2012, which stated it has come to the attention of the Town of Ettrick Board of Supervisors that Nelson Diesel and Dozing has applied for a Conditional Use Permit to operate a non-metallic mine within the Town of Ettrick. The Town of Ettrick does not have an ordinance or a permitting process governing non-metallic mines, therefore, has no objection to the issuance of a Conditional Use Permit provided all requirements set forth by the Trempealeau County Zoning Commission have been met. John Vehrenkamp- Town of Ettrick Chairman was present and commented that except for Borths, he has not heard anyone say anything against it. On a personal note, Vehrenkamp stated Nelson does work in Bue's other quarry and every year there is always a scramble up there to hunt each year as that is some of the best hunting around, so although Vehrenkamp doesn't know the science of it, he doesn't really think that the sand mining is going to affect the wildlife and if it were the DNR would have control of it. Vehrenkamp reiterated the town has no objection. Borths again interjected, questioning the town as having no objection to Borths family breathing the fugitive dust, listening to all the noise and destroying Borths property rights. Borths added the town has no right to do that. Brandt responded the Committee would deal with Borth's concerns right now. Borths loudly asked how anyone would like to be in his situation. Borths stated he is going to stick up for his property rights – just so everybody knows that here. Brandt closed the public hearing at 10:35 AM. Vold made a motion to approve the Conditional Use Permit, Thompson seconded. Upon Brandt's inquiry, it was determined that the eagle's nest that is very popular with the Blair School District was north of this property. Borths asked who was going to be held accountable for verifying all the conditions. Brandt responded DLM staff is available for that and staff relies on phone call from neighbors. Brueggen read the following staff recommendations/conditions into the record.

1. Duration of the Conditional Use Permit is 10 years from the time of issuance. After the 10 year time period, the applicant may apply for an extension in accordance with Section 13.03 of the Trempealeau County Comprehensive Zoning Ordinance.
2. The applicant shall work with the town board and/or County Highway Commission to develop a road use agreement. (Brueggen noted that the access is directly from the State Highway so this wouldn't be needed).
3. No mining activity shall take place within 50 linear feet of neighboring property boundaries unless the adjacent parcel is under common ownership with the applicant and the land use is within the permitted mine boundary. Adjoining landowners may waive the boundary to ten feet with a signed waiver submitted to the Department of Land Management.
4. All structures and cased wells located on the properties within 2500 linear feet of the proposed mining areas/site shall be inspected and the condition of each shall be recorded prior to the commencement of any work at the site. These wells and structures should thereafter be periodically inspected to determine to the extent practical whether or not damage has occurred as a result of the mining operations. A third party independent inspector shall be used and costs associated shall 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 the property.
5. A and B soil horizons must be kept separate for use in later reclamation.
6. A 24 hour blasting notice shall be submitted to the Department of Land Management and all neighboring properties within 2500 feet.
7. All trucks, trailers, dump boxes leaving the mine site shall be covered and enclosed. A maximum allowed number of loaded trucks leaving the site is ten trucks per hour during approved operating hours.

8. All required permits or permit exemptions from the Wisconsin Department of Natural Resources or Trempealeau County shall be acquired prior to any mining activity. (Brueggen noted these would include the storm water permits and air permits).
9. Financial assurance for reclamation will be established and filed with the Department of Land Management prior to any mining activities.
10. Best Management Practices will be in place and maintained throughout the life of the mine to protect runoff to neighboring properties and the navigable stream near the mine boundary. No mining shall take place within 300 feet of a navigable stream and all Shoreland Zoning Ordinances shall be in effect.
11. Recommendations by the Wisconsin Department of Transportation for access from the mine site to State Highway 53 must be met at the expense of the mine operator. If traffic issues arise later in the life of the mine, additional recommendations by the Wisconsin DOT must be followed to assure safe travel along the public roadways.
12. Financial assurance amount will be established after final site plan approval and prior to any excavation.
13. The Department of Land Management will notify the owner/operator of the mine site when all conditions are met and mining activity may start. Until notification from the DLM, no unauthorized land disturbance may take place at the mine site.

Upon Brandt's inquiry, Brueggen confirmed that the Town of Ettrick did not attach any conditions to their recommendation. Brandt stated Nelson had heard Borths concerns and inquired if Nelson knew where the line fence is. Nelson responded he believed it was to the west of the property. Nelson added there is a transmission line that also runs in that area so he could encroach on neither the property lines nor in the area of the easement for the transmission line. Brandt assumed Nelson would be staying away from the wooded area. Nelson replied that the wooded area that comes out to a point is a valley, obviously there will be water that is going to run there, however, where it rises up, there will be mining activity but one has to stay within the property boundaries. As far as dust, Nelson stated there are regulations and ways to prevent dust. Nelson doesn't want to cause problems for anybody and he takes the precautions that are needed. Brandt reiterated that the Hours of Operation end at 6:00 PM during standard time and 8:00 PM at Daylight Savings time. Brandt asked Borths if his questions were being answered. Borths asked where the water for controlling dust is going to come from. Nelson responded he would be using a water truck. Borths verified that Nelson would be bringing in water and not taking any water off the site. Nelson replied there is no water on the site, there is a stream on the site, but it is not big enough to take any water out of it. Upon Borths inquiry, Nelson responded there would be no well on the site. Borths questioned how many years this would be done so life could finally go back to some normal operations around the area. Brandt stated the Conditional Use Permit is for ten years and it is a three stage plan. Brandt continued the way Nelson is describing it (it is something that staff is going to be watching) when he needs fill or bedding sand he mines it. Thompson asked for verification of where Borths house was located in relation to the mine site. Discussion took place on the site. Borths had stated he was building a house; Bice inquired what else was located there. Borths responded there was an outbuilding there, camper and he plans on moving and retiring there in the next year or two. Borths has had the land for 15 years and taken care of it. Borths stated what someone does over the fence is fine with him, but when it starts coming over the fence and affecting his health, his family's health and his land, then he believes it is an issue which he needs to say something about. Brueggen verified what part of the tree line would be in fact taken out. Brandt inquired of Nelson whether he was working with the Highway Department or the DOT. Nelson responded if he maintains the site as a bedding or fill sand site there wouldn't be much traffic, however, if he gets into the frac sand part of it, then there would have to be changes made with the DOT. Jim Johnson, County Highway Commissioner stated he did not have any input on this particular site. Bice asked what the rule was regarding the use of strobes versus alarms on equipment in a quarry. Lien responded MSHA (Mining Safety and Health Administration) allows strobes after daylight hours but during daylight hours a back up alarm is required. Lien added there are multiple types of back up alarms. Quarne suggested maintenance of the tree canopy on the property line be part of the conditions. Upon Geske's inquiry, Nelson confirmed there would be a lot of days where nothing would be removed from the site unless

there would be frac sand on the site. Borths asked at what point we are going to know whether or not there is frac sand there as this cannot be the same permit for both. Brueggen stated the conditions and the process being done here is for the maximum frac sand site. Brueggen added it is not being permitted as a bedding site. Borths relayed his feels once again regarding landowner rights. Bice questioned whether Borths rights control Bue's property. Borths responded Nelson can do whatever he wants on his property, but he shouldn't bring it over on Borths property. Brandt voiced that this has been an ongoing discussion for almost two years now, as to why it is our conditions on a Conditional Use Permit look they way they are and our process is this way is because the Committee has been dealing with trying to get a handle on just the issue that Bice and Borths are discussing. Brandt reiterated the conditions will be placed and if Nelson goes outside of the conditions one time there is a warning and the second time Nelson' CUP will be pulled. That becomes the "hammer" to make sure that Nelson keeps on doing what is in the rules/conditions. The neighbors in other townships such as Arcadia and Preston have learned to live with it even though they don't like it. Borths stated everyone who wants to make money on mining, wants to do it at the cost of everyone around it. Discussion took place on property rights. In regard to Air Quality permits, Lien stated Nelson has to file through the DNR for an Air Quality Permit and DNR monitors that, the County does not. Lien added Vehrenkamp had touched on another mine, that Nelson works in, which is in Lien's backyard and that site has the most restrictive hours of any other mine in the County because of another neighbor. Lien explained that because there is such a long sand area, the dust plan was failing as it was impossible to keep the sand wet. Nelson actually put in a sprinkler system on that road (water from a nearby pond was readily available) to mitigate that issue with the neighbors. Since the sprinkler system was installed, no complaints have been received by the DLM staff. The balance between property rights is a fine and difficult line. Brandt reaffirmed a motion and a second to approve the Conditional Use Permit with the conditions listed (there was one added) as well as the standard conditions. Discussion took place on whether air quality monitors were needed. Lien explained this was not a wet plant operation, this is more of a screening operation and the Committee hasn't required air monitors unless it is a complete processing facility. Bice asked Lien if DLM staff has received any other complaints from sand mines in the Arcadia area regarding dust in the air. Lien didn't believe DLM had except for a small blasting plume on a dry day on the Soppa site. Lien commented the complaints have been tracking issues (dust on roads). Bice commented he has been on these sites at all different times and the only issues are the roadway. Bice's observation is the sand operation itself does not produce dust, so in general the sand mines don't produce dust. Brueggen stated a majority of the dust issues are going to come from the processing facilities. For most of the extraction sites, Brueggen didn't think DLM has ever received a dust complaint on them. Obviously if DLM receives a complaint and it becomes a problem, DLM will do whatever they can to mitigate those issues. Brueggen felt leaving the tree canopy there will slow down any dust that would be coming through with the wind. Motion to approve the Conditional Use Permit passed unopposed. At this time the Committee took a five minute recess.

Public Hearing – Petition to Amend Trempealeau County Comprehensive Zoning Ordinance – Villages of Eleva and Strum, Trempealeau County, do hereby petition to amend Sections 3.03(3) and 3.03(4) (Lot Requirements) by inserting the last sentence of each subsection to read as follows: “This subsection shall not apply to lands titled in the county, any town, village, city, school district, or commission or agency thereof, which lands are used for nonresidential purposes.” Brandt reconvened the meeting and called the public hearing to order at 11:07 AM. Brandt commented there has never been anything like this specifically done before which is why Brandt had asked Corporation Counsel, Rian Radtke to be present as well as the County Surveyor, Joe Nelsen and Real Property Lister, Nick Gamroth. The members from the Joint Sewerage Commission were present. M. Nelson read the public hearing notice aloud. Brandt explained the public hearing process for the benefit of those persons from the public who just arrived. Lien stated this is somewhat of a unique proposal. Lien pointed out the proposed area on the overhead aerial map where the Joint Sewerage Commission wants to create a parcel. Lien pointed out the State of Wisconsin DNR recreational trail, which makes the parcel landlocked, but there is a proposed easement across it. Lien stated he has never really had a meeting with the applicants. They had called Lien over a year ago and discussed with him the County Zoning Ordinance requirements for road frontage. Lien had conversations about this with LaVerne Michalak, who was the County Corporation Counsel at that time. Lien has on file, a

letter for enforcement from Michalak, dated March 10, 1998, which stated from that date forward, every new parcel created in the County must have frontage. There have been a couple attempts over the years where people tried to apply for a variance. For those specific instances, those variances were denied. In this case, when Michalak and Lien had their first conversation, Walther owned this property and everything to the North that abuts with State Highway 10. Lien suggested, in order to meet the Ordinance requirements, to have a 100 foot wide strip that extended from State Highway 10 down to the parcel being created which would make the parcel compliant. Lien stated it may seem unrealistic to cross a stream, but the idea behind it is, at some point in time, if the easement were to be voided, one could access that property. It would also meet the Ordinance requirements and the Sewerage Commission would not need to be here today. Lien felt, apparently there are other reasons why the Commission did not want to go that route. County Surveyor, Joe Nelsen and Lien have the ability, through the Zoning Ordinance and because of the uniqueness of the County, to review a parcels requirement to meet what is called the 4 to 1 width/depth ratio (if a lot is 100 feet across it should not be more than 400 feet in depth) and waive that requirement if necessary. This site would still require a Certified Survey Map (CSM) to create the parcel because this is a remonumented township. The proposal is for easement access across the DNR recreational trail. From the material Lien read that is still just a proposal as DNR had not formally given approval for that. Those present representing the Joint Sewerage Commission stated the DNR has given approval. Lien felt the easement access could be a secondary route. To meet the Ordinance requirements, if the easement was ever void, the 100 foot strip granted to this parcel could provide access to the property. Lien stated the problems with easements are ongoing, so back in 1972 when the original County Zoning Ordinance was drafted, it stated that frontage must be given to parcels or the option of applying for a variance is available. Brandt stated what they are petitioning to do is to add language to the County Comprehensive Zoning Ordinance, which will come after the requirement that is stated in the Zoning Ordinance for 100 foot of road frontage for any newly created parcel. What they want to do is add language to the Zoning Ordinance which says, "This subsection shall not apply to lands titled in the County, any town, village, city, school district or commission or agency thereof, which lands are used for nonresidential purposes. Brandt stated this is a significant change to the Ordinance and it would certainly allow for a land locked parcel for a sewer commission property but it would also pertain to many other types of property. Brandt wanted to get to the issue of what it is they want to do in regard to the Zoning Ordinance. When the Zoning Ordinance is changed, it is opened up to a larger process than something this specific. Lien felt Brandt was saying that when there is an Ordinance amendment like this, we are not talking about this specific site anymore, it has an affect countywide and it can affect each and every town that would have property which falls under the jurisdiction of a village, city or school district. It opens up other conflicts. Brandt offered an opportunity for the Sewerage Commission to describe the project and explain why they felt it necessary to take this route. Attorney Michael Chambers, Cochrane, representing the Joint Sewerage Commission of Eleva and Strum introduced himself as well as Jim Liss, engineer from Davy Engineering and Attorney LaVerne Michalak representing the Village of Eleva. Chambers gave a little background on what he called a very unique situation. Chambers stated essentially there is a project underway with committed money (between grant and loan money from Rural Development) of approximately \$6.5 million dollars. Chambers explained this project is necessary and it is in the public interest to have this project done particularly to the Village residents of Strum and Eleva because of their situation with their wastewater treatment plant and problems that they are experiencing and will experience in the future. Chambers stated they looked at this very hard with respect to which terms to go in. First of all, in acquiring property, this property is the only property that they could possibly locate to put a wastewater treatment facility on. Today, requesting that the Ordinance be amended is the first step. If the Ordinance is amended, they will have to come back before this Committee to request a Conditional Use Permit for the construction of the wastewater treatment facility itself which is a separate issue. Chambers stated they looked at the possibility of applying for a variance, and in Chambers' experience (has practiced law for 36 years and has done a substantial amount of municipal work) a variance is really not the solution here. A variance is directed toward a change in use or a change in the area or setback due to conditions that were not created by the applicant. Chambers felt they really weren't in that "neighborhood". What the Sewerage Commission is asking the Committee to do is to recommend that the Zoning Ordinance be amended to what Chambers believes to be a very narrow exception to the general rule. When one looks at the Comprehensive Zoning Ordinance, all of the language is geared towards residential

development, subdivisions, and creating orderly access to the public highways. Chambers added they are not asking for spot zoning either. The only route that Chambers felt they could go was to ask that the Ordinance be amended because it is very likely that other governmental entities will run into this problem in the future. For clarification, Brandt stated his original reading of the petition sent him the direction that he felt Chambers just said, but to be clear, Brandt asked if Chambers was suggesting by the language that he wants to add to the Ordinance that the lands titled in the county, town, village, city, school district or commission that Chambers is speaking specifically about lands that are owned by governmental entities. Chambers responded that was correct and use for nonresidential purposes. Chambers stated the way this is titled it would be the Commission. Chamber explained the financing is going to be done through each Village; the Rural Development money goes to each Village. The Commission has an option with Mr. Walther, which it had to exercise before the end of the calendar year of 2011, although they can extend to the end of this calendar year. The Sewerage Commission has exercised the option, but has not completed the purchase of the property as it is an expensive piece of land. Chambers reiterated it is the only land that appears to be feasible to be used for these purposes. Chambers gave background on how far the Sewerage Commission has come, in terms of ground work that has been done, including receiving an amendment from the Department of Natural Resources for a permanent, perpetual easement, 100 feet in width over the bike trail. The DNR owns fee title to 100 feet. Chambers feels this is a project which is obviously in the best interest of the community's involved. This is not creating an onerous situation for any of the other municipal governments or taxpayers of Trempealeau County. Chambers requested that the Committee seriously consider this very narrow exception to this Ordinance so that this project can proceed. Chambers turned the meeting over to Mr. Liss to give more information on the project from an engineering prospective. Liss stated the DNR approached both Villages in 2009 and told them their treatment plants were constructed in 1981, there have been some violations of the permit and the plants are not in very good mechanical repair and suggested that they look into some planning in order to be eligible for some funds in the future, when they become available. Both communities did that and they completed a facility plan report to determine what would be the most cost effective solution when the need arose to replace their wastewater treatment plants which was eminent. The Villages determined the solution to be a joint wastewater treatment plant facility. Liss mentioned, when one looks at the map, the straightest line between the Villages of Eleva and Strum is along the bike trail; it is an old railroad bed. The cost estimates were completed and at a savings of about 25% (not only in construction costs but also in operation and maintenance over future years). Liss explained the Madison Department of Natural Resources has very detailed criteria about what the site can be. Regarding the cost savings, it was so attractive to Rural Development and the Department of Commerce, that those entities have obligated money in the amount of \$2.3 million dollars of grant money and \$4.2 million dollars in a low interest loan to get this project moving. Plans and specs for this project are 60-70% done. The objective was to try and get some pipe in the ground in the fall to alleviate crop damage in the spring and summer. Liss added it is an aggressive plan but they are on schedule. In regard to the site, Liss stated DNR requires a 500 foot buffer from every home and permanent access (Liss looks at what is the most cost effective access and if one comes off County V over the bike trail, one is right at the site). Liss anticipated the biggest obstacle would be with the DNR and the bike trail, but the two DNR "hands" (wastewater treatment and bike trail) are working together and as of today they are signing those easement documents, not only for crossing the trail with access but giving the Sewerage Commission 3,400 feet of right-of-way in the bike trail to put a forced main that comes from Eleva. Liss stated they have to be out of the flood plain (new flood plain maps-2009-has been satisfied) and wetland areas. The outfall is to the Buffalo River and the farther away one gets from the Buffalo River, one will end up pumping the water from the wastewater treatment plant to the river. If Eleva and Strum have to do an addition there is plenty of acreage. Options have also been included for future phosphorus rulings that the DNR is talking about now. Right now, Liss stated it is going to be a state of the art wastewater treatment facility, biological and chemical phosphorus removal with the potential for adding filters or whatever. Eleva and Strum would be in a position right now where their permits are being issued, they are ahead of the game and have the money to build the facility and are moving ahead. Liss is aware there is Managed Forest Cropland. Liss pointed out how irregular the land is and that is to satisfy the ratios of tillable to forest land (they have a letter stating that). Liss stated soil borings have been done on the site. The site does check out geologically and from all other aspects it is an excellent site to build this plant with a direct route from both communities' with a pump station

to that site. Liss reiterated the project is on track right now to be bidding this project probably in June. Liss closed by saying everything is subject to adjustment and the issue before the Committee today is one which they know needs to be taken care of. Upon inquiry, Liss addressed access from State Highway 10 by saying that no matter where one would access the parcel off of Highway 10, one can see the distance it would be down to the site and to purchase that land at the same cost per acre, one is talking about an additional expense of approximately \$60-70,000. If one wanted to use it as suggested there would have to be a bridge built over the river and in Liss' mind it was already an expensive enough project much less to buy land just to use the other access. Liss does understand the rulings and they are here for this Committee to give them guidance as to how the parcel can be accessed over the DNR trail off of County V which would be very close and very economical. Liss mentioned another plus to the site is three phase power (480,000 volt) runs right along the west boundary and that is a huge ticket item. Liss added there are many advantages to this site and economics is one of them. Brandt asked for public testimony.

Attorney La Verne Michalak - Village of Eleva –Registered to testify in favor. Michalak commented on issues that might come up regarding opening up the ordinance language to other parties. Michalak felt Chambers had drafted the language to be very restricted, very limited and it is only in situations where the land is owned by a municipality. Michalak didn't believe this same situation would be coming up on a regular basis. While Michalak worked for the County as their Corporation Counsel, he and Lien had many discussions on land access over the years. On this particular parcel the Buffalo River is going to make any access from State Highway 10 irrelevant as Michalak felt there was no way one could build a road across the flood plain and wetland and the river to access this site when one can go 100 feet across a state trail and have all the access one wants along County Highway V. Technically the County Ordinance requires frontage but that is an expensive issue as Liss pointed out and the landowner is very reluctant to sell any additional land which is also a concern. Michalak wasn't asking the County to "open the door" to a lot of potential easement situations, just in this very limited situation.

Verle Deetz – Town of Albion Chairman – Registered to testify in opposition. Deetz stated he talked to the engineer once, a year ago, and Deetz told him they had lot of hoops to jump through. That was the last that Deetz had ever heard from anybody on the Commission. No one has talked to anyone at the Town of Albion. Deetz stated there have been people in his township that have had to buy frontage, just to get access. Deetz questioned what is going to be done for those people? Liss responded he couldn't answer that and asked if Deetz was speaking about residential development. Deetz responded one farm had to buy 100 feet of frontage.

Corporation Counsel Rian Radtke stated he wasn't discounting the Commissions need, but for this Committee to recommend a Zoning Ordinance change, the specific facts of this case really should be for the most part of this case, irrelevant, to that understanding. As Lien alluded to earlier, Radtke explained this amendment would be countywide and would apply to all or any municipality who has a non-residential use of land. Radtke stated the Board would need to recommend any amendment and the Committee approves it that would be constitutional and not open itself up to constitutional challenges. Radtke quoted the Supreme Court which said, "a Zoning Ordinance is unconstitutional if its' provisions are clearly arbitrary, unreasonable, having no substantial relation to the public health, safety, morals or general welfare. Radtke understands the original ordinance was put in place because of concerns about access to properties for emergency services. Lien responded not only emergency services but access in general. When Lien and County Surveyor Joe Nelsen review parcels, they don't look at the use. Any parcel that is created in the County must abide by the same rules. The residential use is not looked at, just safe and clear access to the parcel so there are no land locking issues. When the original Ordinance was put into place, Radtke inquired what the basis was for it. What was the promotion of health, safety and welfare, as the basis for a 100 foot wide frontage requirement and from there does this proposed amendment align with that, or contradict that or by carving out an exception for anything that is non-residential or municipality owned, is that going to "water down" the Ordinance or contradict the original purpose behind it. Radtke question why just limit this to municipalities if the question is that this shouldn't apply to any non-residential because there is not going to be people living at this site, why have an amendment and limit this just to municipality owned properties, why not just any non-residential.

Radtke reiterated if one puts an amendment in here that treats municipalities different than non-municipality owners who have non-residential purposes, are we opening the County up to a constitutional claim that this amendment or the provision itself is non-constitutional because it is arbitrary or unreasonable, treating one class different from another for no legitimate reason. Another question to ask is, is there a valid reason why this should apply to municipalities only and also that it should only apply to non-residential sites in being consistent with the original purpose for this ordinance provision.

Ron Tuschner – Town of Arcadia Chairman – Tuschner understood the Commission’s stated this is a very narrow exception to the Zoning Ordinance. As Mr. Deetz has mentioned, Tuschner, himself, had gone before the Board of Adjustment requesting a variance on his land because of this very specific parcel requirement. Tuschner is not speaking for or against, because times change, but Tuschner’s variance was denied. Tuschner had to sell an extra 100 feet around a house that he had previously sold, to be able to sell it to another individual. Tuschner stated it was hunting land and not residential land. This is what Tuschner had to go through so he agrees with Corporation Counsel when he says, what is the exception to the rule. 1) If it can’t be done for a farmer, or a resident in the Town of Arcadia, etc., it should fit all. 2) The economics of it all – it was stated that another \$60,000 would be needed to buy the extra ten acres of land. Land is selling right now for \$6,000/acre or greater than that, and for a \$6.5 million dollar need, that is peanuts. If Tuschner can’t do certain things on DNR land, why should the Village of Strum be able to do it? Tuschner stated he was not against Strum, he was just stating in plain terms, what is “good for the goose is good for the gander”. That is just Tuschner’s opinion, that we are opening Pandora’s Box here. Brandt called for any other public testimony. Deetz reiterated, if the Committee would change this, the people that had to buy the extra frontage, are they going to come back to this Committee. Michalak stated Trempealeau County is one of the few counties in the State to have this rule in effect. When Michalak prosecuted a case several years ago, Lien and he had talked to other counties trying to find experience in litigating these cases. A lot of counties don’t have restrictions, if one has a legitimate easement to the property, the property can be bought and sold, etc. and the County could go in that direction too and modify this even further to allow for these situations where a river or drop off to a road exists and one can’t get any practical access to that road. One could make an exception for a legitimate easement, but that is not what the Commission is asking for here. Michalak felt the distinction with municipalities being granted this option, is that the impact is on the taxpayers. The residents of the Villages of Strum and Eleva are going to have to shell out the money to basically acquire this easement which isn’t going to serve any legitimate purpose anyway. It seemed to Michalak to be a somewhat irrational requirement. Michalak asked for this exception to the Ordinance for the benefit of the taxpayers. In addressing Radtke’s issues, Michalak stated municipality’s, when acquiring this type of property and investing this kinds of money, are going to have an attorney or someone else look over these easements to make sure they are perpetual and that they are not going to get lost. This is a huge investment and one cannot run that risk and certain developments insist on certifications from all the attorneys involved that there is permanent, perpetual access to this property, so that concern, if there is one doesn’t really apply here. Michalak elaborated on the issues that arise in an individual property transfer and reiterated that is not the same kind of concern when a municipality is involved.

Deetz stated if one goes down along the track to the east, there is a field road. Deetz inquired about using that access. Liss responded they have approached DNR about that issue and DNR replied it is a specific use for agriculture and they will not make it a multiple use access. Liss added that is the same thing with the access easement they are providing for the municipalities. It is restricted for access used by the Commission for operational means of the wastewater treatment plant. The Commission had suggested selling to DNR, instead of providing an easement, and DNR stated the law will not allow them to sell it. Deetz stated Chambers had mentioned that the Commission had a permanent easement and Liss had stated it was being signed today. Deetz asked which was correct. Liss responded they have a letter saying it has been approved and it is just a matter of getting the signatures on it.

An audience member stated he heard Mr. Chambers mention that a variance was not an option. Does that mean that Corporation Counsel agrees with his assessment or is a variance something that could be

considered? Brandt stated this Committee cannot, obviously, speak for the Board of Adjustment, but they can always apply to the Board of Adjustment. This gentleman was asking for Corporation Counsel's opinion. Radtke responded he didn't think it appropriate to advise on that topic.

Town of Albion Letter – Lien read a letter which stated the Albion Town Board has considered the amendment to the Zoning Ordinance as presented by Roger Lokken, Dean Boehne and Buck Webb. It is the understanding of the Albion Town Board that the Eleva-Strum Joint Sewerage Commission wishes to circumvent the implementation of the Trempealeau County Zoning and the Comprehensive plan for the Town of Albion by a zoning change that affects not only Town of Albion but also all townships in Trempealeau County. All land splits in the County require 100 foot direct access to road frontage. The Town of Albion believes that the seller can also grant 100 foot of access with road frontage to the property or an alternative, suitable site can be found. In particular, a project of this magnitude is not appropriate for a landlocked parcel and must be required to have conforming road access. As of this date, the Town of Albion has not been formally contacted with regard to a variance. After careful consideration of the facts and circumstances, Town of Albion hereby requests that the Trempealeau County Environment and Land Use Committee deny this petition. All future property uses shall meet the criteria for development and conform to current zoning rules and regulations as administered the Trempealeau County Comprehensive Zoning Ordinance. Please feel free to contact us for further information.

Town of Chimney Rock Letter – Town of Chimney Rock Board of Supervisors hereby oppose amending Sections 3.03(3) and 3.03(4) of the Trempealeau County Zoning Ordinance.

Brandt closed the public hearing at 11:45 AM. Thompson made a motion to deny the petition to amend the County Zoning Ordinance, Bice seconded. Quarne questioned whether the motion to deny was appropriate. Radtke responded the motion to deny was appropriate here because a motion to approve would not be timely, as under the Statutes, towns have ten days following the public hearing to file any resolution opposing the approving of this. If a majority of the towns affected disapprove of the amendment, then this Committee cannot take action to approve. The Committee can take action to modify or deny. If the Committee were to take action to deny, then this matter would still go to the County Board and the County Board would consider this and they may re-refer this back, if the County Board feels that the Zoning Ordinance should be amended, for the drafting of an official Ordinance or the County Board could agree with the denial and deny and then the petition is defeated at that moment. Radtke reiterated a motion to deny in these circumstances would be appropriate even though normally one doesn't want a negative motion.

Real Property Lister, Nick Gamroth was asked by Brandt to weigh in on this issue. Gamroth felt that Radtke, Deetz and Tuschner mentioned some good points earlier. Gamroth felt since the use on this property was changing from agriculture to a municipal use that a variance should be sought after. There have been variances in the past that were denied but Gamroth stated that was based on certain grounds. Gamroth felt if the Commission were to go for a variance, the Board of Adjustment could look at the entity that the easement is crossing (the State of Wisconsin) and as Michalak had stated it would be a perpetual and lifelong easement. Gamroth felt that would be good evidence of the easement being in good standing. Gamroth felt and recommended that the best route to pursue would be a variance rather than amending a good, long standing Ordinance.

County Surveyor, Joe Nelsen stated he would not recommend being in favor of amending an Ordinance for one particular use. Where do we stop at that point? If someone comes in and wants an Ordinance amended for a particular use, what is to prevent a private citizen from coming in and constantly amending this Ordinance? Nelsen added this Ordinance has been in place for quite some time and has proven to be a good ordinance. Nelsen read the petition and thought this was a great petition for a variance, to change the Ordinance, not so much. Nelsen looks at the situation and there is something that no one has discussed and that is, whenever one divides a piece of property, one gets at least two parcels. One creates the parcel that is intended for the plant and one creates the remainder parcel. No one has discussed how this affects the remaining parcel. If we open

the door to any municipality in the county boundary's to be exempt from this requirement, we are also opening the door for that additional piece that was created by the exception. Nelsen just doesn't think that is a good idea. There is a variance process in place to handle situations like this. Nelsen questioned if this was a good thing for a variance? Nelsen felt that was for the Board of Adjustment to look at and decide but Nelsen reiterated when he first read it he felt it was a great petition for a variance request. Nelsen didn't think an Ordinance should be changed for one particular use. Nelsen questioned if the easement can satisfy the needs of the frontage requirements. Nelsen felt probably so, if it is dealt with properly, but that remains to be seen. After all the uses that we've seen and procedures that have been talked about, to Nelsen it appeared to be a great parcel for the particular use and maybe it is the only one, but Nelsen stated that is a "red herring" as this is about whether the Ordinance should be amended for one particular use, one particular entity and forget everybody else. Nelsen didn't feel that should be done for this parcel particularly.

Upon Smick's inquiry, Liss stated the cost for purchasing the land only would be \$60,000, but that doesn't include building the bridge and road, etc. Smick commented if this Committee deny's the petition then the Villages would need to apply to the Board of Adjustment and it doesn't appear their success would be too likely there as the Town of Chimney Rock has sent a letter in opposition and the Chairman is also on the Board of Adjustment which would be a conflict of interest.

Michalak understood that there are "use" and "setback" variances. If the Commission were coming here to request a change from 100 feet abutment to 90 feet, that would be a legitimate variance to be addressed by the town. But to come here and ask that the Committee ignore the town requirement for an abutment is not a variance, that is a change in the Ordinance and Michalak didn't think the Board had the power to grant an Ordinance in that situation, so Michalak really didn't see that as being an option here. It is either fix the Ordinance or Michalak felt the project is in trouble as we can't even assure that this landowner will transfer this land to the parties to grant that access all the way to Highway 10.

Smick's concern is that we are trying to promote partnerships and here the Villages of Eleva and Strum have a great partnership going and we seem to be throwing up all kinds of road blocks in front of them for what could be kind of practical. Smick appealed to Radtke for some type of way of amending our Ordinance to only allow that so that we are not opening up Pandora's Box for everybody down the road afterwards.

Mike Nelson inquired if the Commission has looked at going in off of County Highway V. Liss responded that County V and the bike trail run hand in hand. The right-of-ways abut each other where it goes to the east, so one has to cross the bike trail to get to that property. The bike trail runs that whole southern boundary. The Committee suggested buying a 100 foot strip – towards Strum. Gamroth didn't understand why a bridge and access off of Highway 10 has even been talked about. The Commission can own the property and still have the easement access off of County Highway V. Gamroth encounters these types of parcel splits all the time where the owner has 100 feet of access through a particular piece of property and they have an easement coming from somewhere else which suffices for the Ordinance and gets the owner to his property. That wouldn't be any different here. If the Commission has a good easement over the bike trail, they could just own the strip of property off of State Highway 10 and never develop it, it is just owned by the municipality. Lien agreed with Gamroth and added he; Nelsen and Gamroth have all worked on these situations in the past. Lien actually owns a parcel with that situation. Lien stated sometimes we lose sight of the fact that it is ok to say no and that it may not be the best site or best use. Lien noted the Option to Purchase document was recorded in June 2011. Lien felt it was more a case of "the cart got before the horse". In the Option to Purchase document it states there is an easement/access issue and here they are in front of this Committee today, in March 2012. Lien stated one has to look at all the facts and sometimes it is not the best site. Thompson commented they already have a narrow strip across the river which all they would have to do is match that up to State Highway 10, which is probably less than a quarter mile. Lien commented the problem would go away. Brandt reiterated a motion and a second to deny a petition to amend the County Zoning Ordinance is on the table. A roll call vote was taken: Bice –yes to deny, Geske –no, Brandt – yes, Nelson – yes, Thompson – yes, Vold-abstained as he has property on the line and he has property in Strum which uses

the sewer system, Quarne – yes, Smick – yes, motion to deny passed 6 -1 with 1 abstention. Radtke stated if the recommendation is denial, which just happened, the recommendation shall be reported directly to the County Board with the reasons for the action. Radtke reiterated this issue is taken up by the County Board itself, but there needs to be a report with the reasons for the action. Discussion took place and it was determined that this issue probably could not make the March County Board of Supervisors meeting agenda; therefore it should be on the April agenda.

Public Hearing –Land Use Change/Rezone-Theodore Konkol, Jr., Land Owner – Rural Residential (RR) to Primary Agriculture (PA)- Town of Dodge Brandt called the public hearing to order at 12:02 PM. M. Nelson read the public hearing notice aloud. Brueggen stated the petition is for a rezone of approximately 174.3 acres all in the Town of Dodge. The landowner also owns land in the Town of Trempealeau which is already zoned Primary Ag. The proposed use is consistent zoning for the entire Konkol farm and it would allow the landowner the availability to acquire a Conditional Use Permit for non-metallic mining. Ted Konkol was present and stated Brueggen has pretty much stated everything. Brueggen read a letter in to the record from neighbor Rick Ratacjek. Ratacjek thanked the Board for the notice received regarding Ted Konkol and his request to rezone his land in the township of Dodge to Primary Agriculture. It is my knowledge it is being done to meet requirements for a non-metallic sand mine. This being stated, I have two concerns. First, as you are aware, the land that he is seeking a rezone on borders by property. There is an issue with the line being to far over onto my property that Ted and I both have acknowledged for many years. This matter was of no real concern between us until the attempt of Ted to start the sand mine directly on said line fence. This then makes the improper placement of the line fence a major issue. Upon first knowledge of the proposed sand mine I asked Ted to work with me and to correct this issue to which he agreed. I then called a surveyor to establish the property line in its' correct location. Both of us were present and worked together the day the survey stakes were placed. After that I spoke with Ted during a Dodge township monthly meeting, I asked him if he agreed with the survey line to which he shook my hand and said yes. At a later date, I gave him a copy of the invoice for surveying, which I paid in full. The next time we spoke on this matter, Ted was unclear whether he would or would not reimburse me for his half of the survey. This then left me feeling that Ted was not agreeing with the line as surveyed. Second, my wife and I own and operate a business on our property called Valley Fabricating Incorporated. It is a precision C & C machining and fabricating job shop. Our facility is located approximately 1000 feet from Ted Konkol's proposed mining site in the Town of Dodge for which he is seeking the rezone. Our livelihood depends on producing highly accurate, quality parts that meet our customers' demanding on-time delivery needs. Our C & C machines are extremely accurate and also very sensitive to the stability of their environment. They require a firm and stable footing to maintain their high accuracy. With that being stated, we have some very large concerns with dynamite being used near our buildings. We have obtained letters from our machine manufacturers and experienced C & C technicians regarding these issues. The opinions of these qualified professionals is that the vibration and shock caused by blasting will have destructive results on our C & C equipment including but not limited to stressing the electronics and mechanics by repeated exposure, control boards jarring loose, geometry issues, power failures and out of tolerance parts while machines are operating. All will result in loss of production and/or machine failures. We have given copies of these documents to Ted and his proposed mine operator, Steve Doerr. I have tried to resolve this issue of blasting with Steve and the proposed buyer, Bob Hempker. Steve promised to do mining without blasting only to recant these statements later. After a phone conversation with Bob Hempker, he had promised to present the Dodge Town Board and myself with a document stating there will be no blasting. This has yet to happen. Knowing that the purpose of rezoning is for a sand mine, I ask that Ted Konkol, the land owner and Stephen Doerr, the proposed operator provide me with a written document standing behind their promises of no blasting. It has never been nor will be my intention to prevent Ted from a potential opportunity, I am simply asking for this to protect a successful family business that has been operating in Trempealeau County since 1980. On the issue of the line fence, I am asking that you not make a decision at this time to rezone until Ted and I are able to work together in establishing our line fence in its' proper location. Brueggen also had possession of a number of letters which Ratacjek had received from other machine operators supporting that blasting would have an affect on his operations. Brueggen stated they are available for the Committee to read. Brandt called for any public testimony. Ted Konkol stated, as far as the

line fence dispute, his father and Konkel's father have both passed away, and they put the fences up together. Konkel stated Ratacjek called the surveyor and did not ask Konkel if he was going to pay half and now he wants Konkel to pay half. Konkel felt if one calls someone, then that person takes care of the bill. As far as the blasting, it will be presented to the Town that they will not be blasting as Konkel has agreed to that. Geske asked if there is a big difference in the line fence – how many feet? Konkel responded not much it is like a triangle.

Stephen Doerr – Registered to testify in favor. Doerr wanted to testify regarding the alleged facts in the letter testimony. Ratacjek had referenced a plan that was presented to the County. Distance right up to the line fence is inaccurate. Doerr stated they are working with the Town of Dodge; however Konkel just wants the rezone so that he has consistent zoning across his property, but the potential for mining is there. Doerr didn't believe what is going on in the Town of Dodge is on trial today. Doerr elaborated on Konkel's knowledge on the zoning of his property. In the Town of Dodge, Doerr stated there was a unanimous vote for the rezone.

Brueggen read a letter from the Town of Dodge, dated February 15th, 2012 which stated the Dodge Town Board supports Theodore Konkel's request for a change in land use/zoning on approximately 174 acres of land in the Town of Dodge from Rural Residential to Primary Agriculture so that Konkel's land use and zoning in the Town of Dodge matches Konkel's property located in the Town of Trempealeau. Brandt closed the public hearing at 12:15 PM. Thompson made a motion to approve the rezone request, Geske seconded. Bice felt the township has approved it and Bice will support it. Motion carried with no opposition. Brandt reminded Konkel that the rezone will be on the agenda next Monday for the County Board of Supervisors, so he should plan to attend.

Revisit- Conditional Use Permit- Nonmetallic Mining-Theodore Konkel and Roman Lilla-Landowners, Stephen J. Doerr- Operator-Town of Trempealeau Brueggen read an excerpt from a previous E & LU Committee meeting regarding the Konkel-Lilla site, "Thompson made a motion to preliminarily approve the Conditional Use Permit for a mining operation on the Konkel-Lilla property in the Town of Trempealeau based on how it exists in the current permit requests with the condition that the Town of Trempealeau must still provide approval and their conditions to the Committee, Smick seconded, motion passed 4-3". Brueggen read a letter from the Town of Trempealeau which stated at the March 12th, 2012 regular Town of Trempealeau board meeting, Stephen Doerr, LLC representing Theodore Konkel and Roman Lilla appeared requesting approval to open a non-metallic frac sand mine on the Konkel-Lilla properties at W25399 Bear Coulee Road and N19583 County Road F in the Town of Trempealeau. The Town Board has no objections to issuing them a Conditional Use Permit for the non-metallic frac sand mine providing all conditions are met on the list of requirements attached. Brueggen stated this Committee needs to approve the 25 conditions as they fit. Brueggen read aloud that the Town of Trempealeau recommends the following conditions be imposed on any Conditional Use Permit for non-metallic mining to occur on the Konkel-Lilla site.

1. Require the operator to post a bond or other type of financial assurance in an amount of not less than \$500,000 for damage to Bortle Road and \$500,000 for damage to Bear Coulee Road resulting from operations and for payment of penalties imposed by the permit. If bond for either is used, it must bring bond back up to \$500,000 within 30 days of use. Alternatively, if the operator constructs a new road located entirely on the Konkel-Lilla site, and restricts trucks from using Town of Trempealeau roads, no bond or financial assurance will be required. If the operator is not required to construct and use a new road, the town requests that any funds collected by the County be shared with the Town to defray the expense of damages to town roads.
2. Require operator to provide 1)comprehensive general liability insurance of not less than \$2 million dollars for trucks operating on a town road, 2) name the Town as additional insured on policy, 3)provide certificate of insurance to town and 4) provide not less than 30 days notice to town prior to cancellation, expiration or termination of the policy.
3. Require all trucks involved in the operation to be covered with tarps to prevent fugitive dust.
4. Prohibit drilling or blasting of explosives on the Konkel-Lilla properties.

5. Prohibit hauling of residual materials to the site.
6. Restrict trucking hours to Monday through Friday, 8:00 AM – 6:00PM, May through September. 8:00 AM – 4:00 PM, October through April. Prohibit mining operations on Saturdays, Sundays and state or federal legal holidays. Maintenance in the mine will be allowed on Saturday, 6:00 AM until Noon.
7. Unless operator commits to constructing new road on property site and not to use town roads, require operator to pay for inspecting all bridges on town roads that will be used by the operator's trucks prior to beginning operations to determine initial condition of bridges. Inspect bridges used by the operator's trucks every three months during the first year and annually thereafter. Provide copies of all inspection reports to the Clerk of the Town. Repair or replace any bridges that have been damaged due to the operation of operator's trucks on bridges.
8. Require minimum setback from the property line of one hundred feet with the option of adjoining landowner to waive to a minimum of ten feet. It is the operator's responsibility to get the signed waivers. Copies of the signed waivers must be filed with the Clerk of the Town prior to beginning operation in the setback area.
9. Require operator to install tracking pad on exit road, a minimum of 100 feet maintained to prevent sand on town road and replace as needed. The tracking pad must adjoin the town road.
10. Require reclamation plan to require operator to grade property at no more than 4 to 1 slope in setback area.
11. Restrict trucks involved in operation from traveling as speeds greater than 45 miles per hour.
12. Require operator to provide a written guarantee, secured by mortgage or other financial assurance to all owners of property located within one mile of exterior boundary of mining site to indemnify them from any decrease in their property values from the time the permit is issued, that result from the operation of the mining site and associated activities.
13. Prohibit staging or loading of trucks or other equipment on Town of Trempealeau roads.
14. If operator desires an area for fueling equipment, require operator to establish that area in a non-open mine area on the site.
15. Require operator to obtain a Non-metallic Mining Permit from Trempealeau County.
16. Require the operator to install a minimum of four scientifically approved air quality monitors around exterior boundary of mining site and shall be available for Trempealeau County staff review of data collection at all times, with the type of brand of monitor to be approved by Trempealeau County staff. A limit of 30 micrograms per cubic meter, PM10 or lower shall be personal goal for operator to achieve related to air quality monitoring.
17. Require operator to pay all expenses and legal fees resulting from mining operation.
18. Require operator to remediate any groundwater contamination within 2,500 feet of mining site at operators sole expense.
19. Prohibit washing or processing of other non-metallic minerals on the site. Screening permitted.
20. Prohibit a high capacity well from being constructed or installed on the site.
21. Establish a term of not more than 10 years for permit and require operator to give notice to Town prior to renewing permit.
22. All structures and wells on the property immediately adjoining the mining site shall be inspected and the condition of each shall be recorded prior to the commencement of any work at the site. These wells and structures shall thereafter be periodically inspected to determine the extent practical whether or not damage has occurred as a result of the mining operations. Inspection costs should be borne by the operator.
23. Must obtain an operator's license from the Town of Trempealeau.
24. Any person or entity that violates the above will pay forfeitures according to the Town of Trempealeau's Citation Ordinance Number 2005-003.
25. No trucking will be allowed from one week after the blacktopping of Bear Coulee Road pending receiving Tri-D grant.

The above conditions are specific to Konkel-Lilla non-metallic mine. Any other proposed non-metallic mine will be reviewed and criteria set on a case by case basis. 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 Trempealeau

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.

Brandt stated a public hearing was held December 14th and the Committee had taken the unusual step of allowing the Committee to preliminarily approve the Conditional Use Permit pending a response from the Town of Trempealeau, which at the time was looking at educating themselves on issues relating to sand mining and trying to come to some sense of what they felt were important issues for their township. Brandt felt they had expanded on some of the standard conditions and approached the issue of the town road differently than Arcadia has; otherwise it looks like they have approached it from a site specific issue. Brandt stated the Town of Trempealeau Board is present. Upon Brandt's inquiry as to how the town board arrived at some of these conditions, Prondzinski addressed condition #1. Prondzinski stated the town applied for a T-Grant through Trempealeau County which is a special grant to which they had a bid of \$375,000 (based on last years' price) and that will be short. Prondzinski explained the road work that was done on Bear Coulee Road. and how they justified the amount in the first condition. Prondzinski noted that the hours of operation are more restrictive primarily because of school bus operations on that road. Jim Johnson, Highway Commissioner was present. Brandt inquired if Johnson had a chance to look at the road between Bortle Road and Bear Coulee in regard to this particular mine site. Johnson replied that no one has approached him on it, but he has been on that road. Doerr interjected stating the County incorporated the new road agreement rule after their public hearing. That is why, other than contacting Johnson with respects to the road, Doerr did not have any conversations beyond Bear Coulee Road and Bortle Road specifically because Johnson had indicated that the County was actually the contractor on Bortle Road. Doerr suggested there was some communication back on December 14th, prior to the motion by Thompson and the 4-3 vote that indicated that if the County would do this then perhaps it would force the township to move on and get off their self imposed moratorium. With that being said, the preliminary approval to acquire the response from the Town of Trempealeau was successful in motivating them to produce their towns' suggested conditions and lift their self imposed moratorium. No input from the Town of Dodge and the application has not been modified. Doerr stated, sadly, the Town of Trempealeau wrote suggested conditions creating what reads to be a town prohibition on non-metallic mining; however, the town does not have a non-metallic zoning department. The County has the jurisdiction over Non-metallic Mining Conditional Use Permits (CUP) and the responsibility to follow a fair and equitable evaluation of permit applications. In setting conditions for a CUP the County's' Environment and Land Use Committee must not be capricious or act with an abusive use of discretion. Conditions must be measurable, enforceable and written with the intent to protect the safety, health and welfare of Trempealeau County's population. Specifically, Doerr asked the Committee to look at Condition #11 from the Town of Trempealeau. Doerr asked the Committee who would enforce a speed limit of 45 mph. In the yellow mine site book that was submitted some time ago, there is a haul route which incorporates a small piece of County road, a large piece of State Highway 93 and a large piece of State Highway 54/35 going toward Winona, MN. Doerr couldn't see where the Committee would accept the townships suggestion of setting a speed limit of 45 mph. Geske noted they are just talking about the town roads; they are not talking about the State highways. Doerr stated Geske was suggesting that Condition #11 be modified. Geske stated he was not making a suggestion – he had simply stated they were talking about town roads and 45 mph is a normal speed limit on a town road. Doerr had taken these conditions to a professional, that would be incorporating this into their business plan, and that was one of the things that they brought up immediately – whether it was appropriate to impose a 45 mph speed limit on the State highway. Doerr asked the Committee to look at Condition #22. Doerr stated the township would ask this Committee to impose on Konkel and Lilla the expenses of inspecting all the neighbors structures and wells even though Condition #4 states there will be no blasting, etc. Doerr felt with blasting once could anticipate these types of expenses because one is spending less money to move material off the site, but if one is not blasting then one does not have the luxury of moving 10,000 ton off the site as it is just slowly scraped off. Konkel and Lilla accepted Condition #4 in the Town of Trempealeau and in discussions in the Town of Dodge invited Condition #4 because it would help with neighbor relationships. Doerr knows the mining can be done without explosives, they have accepted that added expense of not using explosives, but to incur the responsibility of Condition #22, given that there is no blasting, it doesn't make any

sense to Doerr and is abusive discretion Doerr's opinion. Doerr referred the Committee to Condition #1. Doerr stated Condition #1 has bond amounts to protect the town roads which are capricious and arbitrary. Doerr is glad that the town representatives are here at the meeting today and shared how they arrived at these numbers. To do an entire widening of Bear Coulee Road, from what it currently is today (22 feet with two foot shoulders) has a price tag of \$375,000. To impose upon Konkel and Lilla to have a \$500,000 bond, given a price tag of \$375,000, Doerr believes is an abuse of discretion. Doerr asked Prondzinski what road is being proposed by that type of expense. Wilber responded it will be blacktopped for general use – 2 ½ inch matt compacted to two. Wilber added one is talking a completely different story when running 80,000 pound trucks over it. Doerr inquired of Jim Johnson how it was that Bear Coulee Road was eligible for that grant application. Johnson responded that money is a Tri D-discretionary project and it is for improvement, especially safety improvement for the intersection, if there is a mine coming in there, that “holds water” as far as getting grant money. There is no guarantee the township is going to get the grant, but Doerr stating having this mining application has allowed the township via the County to ask for \$375,000 to come from the State. Johnson explained the township is not getting \$375,000 as there is only so much money that is in that pot and one doesn't know how much they are going to get. Johnson sent in five grants and this County will be lucky if they get one. Upon Doerr's inquiry, Johnson stated \$375,000 was an accurate estimate to widen and build up a high capacity road. Wilber interjected stating that is not accurate as that would be for personal use or the way the road is used now. If one puts a heavy haul on the road, another two inches of black top will need to be added which will raise the price plus some intersection work will have to be done which is not included in that price. Geske added that is right now, but the bond is for ten years down the road when the roads get destroyed. Doerr stated if we are dealing with ten years down the road, to have a \$500,000 insurance policy available tomorrow, six months from now, etc., is excessive. Geske commented that is probably not enough in ten years. Thompson commented that the State says there has to be a minimum of 5 inches of black top for 80,000 pounds so there is already \$500,000 worth used up in black top. Brandt commented the Town of Arcadia and the County has been working with miners and operators to improve roads basically to take responsibility for the damage that may be done to the road and the cost is borne by the person who is using it. Tuschner explained how the Town of Arcadia determined their road bond for the Guza site. Brandt felt both of the points the townships are making is that it is their right and responsibility to make the agreement with the operator. This Committee cannot tell the towns' what to do because they know the roads and this Committee doesn't have the responsibility for the roads, they do. Doerr responded this Committee has the responsibility charged to it to be fair and equitable for the entire County. Doerr understood this is site specific, but if one adds up the distance on Bortle Road and Bear Coulee Road it is less than two miles and the requirement is for a million dollar insurance policy to be held by the landowner, it has already been determined that they will not sell sand to Bob Hempker under that condition. Doerr stated we have a site locally, in the Town of Trempealeau, that wants to be able to sell to that buyer, the buyer has already given contractual understanding, financially to the Town of Trempealeau, and we want to move forward with that, but under these conditions it is in fact prohibiting mining. This is why Doerr has asked this Committee to wipe out those conditions that are capricious and an abuse of discretion. Doerr referred the Committee to Condition #12 and stated the one mile appears to be an arbitrary number and not only that but the loss of land values is not justifiable via reports, in fact there has actually been the opposite of that, there have been studies done by mining companies that have shown that there is not a loss of value. So until there is some type of actual study that says that, one can't impose a condition that is not measureable and enforceable and the township is asking the County to impose a condition that is not measurable or viable and the facts behind it are not even present. Discussion proceeded as to whether Doerr had a contract with a buyer and whether the Town of Trempealeau had a copy of the contract. Wilber questioned when this had become a bargaining issue. Brandt reiterated the Committee had requested that the Town of Trempealeau send some conditions and they have obviously done a significant amount of research. From Brandt's perspective, there is little here that the Committee hasn't seen before, but Brandt is not seeing the financial issue in the terms of the roads that Doerr is talking about. Geske made a motion to adopt the Town of Trempealeau's conditions, Vold seconded. Thompson felt there was one condition that could be modified. If they do no blasting then the condition to inspect the wells, etc. might not be needed, but that would be between the town and Doerr. Wilber commented he didn't know how much sand was needed to purify water when it is collected, but if one eliminates that sand and the water goes into

the ground, how does that affect it. Wilber affirmed that the condition is there because of a concern for water quality. Thompson added, as far as the road issue, they might be better off not using any town roads and come through Roman Lilla's property right out on County Road F. Doerr responded he could accept that as long as the County would accept that as the travel route. Discussion took place on possible travel routes. Prondzinski commented that County Highway F has two ninety degree corners and the truck would have to take the entire intersection and he won't be able to see a car coming. Bortle questioned if it was the towns responsibility for people living along County Road F. Geske felt that had nothing to do with this Committee, if they want to go a different route they do that, if they want to go on a town road, they bond it but that has nothing to do with us. Lien stated that through the CUP process, the haul route can be mitigated and Lien felt that is what the town is trying to do. If that road lies in the Town of Trempealeau and they feel that road is an unsafe road as it exists because of curves, etc. then that is why the County asks for the TIA (traffic impact analysis) to designate a haul route so that the issues can specifically be looked at along that route. In the initial process, Doerr had submitted that haul route and the Town placed conditions based on that haul route because County Road F is an unsafe road. Brandt commented there is usually a haul route designated. Lien added there can be A and B haul routes, but those are designated and conditions are applied to those routes. Brandt asked if DLM has a site plan and all the other items necessary for the application. Brandt responded yes, however they haven't met all the conditions in order to start. Discussion again took place on the construction of Bortle and Bear Coulee Roads. Upon inquiry, Brandt stated the Committee approved the CUP for the area in the Town of Trempealeau because when it was brought forth last time, all land on the mining application in the Town of Dodge was removed from the CUP application. Brueggen stated that is what the Committee approved. In the Town of Trempealeau it was conditioned that the Town of Trempealeau must still provide approval and conditions to this Committee. Vold stated whatever we approved last time we basically approved these conditions so actually this Committee cannot legally change any of their conditions without sending it back to them. Brandt reiterated he had a motion and a second on the table to approve the conditions in the Town of Trempealeau. Doerr stated Corporation Counsel, Rian Radtke had advised against Condition #12 at the October meeting. For clarification Lien stated there were some things stated earlier that were incorrect. Lien stated when Thompson made the original motion at the December 14th meeting; it was not to push the Town of Trempealeau to make a decision. Doerr was begging for a preliminary approval for his client so they could get some assurance of moving forward. Lien continued that Thompson made the motion saying this Committee will give preliminary approval pending receiving conditions from the Town of Trempealeau and it was very clear that it was pending the conditions from the Town of Trempealeau. Nothing was addressed for Dodge because Dodge had taken no action. Doerr stood before this Committee and invited that a condition be set on Dodge, the invitation was not accepted but Thompson made a motion specifically stating the Town of Trempealeau, so the assumption was from everyone here, including Lien and staff that the Town of Dodge was not on the table being discussed. Lien stated that seems to be a controversy between Doerr and DLM staff. DLM staff feels the Town of Dodge was removed because he stated and gave that invitation. Lien stated the Committee was waiting for the Town of Trempealeau's conditions; this Committee did not set/place conditions above and beyond the Town of Trempealeau's. Lien verified that the Standard Conditions always apply. Lien felt the Committee had every right to clarify language within these conditions and negotiate the terms. Lien reiterated this Committee has not set the County's specific conditions on this site above and beyond the standard conditions. Doerr stated never was the Town of Dodge removed from their application. The application is the yellow booklet and it never has changed. Doerr was very careful on December 14th not to speak ignorantly as he did not beg; he requested and invited that if the Committee wanted to condition that Doerr not work in the Town of Dodge, to allow them to get moving forward, to do so. Doerr never removed the Town of Dodge from his application; the application is still solid in the hands of the County. Doerr invited a condition but never did Doerr remove the Town of Dodge from the application because that is 55 acres whereas the Town of Trempealeau is only 17 acres. Brandt made Doerr aware that if the Committee approves this today, Doerr would be able to mine in the Town of Trempealeau but Doerr wouldn't be mining in the Town of Dodge. Doerr responded as long as the conditions, like #12 (requiring neighbors to pay for the property values of their neighbors) are taken out, he would say yes, as that condition is absurd and it is against Corporation Counsel, Rian Radtke's advice back in October. Brandt reiterated this is not an approval to mine in the Town of Dodge, it is an approval to mine in the Town of Trempealeau.

Brandt asked Lien to clarify, if in fact, the Committee has the opportunity to add conditions from the County's standpoint. Lien stated the Committee could modify or clarify some of their suggested conditions. Brandt asked for any other questions on the conditions from the Town of Trempealeau. Motion to approve the conditions as presented from the Town of Trempealeau carried unopposed. Brandt asked DLM staff for any recommendations that the County could put on above the standard conditions. Brandt inquired if it was a standard condition, that because County F is part of the haul route, that they get in touch with the County Highway Dept. on a road agreement. Lien explained the condition has always been made that the TIA must be done. If the suggestions from the TIA would allow a change, Lien felt the County was covered by that. If they would change haul routes but still meet the requirements it was Lien's opinion that would be ok. Haul routes need to be approved by the Town and the County as well. There is language in the Ordinance that at any given time, the Zoning Administrator or applicant can bring an applicant back in to review, add and delete conditions. Upon Geske's inquiry, Brueggen stated staff did not have any additional conditions.

Survey Report – Lien referred the Committee to the Surveyor's report in their meeting folder. Nelsen is actively working in the Town of Arcadia on remonumentation and has several positions controlled. The southern boundary is already finalized. The original goal was to complete the remonumentation process by the end of 2012. Nelson made a motion to pay the Surveyors bills as presented, Quarne seconded, motion carried unopposed.

Discussion on possible City Annexations and/or Revision to Comprehensive Zoning Ordinance

Last month two of the Town Chairmen stood up and discussed the issue of annexation in relation to the sand mines which changes jurisdiction, changes authority and rules on the activity that takes place. The Committee had asked Lien to put this item on the agenda for discussion. Lien stated the Sokup property has annexed to the City of Arcadia. The City of Arcadia, as of today, Lien believed, doesn't have a mining ordinance nor NR-135 authority, but they are working on both of those items. The City of Arcadia did send a letter to the County asking if the County would write a proposal to administer those two items for them. Lien responded that the County is currently doing NR-135 for the City and would continue to do that in the future if they wish. As far as administering an ordinance, the County would be happy to administer an ordinance if it were verbatim to the County's, but Lien felt we do not want to administer two different ordinances. Lien was unsure of the status of that. Lien was aware of approximately five proposals for mines or rail load outs to be annexed to different city's and the reality is to circumvent County zoning. The Committee asked Lien to come up with some suggestions or to discuss this issue. Lien has talked to probably every major mining company in the County about what the issues are. Lien has talked to several landowners. Lien felt there will never be a resolution that makes both sides happy – that is never going to happen. Lien felt the mining industry was primarily looking for was additional hours of operation. The standard hours of operation that the County currently has in the Ordinance are a hurdle for this industry. Lien noted the Ordinance was in place before this "frac sand" industry ever came. Lien felt some definitions need to be clarified in the Ordinance such as mining, processing, rail load outs. Lien received a legal opinion from Attorney Bill Thiel that basically anything related to mineral extraction, processing and loading is all considered mining activity in the current Ordinance. Lien stated the addition of two additional hours of what would be considered "mining activity" which would be raw extraction of the mineral would give operators a sixteen hour workday. Along with that comes the question of what would be most palatable. Current hours in the Ordinance are 6:00 AM to 8:00 PM so there would need to be clarification on what those hours should be. In regard to processing, Winn Bay did a good job in demonstrating that they could meet or come very close to meeting 45 decibels measured at the property line during mining activity. Lien continued there could be some additional mining modifications or some additional research done to meet those requirements. 45 decibels is not an arbitrary number as that comes from our current mining ordinance as far as running a generator or plant in off hours to keep engine oil warm (that is now, it originally came into the Ordinance back in 1996). 45 decibels is also in the Wind Ordinance. So those numbers are consistent. Lien stated, what is debatable, is whether those numbers should be measured at a property line or measured at a residence. Lien felt light pollution needs to be addressed as DLM does receive complaints about lighting and perhaps is something that should be addressed outside of the mining ordinance as complaints are received from operations other than mining.

Trucking is still currently a major issue because of limited rail access and the unique characteristics of the County. Trucking has been addressed on specific sites, but perhaps there should be general trucking hours in relation to school bus hours. Lien is president of the District WCZA (Wisconsin County Zoning Administrators which includes twelve counties) and the counties are trying to get some uniformity across county lines however it may never happen because of the unique political environment that we are in and the unique ordinances that each County has. Lien stated one thing they did discuss was mitigation in a buffer area externally, from the mine, that is adversely affected. In regard to comments made by Jamie Borths earlier in the day, Lien commented a 20 year life of a mine can be a lifetime of a nuisance. Sometime in the future, as this sand rush resolves, we are going to see a more targeted industry on the course grain sands. Lien thought that if this Committee looks at reducing the life of that mine, where perhaps there are more mines or more site specific areas and a shorter time frame, he felt it may be more palatable to the public. Lien suggested mining districts. Lien reiterated he is relaying to the Committee mining issues that he has discussed with the industry and property owners. Lien explained the Committee could open up specific sections of the Ordinance to try and resolve some of the issues that Lien mentioned. Lien's role is still health, safety and welfare of the public. The bottom line is, if the mining companies annex to the city's and villages, the County isn't doing anything to protect health, safety and welfare of the neighbors around there as the mining company doesn't move it is still in the townships. Lien felt a compromise can be reached between the two parties. In Lien's opinion something needs to be done or we will continue to see annexations to city's and villages. Lien received a call from the City of Blair asking if the County would administer a mining ordinance for them. Lien asked what is the point of the annexation except that it is benefitting the City and mining company, but adversely affecting the town and the residents around the mine. Vold and Thompson agreed that when the Ordinance was drafted it took substantial time. Thompson commented if it goes to annexation, people in the township are going to be stuck with no roads. The cities will have their roads and they are going to do exactly what they want and the neighbors are going to be in trouble. At least right now, Thompson felt the County has a little control. In regard to DLM staff administering the city or village mining ordinances, Smick hoped the Committee would then spend some time discussing how much time DLM staff has and then the city or villages should be paying the County an extra fee for that administration. Smick also felt that the County with the help of the township have generally done a respectable job as we haven't given the mines "cart blanche" and we don't need to apologize for what has been done thus far. In regard to Ordinance change recommendations, Smick felt those are all well and good and we can work towards that. Bice commented that one way or another these companies are going to move forward with some type of annexation which creates a lot of problems and issues that are not good for the County, so the Committee needs to realize that in many cases, those annexations will happen, unless this Committee takes some action. Bice added whatever this Committee can do to encourage these rail spurs to get moving, we need to do that because the trucking is going to be an issue. One gentleman from the public asked if anyone has suggested trucking at night rather than during the day or during school bus hours, when the road is a little emptier. Bice responded it is going to have to happen, providing there is a place for the sand to go. Right now Bice is not sure if there is any place for the sand to go. In regards to Blair, Arcadia and Whitehall, Brandt asked Lien where they were on the learning curve. Lien responded he has worked with the City of Whitehall as they have a draft ordinance they are holding off adopting because of a proposal on County owned land in the City. Lien hasn't been invited to a City of Blair meeting yet. Lien stated the thing that is of conflict for Lien (he has talked to Corporation Counsel) is that he doesn't want to start administering different ordinances. To answer Smick's question, we do administer NR-135 for the City of Arcadia. The City doesn't pay the County a fee, but the mining company's do. There is an annual review and a \$170.00 per open acre fee, so right now the County is getting those fees. If the cities/villages start getting those fees, then the County would have to look at doing something else. Lien stated he has a letter from Lorna Tenneson. Bob Tenneson advised Lien to save it and read it at the public hearing. Brandt stated the issue of opening up the Ordinance for revision is on the table. Tuschner suggested an open, working public meeting between this Committee and the Town officers to see what kind of compromise the parties' feel they want to make. There will be compromise and it needs to make good common sense. Everybody is going to have different issues but hopefully we can come to some type of commonality and therefore have a good base on which to start these ordinance revisions. Upon Brandt's inquiry, Lien responded we don't need to start a Committee as there already is a Non-metallic Advisory Committee. Along Tuschner's suggestions,

Lien stated perhaps it would behoove the Committee to bring back that Advisory Committee but also invite the mining industry and hold a hearing with that Advisory Committee, the towns and the mining company's. Perhaps that would be a wider approach to what the industry needs are. Brandt commented all of us who have been involved know where the hurdles and needs are and where the major public concerns are, so it would be possible at any given town board meeting for the towns' to come up with a list of items and bring it to a meeting of the Non-metallic Mining Advisory Committee which would report back to the E & LU Committee. Brandt stated membership of the Advisory Committee would definitely be expanded to include members from the new mining industries in the County as well as other citizens who have been involved in this issue. Lien stated he would have no problem calling the Advisory Committee back and the town boards and orchestrating another set of meetings. Lien felt he knew all of the mining companies that are involved in the County right now. Tuschner suggested setting a time and date and let Tuschner know and the Town of Arcadia will make their town hall available to the County for the meeting. Brandt asked if that was the will of the Committee. Thompson commented the processing plants could probably run twenty four hours a day because they are isolated. Thompson didn't think anyone would even know Winn Bay's plant was running as the hills buffer the sound. Jeff Swanson commented he has been on the Winn Bay Citizens Advisory Committee and they have had meetings. There are certain processes that they want to change such as back-up alarms to strobes, etc. Basically, Swanson's thought was if he can't hear it he really can't complain about it and some of their processes would be like that. The one problem that Swanson has (and it has been overlooked a little bit) is that they process 24-7 and Swanson can't hear that but Winn Bay told Swanson that they had a dustless loading facility and it is not. If any one of the Committee, during loading hours, drove by there, there are three places that the dry dust comes out of and as the wind blows from the west it heads right to Swanson's place. Swanson stated he is willing to bend but since he was told that it was to be a dustless loading facility, he would like to see a vacuum or something put on that (like was done at the processing plant) to harness the dust. Swanson added anyone can sit on Schansberg Road and see this come out of there. Swanson is willing to compromise because he doesn't want to see the annexations happen either. During the whole mining process, the citizens of the Town of Preston were told that this would help with the taxes and it does, but Swanson does not want to see the annexations happen and all of a sudden the City of Blair receives a bunch of money and the town is left hanging. There is also the issue of the mine using township roads. Swanson added if a vacuum system cannot be put on because it is too expensive then Swanson would press for the air quality monitor so that he can find out what he is getting in his back yard. Lien responded that issue was addressed at the last Winn Bay Citizens Advisory Committee meeting and part of it is how staff or operators are managing the system. The other part of it is that it is a chemical process that isn't refined yet, where there are too many fines in the final material being loaded out and over time that will be worked out, but it is a work in progress. The industry has also changed in the last few months as far as what the demand is for type of material. Lien made several comments on the effectiveness of the air quality monitors and felt those issues need to be addressed. Thompson asked for comments from Jamie Punt of Preferred Sands. Punt thought that with this issue of annexation, one has to go back to why they are even considering it. Why industry would consider it. Punt came here representing Winn Bay and today he represents Preferred Sands, so he can't be held accountable for a different company and he knows that is sort of hiding behind the rug a little. Practically, going forward, Preferred Sands needs to work with a governmental body; we need to work as a community. There are a lot of people working at Preferred Sands – there are 50 -55 people working out there. Preferred Sands needs to have those people represented by responsible industry, responsible government and they want to work together to achieve benefit for everybody. But as industry, they can't go up against a stone wall, they need to work with a governmental body and that is the only reason, in Punt's opinion, that Preferred Sands is looking at another option. Punt stated they have come to the County through a variance process and basically got stone walled. Punt understands that the Ordinance reads that every operation is judged on its' own merit. Punt totally understands the issues where there are road problems. Preferred Sands understands that and that there are air issues, but those have to be worked through. Not every site should be a mine. Not everyone is going to get rich. There will be some people that do well at it, but we have to work together. Punt felt a Committee would be fantastic. From Punt's perspective, this Committee has to work with the Town Chairmen as those people have the road issues and get some tax dollars. The City, in Punt's opinion, they want those tax dollars and that revenue. Punt is just asking to be realistic and let's look at the

issues together and be responsible individuals. Bice stated, when the Committee approved the Winn Bay organization, he had no problem with that as he felt it was a good thing, but as Bice spoke and voted in favor of that, Bice looked Swanson's wife in the eye and she was crying, so to Bice it is important that the dust issue is taken care of. Punt responded that goes without question. Punt added, as Lien eluded, Preferred Sands is mining a new formation and there will be some challenges to understand what equipment is required in order to do it the best we possibly can. Punt stated Preferred Sands has put some air monitors in to hopefully address some of the issues. Punt stated they are not happy with those issues so they are looking at other ways to deal with that to alleviate those concerns. Punt stated they have done a lot of modeling to indicate that the dust that does come off their site is not harmful at that distance. Punt just has to prove that and if he could prove that some people would be happy. Punt questioned if a dustless monitor is the answer – there would have to be a bag house out there – maybe, but they are trying to look at other alternatives first. Swanson added that Preferred Sands is trying to meet Swanson's needs in that Swanson has had a lot of trouble with truckers missing the turn off and they would turn around in Swanson's driveway. Swanson talked about it with Preferred Sands and they put up signs that show the mine is straight ahead. Since that time Swanson has not had any problems with trucks. Swanson inquired if the public was going to be included in the Advisory Committee. Brandt stated there are members of the public who are on the Committee and the plan is to expand the membership to include members of the new mining companies as well as those who are affected by the mines. This is more or less a study committee that would be setting up recommendations. As a member of the Winn Bay Citizens Advisory Committee, Swanson asked if he would be able to attend those meetings. Brandt reiterated the Advisory Committee would be expanded to include citizens. Tenneson noted that the Town of Preston, not Winn Bay put the signs up that Swanson is referring to. Smick made a motion, Vold seconded, to call back the Non-Metallic Mining Advisory Committee, post haste, in order to discuss issues related to the Ordinance and the townships and mining. As part of that the membership would include some other township members as well as mining representatives. Motion carried with no opposition.

Live Broadcast of Meetings - Brandt stated he has talked to people in the TV studio and if Smick wants to set up a camera to tape the meeting and then broadcast it later, that is a possibility. This six hour meeting would "chew up" a huge amount of the air time for the TV studio. Smick has been saying for some time that the public absolutely has a right to know everything that is being done and know about it as soon as possible. Smick has been advocating (we have the technology available right now) that in addition to the TV coverage that is being done, we can also "stream" these meetings by way of video. The beauty about the "streaming" part of it is that two or three people aren't needed to run the camera as that can be done by remote. The real beauty of the "streaming" part is that there is quick, instantaneous recall of whatever is discussed. If the streaming was in place, one could go home on their computer and tap into and instantly recall every bit of the discussion that took place to absolutely clarify everything that was said. Brandt stated the technology exists; Cindy Currier has been contacted, so Brandt felt this was a decision for either the Information Systems Department. Brandt felt the Committee's decision at this point was whether or not to allow that to happen in these meetings, and if that would help Exec. Finance Committee makes a decision than so be it. It was Committee consensus that it would be an Exec. Finance Committee decision to "stream" meetings and also County Boards. Bice felt it was a good idea that it should be done. Bice felt a lot of details would probably need to be cleaned up during a live meeting, but this would get the information out and make it available immediately to the public.

Director's Report – Lien stated, at the next meeting, Corporation Counsel has requested that the minutes of that meeting be approved by the current Committee before adjournment of the meeting because the May meeting would be with the new Committee. Discussion followed on that issue.

Bice asked Lien for his opinion on the status of a mining application in the Town of Dodge as Bice has been approached about it. Lien responded it was very clear in his mind and he felt it was clear in the Committees' mind, that even though the minutes don't reflect verbatim what took place there, that the Dodge part of the application was withdrawn and the applicant would be able to apply and come back at a later date. That is what the applicant was told. That is what Lien and Brueggen feel is correct after re-examining the minutes and

from being in the meeting. Thompson motion was made to include only the Town of Trempealeau. In the mine plan, both were included, so it is assumed Dodge was included in that. Lien doesn't feel that it was. The Committee agreed that Lien was right and that the Dodge portion of the application was withdrawn. If Lien has to, he stated he would exercise his authority through the Ordinance to bring the applicant back, but Lien felt it was very clear with the Committee and staff that the Town of Dodge was not part of that motion that Thompson made to allow them to move forward. Thompson commented at that time they didn't even want mining. Brueggen added the land in Dodge was just rezoned today. Lien added the Committee couldn't have issued a permit for that because that land wasn't even zoned properly and the applicant and operator know that.

Lien gave a brief overview on permits. Last year at this time the DLM had received a total of 49 permits for a total of approximately \$57,000. This year DLM has already received 57 permits in totaling \$78,000, which is a difference from last year of \$21,000. Lien is hopeful that the economy is starting to come back as there is an increase in UDC permits. Smick commended Lien on the map provided for the Committee regarding all the mines in the County; however Smick would like the map to contain a little more definition as to what kind of mining is taking place. Brandt stated he was there the day the DOT person brought the map in and the original map is huge. Ann Seymour in Land Records managed to squeeze that map down and that is why some of the information is unreadable. Brueggen commented that Seymour could probably print a full size map for anyone who would want it. Brueggen also has it on computer. Brueggen stated it is mainly a tracking device for the DOT to see the conglomeration of truck traffic on roads and where they are funneling to.

Next Regular Meeting Date – The next regular meeting date was set for Wednesday, April 11th, 2012 at 9:00 AM.

The Committee consensus was that the per diem for this meeting would be \$70.00.

At 1:50 PM, a motion was made by Quarne to adjourn the meeting, Nelson seconded. Motion carried unopposed.

Respectfully submitted,
Virginette Gamroth, Recording Secretary

Michael E. Nelson, Secretary