

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

**REGULAR MEETING MINUTES**  
**January 9, 2013 9:00 AM**  
**COUNTY BOARD ROOM**

Chairman Bice called the meeting to order at 9:00 AM.

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

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

Staff/Advisors present: Kevin Lien, Virginette Gamroth, Jake Budish and Keith VerKuilen. Judy Betker and Corporation Counsel Rian Radtke were present for part of the meeting.

Others present: Mark Palmer, Emery Palmer, Chuck (Gregory) Canestraight, Scott Mosselman, John Behling, Darrell Sonsalla, Steve Flaten, Randy Sonsalla, Rebecca Larsen, Justin Haug, Monica Rose, Paula Glynn, Bob Glynn, Gloria Everson, Wallace Everson, Harold Tenneson, Susan Faber, Ivan Pronschinske, Mary Lee Hegnauer, Lance Pronschinske, Jorgan Haug, Elizabeth Larson, Paul Walske, Dan Hays, Tim Kates, Roland Kube, Paul Millis, Brian Murray, Holly Haug, Ron Rubenzer, Tim Marko, Glenn Berg, Tom Waldera, Vernon Back, Eric Haas, David Suchla, Michael Blaha, Bruce Thompson, Rosanne Thompson, Michael Price, Amy Johnson, Gary Tidquist, Michael Berg, Timothy D. Rand, Dan Sobotta, Gary Eckman, Andrea Johnson, Roer Nelson, Richard Tenneson, Vernon Back, Eugene Simmons, Gene Simmons, Wayne Hoem, Jeff Schock, Mark Skolis, Gonzalez Sanchez.

**Adoption of Agenda** – Thompson made a motion to adopt the agenda, Quarne seconded, motion carried unopposed.

**Adoption of Meeting Minutes** – Low made a motion to adopt the meeting minutes from December 12<sup>th</sup> 2012, Brandt seconded the motion. Bice explained that at last months meeting he had everyone in the room remain quiet and took a decibel reading of the ambient noise which Bice remembered as being around 43.2 decibels. He then asked how many people found that sound objectionable. Bice felt 3 or 4 people had raised their hands whereas the minutes reflected “several”. Bice wanted to make the clarification because he had not made it in the meeting and it did not get into the record. When Bice had asked how many people were not offended Bice felt a majority of the people (approximately 20) did not find it objectionable as opposed to “several” as the minutes reflected. Bice learned that he should have counted the people and he didn’t and if he could he would have a correction that many of the people did not find it objectionable. Brandt suggested that Bice had made his point and the issue would be discussed at some point later. (No formal motion was made to strike and replace any part of the previous meeting minutes). Motion to approve the minutes passed unopposed.

**Wildlife Damage & Abatement Program/2012 Deer Donation Budget Amendment – DeWayne Snobl**

Snobl stated the County is involved in the Deer Damage Program and the budget approved was for the administration and processing. Snobl explained that initially \$2,000 had been approved for the Deer Donation Program of which \$1,880 were segregated for the processing of deer. The initial numbers Snobl received from the one processor in the County were that 36 deer were processed, and there may be a few more that will come in (processors could take deer until December 31<sup>st</sup> and Snobl hadn’t received the final numbers yet) which puts the County over budget by \$100. Snobl was present to get a budget amendment to add \$1,000 to the Deer Donation portion of the Damage Program specifically for processing for 2012. Snobl reminded Committee members that it is all state funded dollars as it is “hunter” funded. No County dollars are involved. Thompson

made a motion to approve a \$1,000 budget amendment for the increase in the deer donation program for the County, Nelson seconded, motion carried unopposed.

**Public Hearing – Conditional Use Permit and Reclamation Permit – Nonmetallic Mine –Wayne and Chad Berg, Lorna M. Tenneson and Judith C. (Bergum) Betker, Property Owners/Applicants, Blair, WI and Spartan Sand LLC, Muskegon, MI, Operator - Town of Preston**

Bice opened the public hearing at 10:09 AM. Nelson read the public hearing notice aloud. VerKuilen passed out the Permit Criteria questionnaire, and staff and town recommended conditions. Lien explained the Permit Criteria forms were designed by Corporation Counsel and are for Committee members to use and fill out while listening to the public hearings today. VerKuilen stated the D95 South Site, Spartan Sands, LLC consists of 95 active mineable acres located in T21N, R8W in the Town of Preston. The mine site can be described as uplands in an exclusive agricultural zoned district adjacent to lowland ground and wetlands. The intent of the applicant is to extract, screen, load and blast when needed. No more than 100 five axle semi-end dump trailers will leave the site per day. Upon removal of the sand, phased resource reclamation will begin. This land will then be prepared for post land uses of agriculture production and recreational use. Today, the applicant is applying for a Conditional Use Permit to proceed with the proposed nonmetallic mining operations and reclamation plan. VerKuilen then turned the meeting over to Emery Palmer for comments. E. Palmer introduced Chuck (Gregory) Canestraight who is to be the operator on this site to give a background on Spartan Sand, LLC and the parent company. Canestraight stated he was present as the president of Spartan Sand, LLC. Canestraight is also the president of Sand Products Corporation, a Michigan corporation. Canestraight is here today with their advisors, Emery and Mark Palmer, PST Consulting, John Behling, attorney from Weld, Riley, Prens & Ricci and the landowners for this hearing, Lorna Tenneson and Judith Betker and Wayne and Chad Berg. Canestraight continued that they have applied for this permit on the “legs” of a long history of sand mining in the Midwest and the Great Lakes. Their parent company, Sand Products Corporation was founded in 1924 and has spent its’ history mining sand and supplying to different industries throughout the greater Midwest and along the shorelines of the Great Lakes. They also operate marine vessels on the Great Lakes including steamships and articulated tug barges primarily to transport the type of bulk commodities that they handle. They own a significant dock in Muskegon, Michigan, therefore that is their headquarters where they operate a stevedoring and break bulk operation receiving foreign vessels and commodities. Similar to what one might find in other municipalities. Canestraight explained the history of sand mining goes back a long way. It has existed on numerous parts of the Great Lakes shoreline. In Michigan they find themselves in the Upper Peninsula of Michigan on a substantial reserve and currently do operate a large wet hydrosizing plant in excess of 750,200,000 tons per year. Those materials are distributed throughout the Great Lakes terminals that they operate to help get them out to their market. Canestraight stated the reason they have come west to this region and into the County/neighborhood is because the materials that are in this earth/county would certainly add to those that they currently sell and Canestraight believes that in exchange for being an operator and sand company in this community, they would bring value and tax base, jobs and dollars invested in order to help us realize the value of the minerals that currently sit in the ground. Canestraight presented a brief visual presentation of what his company does. They have supplied the foundry metal flux and the oil and gas industry with sand materials. They have supplied in excess of 45,000,000 tons of material to the markets noting that in any industry there are ups and downs/growth and shrinkage, etc. They are situated 25 miles west of the Mackinaw Bridge on the south shore of the Upper Peninsula of Michigan on a coastal site that was developed in the 1960’s. They have about 1400 acres of proven reserves there that have a certain characteristic and quality to them. It is a good sand for many industries and it is not the type of sand that is here. The hydroplant that they operate over there (mostly enclosed) is very similar to the types that one has seen set up on the sites here. How they differ is that most of their sand leaves by Great Lakes freighter, they load it from their terminal either onto freighters that they own or others that they are affiliated with through contract. They ship it to terminals that receive the material damp to dry it. These vessels find themselves onto some of Great Lakes oldest river ports in Buffalo, NY and Cligman, OH, they distribute into Canada. They do operate (on a private basis) the port of Muskegon. There are other ports there that receive Muskegon but that port has existed since 1933, has a very good tradition of supporting goods moving in and out of Michigan. Canestraight also noted, in addition to the projects that they accomplish over in Muskegon, they also operate vessels on the Great Lakes, such as

articulated tug barges (tugboat fits into the back of a barge) primarily in the cement powder trade. One of their ties to doing business with Wisconsin is that they deliver to all the Wisconsin ports on behalf of their major customer in the powder industry. Canestraight hoped his presentation gave the audience a “flavor” of what they do. It doesn’t explain why it is that they have brought themselves here, but he comes before this group today bringing along Scott Mosselman, CFO of Sand Products to hopefully answer the types of questions in order to make the audience comfortable with who they are as that is an important part of going forward here and having a mutual trust and understanding of each other. Canestraight continued that the properties that they have identified here were the result of quite a search. Spartan Sand was formed in an effort to add to their existing business base. They found themselves south on the Mississippi River in different states, some of those adjacent to Wisconsin and in their research and testing have found that Trempealeau County has a good resource. Canestraight stressed that they understand that asking to come and be an operator in this neighborhood carries with it a huge burden and an immediate demand for the respect of the Committee, immediate neighbors and adjacent property owners, etc. They are prepared to make sure they present to the Committee a project/operation that is very considerate of those concerns. Their focus is to develop, extract and process these materials in a way that they can be distributed to market with the least impact possible on the community. Canestraight stressed that any use of county, town or city roads would come with the road use agreements and they wouldn’t propose anything otherwise. Canestraight added that minimizing distances and corridor use is a simple focus to what they are trying to accomplish. They have turned to PST Consulting/Mark and Emery Palmer to assist them in providing a packaged application and design of this reserve that they hope meets those needs. E. Palmer clarified that the project here today is known as the D95South project. There is also another site that is being considered and handled separately today, but it will be referenced as it will interact with the D95South site being currently presented. E. Palmer explained this site will be on property that is near the intersection of State Highway 95 and County Road D and is the Betker, Tenneson and Berg property. Basically this is going to be an extraction only site. Pending issuance of a permit on the north site, material from this site will be extracted, trucked north to that northern site for processing. This will minimize trucks going over the road as those with waste material will be removed from the traffic stream. Overburden on those trucks that are bringing material to the north site, any overburden that is needed for reclamation will be coming back so those trucks won’t necessarily be returning empty in order to avoid unnecessary trucking. E. Palmer stated Traffic Impact Analysis’ (TIA’s) have been sent to the Dept. of Transportation (DOT) on this site. To Palmer’s knowledge there are no improvements requested from the DOT at those intersections. What is being proposed is trucking of, up to 100 trucks per day going through that intersection of State Highway 95 and County Road D. Processed material coming from the south site will (if it goes to the north site and is processed there) will then proceed south on County Road D to State Highway 95. Palmer is asking permission for that material to go either east or west on State Highway 95 as market conditions dictate. The final trucking destination is likely going to be LaCrosse, Winona, Chippewa Falls or other available load out facilities. Part of the larger scheme of development that is being proposed here is, forthcoming, an additional application for a rail spur within Trempealeau County. Were all that to come to fruition, Palmer stated the truck route would be heading south on County Road D, east to State Highway 95 and terminating at a rail load out facility based on State Highway 53. Palmer would like this site to be considered on its’ own merits. If these other sites don’t become available, this site will still continue to function independently and the haul routes would simply be heading south on County Road D and east or west on State Highway 95 to available markets. Any changes that would occur from what is stated here for haul routes, they would seek permission from the County and seek road use agreements as needed. A road use agreement will be signed with the County Highway Department prior to proceeding with any trucking. Palmer added driveway permits have also been obtained for this project. Palmer continued that the existing site is rolling farm fields and woodland populated mostly with silt loam soils varying in depth from roughly 1 to 10 feet over the site. Some steep slopes are eroded on the site. There is a wetland on this site and it has been delineated as seen on the overhead. Their intent is to completely avoid that wetland. There will be a berm constructed on the outside of the wetland to protect it so that no contamination or runoff could affect it and completely avoid that area. As previously stated the sand extracted from this site is going to be used for industrial uses; gas and oil industries. They are expecting to implement best management practices throughout this entire project. A fugitive dust plan has been developed to control dust on the site. The strategy for extraction on the site is first and foremost protecting the environment along with that they are

protecting the scenic view for the neighbors. Topsoil will be stripped from the site and stored on the upland side. Those topsoil berms will serve to divert surface water around the mining area and vegetative buffers will be maintained between those stockpiles and the mining area. It will allow the separation of topsoil and overburden for easier reclamation. The overburden piles will be placed on the downslope side of the site at which point they will serve as protective berms to prevent any erosion from leaving the site. In the reclamation stage those overburden piles will be pushed back up to create 3 to 1 slopes and the topsoil will be spread over them in order to establish new vegetation. E. Palmer stated stormwater has been proved, throughout practice here in the County, to be a big concern with these mining operations. The approach Palmer is taking to this is basically constructing a berm on the upslope side of the site. What that will do is divert surface water around the site, minimize the amount of water within the site that could be causing erosion and transporting sediment. Within the site, everything will slope to an internal retention pond where water will be infiltrated on site. This is an internally drained site, there is no discharge anticipated from this site. The retention ponds are designed to accommodate a 25 year/24 hour storm and that is the general infiltration of the pond. However, in the pond construction, the mine floor will be sloping towards them at a 1% slope and this will also allow for overflow capacity. In the event of a 100 year storm event that retention ponds footprint will just expand within the mine site and no water will leave the site, it will still be self-contained and expand over the mine floor. The basic construction of those retention ponds is also designed in a manner to minimize maintenance and minimize the chance of any sort of failure in those ponds. They will be constructed with both an infiltration basin and a four bay basin. The four bay basin will filter sediment prior to getting to the infiltration area. The four bay basin will require regular maintenance to take out any fines that would be present in that overland flow. After that filtering occurs, water will infiltrate into the soil. Another best management practice that is going to be implemented is the entranceway into the mine site will be wide enough to accommodate both incoming and outgoing truck traffic. This is something that will prevent any staging from occurring on the public roads. Also, with that tracking pad, there will be a paved portion of that pad which will form basically the secondary tracking pad and along with that, a stone tracking pad. With this approach, we expect to be able to prevent any tracking from getting onto a public road. In the event this plan would not be keeping the road clean, there would be sweepers available to clean the pavement. Silt fence is going to be used extensively within the projects. Silt fence will be installed correctly, knifed into the ground. They will have support posts in that fence at a maximum spacing of six feet and joints will be overlapped. This is going to be used as basically, an additional fail safe, trapping sediment on site. There will be stock pile areas on the site. Whenever it is a stockpile of reclamation material or topsoil material that is going to remain in place, that will be seeded and mulched. There will be silt fence around the perimeter of that stockpile area to prevent any sediment from leaving the site. E. Palmer presented a number of photo slides showing the phasing and what the actual development of the site will be. Palmer explained the first phase is going to consist of installing the access road (an 1100 foot service road). The top of the knoll will be stripped and that will be used as a stockpile/staging area as material needs to be hauled off site. In the secondary phase, the mine is going to expand westward and along with that an additional stormwater pond will be created, the berm constructed to protect the wetland and the mine floor will slope to that infiltration pond. Along with that berm around the wetland (as far as DNR is concerned there is a zero setback from a wetland) they will be establishing that berm beyond that zero setback. If there is a recommendation from the County, Palmer would certainly be happy to hear that however they are intending to maintain a distance of a minimum of 20 feet from that wetland. In the third phase, the initial entry area is lowered creating an additional infiltration pond. Throughout this entire process, the way this site is situated, there is a berm that naturally exists both along County Road D and State Highway 95. That higher berm is going to be maintained throughout the project where basically the visual impact of this site will be minimal from either of those roads. The portion of the site where one will be able to look in easily from the road will be where the wetland is located on State Highway 95. Final reclamation of this site is basically going to leave the wetland in tact and there will also be some ponds created on the floor of the mine site. All the topsoil at this point will be redistributed, slopes will be returned to a maximum of a 3 to 1 slope and the site will be revegetated. Palmer acknowledged that he would be happy to address any specific questions at this time. Palmer added there are many more details in the plan that was turned in, but he didn't want to go into that amount of detail here today. Upon Bice's inquiry, Canestraight responded that his company has been in business since 1924 (initial sand mining dock in west Michigan was formed) which is much longer

than most have been in the industry. Bice asked, at that time, where did the sand go that Canestraight's company produced. Canestraight replied back at that time, the initial sand went to feed Dearborn and Detroit, Michigan's initial auto industry and foundry's, etc. It also evolved into Ontario and St. Catherine's where General Motors had a major General Motors foundry. As the Great Lakes evolved and the industry evolved on it, it seemed to be utilized in those regions. That is where most of the sand has gone until they started using it in other industries. Bice reminded the audience that anyone who wanted to testify would need to fill out a registration form. Bice called for public testimony.

**Eugene Kindschy** – Registered in favor but not testify

**Chuck Canestraight (Spartan Sand)** – Registered in favor

**Scott Mosselman (Spartan Sand)** – Registered in favor

**Glenn Berg** – Registered in favor but not testify

**Bruce Thompson** - Registered in favor but not testify

**Rosanne Thompson** - Registered in favor but not testify

**Michael Price** - Registered in favor but not testify

**Amy Johnson** - Registered in favor but not testify

**Justin Haug** - Registered in favor but not testify

**Gary Tidquist** - Registered in favor but not testify

**Michael Berg** - Registered in favor but not testify

**Holly Haug** - Registered in favor but not testify

**Monica Rose** - Registered in favor but not testify

**Roland Kube** - Registered in favor but not testify

**Timothy D. Rand** - Registered in favor but not testify

**Jorgan Haug** - Registered in favor but not testify

**Elizabeth Larson** - Registered in favor but not testify

**Dan Sobotta** - Registered in favor but not testify

**Wallace Everson** – Registered in favor but not testify

**Gloria Everson** - Registered in favor but not testify

**Harold Tenneson** - Registered in favor but not testify

**Steven Flaten** - Registered in favor but not testify

**Gary Eckman** - Registered in favor but not testify

**Audra Johnson** - Registered in favor but not testify

**Roger Nelson** - Registered in favor but not testify

**Richard Tenneson** - Registered in favor but not testify

**Vernon Back** - Registered in favor but not testify

**Eugene Simmons** - Registered in favor but not testify

**Gene Simmons** - Registered in favor but not testify

**Wayne Hoem** - Registered in favor but not testify

**Jeff Schock** – Registered to testify in opposition. Schock inquired if there were certain hours for blasting and if the surrounding neighbors would be notified when it takes place. Upon Attorney Behling's inquiry, Bice suggested he take notes and he would be allowed to comment at the end of testimony. Schock inquired whether the haul hours would be 24 hours as Schock is right below the mine site. Schock would like to know what to expect. Schock is not in favor of the mining and wants to know what the procedures are. Bice responded most of that information is in the application, so if Schock is interested he could probably follow up on that when the hearing is over.

**Nancy Horton** – Registered in opposition but not testify

**Robert Glynn** – Registered to testify in opposition. Glynn and his wife live directly across from the first site.

Glynn knows that there are others that are going to speak to certain things about the mine that they are opposed to. Glynn stated that within  $\frac{3}{4}$  to a mile of the proposed site is a 150 year old church, 14 homesites and 35 to 40 people that are going to have to live with this day in and day out.

**Paula Glynn** – Registered to testify in opposition. Glynn lives in the area with her husband Robert. Glynn moved here from Texas to get into a scenic, quiet, nice neighborhood. This is their neighborhood, this is where

they live, the air that they breath and the water that they drink. The gentleman from Spartan Sands stated it is the material in our earth that he wants to take out. Glynn stated that sand material in the earth underneath the ground is there for a purpose and a lot of that is to filter the water that we drink everyday. Glynn wanted to know if, when her water well runs dry, are they going to come and give her a new one and create more water for her. Secondly, Glynn has already had cancer and she knows that, no matter what they say, there is a harm to fugitive dust and it is not good to breath for anybody, especially someone who has already gone through cancer. Glynn can understand people that don't live in the area and don't have to listen to 100 trucks per day, plus, and don't have to look at those ugly berms and ugly silt fences around that mine, that they want to make a buck off of it, but the people that live on 100 year old farms and they and their family have lived off that land was the part Glynn didn't understand. Glynn understood that the money they might get from mining might help their families but Glynn's made the investment in that 100 acre property as an investment for their family too. Glynn added they might as well live across from a prison now because their property value is going to go down because who is going to want to live across from that for twenty years and it is on two sides of them. Glynn stated you might be making money for your family, but you are destroying investments for her family and her children and her health. When the sand can no longer be sold and that mine is abandoned, Glynn questioned who is going to come and clean it up or will they have to look at that eyesore. When one goes on the websites and look at how destroyed the land is, it is ugly and Glynn doesn't want to live around that. Glynn questioned if she wants to live ¼ mile from blasting going on and 200 trucks a day going up and down the road. Glynn travels everyday and there are semi's going past her everyday on the highway and now she is going to live "on the road" and have to listen to the noise morning, noon and night – beep, beep, beep. Glynn is not in favor of this but thanked the Committee for their time.

**Paul Winey** – Registered in opposition but not testify

**Keith Edward Nichols** – Registered to testify in opposition. Nichols is a farmer/owner in the township of Preston. He has a 172 acre farm. It was homesteaded by the Christianson family in 1869. Nichols thanked the Committee for allowing him to speak today. Nichols thanked those who sent him letters voicing their opinions but he would not be true to himself or to his heart if he did not speak for Grandmother Earth in this beautiful county in which we live. The land is not to be used, it is to be revered and passed on to the future generations in better condition than we found it. This land has sustained many generations and could continue to do so if we are not too greedy and foolish. These sand mines are desperate acts of violence against Grandmother Earth, the one who has freely shared her bounty with you. The beauty and serenity in these hills ARE YOUR TREASURE. Being born here you become blind to it and take this gift for granted. You are willing to take the chance on degrading our water supply, the quality of our air as well as the noise and stink of hundreds of trucks for money. But you are not earning that money, you are stealing it. You're stealing it from Grandmother Earth, the air, from the water and your neighbors property value and their peace and serenity. You are doing it with companies that have been raping Grandmother Earth for decades, and who are professional thieves and there is no honor among thieves. Your respect for the works of the creator, your pride, your dignity are determined by the size of your wallet. You have no concern for the future generations. Remember whatever we do to Grandmother Earth, we do to ourselves. You are fracturing the spirit of the land as well as your own spirits. Your choices are dividing the community and your neighbors and your friends. Your present actions betray your words of the past. Words like stewardship, sustainability and environmental protection. These values you have sold. People speak of human rights, landowner rights and water rights, but what about the rights of Grandmother Earth not to be raped and molested. What about the rights of the air not to be defiled and degraded, the rights of the water not to be polluted. What about these rights. Your actions clearly show little respect. The Preston Township Board could not even give Nichols the courtesy of notifying him of the township meeting in which adjacent property owners sought to approve the permits for their mines. Nichols knows they have no legal responsibility to do so, but he thought they had decency and honor. Nichols believes that they are ashamed of their actions and afraid that Nichols words might sway your friends on the Board into not granting your permits. Your fear is evident by your actions or lack thereof. An honorable man stands his ground and faces his opposition and is willing to accept criticism and differing perspectives because he feels deep in his heart that he is doing what is best for the future generations and Grandmother Earth, but if this is how the Preston Township Board members treat their neighbors as themselves, Nichols can only say I'm sorry for your neighbors. Nichols read an excerpt from an article written by Tony Kennedy, Minneapolis Star

Tribune titled “Local officials dealing themselves a piece of the frac sand boom”. Upon Bice’s inquiry as to how long Nichols would be testifying, Nichols responded to Bice that he has paid taxes in this County for twelve years, over \$50,000 and asked Bice to give him ten minutes of time. Nichols continued reading, “ as frac sand prospecting surges across western Wisconsin and Southeastern Minnesota, local officials are dealing themselves into the lucrative business in several counties and townships, often just skirting the law to do it. At least five public officials in three counties are trying to make money from frac sand according to public record reviewed by the Star Tribune. Here frac sand applications go before the Environment and Land Use Committee, an appointed body that includes a resident that is turning his land into a truck/rail hub. Wisconsin conflict of interest law bans local government officials from using their position to financially benefit themselves or immediate relatives or any other organization. In addition, local officials can’t act officially in a matter in which they are privately interested. County prosecutors are in charge of enforcement. There are two people in this room that are definitely part of this and there is no question about it. They are named in the article but Nichols would not name them specifically. Nichols stated many people in this area have already read the article and know who they are and the people that are sitting here know who they are. The Trempealeau County prosecutor and the legal counsel for this Committee are woefully inadequate in their duty to advise the township and county boards on how to eliminate the perception of conflict of interest. Even if these members are not in direct violation of any law, they violate the spirit of the law and these acts wreak of the stench of greed and abuse of office. Nichols has come here today to speak for Grandmother Earth and future generations. Some of the audience may find Nichols words to be offensive but ask yourself, are his words disturbing or is it because maybe he speaks some truth. This country can no longer afford to justify stupidity and ignorance by wealth. This universal law cannot continue to be broken and if one loves something one has to fight to protect it and Nichols loves Grandmother Earth. Nichols would rather lose fighting than hide from his responsibilities for words are meaningless unless accompanied by action. This Committee allows these mining operations to have unrestricted water usage, even in drought conditions. Last summer, on the radio, Nichols heard commercials on how we should only water at night and infrequently to preserve our water and not waste it. Meanwhile the mining companies use hundreds of thousands of gallons of water a day to wash sand. If there is a more ignorant use of water, Nichols doesn’t want to see it. We are all aware of this past summers’ nationwide drought and its effects on agriculture and crop prices, but does it change the way in which we act, no, for none are so blind as the eyes that just won’t see. For most, seeing is not believing, but what more dramatic signs do you require in order to believe. Nichols’ native brothers and sisters believe that the great creator speaks for creation, but who listens and who sees with truer eyes of the heart, for one has to believe in order to truly and completely see. There are many who do not believe what Nichols says, but the truth does not require your belief it exists in and of itself. A billion people can believe something is true, but that doesn’t make it true. Only ten can believe and that doesn’t make it false. If these mine operations do not permanently ruin this area, it will not be from the lack of trying to do so. But even more so, the future generations will have to live with the legacy we leave for them. We did not inherit this land from our grandparents, we borrow it from our grandchildren. It is for them and Grandmother Earth that Nichols fights against these acts of ignorance. The future generations deserve our best, our debt to them cannot be ignored, for if it is, it is they who will have to pay the price and their burden is already too heavy, let us not add to it. Nichols’ farm is adjacent to both of these proposed mines. The Flaten/Tennessee mine to the northwest and the Berg/Betker/Tennessee mine to the south. Nichols is in the middle. Nichols will be in a unique situation in this county, shared only by Bob and Paula Glynn whose property also borders these two proposed mines. Nichols is semi-surrounded and he chooses to fight. When one corners someone or something they will either cower or fight. Nichols asked the Committee, how many mines they will allow to be adjacent to any one property owner. How many mining operations is this County going to allow to operate at any one time. We already have more mines and wash stations than any other county in Wisconsin or Minnesota. When will it end? These mining corporations are not trustworthy and their actions of the past speak for themselves. Preferred Sands, who operates a large mine in the City of Blair, had a sand and wastewater spill after the storm of May 3<sup>rd</sup>, 2012. This was reported in a news article for a northern Wisconsin newspaper, otherwise the public would not have known. Did Preferred Sands come forward to admit to this problem, no, for it is not in their best interest to do so. In fact, the company’s representatives were upset that the public had acquired this information at all. How many other things have they hidden or will try to hide in the future. Has anyone noticed that all of these mining companies are LLC’s (limited liability

corporation). This enables them to minimize their liability in case of environmental damage and walk away. The mining companies say they will drill you a new well if yours runs dry, but what about the quality of the water. There is no fixing it if it is polluted. Nichols has a spring for his water supply which has flowed in that valley for hundreds of years. When the Christianson's homesteaded that land in 1869, they used it for a water supply. It is irreplaceable. Remember the mining companies will make you MANY PROMISES, there is only one thing that Nichols can assure you that they will keep. They will promptly take what they want from your land and leave and this Nichols can guarantee they will do. There are some who say that those who oppose the sand mines and the oil and natural gas fracking industry are standing in the way of progress. It truly is the progression, but where are we going except on the same path of burning fossil fuels for our energy. We need to develop new sustainable methods like wind, solar, hydroelectric and electromagnetic to power the future. These ways will not be nearly as profitable for the industries who now control our power. Herein lies the problem; wealth versus wisdom. This County does not possess the staff required to properly monitor these mining operations and cannot ensure that they are following the rules that they agreed to follow. The defections of trained personnel from the County staff severely limits adequate oversight. If the bottom falls out of the frac sand market there will be many degraded and scarred sites that may not be reclaimed for the length of time allowed by their permits, if ever. The financial goals of those involved many never be realized and the ability to farm these areas could burden them further. These rewards are not guaranteed, it is a gamble. That is why Nichols believes there is such a rush to establish these operations in order to take advantage of the existing market. There was a farm property on State Highway 95 on the north side between Blair and Arcadia that has been ripped up and the mining company has pulled out, leaving it not reclaimed and not farmable. Therefore, Nichols is asking this Committee to declare a one year moratorium on any new mining operations until, at least, adequate staff can be trained to monitor the already existing sites and better determine the environmental impacts that they have created. Nichols pleaded with the Committee to protect Grandmother Earth and the future generations. To use wisdom and their hearts to make these decisions. When your grandchildren look back, in the future, to today's action, will they look with pride or with shame. The choice is yours.

**Jeanne Nutter** – Registered in opposition but not testify

**Rebecca Larsen** – Registered to testify in opposition. Larsen lives on Square Bluff Road in the Town of Arcadia and approximately 2 -3 miles from these two proposed nonmetallic mining quarry sites covering over 425 acres. Larsen's speech is directed towards both of the public hearings, so she will make it short. Over a year ago Larsen began attending the Town of Arcadia's board meetings regarding frac sand mining, as well as public hearings held before this Environment and Land Use Committee. Larsen also wrote a letter on behalf of township land owners who are becoming victims of our frac sand frenzy all in the name of landowner rights. But what about the rights of landowners who opposed frac sand mining. This letter was written from Larsen's heart opposing what Larsen describes as the "raping" of our beautiful unglaciated land that was given to us to be stewards of. Kevin Lien read Larsen's letter then on her behalf and she thanked him. However, no matter what Larsen had written as well as what other concerns others had spoke out against the sand fracking, speaking from their hearts also, the permits were approved by both the Town of Arcadia board and the Environment and Land Use Committee. Perhaps we were too emotional, to compassionate. Recently, friends – Keith and Mary Ann Nichols – asked if Larsen had seen the notice of public hearing in small print in the December 20<sup>th</sup> issue of the Trempealeau County Times. Larsen had not, but did and was shocked, but what really upset Larsen was that neither of the Nichols' had even been approached by those requesting today's hearing and they are adjoining landowners. Friends from town had told the Nichols' about the notice, wondering how they were coping with the news. Where is respect and sense of ethical behavior and fairness towards ones' neighbors and friends. Where is transparency? More information has been written recently regarding frac sand mining in local, regional and state newspapers. Keith Nichols addressed (unbeknownst to Larsen) an article, from the Minneapolis Star Tribune written by Tony Kennedy on December 26<sup>th</sup>, 2012 . Larsen will not address that since Nichols did, but noted that the same article was also in the January 3<sup>rd</sup> issue of the Blair Press. Larsen appreciated the Blair Press also addressing controversial subjects. Larsen passed a copy of Tony Kennedy's article out to the Committee members. Larsen stated this is a very serious situation, facing us today, but there is more. Larsen also has an article published in the December 19<sup>th</sup>, 2012 issue of the Country Today written by Kate Prengaman. This article was also published in full in the December 27<sup>th</sup> issue of the Blair Press. Larsen read from the article entitled "Is the Sand Rush slowing Down". "For more than a year a pile of unwanted sand

towered over three acres on Claude Ringleman's property. The price for the sand dropped about the time the stockpile was ready for sale, so the 120,000 tons of sand off of three acres just waited. Ringleman isn't a miner, He runs a cranberry operation north of Tomah, WI. He jumped into the frac sand frenzy when a mining company offered to dig him a new reservoir in exchange for the rights to the sand it removed". The company built him a great reservoir but then struggled to sell the sand. Wisconsin sand is in demand when used for hydrolic fracturing or fracking, a method of unlocking previously trapped oil and natural gas that has boomed in recent years. Frac sand mining has surged in Wisconsin over the past few years, growing from a handful of sites to almost 100 permitted facilities. Nationally the hydraulic fracturing industry purchased \$3.7 billion worth of sand in 2011 according to the Predonia Group, a business research firm. Although no official figures are available, the Wisconsin Center for Investigative Journalism has estimated that the States frac sand industry will create more than 2500 jobs. The industry has created controversy as well. Some residents are concerned about traffic increase, dust pollution, and environmental damage. For those of you who don't know, Larsen did have a well go dry in September. Larsen's old well was at 240 feet deep and now she is at 320 feet deep. It was not because of the frac sand, it was because of the drought. This year another drought is expected. How many more people are going to have to dig deeper wells. At this point, Bice asked Larsen to keep her comments relative to the public hearing. Larsen stated, those who are wanting to do a frac sand mine, the ones that are going to make it are bigger companies who are on a rail. The gentleman in the article was not on a rail. Larsen doesn't know of any railroad tracks in her neighborhood because there aren't, so it will have to be hauled. Larsen inquired if this land is going to be dug up and the sand stockpiled and sitting there? When is the reclamation going to start? These jobs that we are looking for – these people are going to be laid off if there aren't jobs. They will sell their trucks and have to wait and we as neighbors are going to have to be looking at this and break up our friendships/relationships. This is really sad. Larsen thanked for the opportunity to speak and hoped that what the Committee has heard causes them to give serious and cautious thought to decision making today.

**Kevin Werlein** – Registered in favor but not testify

**Carl Axness** – Registered in favor but not testify.

In addressing Jeff Schock's question about blasting, Attorney for Spartan Sand, John Behling, responded that blasting in Wisconsin is an activity regulated by the Wisconsin Administrative Code. Spartan Sand doesn't know yet if blasting will be required because one really doesn't know until the earth is opened up. If it is required, they will certainly comply with state law. In response to Schock's question, there is a time limitation listed in the Wisconsin Administrative Code. Behling believed that blasting could only occur between the times of 9:00 AM and 4:00 PM. It does require notice and visits to local structures and certainly the applicant will fully comply with the State law on that issue. In terms of hours of operation, that is certainly regulated by the County Ordinances and something the applicant will comply with at all times. At all times, Chuck Canestraight and his team will be willing to meet with any of the neighbors and talk about any operational concerns.

VerKuilen read a letter from the Town of Preston dated August 1<sup>st</sup>, 2012 which stated the Town of Preston met on June 11<sup>th</sup>, 2012 to discuss the proposal of a Conditional Use Permit for the nonmetallic mining by FTBB Holdings. Vernon Back made a motion to support the proposal with the school bus issue being looked into, Gary Everson seconded the motion. All in favor. Robert Tenneson abstained. Bice called for any other public testimony.

**Dave Hesch** – Registered to testify for information only. Hesch wanted to clarify some misinformation. Nichols had stated that the mine on Highway 95, which Hesch operates, had been abandoned. Hesch clarified that no one pulled out. Hesch wanted everyone to understand that the mine is not active right now for two reasons; there is a new processing plant being built so the need for sand is not going to be until spring, second, because of the weather conditions. Hesch wanted to make it very clear that no one has pulled out.

Bice called again for any other public testimony. There being none, Bice closed the public hearing at 10:20 AM. Bice called for a motion from his Committee. Thompson made a motion to approve the Conditional Use Permit, Low seconded. Clarification was made that the trucks would be five axle. Brandt stated the plan is written well and there are terms like, "when able, as necessary, when something opens up" so they are vague.

Brandt addressed the following concerns toward E. Palmer. Brandt would like to see more specifics in the reclamation plan as to how long any phase will be open, when it will be reclaimed, etc. Brandt stated the surrounding neighbors are not listed in the plan nor is there a plat book map. Brandt added it is not a requirement to notify the neighbors, but it is certainly the polite thing to do. Another thing that struck Brandt was the concept of protecting the wetlands. There is a hanging wetland in a mine that was previously permitted. The wetland is a "wetland" because of the land around it. It doesn't exist by itself without connection to the water flow. Brandt's point is there is no indication of what the ground water elevation is. The one place Brandt was able to find an indication of where it was is in the very back of the application in the report of Severson Geo-Consulting where they discuss mining to within five feet of the groundwater. Brandt noted that wasn't possible in this County because a 10 foot distance is required between the groundwater and the mine. Thompson inquired if Brandt had looked at the site and noted it is just a water run. Brandt's question with the whole site is why dig out 100 feet of something to get at something else as it will take a considerable amount of effort to move things around to get to the sand. Brandt drives County Road D every day past that "cut" and that slope cannot be held so he is wondering whether the potential is there (based on soils, subsoils and bedrock) before Betker's have a mine in their back yard because the slopes have eroded back that far once that approximately 100 foot cut is created. Brandt liked the idea of the berm on top but if that cut starts eroding back that is going to be a really significant issue. Brandt reiterated where is the groundwater, what is going to be done to control that 100 foot slope, what is the point at all in trying to protect a wetland when your mining down below it and why here and why now? It seems the inappropriate place for a mine, based on all the reasons that are stated in the outline, as to what it is Committee members are to be looking for. E. Palmer responded as far as the reclamation time, the reason things are stated, "as available, as necessary" is because reclamation is an ongoing process throughout the entire development of this mine site. It is not intended that the entire 95 acres is open at any one point in time. There is phasing that goes along with it. As one area is excavated and moving on to the next area, additional overburden, etc. will be transported to the previously mined area, deposited and reclaimed as we go. The overall goal is to have the least amount of area open for the least amount of time and keep as much vegetation onsite as possible. This not only stabilizes the slopes, it also keeps the site from eroding, it keeps the site more scenically pleasing to the neighbors. The list of surrounding neighbors is not in the wetland information itself, a list of surrounding neighbors was provided to the Department of Land Management with this site. E. Palmer stated they were, by no means, trying to not notify any neighbors. As far as protecting the wetlands, in doing a delineation of that wetland, what is being called a wetland is an eroded ditch through the bottom of that valley. The actual wetland area of that ditch is the footprint of a ditch which varies from six inches wide to some places three feet wide. It has steep banks and as soon as one goes up the steep banks it is not wetland but basically an eroded feature. Palmer stated they are placing a berm around that area to protect it. The infiltration ponds and the overall site design is that when reclamation is complete that entire area will return to pre-existing drainage patterns. The intent is really that the area is protected. In addressing water table, preliminary drilling data is what they used to establish the water table and they set the floor greater than 10 feet above that. When referencing the Severson report and the mention of five feet in there, that report has two different sections to it. At the end of the report there is a revised section which Palmer believes is referencing the 10 foot separation that is required. Upon Brandt's inquiry as to whether Palmer had checked well logs in the area or the State's informational groundwater elevations, Palmer responded they used the data from an actual drill hole on the site whereas a drill hole on the site should provide a better representation of what the actual ground water level is there. In regard to the slope stabilization, with the reclamation getting back to a three to one slope, all of the research and data available really states that a three to one slope should be stabled and there shouldn't be erosion problems. With proper establishment of vegetation on those slopes Palmer didn't anticipate any problems. Brandt noted he was speaking specifically during the life of the mine because Brandt's reading of the mining operation outline indicates that there will be at least 100 foot cut during the life of the mine. Brandt asked if Palmer knew or could guarantee that the topsoil, subsoil and bedrock won't erode back or cave in and start sliding back. Palmer responded those slopes, while they are there, should be actively mined so anything that is "sloughing off" of those slopes is material that is actually being removed and processed. Palmer did not, in the long term, think that 100 foot cut would be stable in any manner, but for the portion of time that they are exposed during mining that material is also be actively removed and hauled away. It is the intent that those slopes will be

coming down. Brandt noted that the DNR (unless they have changed procedures) has not been permitting or recognizing internally drained plans. They have to see it in action and then approve it in order for them to actually label it as internally drained. We have had a lot of problems with every mine site in this county with keeping water inside the mine, especially with as much open land as one is talking about. Brandt inquired if Palmer has contacted DNR and if they are involved in the process. Palmer responded he has been working with the Roberta Walls and Chris Wilger, Wisconsin DNR. Palmer stated their plans have been before them. Palmer spoke with Walls yesterday and any of the concerns that she had with the plans has been addressed. In developing this plan, Palmer had been in constant contact with DNR. In the past, these infiltration ponds were being designed for two year storms and with that comes a 50 % chance of failure. Palmer stated the stormwater plans are addressing a 25 year storm (standard infiltration pond) and the area around that pond is designed such that it will accommodate a 100 year storm without any water overflowing or leaving the site. Brandt commented this was something new to come before this Committee. Brandt inquired as to the route for the 100 truck loads per day as the plan calls for sending them down to State Highway 95 and then going east or west and the potential for a rail loadout somewhere on State Highway 53 (Committee has seen no plans on this). The plan describes trucking the sand up the hill to the north site. Brandt asked if there was a time period in which this raw sand is going off some place until the other side is up and running or are the sites going to developed simultaneously so that it all goes north, etc. Because Brandt knows the road intimately, he expressed surprise that DOT had not recommended any changes to the intersection itself. Palmer explained the reason multiple options were presented in the plan is because other sites, which would become a final destination, are not permitted. If the north site were permitted, that would be the destination. Palmer didn't believe there would be any intent to haul elsewhere first for processing. Canestraight added they weren't trying to be secretive, it was to minimize the transport of raw sand. Obviously they would gravitate towards the most efficient trans load operation possible, but until that exists/is approved they will have to rely on those that do exist. They have to incorporate a certain business element into that so that they don't necessarily become beholden to one transporter. Brandt inquired what percentage of sand they were planning to take from the south side to the north side to be processed before it is shipped in which case the trucks come out, turn left, go up County Road D and then down into the processing site. Canestraight responded because these are applied for separately, there is a high probability (if that site were permitted in the next hearing) that the south sands would travel north to the processing area. Brandt asked if any polyacrylamides would be used on the south side. Canestraight responded no as it would be just an extraction site and no processing would go on at the south site.

Verkuilien read the list of 13 conditions as proposed by the Town of Preston for the south site.

**Proposed Conditions from the Town of Preston for Spartan Sands, LLC – D95 South Site (owner/operator) Conditional Use Permit**

1. A vegetative buffer that complies with Section 3.10 of the Trempealeau County Comprehensive Zoning Ordinance must be maintained around the mine site.
2. Final slopes shall not exceed three (3) feet horizontal to one (1) foot vertical incline.
3. Property lines must always be clearly identified and posted with warning signs at 300 foot intervals.
4. A ten (10) feet grassed or vegetative buffer area shall be maintained between all adjoining property lines at all times.
5. Notification must be given to the Department of Land Management and adjacent neighbors 24 hours prior to any blasting. Generators can be used only during Standard Time for the heating of equipment and providing a security light with decibel levels kept below 45dB as measured at the property line during the mines' non-operational hours.

6. Public roadways must be scraped clean of materials at the end of the working day where nonmetallic mining equipment enters a public road.
7. Spartan Sands shall enter into a road use agreement with the Trempealeau County Highway Department prior to hauling material off site.
8. All truck traffic shall be timed and routed so as to minimize overlap with school bus traffic.
9. A berm shall be constructed to protect the creek and wetlands prior to commencing mining activities.
10. In addition to stone tracking pads a paved tracking pad shall be installed at road entrances to prevent tracking onto public roads.
11. All mine entrances shall be provided with locking devices to prevent unauthorized access to the mine site when closed.
12. To the extent possible mining activities shall be conducted in a manner that minimizes the visibility exposure of the mine.
13. Driveway entrances shall be wide enough to accommodate both incoming and outgoing trucks. No staging shall occur on the public roads or right-of-way.

**Proposed Conditions from the Department of Land Management (DLM) for the Spartan Sand, LLC – D95 South Site (owner/operator) Conditional Use Permit**

1. All structures and wells on properties within 2500 feet of the Conditional Use Permit site shall be inspected and the condition of each shall be recorded prior to the commencement of any work at the site. These wells and structures should thereafter be periodically inspected to determine, to the extent practicable, whether or not damage has occurred as a result of the mining operations. Inspection and damage costs shall be borne by the owner/operator.
2. A five year conditional use/reclamation permit shall be the term of the initial permit issuance with two year extensions available thereafter.
3. Existing perimeter tree canopy (at highest points of elevation) must remain to keep the visual appearance, aesthetics and reduce dust from leaving the proposed mining area.
4. Separate the excavated A & B soil horizons for proper reapplication during reclamation.
5. The cleared stumps and woody debris are to be chipped and utilized as mulch on-site.
6. Any deviation or modification to the proposed haul route must be submitted, in writing, to the Department of Land Management and the Wisconsin Department of Transportation to determine if additional recommendations are needed to amend the original Traffic Impact Analysis (TIA).
7. If the Wisconsin Department of Natural Resources changes permitted air quality standards as they relate to Silica, and/or Silica related compounds, the Conditional Use Permit shall be modified accordingly so that non-metallic sand mine activities must always comply with the most recent DNR standards.
8. As a result of blasting, owner/operator of the non-metallic sand mine shall be responsible for picking up rocks and/or debris on adjoining properties at the land owner's request.
9. The back up alarms used on all the mining trucks/equipment must be the new style low tone alarm.

10. All mining trucks leaving will be tarped.
11. All lighting shall be shielded and directed towards operation of the D95 South non-metallic sand mine.
12. Notification must be provided to the DLM as to the specific non-metallic mining site location of equipment used to crush or separate non-metallic mining products. Notification of the re-location of crushing or separation equipment from one non-metallic mining site to another must be provided to the DLM within twenty-four hours of the relocation of such equipment.

Bice wanted to comment on several of the staff requirements. Bice stated one of them is the five year Conditional Use. Bice stated if he had his way (looking at the big picture) this leaves a certain amount of uncertainty to this company, in the future. Bice believes that we have the legal right, if they aren't following the rules or doing the plan as specified, to pull the Conditional Use Permit. Upon Brandt's inquiry, Lien responded that was correct. Bice thought it would be better to establish the permit length at 10 years, rather than five years. He didn't know how we ended up with a five year. He also knew this wasn't the first one that has come up but didn't think it should be necessary. Lien responded in the last few years we have dealt with a lot of permits and discussed both sides of this. Lien stated it was public concern, ordinance requirements to not be arbitrary and capricious with a lot of the decision making and yet follow the ordinance guidelines and to give the applicant the opportunity to demonstrate everything that they say and present today and that they will indeed follow through with that. Lien added a five year time line was added as being a very adequate time for the applicant to implement everything (especially the stormwater plan), and be actively into mining and reclamation. At the end of five years put it onto the applicants shoulders to be accountable to what they presented during the public hearing. Lien reiterated at any given time, if an applicant is violating the conditions, the DLM or E & LU Committee can shut them down and revoke the permit. With that being said, at the end of five years if one is compliant with all the conditions, the Ordinance states very clearly that an applicant can get an automatically get a two year extension and repeatedly thereafter. Lien stated we have been consistently issuing five year permits with it being very clearly stated, that as long as one is compliant during that five year period, they are eligible for an automatic two year extension with no limitation on how many two year extensions can be granted. Upon Bice's inquiry about an automatic two year extension, Lien responded it is in the Ordinance. Bice's problem is that government, in general, has demonstrated in the past that they are not terribly consistent and cannot be trusted. Brandt, in being on the Committee the longest, remembers the promises that have been made by other mining companies. There have been some excellent plans with phased development and extraction, only to go out to the site in six months and see that they have opened up the entire 200 acres, moved all the dirt (that they said would take 20 years). Brandt's felt the experience on this Committee has been that the mining companies cannot be trusted and that we need to keep our regulatory "chops" as firm as possible. Brandt stated they are acting under our regulatory authority. We have not invited them into this County, they are asking to do something that is not consistent with the land use and we are giving them a permit to do that so you can be expected to require them to play by the rules. Bice stated the Committee has total authority (if they don't "play by the rules") to stop them and pull their CUP. Bice stated Brandt almost commented that this is a mildly hostile thing they are doing (coming in and setting up a business) and that is not hostile in any way. Bice continued that when they come to Trempealeau County (or if they live here (as in this case most of the people do) they have no intention of doing anything bad but they are going to invest an incredible amount of money so the idea that we are only offering five year permits would be very scary. Bice asked the Committee if they wanted to leave it at five years or were they willing to establish ten years so that the applicant is not in a position (at the whim of government – Bice can sit and list all day long things the government has changed right in the middle of the game). Bice will work as hard as he can to make sure that doesn't happen. Once they establish rules they should live with it just like everybody else. Bice expects the company and the rest of government to live by the rules. Bice reiterated whether the Committee wanted to leave it at five years or move it to ten. Low supported moving it to 10 years for investments' sake. Thompson commented if there was a guarantee of the same Committee but it will be different in ten years. Bice acknowledged that there have been violations but when we have the ability we will go in and say, "you guys

need to clean this up or we are going to pull your permit” and Bice has actually done that. This won’t change that but it will give them initially ten years that they can operate without worrying about the Committee breathing down their backs and Bice feels that is important. Brandt clarified that the reason Bice is willing to consider the ten year application is because the County has the ability to pull their permit at any time based on inspections from staff (Bice responded absolutely) which could be considered “breathing down their back. Brandt continued that we also want to give them the sense that we aren’t “breathing down their back”, so Brandt asked for the message to be clarified. Bice responded the message is real simple as Brandt would not build a house if Bice told him a railroad was coming through the front door in five years and that is what the applicant is up against, they honestly don’t know. It is just like American business today, they are standing back and they don’t know where we are going in this country and they are afraid to invest and so we should not expect anybody to set up a business and then have the fear that in five years their future may be jeopardized. Brandt responded there are people who come before this Committee who have built a house or those who have thought about building houses, or improved their houses (and didn’t know that there was a mine coming through their front door) who wouldn’t have done that as well. Brandt has a list in front of him of things the Committee is supposed to consider when thinking about nonmetallic mining conditional use permit criteria. Brandt cannot find one criteria which says that the Committee needs to be concerned about the economic viability of the mine that is being considered. There is a lot of talk about water, consistency of use, property values, infrastructure, soil erosion, market value of lands, physical practicality of reclamation, but nothing about the Committee needing to guarantee that the applicants are going to make money or even be here in five years. Bice responded there is no guarantee all he is asking that the Committee not give them a deadline that they have to, or may have potential to, throw an investment so that all of sudden we might tell them no they can’t do it. We have that ability with the CUP process. Bice commented the list Brandt was talking about, he had gone through the whole thing the night before and answered every single issue on that list.

In regard to Brandt mentioning people having “a sand mine coming through their door”, Bice stated he will defend them to his death if a sand mine is coming through their front door, he will never allow that, but if the person doesn’t own the land that the sand mine is on, then Bice feels we have to separate people’s rights here which is a very difficult job to do, but that is what we have to do, we don’t have a choice. Bice added we can’t allow a few people to control the rest of the land, we need to look at it objectively, we have a list of things we need to consider and then make our decision. Bice stated he was going to put this on next months agenda so that the Committee can discuss the points Bice has been making. Bice thought they made the last applicant live with the five year period and if government follows through and is sincere and the people on the Committee are still here and try to enforce the things that this Committee has put in place then we are ok, but Bice wasn’t sure that is the case. Bice asked for Committee thoughts on the issue. Thompson commented he thought ten years was fair as there are also some twenty year plans out there. Nelson inquired how long Palmer expected the south site to operate. Canestraight responded based on the amount of material in the south site 10 -15 years. Canestraight noted that the industry and its’ historical timeline is going to have peaks and valleys so these speed ups and slow downs that we may be experiencing at other local mines should be expected. There might be a lot of effort and then pull backs and that is based on the industry. At this time, Bice called for a Committee vote and asked Corporation Counsel Radtke if that was alright. Radtke responded there is no motion on the table other than the motion to approve the mine site. Brandt made a motion to add the staff recommendations as well as the town recommendations. Nelson seconded the motion. Brandt made an amendment to add the condition to the staff recommendations that if the north site is approved that all of the sand that is mined on the south site will be sent to the north site for processing (that was the indication of the operator as well as the consultant). Nelson seconded the motion. Attorney John Behling stated they would prefer that the most recent amendment that was made tying the condition to the north and south site not be approved. It is their business plan, but Behling stated, like any issue on the market, it can fluctuate and change, therefore he asked that the Committee not attach that additional condition. Brandt reminded Committee members that their concern continues to be (not market conditions or the companies profitability) road use and infrastructure and it seems to be Canestraight’s intention to minimize that also. Canestraight agreed with that and stated that is why they are committed to doing road use agreements with both the town and the county (a required condition) of which they are very much in favor of and agree with. Thompson commented (and Canestraight agreed) if the material from the south side does go to the highway it is only going 1100 feet out to the main road and it will go a lot

further than that if they have to haul it from the second site. Bice added, that in looking at the value here, he didn't think it was the Committees' place to set that condition especially since it is unestablished at this point. Brandt inquired of Corporation Counsel whether it was the Committee's place or not to establish that route? Radtke responded he thought it was in the authority of this Committee to establish haul routes (Bice added which have been established), but to dictate that it goes to the north side or to other sites, Radtke wasn't sure if that was something the Committee should really be concerned with. It depends on whether it affects the items that the Committee is to consider which is road infrastructure, etc, but if the Committee is satisfied with the road use agreements and other things in place to protect those things then Radtke didn't know if that was an issue or not. Radtke couldn't say if they should or shouldn't, ultimately the decision is the Committees'. Bice asked for clarification of the motion. Gamroth read the amendment (which would be an added staff condition), that if the north side is approved, all the south site sand will be shipped to the north site for processing. Brandt and Nelson had previously motioned and seconded this amendment. Bice explained that a vote "yes" means that the condition will be added, a vote of "no" will be to not add it. A roll call vote was taken: Low – no, Quarne – abstain, Patzner – no, Thompson – no, Nelson – yes, Bice – no, Brandt – yes. Motion to add the amendment failed 4-2 with one abstention. Upon Brandt's inquiry, Palmer stated there was a blasting plan. Bice stated there was a motion by Brandt and seconded by Nelson to approve/add staff and town recommended conditions. Bice stated he was going to support this, he acknowledged he had initiated the discussion about the 5 year permit length. Lien commented Bice was not to voice an opinion until after the vote. Bice called for any more discussion. A roll call vote was taken to add the staff and town conditions: Brandt – yes, Bice - yes , Nelson – yes, Thompson – yes, Patzner – yes, Quarne – abstain, Low – yes, motion passed 6 -0 with one abstention. Bice stated he has a motion and a second to approve the Conditional Use Permit. Bice called for anymore discussion. Brandt clarified that a plan was sent into the DOT, a Traffic Impact Analysis was done and DOT stated there was no need to change the intersection. Canestraight responded that was correct. Bice called for a roll call vote on allowing this application to pass; Low – yes, Quarne – abstain, Patzner – yes, Thompson – yes, Nelson – yes, Bice – yes, Brandt – no. Motion to approve passed 5 -1 with one abstention. At this point there was a 10 minute recess.

**Public Hearing – Conditional Use Permit and Reclamation Permit – Nonmetallic Mine – Flaten Land Co, LLC and Robert Tenneson and Lorna M. Tenneson – Property Owners/Applicants, Blair, WI and Spartan Sand LLC, Muskegon, MI, Operator - Town of Preston** Bice called the public hearing to order at 11:30 AM. Nelson read the public hearing notice aloud. Bice introduced the new Committee member (new Farm Service Agency Chair), who has actually been on the Committee in the past and has done a great job, Ed Patzner. Bice apologized for not introducing him sooner. Bice reminded the public present to register if they want to testify at this hearing and get the form to him. Bice also noted because time is running short he would limit any testimony for this hearing to two minutes. VerKuilen referred the Committee members to the Permit Criteria form (from Corporation Counsel) and explained that the recommended staff and town conditions were on the back of that form. Low asked Bice to clarify that this is a separate hearing so if one wants to speak or be entered in, they would need to submit a second form. Bice acknowledged that was correct and that in the future the public should fill out a form for each public hearing that they wish to testify at. VerKuilen stated this is an application for the D95North site, Spartan Sands, LLC. This proposed site consists of approximately 220 active mineable acres in Sections 22 and 27, T21N, R8W in the Town of Preston. The mine site can be described as uplands in Exclusive Agriculture 2 (EA2) zoning district adjacent to low grounds and hydric soils and an unnamed river. The intent of the applicant is to extract, screen, blast and construct a conveyor belt to transport raw sand material from two other stages of the operation back to the stationary wash plant in Stage I of the operation for further processing. No more than 100 end dump trailers will leave the site per day. After the mining has been completed on a portion of the site, the land will be reclaimed as soon as practical. Reclaimed land will be prepared for post land uses of agriculture and recreational uses. VerKulien continued that today the applicant is applying for a Conditional Use Permit for the proposed nonmetallic mining operation and reclamation plan. VerKuilen turned the meeting over to Palmer. Attorney John Behling addressed Bice stating that for purposes of brevity, and at the Committee's discretion, because the first hearing did take awhile, they are certainly willing to forego the company history (PowerPoint) asking that it be added into the record for the purposes of this hearing and proceed straight to the actual mining plan for the north site.

Upon Bice's consult with the Committee, acknowledged that would be alright. Canestraight added, for the record, that in the first hearing they may have left out that Steve Flaten is in attendance and one of the owners/applicants. Palmer in trying to keep his presentation brief, due to a matter of time, noted that there is going to be a lot of similarities between the approach that was used on the last site, due to similar strategies being used to protect the environment. Palmer stated the majority of this site is located south of Peterson Coulee and along County Road D as is shown in the location map that is currently on the overhead screen. This site will have a processing plant affiliated with it along with extraction and will receive material from the D95 South site for processing. On this site, a Traffic Impact Analysis (TIA) has also been submitted. It is the understanding that there were no improvements recommended from the DOT and even with this site, between this site and the south site, they are intending to have less than 100 trucks per day traveling through the intersection of State Highway 95 and County Road D. Final destinations on this site are similar to the last site as they are asking for permission to, once they hit State roads, travel any direction and as necessary/market conditions change, they are intending to do whatever they can to minimize truck traffic. In the event rail spurs become available within the County, they would try to truck to something within the County and would intend to stay on state roads. Palmer added if anything would change they would come before the Committee again and ask for permission and obtain road use agreements. On this existing site, it is basically loam soils, very similar to the south site where the A and B horizons are generally between one and ten feet in depth and the valley floors are depositional areas. The entire site is comprised of 330 acres although 220 is going to be the active mining area on the site. They have divided the site into three separate stages; within each stage there is additional phases. Basically these stages are divided by a 600 foot buffer which surrounds a named stream which is Peterson Coulee Creek and an unnamed tributary which converge on the property. To recap what VerKuilen had said, it is basically agriculture and recreational use with some uplands and some lowland, wetlands. The wetlands are going to be completely avoided on this site. Wetlands that exist on this site basically border the creek. Drilling was done on this site and it suggests that they have a static water table of between 924 and 928 feet. The floor of the mine is being considered at 960 feet and that will basically provide adequate protection for that water table. They are intending to stay well above it also allowing them to stay above the level of the creek. There are three stages overall, separated by that 600 foot buffer around the stream; Stage 1 consists of extraction and establishing the processing facility that will also serve stage 2 and 3 as the processing facility. At the point Stage 2 and Stage 3 are developed, Stage 1 will be largely reclaimed and conveyors will be constructed that will move material from Stage 2 and Stage 3. The reclamation is going to be an ongoing process throughout these phases. Palmer does have more slides that will show more detail of each individual phase within the stages. Palmer stated this is an industrial sand mine and the majority of the sand is expected to be used in the oil and natural gas industries. Palmer added the length of this could change obviously, as market conditions change but they are expecting this to be operational for approximately 15 years and then be reclaimed. Topsoil is going to be stripped, stored on site in berms that are going to be used as protective features for the mine area and for the sensitive areas of the creek and wetland. Material that is not hauled off site is going to be stored and used in the reclamation process. Best management practices throughout the process are going to be implemented to insure adequate protection for the environment. As with the north site, they are going to create berms around the perimeter that will basically isolate the mine site from overland flow of water. What this will do is prevent any sediment from unduly being picked up in the water and discharged to any sensitive area. There will be grass buffers that remain to also help filter this. The stormwater strategy is going to expand on that. We will see our overburden piles generally on the lower elevations of the site and they will be used to create berms. At the time of reclamation they will be spread back over the site to create three to one slopes and topsoil will be re-spread to establish new vegetative growth. Palmer stated this stormwater plan is very similar to the south site where they're designing for 25 year storms. The overland flow that is from outside the mining area is diverted around the area. Any flow that comes from within the mining area will be contained by berms and will work its way towards an infiltration basin. That infiltration basin is designed such that additional capacity will flood out over the mine floor in the event of a 100 year storm event and will not top any of the berms and will adequately protect the surrounding area. They are using a two fold strategy in those ponds to ensure that they infiltrate water as they should. The ponds will be a four bay which will provide pre-treatment to that water, settle out any particulate in the water before it gets into the infiltration basin. There will be regular maintenance of those four bays to ensure that they have the capacity to settle out

any settlement. Any material cleaned out of those ponds is going to be spoil used for reclamation and provide adequate absorption in the infiltration basin at that point. Palmer explained road accesses will be designed to accommodate incoming and outgoing traffic. There will be a paved portion (minimum of 75 feet) off the intersection with County Road D. After that there will be a stone tracking pad to also further induce any traffic. Silt fence is going to be a strategy that is implemented. It will be installed with best management practices with proper staking and proper overlap of joints. Stockpiles are going to be conducted in a manner where they are seeded and mulched. If they are going to remain for any period of time, there will be silt fences also around those piles, in the unlikely event there is erosion off of them, to contract that erosion. Stage 1 is going to have the processing facility, Stage 2 is the area to the southeast of the stream, Stage 3 is the area north of Peterson Coulee Road. Palmer pointed out the first portion of the site on the overhead map stating, they will be developing a small valley on that site that is going to be opened up and the processing facility will be placed within that valley. This will give them the greatest visual buffer for that processing facility and also any ambient noise that would be coming off of it will be reduced. Palmer explained that the processing facility that is being proposed here is actually a "closed loop" system. There will be no retention ponds that are specifically affiliated with the processing. A clarifier system is going to be installed so there should be no discharge of any polyacrylamides associated with this plant. Canestraight then explained there are two portions to the processing plant, one being the mechanical portion (does the hydro separation, scrubbing and screening) and the other is a similar system that one would find on many industrial rail systems/water treatment systems, etc and that is a clarifier with the plate and frame filter press system. Although those are more capital intensive in the beginning, certainly the pressure and the environmental sensitivity that goes along with having a water system that needs to be treated in this process, needs to be considered on sights like this that have streams or tributaries, etc. Canestraight expects to use polymers/polyacrylamides which are used very widely in land applications, water treatments systems (both drinking and waste). Simply put, a polymer is a design to take particles floating in the water, bring them together to make them a bigger particle and get them out of the water. The plate frame filter press and the clarifier kind of force all that to happen mechanically instead of using large acreages to allow nature to settle it. As far as which of those materials might be chose to use for conditioning, they would certainly abide by any of those approved by the State of Wisconsin as there are so many companies that make this material. Generally the State keeps inventory of those that have been approved and have had the appropriate toxicity and mineral study done. If one makes any modification to what they are going to use then the State has to be notified of the state of concentration or the change in brand. In continuing to explain Stage 1, E. Palmer stated there is additional phasing after the plant is constructed, the mine will expand westward and the service road will also expand with that. Rather than having one stormwater pond that serves the entire mine site, there are a number of ponds constructed throughout the phasing so as open area continues to expand, their ability to infiltrate water and runoff also expands and also the ability to treat any water. On the whole lower edge of the mine there will be a berm that is a buffer between the 300 foot setback from the stream and the mine site that will provide an extra fail safe in the event that any of the ponds were ever topped. Continuing through phasing on Stage 1, phasing will continue to expand basically northwesterly along County Road D and then come full circle around the "horn" to the northeast where additional retention ponds will be constructed. Throughout all of the phasing of this mine site, the mine floor is going to be sloped to these retention ponds for any water shall make its' way to these retention ponds (all designed for 25 year storms). In the event that larger storms are encountered, the fail safe is designed with the entire mine floor sloping to them so they simply expand across the mine floor. Palmer explained the map site and Phase 1 more explicitly. Palmer stated final reclamation will result in simply one stormwater pond being on that property, however this stage would not be reached until Stages 2 and 3 are complete. Stage 1 will be complete but there will be a processing plant on it and they will move on to Stage 2 of the project. Stage 2 will be in the southeast area of the property. One can see there are some farm buildings on the bottom of the screen and that represents Tenneson's current homestead (a Century farm as of next year). It will be maintained and they intend to reside there throughout this project. In Stage 2, a conveyor is going to be constructed that will carry material from Stage 2 to the processing plant at Stage 1. This conveyor is going to go over the stream. Palmer noted Chapter 30 permits are required in order to put a conveyor across the stream. At that point in time any delineation that is necessary will be completed and Chapter 30 permits will be acquired from the DNR in order to place that conveyor. The service road on that site will continue to expand further west and additional retention ponds will

be put into place using the same strategy of berms to protect the creek. The pond is designed so that any large events would simply top them over into the mine floor. At reclamation, Stage 3 will simply have a pond remaining in it. The conveyor from Stage 2 will be removed and that conveyor will be reconstructed to serve Stage 3. Stage 3 is a parcel of land that lies to the north of Peterson Coulee Road. There is no hauling intended from Stage 3. There will also be a conveyor constructed to serve that area. This conveyor will go under the road and over the creek to bring material to the processing plant. This entire stage is not subdivided into other phases, it will occur because of the smaller nature of it as one concurrent phase with the retention pond. Once again, the same strategy will apply, to have a sloping mine floor that will provide additional capacity in the event of a storm. At the point Stage 3 is completed they will move on to final reclamation of the site. The conveyors will be removed, and at that point the processing facility will be removed. All of the final slopes on these sites will be 3 to 1 slopes. Bice called for any public testimony and reiterated there is a two minute limit on testimony.

**Gary Eckmen** – Registered to testify in favor – but not testify

**Gene Simmons** - Registered to testify in favor – but not testify

**Eugene Simmons** - Registered to testify in favor – but not testify

**Wayne Hoem** - Registered to testify in favor – but not testify

**Gene Kindschy** - Registered to testify in favor – but not testify

**Suzanne Faber** – Registered to testify in opposition. Faber stated she has been a member of this township for 18 years. Faber felt it was time to speak out. When did the government change the rules about a Code of Ethics. We have elected officials (several possibly in this room) who are involved in the mining applications. This should be considered a conflict of interest. The public deserves an explanation as to why this is being allowed. Why do we have positions on Committees' here where members cannot vote due to conflict of interest. That seat should be filled with someone who is able to vote at least one way or the other. The purpose of the Department of Land Management is to protect the public from exploitation of our shared natural resources as stated in their goals. Please read your goals again. The purpose isn't to accommodate destructive, invasive industries from outside of Wisconsin to carry off the wealth of Trempealeau County. This is an appalling inability of our elected officials to protect the interests of the private property owners, not mining companies who will push into our front doors through the dust and noise, water pollution and loss of property values. We have traffic impact analysis (TIA) but we have no health impact analysis. We have no environmental impact analysis and we have rail spurs going up a mile away from our high school and soon to be our elementary school. This is appalling and the public is not informed and warned or this room would not be big enough to hold everybody. Shame on all of you! Shame on all of you who are involved in this. Faber has something to lose. Faber has a family, a farm and a place that she has been living just as long as most of you and Faber has mining coming in all around and questioned how that is going to profit her? Not a single bit. Faber is not going to get a "motherload" of money so that she can drive her Cadillac down to Florida. There are "his and hers" matching mines on the table but when are we going to get our health impact and environmental studies. When are we going to get our moratorium? We need to stop this process as this is insanity so that a few people can make a little money in this County and the rest of the wealth is going out into other states. This is insanity. Has anybody actually seen a reclamation? Mines go on until the material is gone, which may be never. A few people in the County will be making a lot of money, but most of the wealth is going and the rest of us are going to be trapped with our devalued properties and damaged environments.

**Audra Johnson** – Registered in favor but not testify

**Dan Sobotta** - Registered in favor but not testify

**Richard Tenneson** – Registered in favor but not testify

**Scott Mosselman** - Spartan Sands CFO – Registered in favor

**Paula Glenn** – Registered to testify in opposition – Glenn stated again that she lives across the street from this proposed mine. Glenn has lived there for eight years. Glenn has called Bob and Lorna their friends. Glenn stated Bob is the Preston Town Chairman. Glenn did not know this was going to happen until someone notified them of the notice in the paper that this hearing was going to go on. Glenn had no idea they were going to put in a mine over there. If you've known somebody for that long and they are your town chairman and your friend and they farm your land, one would at least think they would let you know what is going on so that one could be prepared. Maybe six months or a year ago they could have sold their property when it was valued at

something. Same with the Flatens, as Glenn's had taken them into their home, let them hunt turkey on their property, we thought they were their friends as well. Same thing – nobody notified Glenn's, no one let them know what was going to happen. Glenn doesn't understand the secrecy. If this is such a good thing for everybody, why didn't they want us to know. That worry's Glenn and it makes her very sad. One mine is south of Glenn's property, the other one is right across the street so now I have 200 trucks to contend with going up and down the road instead of one. Glenn has seen the big lights they put up on those machines out there and they run all night long, just like a big football field. Glenn does not want to live across the street from that. No one has addressed the wildlife concern – she hasn't heard anybody mention it or say anything. Glenn knows that in Texas, if you have one little salamander, you can't build anything or touch the water, etc., but Glenn hasn't heard any studies done about the wildlife concern. That bothers her as well. Glenn doesn't know Chuck's last name (apologized) but Chuck and Mr. Emerson have used the words "our intent" – our "intent" is to do this, our "intent" is to do that and that also scares her because that leaves it kind of vague and wide open. Committee member Bice said that they want to give him a permit for ten years instead of five so that it is lucrative for the sand companies to invest in our area. Glenn has already invested in her property for the last eight years. They worked their "butts off" all of their lives to buy that property, to live there in peace and quiet, in a great area. Chairman Bice also said that it is not their business to tell people what to do with their land. Glenn has someone telling her when she can hunt, what she can hunt, we are told what to do with our land. Glenn hasn't heard anything from the DNR here today, but the DNR had all kinds of rules for her to put in a pond on her own property so people are telling Glenn what to do with her property. Glenn agrees with the moratorium. People have mentioned having a moratorium and Glenn agrees with that as well. Lets stop and rethink this.

Bice responded to somebody making a claim that he said that we should give them more time so that it would be more lucrative. Bice stated he did not say that he said simply that it gives them the opportunity to move forward to know that if they are going to invest in this that there their hands aren't tied by government.

**Chuck Canestraight** – Spartan Sand Representative - Registered to testify in favor

**Mary Lee Hagenauer** – Registered in opposition but not testify

**Timothy Rand** - Registered in favor but not testify

**Elizabeth Larson** - Registered in favor but not testify

**Jordan Haug** - Registered in favor but not testify

**Roger Nelson** - Registered in favor but not testify

**Rebecca Larson** - Registered in favor but not testify

**Wallace Everson** - Registered in favor but not testify

**Steven Flaten** - Registered in favor but not testify

**Harold Tenneson** - Registered in favor but not testify

**Gloria Everson** - Registered in favor but not testify

**Keith Nichols** – Registered to testify in opposition (Nichols had already left the meeting)

**Roland Kube** – Registered in favor but not testify

**Monica Rose** - Registered in favor but not testify

**Holly Haug** – Registered in favor but not testify

**Justin Haug** - Registered in favor but not testify

**Bruce Thompson** - Registered in favor but not testify

**Gary Tidquist** - Registered in favor but not testify

**Michael Berg** - Registered in favor but not testify

Bice announced that anyone who would like to testify on this application should fill out a form and present it to him immediately. VerKuilen read a letter from the Town of Preston dated December 12<sup>th</sup>, 2012 which stated they had met on June 11<sup>th</sup>, 2012 to discuss a proposal of a Conditional Use Permit for nonmetallic mining by FTBB Holdings, LLC (see attached map of the north site location). Vernon Back made a motion to support the proposal with the school bus issue being looked into, Gary Everson seconded, all in favor with Robert Tenneson abstaining. VerKuilen read another letter from the Town of Preston which stated on December 10<sup>th</sup>, 2012 the

Town of Preston approved a list of additional conditions. Motion was made by Gary Everson, Vernon Back seconded, all in favor with Robert Tenneson abstaining. A list of those conditions are also attached for the north and south sites. Letter signed by Amy Johnson, Town of Preston Clerk.

VerKuilen read the summary from the independent third party review done by Westbrook and Associates engineers. Westbrook Associated Engineers, Inc. has reviewed the Conditional Use Permit application for the Spartan Sands D95North site. The site consists of 330 gross acres and a net mining area of 220 acres. This mining operation consists of onsite processing by the use of a hydrosizer. All products will be trucked offsite to market. Their comments on the review of this application are as follows: High Capacity Well – A wet plant consisting of a hydrosizer will be used to process the material on site. This processing will require the use of a high capacity well to provide enough water to operate the system. The DNR is a regulatory agency responsible for the permitting of high capacity wells. No evidence of this application was included in this Conditional Use Permit application with the County. There was also no groundwater modeling included in this application. The WI-DNR only reviews impacts on public wells and therefore the impact of the high capacity well on private wells within the area are the sole responsibility of the mine operator. Therefore, the mine operator shall submit to the County a detailed drawdown analysis of the surrounding private wells within the vicinity of the site. This required analysis is consistent with the County policy on other nonmetallic mining sites with high capacity wells. Any negative impact to surrounding wells that could result in intermittent interruptions to the public wells should be mediated prior to the granting of this permit. Haul Routes – The mine operator did a good job identifying the haul routes and discussing how they intend to avoid the conflicts with the school buses. They stated they will adopt a trucking/haul plan. This plan is a living document and will be amended as necessary to adopt the needs of the public. This simple policy is intended to eliminate any and all conflicts with the haul trucks and the traveling public. The operator will have a relatively short haul on County Road D before entering State Highway 95. Westbrook does not have any concerns with this haul route. Mine Operations and Reclamation Plan - A detailed staging plan for the duration of the mine site life expectancy is included in this application. The mining operation will be conducted in three stages. Each of the sites are internally drained. No runoff leaves the mine property. Each of the subsequent stages will be reclaimed or in the process of being reclaimed as the next stage is started. Westbrook does not have any concerns with the staging of this mine, the runoff plan or the final reclaimed land plan. All reclaimed slopes will meet the requirements of the WI-DNR. Summary – The use of the high capacity well requires a detailed analysis on the surrounding private wells. This analysis is vital for protecting the life cycle of private wells within the vicinity of the site. Westbrook recommends the County request the mine operator to have the analysis completed prior to approving this permit so that all drawdown effects are known. No cost estimates for the reclamation plan are covered in this application. Per County Statutes, the mine operator is required to provide cost estimates of the reclamation of the mine for each stage. The mine operator is also required to prepare and submit proof of financial assurance. Upon Brandt's inquiry about the person who did the third party review, Palmer stated it was relation to him. Bice called for any other public testimony. Robert Glenn asked if the Committee was in receipt of a letter from Chuck Johnson. VerKuilen stated he was and proceeded to read it into the record.

**Charles & Karla Johnson letter** - In lieu of attending the public hearing on account of our work schedules we have opted to submit the following comments.

Reasons for denying the permits:

1. We oppose a Conditional Use Permit for a Mining-quarry on adjacent property. We believe Trempealeau County currently has too many permitted/active mines. Until the reclamation work is complete on those sites no additional mines should be permitted.
2. The proposed operation includes a processing plant. This should require a rezoning from agricultural to industrial land and a building permit. The Conditional Use Permit should not be used for the rezoning of land and building permits.
3. The devaluation to our property we will incur if this mine/process plant is permitted. Who wants to live next to a sand mine and processing plant?

4. This mine and processing plant will destroy our future plans to build a new home on our land with a short driveway from County Highway D in this beautiful tranquil farming countryside.
5. We purchased this property as an agricultural/wooded parcel surrounded by other agricultural/wooded land. We certainly did not purchase it to border a mining industry with a processing plant.
6. Other opposing reasons are:
  - a. Increased noise.
  - b. Increased dust.
  - c. Ground water contamination.
  - d. Increased soil erosion.
  - e. Storm water runoff from this property onto ours.
  - f. Aesthetic degradation.
  - g. Deforestation.
  - h. Public road damage.
  - i. Loss of agricultural land.
  - j. Loss of hilly terrain.

If none of the above reasons prove sufficient at denying the permits we request the following requirements:

1. The Conditional Use Permit and Reclamation Permit should be for one year. This would reclaim any excavation to agricultural production within one year. This would also require an annual review before granting another permit.
2. The benefitting permit property owners shall establish an account to reimburse adversely impacted adjacent property owners. The account shall contain sufficient funds in order to reimburse the loss between the no mine/process fair market value and the selling price. In essence, the adjacent property owners will be assured a no mine/process fair market selling price. This account shall be established and administered by Trempealeau County.
3. Leave the tree covered hills along County Highway D in order to block the view and buffer the mining/processing operation and transport.
4. Locate the processing plant and access road so that it won't affect our property, particularly our wooded home building site.
5. The existing culvert under County Highway D that drains surface water runoff from the permit applicant property (east side of CTH D) onto our property (west side of CTH D) only to eventually return back onto the applicant property needs to be permanently removed. We believe the drainage from the applicant property can stay without any adverse impact on the east side of County Highway D.

In conclusion, we pray that our county leaders will carefully and wisely consider all the comments before deciding if the sand mining and processing benefits to a couple residents outweigh the adverse impacts to their neighbors.

**Bert Hodous letter** - Kevin, I'm forwarding a letter that my husband wrote and intended to appear in the Trempealeau County Times this week. We were late submitting it, so it won't appear after all. I told him that it might not hurt to have it read into the public hearing portion of Wednesday's ELU meeting, and that we should wait to see what comes out of that meeting before he decides what to submit to the paper for next week's edition. Here's his letter (you can reach him at Bert S. M.D. Hodous <hodous.bert@mayo.edu> if you need to confirm that he wrote this.

Neighbors,

On December 26, the Minneapolis Star Tribune published an article concerning sand mining in Trempealeau County. Not good news. Specifically, the article suggests ongoing conflict of interest on the part of several of our town and county board members. As you know, our local boards are charged with approving or denying sand mine permits. Apparently, some of our local board members are actively pursuing their own sand mines while "objectively" deliberating on neighboring projects. This is an unclean process. It is unethical, if not illegal. My concern is that these board members are recklessly exposing themselves to lawsuits that we, as property owners, will end up defending with our tax dollars. Personally, I approve of where my local tax dollars go now: schools, road maintenance, emergency services and more. I don't particularly want to pay to extricate a few errant entrepreneurs from their self-made legal snares. Our town and county boards need to clean up their acts.

Bice called for any other public comments, there being none he closed the public hearing 12:22PM. Low made a motion to approve the Conditional Use Permit, Thompson seconded. At this point Bice inquired where the location of Charles Johnson's home was. Bob Tenneson responded he is across the road from Tenneson's. Johnson had bought 70 acres between himself and Robert Glenn and County Road D runs between Tenneson's and Johnson's property. Tenneson stated if Johnson were to build a house it would have to be up on top of the hill, off the road. Tenneson added there is a patch of woods on the east side of the road that has to remain there because they have to stay within so many feet of County Road D. Tenneson stated Johnson would never see the mine. Bice mentioned that Johnson requested that some trees be left. Tenneson responded the trees will be left. E. Palmer confirmed they would be left for a buffer. In regard to the culvert, upon Lien's inquiry about it, Tenneson explained the water runs along County Road D down along Tenneson's side of the road down to the creek. Lien asked if there was any culvert there. Lien noted to make sure that the condition is made to keep all the drainage water on that one side because as Johnson described it, there is a culvert that comes across and water comes down and then enters back across the road. Lien stated it would be made a condition that everything from the mine site, on the one side of County Road of D, drains to this side so that nothing is travelling across. E. Palmer stated, that in speaking with Jim Johnson, Highway Commissioner, in getting their driveway permit, one of the conditions of that permit would be that the driveway has a culvert. Tenneson commented there is a culvert there right now, so it should be extended. Paula Glenn commented that Johnson is an engineer and not somebody that just "fell off a truck". Brandt asked if there was a high capacity well permit. Canestraight responded that is the intention. It is an application that is filed with the DNR for approval and they would be happy to provide a copy of that application to the DLM office when it is filed with DNR. Brandt responded if it isn't part of the packet it is usually one of the conditions to do that. Brandt stated there have been a number of issues raised with regard to the siting of the processing plant. Brandt explained that a revision to the Ordinance will be discussed later and one of the revisions is to require the applicant to do a sound study of where to site the plant. Brandt stated Spartan Sand has been talking about placing the plant below, basically, the level of the land around it. Brandt was looking for that commitment to minimize the amount of sound effect on the neighbors. Canestraight noted, in considering this site, they went towards a low cut/valley that is there in an effort to tuck the processing plant in there which they believe will minimize a tremendous amount of the sound, but they are prepared to comply with the Ordinance and the rules that are imparted by the County. Brandt asked Lien, if the Nonmetallic Mining Ordinance changes, after the permit is issued, do those new ordinance requirements become part of the standard conditions or are they "grandfathered" in. Lien responded Ordinance requirements are not retro-active, they become part of the conditions but anyone wishing to abide by any changes that are made to that Ordinance has to come back in to have their application amended for the revision. Lien noted that in this plan they are not drying so we're talking about a wet product. Once it is washed there is a stock pile/surge pile. What is leaching out of that pile, where does that head? Lien is assuming it goes to one of the retention ponds. E. Palmer responded it will leach across the mine floor basically to a four bay which would take out any additional sediment. It would then go into an infiltration pond. Lien understood how plate presses work, but he wasn't sure if Spartan Sand was having one or two. In the past, Lien knew that the ones that were in the County were undersized to be able to adequately meet processing requirements. Lien stated that sludge is basically squished out and that water is recycled back through the clarifier and then that fine, wet material with the polyacrylamides will go back into reclamation. Canestraight replied that was correct. Canestraight added they have designed the platen frame system/waste system in

conjunction with the plant (it is not a separate system – so it is properly sized). They are going through a large effort in their dewatering process of the products. They will have a UFR (ultra finds recovery) system that will manually dewater products and they will not be using hydro-stackers which are essentially a “soupy” material dropped on the cone in order to let gravity do the work, because they need the water back in the system and that is the idea of running the “loop” system. Canestraight noted their well (in the threshold for high capacity wells) would be exceeded, but the amount of water that will have to be added to the system will be minimal that is why they have the closed “loop” system. In places where they process and draw all their process water, let it go on a one way path through the plant into their ponds, they may or may not draw some of that pond water back in, but that is water truly used and sent down the creek, whereas theirs would be additive water and those additive waters would be the waters that Lien is suggesting might be lost during the final dewatering. Lien’s experience has been, even though there have been engineers working on this, those are all grossly underestimated as far as the amount of water used and the amount of water that leaves the site or has to go on a stockpile. Historically, Lien said his staff doesn’t design any agriculture structure that doesn’t contain a minimum of a 100 year storm. Even though Lien understood that they are designed for a 25 year storm with the potential to handle a 100 year storm, it is quite frequently during a year in Trempealeau County, that we have a 100 year event. Lien continued that there are two streams here (both named and unnamed) which are both very environmentally significant. At a minimum, Lien is recommending that those be bumped up to 100 year retention ponds because 25 year are not adequate when we have bodies of water like that. Lien stated they have done that in the past to be consistent. Lien knows that the floor is being utilized, but he knows what happens when the fines get in there, there is very little to no infiltration that goes back into the groundwater for recharging. The ponds are always inevitably under or inadequately designed. Lien thought that, at a minimum, we should be looking at a 100 year pond especially since we have the two water areas that are so close. Lien noted it wasn’t going to effect all of stage one but it will when you go on to Stage 2 and 3. In the past, Lien stated that if an operator is using polyaccylamides in the retention pond that it be concrete lined to take it out, but because they are being used in a plate press they will go right from the plate press back into reclamation so that isn’t a concern. Canestraight responded that was correct. Lien stated the drawdown analysis will be needed at some point before the permit can be issued for the high cap well. Because it was a public concern, Lien wanted to make sure that the mine site is contained to the east side of County Road D and that all drainage stays on the east side also. Lien referenced a conference call that he had with DNR and they were unaware of Stage 2 and 3 having conveyors crossing the streams and under roads. Lien stated that DNR’s recommendation was not to approve Stage 2 and 3 until Spartan Sand gets their Chapter 30 approval. Upon E. Palmer’s inquiry, Lien responded it would be an actual condition that approval wouldn’t come on Stages 2 and 3 until the Chapter 30 approval is obtained. E. Palmer responded that mirrors what Roberta Walls, WI –DNR spoke to Palmer about. Attorney Behling commented that they felt it would probably make sense to go ahead and approve all of the phases, but before Phase 2 and 3 could commence, the Chapter 30 permit must be issued. They felt that would make more sense because it would prevent Spartan Sand from having to come back time and time again. If the County wants to make it a condition that the Chapter 30 permit be issued prior to Phase 2, Behling felt they could certainly comply and live with that. Bice asked of Lien what it would hurt to approve that, making sure that they get DNR approval to add the conveyor and follow all the rules that are requested. Lien reiterated that he was just going by what Mark Stephenson, WI-DNR had said and that was to not approve those two until after they have reviewed them because they had great concern with running a conveyor over bodies of water owned by the State. Bice commented if it was going to make any difference and we weren’t going to move forward, it just eliminates a hearing and another meeting and the Committee’s valuable time. Bice added they are going to have to get the information so why do one more level of paperwork. E. Palmer stated they had offered to go that route with the DNR before but DNR felt more comfortable having that delineation done at a point in time (finish the phase and when the footprint of the conveyor might not move ten feet one way or the other) and then issuing the permit. It was really about phasing that delineation work to the point in time when the construction was occurring. Bice reiterated his point, that is doesn’t change anything but the need for one more public hearing and since it is a CUP, if they don’t follow the rules we can just tell them no. Bice doesn’t understand why we have to go through this process again simply because we waiting for some design phase to take place. Lien responded that if the DNR came back to the Committee with a list of conditions that they were asking us to apply, we would not have that window of opportunity, had it already been issued. If

Chapter 30 allows it with some extra conditions or precautions to take place then we would address it at that time. Lien reiterated, that at this time, he is not comfortable with it because he doesn't know what the Chapter 30 permit is going to require. Lien added this is the first permit we have had that went across a body of water or under a town road. Lien added that was his recommendation but ultimately the Committee makes the decision. Behling added that under the prerogative of the Chapter 30 permit, the DNR has the ability to impose multiple conditions. Behling anticipates, because this is not the first town or county road that will be crossed by an overhead conveyor, that they will impose those conditions. Behling thought it was within the prerogative, they will put additional conditions on Spartan Sand and they will have to comply with those conditions before the release of the Chapter 30 permit. Behling thought the condition was adequately covered and they just asked that the Committee approve all phases today, but before Phase 2 and 3 can occur, the Chapter 30 permit be issued along with the Chapter 30 permit conditions that the agency will impose. Lien inquired how the Committee felt about DNR enforcement and follow through? Brandt commented that we are the regulating authority when it comes to permitting the CUP. Brandt stated the Chapter 30 information was new to him. Brandt inquired who the regulating authority was with this kind of permit. Is it something that they give to the County or is it something that DNR will oversee themselves. Lien thought the DNR may very well put some conditions on Spartan Sand but as far as enforcement, if it is not a condition through our process, we have absolutely no authority, i.e. if DNR sites someone for a stormwater violation in May and here we are in January and nothing has happened, those scenarios have occurred. Lien reiterated that DNR may put some conditions on the permit, but the County would have no enforcement power. Lien didn't think anyone is saying they can't Stage 2 or Stage 3 but we'd like to know what the DNR's input is as far as the Chapter 30 information so that we could relate them to conditions. Brandt commented that the question came up during testimony as to what the State was doing to protect health, safety and welfare. Brandt elaborated that there was a meeting in LaCrosse not too long ago where they asked these very questions of the Dept. of Health and the DNR. What the DNR person had said is that when it comes to anything regarding nonmetallic mining, their regulatory structure is different, it is not enforcement and they do not have people that enforce it directly but it goes through an administrative law judge. That judge can't just say, "you're not doing it so we are going to take away your permit". There are mediations that are suggested by the judge. Brandt stated it basically comes back to putting it all "in one house". If we are the regulating authority, Brandt thought we should have all those tools available. Bice replied that if we are the regulating authority, let's put in the permit, that we will take the requirements of whatever the DNR wants to pass along to us and we will include those and that way we have it in there and the hearing is done. Bice added that we have a lot to do and we don't have to come and sit through more meetings and hash out these details. They are going to meet all the requirements it is just a matter of satisfying some bureaucratic requirements and that is Bice's opinion. As a unit of government, Bice stated we have got to start working with the people rather than against the people. We are not talking about making any changes of any kind, we are just talking about getting this hearing over with so that everybody can move forward. The regulation and the control will be there it is just a matter of eliminating another whole process like this. VerKuilen stated the recommended conditions from the town are exactly the same for the South and North site, so the Committee agreed to waive the reading of town conditions again as they were read earlier into the record. VerKuilen read the staff recommended conditions for this site into the record.

1. All structures and wells on properties within 2500 feet of the Conditional Use Permit site shall be inspected and the condition of each shall be recorded prior to the commencement of any work at the site. These wells and structures should thereafter be periodically inspected to determine, to the extent practicable, whether or not damage has occurred as a result of the mining operations. Inspection and damage costs shall be borne by the owner/operator.
2. A five year Conditional Use/Reclamation permit shall be the term of the initial permits issuance with two year extensions available afterward.
3. Permit approval of Chapter 30 through WDNR needs to be completed before construction of a conveyor belt is started. The conveyor belt is to be used for the transfer of aggregates to Stage 1 from Stages 2 & 3 over unnamed river within the proposed mine site.

4. Existing perimeter tree canopy (at highest points of elevation) must remain to keep the visual appearance, aesthetics and reduce dust from leaving the proposed mining area.
5. Separate the excavated A & B soil horizons for proper reapplication during reclamation.
6. The cleared stumps and woody debris are to be chipped and utilized as mulch on-site.
7. Any deviation or modification to the proposed haul route must be submitted, in writing, to the Department of Land Management and the Wisconsin Department of Transportation to determine if additional recommendations are needed to amend the original Traffic Impact Analysis (TIA).
8. If the Wisconsin Department of Natural Resources changes permitted air quality standards as they relate to Silica, and/or Silica related compounds, the Conditional Use Permit shall be modified accordingly so that non-metallic sand mine activities must always comply with the most recent DNR standards.
9. As a result of blasting, owner/operator of the non-metallic sand mine shall be responsible for picking up rocks and/or debris on adjoining properties at the land owner's request.
10. The back up alarms used on all the mining trucks/equipment must be the new style low tone alarm.
11. All mining trucks leaving will be tarped.
12. All lighting shall be shielded and directed towards operation of the D95 North non-metallic sand mine.
13. Notification must be provided to the DLM as to the specific non-metallic mining site location of equipment used to crush or separate non-metallic mining products. Notification of the re-location of crushing or separation equipment from one non-metallic mining site to another must be provided to the DLM within twenty-four hours of the relocation of such equipment.

Brandt noted that Condition #3 has the Chapter 30 permit covered. Brandt noted not seeing the drawdown analysis for the high capacity well. Brandt made a motion to approve the town and staff recommended conditions with the addition of evidence of a high capacity well permit and the water drawdown analysis. Attorney Behling thought the motion was about something that had been talked about earlier. When they draft the DNR application and file it with the agency, at the same time they will file it with the County. Lien understood it that whatever recommendations that the DNR may put on as a Chapter 30 permit will automatically become a condition that way the County has jurisdiction and not DNR. Lien didn't think Condition #3 clearly stated that. Thompson seconded Brandt's motion. Low made the amendment to Brandt's motion to include that any Chapter 30 conditions become enforceable by the Trempealeau County Department of Land Management, Brandt seconded. Motion to amend carried with Quarne abstaining. Brandt clarified that in one of the staff recommendations it talks about an unnamed stream (the transfer of aggregates from Stages 1 to Stages 2 and 3 over an unnamed river), Brandt wanted to clean it up and add "Peterson Coulee". Bice asked for clarification of what the motion was on the table. Lien reiterated that we have a motion and a second to adopt staff and town recommendations with Brandt's addition of evidence of a high capacity well permit and the water drawdown analysis. Motion carried with Quarne abstaining. Bice called for any more discussion. A roll call vote was taken to approve the CUP; Low – yes, Quarne – abstain, Patzner – yes, Thompson – yes, Nelson – yes, Bice – yes, Brandt – yes. Motion to approve carried 6- 1 with one abstention.

**Presentation by Jeff Bawek regarding road issues related to the KAW Valley Company mine** – Bawek explained that part of his presentation pertains to the intersection State Highway 95 and County Road N, from a

west to east travel and approach and then turning onto County Road N. Bawek stated he would go through his presentation and then answer any questions afterward.

**Jeff Bawek letter** - I would again like to express concern for the increased truck traffic and the potential of an overwhelming amount of truck traffic with the permitting of any more mines on State Highway 95 east of Arcadia. Of particular concern is the intersection of State Highway 95 and County Road N approximately 5 miles east of Arcadia. The information presented is my opinion. It is my understanding of the information gathered from open discussions from Town of Arcadia public meetings, public Environmental Land Use meetings and public meetings held to revisit the Chapter 13 Nonmetallic Mining Ordinance. The facts and figures are my own personal "best guesstimates" using the above mentioned meetings. State Highway 95 east of Arcadia and the State Highway 95 and County Road N intersection have some fundamental flaws. The intersection is a large rounding curve with double yellow lines before, during and after. Intersectional design and low sun angle combine each year, during the spring and fall season to create a blind line of sight looking east if one is standing at the intersection. The road also lacks any kind of bypass lanes from the intersection of State Highway 93 and State Highway 95 going east. Traffic flow did not dictate the need of bypass lanes at the time of updating State Highway 95. With my residence located on County Road N, I have 33 years of experience using this highway and intersection. The following are a few near mishaps I have experienced while standing or slowing to turn onto County Road N from State Highway 95 (west to east travel). #1 – People passing me midturn, around the corner, #2 – People passing me around the corner and having to turn onto County Road N to avoid a head-on collision and then doing a U-turn to return to State Highway 95 and proceed east. #3 – While I wait to turn north onto County Road N, people have driven into the ditch or have scraped guardrails to avoid a rear-end collision. #4 – People passing me on both right and left sides at the same time while turning onto County Road N. #5 – Vehicles, in particular large trucks, unable to slow adequately forcing me to pull ahead and abandon the turn. Each year the traffic increases and the design of this intersection may have already exceeded its potential in design traffic flow. 33 years of experience cannot lie. A letter from the WI – DOT showed approval of the proposed route and the intersection as it exists. Unless the DOT is actively involved in the permitting process at the grass roots level for a business entering a State highway off a County or town road, the DOT hands are tied and could only function as a reactionary body. That reaction is of a statistical, political and funding available response. Of course the DOT will say the intersection is ok. Past statistical data proves it. Travel route is the basis for the DOT letter of statistical approval. I find it hard to believe that for the next 15 years, which is the stated life expectancy of the proposed mine, all exiting truck travel will be 95 west to Arcadia and all truck travel entrance will be from Blair's State Highway 53 and then Highway 95 back to County Road N. From a business standpoint this makes no sense. Will no truck traffic ever come from Arcadia? How will fire and rescue, police, inspectors, managers, employees, equipment trucks, part trucks, service trucks, FED EX trucks, UPS trucks, tour buses or other interested parties drive their vehicles to this mine. This intersection will probably be the most used part of the mine. The rush to sand mine has been quite a change to the normal pace of Trempealeau County, yet change is constant and those who adapt to that change the quickest, survive. Change brings with it a learning curve as stated publicly at open meetings by many members of this Committee. Citizens too have felt this change. So, as we learn, we must adapt to survive, case in point. Already two county permitted mines have deviated from permitted travel routes. Initial road agreements at town levels have also been deviated from. As a direct result the citizens' safety and well being are affected. As these lessons teach us we must realize that in order to get permitted, many promises and agreements made will be broken. Citizens pay the consequences. A mine in 15 years of operation is going to deviate from its' stated haul route. Business economics will dictate this violation. Past permitted mines have taught us that this is true so we must learn and adapt. It is our responsibility to recognize the smoke screen approach of potential mines and have the foresight to see the real picture. This intersection is and was not designed for the incoming influx of heavy truck traffic. There was no potential 158 acre sand mine coming on line at the design and implementation of the approved State Highway 95 and the State Highway 95 and County Road N intersection. Using the proposed, updated Chapter 13 Nonmetallic Mining Ordinance guideline of extraction hours for daylight savings time, the potential of permitted truck traffic at 12 trucks per hour would be 936 trucks per week. During standard time it would be 816 trucks per week. A yearly total of 45, 696 trucks and a 15 year total of 685,440 trucks. We must realize that not only will this mine be using this intersection but

other mines that deviate from or change their permits will also be using this intersection and portion of State Highway 95. A safe road is something we can all use and together we can achieve that safe road. It is time the WI-DOT become an active part of the permitting process at the grass roots level. This would allow for a DOT traffic impact analysis to be done for all proposed mines coming off county and or town roads that will enter a State highway. This will allow the DOT to do a detailed study and make recommendations implementing change instead of a “hands tied” reaction using past statistical data. Lives were lost unnecessarily at the Galesville and State Highway 53/54 intersection. Today that intersection has stop/go lights in order to minimize further loss of life. I hope we don’t have to go through that same painful process to see the real picture. To see that we may not always be able to prevent an accident from happening but to see that we have the opportunity now to try.

Bawek asked for any questions from the audience. Bice thanked Bawek for his presentation.

**Revisit Conditional Use Permit and Reclamation Permit – Nonmetallic Mine –Ivan Pronschinske and Gerard Sonsalla, Landowner/Applicant, Arcadia, WI and KAW Valley Companies, Inc., Kansas City, KS, Operator - Town of Arcadia** Thompson made a motion to remove the permit application from the table, Nelson seconded, motion carried with Quarne abstaining. Lien stated when the permit was tabled last month it was done so because KAW Valley was working with the neighbors on an agreement. Attorney Paul Millis introduced himself stating he was from Jackson County. Millis was hired to represent KAW Valley in this matter. Millis introduced his clients as: Dan Hays, Tim Kates and Brian Murray from KAW Valley and Tim Marko representing SEH. Millis continued that since the time this matter was tabled, Mr. Hays has communicated with Mr. Wozney and made what they feel is a fair and reasonable offer, in fact a more than reasonable offer, being above the fair market value of the appraised value provided to them by Mr. Wozney. In fact, the offer was \$20,000 over the fair market value as determined by their appraisal, that dollar amount being about \$35,000 greater than the fair market value on their own property tax bill. Millis stated in addition to that offer, they had given them the option to exercise the right to sell their property at any time within one year from the date that KAW Valley would commence mining, so that would give them a couple of options: #1 – they could stay there for up to one year, determine whether or not it is a viable situation, whether they wanted to continue living there during the duration of the mine, #2 – if they determine that this just isn’t going to work for them, that they would be better off moving somewhere else, it would give them up to a year to find additional housing. In addition to those two things, KAW Valley also offered them, that if they decided to stay there and remain in their house, (the southeast quadrant, Phase 9 of the proposed mine, comes within 108 feet of their house) to increase that setback by an additional 200 feet. Upon Bice’s inquiry, Millis clarified that the mine would be 108 feet from Wozney’s home and that there is already the 50 foot setback, so KAW Valley had agreed to expand that setback area so that the mine boundary would be no closer than 358 feet. Millis stated KAW Valley is willing to accept a condition, placed by this Committee on their mining operation, that the setback area would be an additional 200 feet. Millis continued, unfortunately they have not been able to come to a resolution, but they are asking the Committee to move forward with this matter, as it has been tabled once already, knowing that they have taken the necessary steps to make a very fair and reasonable offer. Millis asked the Committee to take into consideration not only the Wozney’s but also the property owners that are here (Ivan Pronschinske and Gerard Sonsalla). It is about a 155 acre parcel and as property owners they have marketable commodities on there. They felt the fair thing to do is to move forward with this knowing that KAW Valley has made a fair and reasonable offer to the adjacent property owner to address their concerns. Bice asked the Wozney’s if that story was consistent with theirs and if those offers were made. Wozney replied not totally all in one deal. Nancee Wozney responded part of that is true, yes, but not entirely. N. Wozney stated they were not there to against the mine as Pronschinske and Sonsalla are their neighbors. Sonsalla is a football coach of N. Wozney’s son and they get along great. The mine is the mine, they have their business and that is what they do. They have tons of sand but the one little grain of sand relates to Wozney’s, that is their property and their land. N. Wozney explained that if we go through this it started September 25<sup>th</sup> with the first town meeting (it was tabled and they asked the KAW Valley people to talk to Wozney’s). The second town meeting was October 9<sup>th</sup> and KAW Valley came to Wozney’s home at 4:00 on October 9<sup>th</sup>, looked at Wozney’s property and said, “we would be willing to buy your property, we would like one of our real estate people to come look at it,

we'll make you an offer, we'll get back to you in the next week. Wozney's went to the meeting that night and stated that they were in communication with KAW Valley and we're "good to go". Wozney's waited a week (the 15<sup>th</sup>) and didn't hear anything back. Wozney's sent them an email stating they hadn't heard anything what is going on, also several times in October and November. December 12<sup>th</sup>, when Wozney's ended up here at the E & LU Committee's first meeting. December 12<sup>th</sup> the Wozney's testified against the permit application. At that time it was tabled, wanting KAW Valley to communicate with Wozney's. December 13<sup>th</sup> Wozney's called KAW Valley to find out if they were still going forward and to make sure they had the information to get back to Wozney's. December 17<sup>th</sup>, Hayes called and wanted permission for an appraisal. Wozney's told Hayes they had a recent appraisal if he would like it. Wozney's sent the appraisal to him that same day. Wozney's didn't hear anything back for almost three weeks. December 30<sup>th</sup>, Wozney's e-mailed them again to say that there is an article in the paper that KAW Valley may just want to look at. New Years Eve Hayes emailed them back with an appraisal that was \$32,000 under what their appraised value was. So they went back and forth. New Years Eve night Wozney's sent them what they thought would be a counter-offer. N Wozney continued that January 2<sup>nd</sup> it was the same thing – back and forth, etc. , January 5<sup>th</sup> – back and forth. January 6<sup>th</sup> Wozney's received another counter-offer and they have about six days where they are trying to get this done. Yesterday morning, Wozney's sent an e-mail stating that they wanted to get this settle by today, here is a counter-offer, please get back to us so that Wozney's could get it to their lawyer. It was sent to Wozney's yesterday at 3:30PM. Neal Wozney stated Hayes called him at 11:30 AM yesterday, said they had an offer read and they would have it to Wozney's within the hour. Neal Wozney replied that was good because they have to have it by 3:00 as Neal Wozney had a meeting to attend and he wouldn't be able to get it after that time. Neal Wozney stated they got the offer at 3:30PM. Wozney's called their lawyer and he said he couldn't meet with Wozney's as he was done in a hour as he had meetings. This morning, Wozney's met with their attorney at 7:30 AM. Nancee Wozney stated they are this close to an agreement and what they stated they are doing, they are in fact doing, but there were things in that agreement that are not in the Wozney's best interest. All the Wozney's are asking is that their lawyer have the opportunity to look at it. Wozney's asked the Committee to grant the permit, but Wozney's want a condition in there that says they have to have an agreement with Wozney's. As Lien had stated if it doesn't come through here, Wozney's don't have a "leg to stand on" and past practice is the best predictor of future behavior. Nancee Wozney added the past practice hasn't been very good and Wozney's have been reasonable, they have gotten back to them in a timely manner and that is all that Wozney's are asking. Wozney's are not against the permit they are just looking out for themselves. Upon Bice's inquiry if the information regarding the offer is up to date, Nancee Wozney stated part of it but there were other things in there they couldn't agree with. Each offer had different contingencies. Wozney's felt with more time they could come to an agreement. Nancee Wozney commented the Committee is probably thinking if you do this for these people everybody else in the room has issues with it, but they don't live in the mine. Wozney's are not a neighbor or across the road. Bice had mentioned if it comes through your front door, Wozney stated it comes through their back door – it is 108 feet. Nancee Wozney feels they are very different than anybody else. Bice voiced that this was a difficult situation to be in. Bice asked if KAW Valley was willing to follow through with the offer (\$20,000 over appraised value) that they noted? Millis responded they are willing to continue to negotiate with Wozney's and what they are willing to do now, kind of as a compromise, to give them some leverage for negotiating is that additional setback. Millis stated that setback has value to KAW Valley because there are valuable commodities within that area. It certainly would be KAW Valley's intention to want to mine that area at some point in time. At this point Millis stated if we agree not to or agree to that being a condition or the Committee imposes that condition on it, then it will put KAW Valley in a position that if they want to mine that they will have to work with Wozney's and negotiate an agreement with the. At this point Millis stated they are willing to offer that, knowing that in the future, they may have to negotiate with them on the purchase of their property. Upon Brandt's inquiry as it if Wozney's have seen an offer in writing for their property, Nancee Wozney responded they have had three or four of them. Millis interjected stating it was in the form of e-mails because an agreement had not been reached and Millis did have them if Bice wanted to see them. Bice wanted KAW Valley, as a company to tell this Committee that they will meet the offer to purchase their property, their house, the top dollar figure that you offered them,so that the Committee can move forward. Bice acknowledged that was an unusual request. Bice continued KAW Valley offered them a year to make a decision, the next year if they should decide to exercise that option, Bice wanted KAW Valley to say, "yes,

we'll do that" on the record and then give them a year to decide if the Wozney's want to do that or not. Millis replied the problem with that is that the offer they received from Wozney's yesterday, for the purchase price of their property, was not acceptable to KAW Valley – it was way above and beyond fair market value and they had made a separate offer that involved essentially a payment to them for the inconvenience and potentially the depreciation in value of their property if we would compensate them for that with the dollar amount that they provided us. Millis added KAW Valley was agreeable to do that. Millis felt Bice should ask Mr. & Mrs. Wozney because they are the ones that rejected KAW Valley's offer. Bice commented KAW Valley is asking for the permit and they are basically dealing with a piece of property they don't own. KAW Valley is and KAW Valley has offered to purchase their property, etc. Millis stated, it is with the understanding that it may not be the final agreement because they made that other offer to KAW Valley yesterday. Millis stated KAW Valley would leave that offer on the table, prior to their counter-offer, open to them for a period of ten days. Millis asked Wozney's if that was enough time for them to talk to their attorney. Brandt interjected that there are a couple of things that come to mind; our reason for tabling was not so KAW Valley could make them an offer but rather that the two parties would come to an agreement and that hasn't happened yet. In the past Corporation Counsel has mentioned, more than once, that it would be inappropriate for this Committee to make as a condition, that somebody should come to an agreement, so we don't put that in conditions. We approached it last time by tabling it, the time to do this was not unusual, but it needs to get done. If this is a verbal agreement between a lawyer and the chairman of our committee, then that is all it is, there is nothing binding. Bice responded they are not making a deal with him. Bice commented if KAW Valley wants to exercise some other type of option with Wozney's that is fine. Bice just wanted KAW Valley just to tell him what they are definitely willing to do before the Committee proceeds with their hearing. Millis responded that what they presented to the Committee was the additional setback and that has value to KAW Valley and maybe that gives KAW Valley the incentive to want to work with them, going forward, because (it addressed Mr. Brandt's concern and Corporation Counsel Rian Radtke has always had) it is difficult for the Committee to oversee negotiations between a private landowner and a company. KAW Valley is trying to allow the Committee to do that by imposing this condition on the plan. That is what KAW Valley is willing to do with the Committee. Millis stated KAW Valley is still willing to negotiate with them. Millis just made a verbal commitment on this record that KAW Valley would extend that same offer to the Wozney's, going forward, and he felt that was the best they could do. Upon Bice's request, Millis restated KAW Valley would buy their property (Mr. Hayes' e-mail to Wozney's dated January 7<sup>th</sup>). Bice called for a motion from the Committee. Brandt made a motion to table the application until the parties come to an agreement. Bice interjected stating that was nonsense. Brandt called for point of order. Quarne commented there was a motion on the floor. Bice called for three times for a second to Brandt's motion. There being none, the motion failed. Bice called for a motion for this mine application. After some discussion, it was determined there was only a motion to remove the permit from the table. Bice commented we have basically given them time to negotiate, that is a very difficult thing to do, they still have a bit of an offer and as you all know it is not our place to do this. Bice did what he did because he felt it was important to try and do the best job we can in making sure that everyone is protected to the best they can be, but at this point Bice stated he was looking for a "motion to approve". Lien inquired if Bice was looking for a "motion to approve" or looking for a "motion". Bice responded he was looking for a "motion". Thompson inquired if a motion could be made with the condition that they have an agreement in place before the permit is issued. Committee consensus was that couldn't be done. Bice made a motion to approve the CUP application, Low seconded. Bice stated we have tried as diligently as possible to work out this agreement and that is the best we can do. We have to look at the applicant and the applicant is asking to do a legal function on their property. Bice understood it is inconvenient to others but we need to move forward. Bice called for any more discussion. Brandt stated there are a number of issues that have been raised, other than with the Wozney's, and now that Corporation Counsel is back in the room, we'll get back to that discussion. Brandt commented that Bawek did a very nice presentation on the issues related to County Road N and State Highway 95 intersection. What he didn't point out (Brandt had assumed it was going to be part of the presentation) was that starting in 2014, Highway 53 between Galesville and Beaches Corner is going to be closed down. There will be an alternative route. The route that KAW Valley had presented (Brandt suspected had to do with not having to improve that intersection in any way) will not exist as Highway 53 will not be open to traffic. Brandt wasn't sure where they were going to send the trucks then but he didn't that was a viable option. Brandt noted the

intersection is not a good one nor is the County road a good one and not meant for this kind of traffic. Brandt stated those are issues we need to deal with in terms of the conditions. The fact that this was a significant geological site was one other issue for Brandt. It is a significant elevation that is near to Square Bluff, certainly visible from Square Bluff which is one of the best known aesthetically pleasing views in the County. There is well over 100 feet of material that is going to be removed just to get to the sand. It seems unnecessary to do that as there are other sites with considerably less overburden that are available. Considering the distance, the site itself as well as the intersection, this seems like an unnecessary burden to put on a County at this time. Bice reiterated there is a motion and a second to approve this application. Bice mentioned that the Committee has, in his opinion, done a very diligent effort in trying to do the best we can. We have people here asking for a legal thing on their private property. They have worked with adjoining neighbors as best as Bice thought he could expect and it is not the Committee's place, in Bice's opinion, to try and hold this up any longer. Bice doesn't think the Committee has a legitimate reason not to respond to this. Brandt noted that no staff or town recommendations were presented at the last meeting. Budish read the following town recommended conditions for KAW Valley into the record.

1. All structures and wells on the properties immediately adjoining the conditional Use Permit site shall be inspected and the condition of each shall be recorded prior to the commencement of any work at the site. These wells and structures should thereafter be periodically inspected to determine, to the extent practicable, whether or not damage has occurred as a result of the mining operations. Inspection and damage costs shall be borne by KAW Valley.
2. The opening of the mining pits, depletion of those pits and reclamation of those areas shall occur in the order presented to the Town of Arcadia by KAW Valley non-metallic sand mine. Reclamation of the mine site shall begin no greater than 1 (one) years time with a 3 (three) month period for reclamation to be completed. Inactivity within the mine for a period of 12 (twelve) months means the mine is inactive. If 30 (thirty) working days of activity in succession the 1 (one) year period will restart.
3. Existing perimeter tree canopy (at highest points of elevation) must remain to keep the visual appearance, aesthetics and reduce dust from leaving the proposed mining area.
4. If the Wisconsin Department of Natural Resources changes permitted air quality standards as they relate to Silica, and/or Silica related compounds, the Conditional Use Permit shall be modified accordingly so that KAW Valley non-metallic sand mine activities must always comply with the most recent DNR standards.
5. The Town of Arcadia Board of Supervisors, review and approve final site plan and equipment list when available and prior to issuance of conditional use permit.
6. A notice shall be given to adjacent landowners within 2500 feet of the mine perimeter 24 (twenty-four) hours prior to blasting.
7. Blasting plan submitted and approved by the Department of Land Management prior to any continual blasting.
8. Financial assurance amount will be established after final site plan approval and prior to any excavation activity.
9. The Town of Arcadia Board should meet with KAW Valley non-metallic sand mine a minimum of every 6 months for the 1<sup>st</sup> two years then if mutually agreed annually after the 2<sup>nd</sup> full year of mining activity.

10. The Town of Arcadia Board of Supervisors shall review the conditions, compliance, and complaints of the KAW Valley non-metallic sand mining permit with the owner/operators on an annual basis.
11. A 50 foot setback adjacent to the property line must be reclaimed at a maximum of a 3 to 1 slope.
12. A 20 foot berm shall be established along property lines at a 4 to 1 slope.
13. No truck or equipment staging on State Highway 95 or County Highway N.
14. Entrance and exit driveways shall be black topped prior to operations.
15. KAW Valley non-metallic sand mine shall be responsible for picking up rocks and/or debris on adjoining land at the land owner's request if caused by blasting or excavation.
16. The back up alarms used on all the mining trucks/equipment must be the new style low tone alarm.
17. All mining trucks hauling material either entering or leaving will be tarped.
18. All lighting shall be shielded and directed towards operation of the KAW Valley non-metallic sand mine.
19. KAW Valley non-metallic sand mine shall provide an initial training and site visit to Emergency Responders for site specific dangers and chemicals that may require additional precautions during an emergency response situation.
20. Non metallic sand mines that are within 1 (one) mile of each other shall not simultaneously blast.

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

All the above conditions are to be in perpetuity to any future owners/operators of the KAW Valley non-metallic sand mine.

Budish read the following staff recommended conditions for KAW Valley into the record.

1. Duration of the Conditional Use Permit is 5 (five) years from the date of issuance. After the 5 year time period, the owner/operator may apply for a 2 year extension with both the County and the Town.
2. Separate the A & B horizons for reclamation.
3. The stumps and wooded debris, from the wooded areas, are to be chipped and utilized as mulch on site.
4. A vision triangle is to be constructed to the north of the proposed entrance/exit on County Road N out of the exposed rock outcrop to allow for more visibility and safety.
5. **ANY** deviation or modification to the proposed haul route must be submitted, in writing, to the Department of Land Management **AND** the Wisconsin Department of Transportation to see if any additional recommendations to the Traffic Impact Analysis (TIA) are needed **BEFORE** hauling.
6. Owner/Operator must correspond with the school district to see if there will be any conflict with the school bus traffic on County Road N or any new haul routes within the foreseeable future.
7. Follow the road use agreement on County Road N with the Trempealeau County Highway Department.
8. All structures and wells within 2500 feet of the Conditional Use Permit site shall be inspected and the condition of each shall be recorded prior to the commencement of any work and blasting at the site. These wells and structures should thereafter be periodically inspected to determine, to the extent practicable,

whether or not damage has occurred as a result of the mining operations. Inspection and damage costs shall be borne by Owner/Operator.

9. Blasting plan must be submitted and approved by the Department of Land Management prior to any continual blasting.

Budish commented on Condition #4, for the entrance and exits on the map he received, the vision impairment would be the rock outcrop. Budish pointed out on a map/aerial photos where the entrance/exit of the mine would be. Based off of the corner and the slope, in order to increase the vision triangle, just extending it back would increase the visibility northbound to County Road N. Brandt made a motion to approve staff and town recommended positions as presented, Low seconded. Brandt inquired as to what “continual blasting” meant in the towns’ Condition #7. Tuschner responded when they require blasting during the duration of the life of that mine. Upon Lien’s inquiry if Marko had reviewed the towns’ conditions and understood Condition #12 which read, “A 20 foot berm shall be established along property lines at a 4 to 1 slope”. Marko responded he had read them but he didn’t understand the condition. Lien also addressed the prior town Condition #11 which read, “A 50 foot setback adjacent to the property line must be reclaimed at a maximum of a 3 to 1 slope”. Lien continued that historically in the towns’ conditions there had been 50 foot setback of undisturbed area. Lien was confused as to what the proposed condition language said and wanted to clarify it with Marko, because if it is adopted, and needs enforcement, there will need to be 20 foot berm all the way around the mine site. Lien didn’t think that was the towns’ intention, so clarification is probably needed on those. (An aerial site map was displayed for viewing). Marko stated the green line on the map is the existing tree line that they are keeping in place. The other wider lines that are shown on the map are the stockpile of the A and B horizon subsoils, that are those berms that we are talking about. Upon Brandt’s inquiry whether the town was good with those berms, Tuschner responded that was correct. Marko explained some of the other markings on the map to Tuschner. Marko stated the map references that it is a 50 foot wide berm that could be made 20 feet high. Lien was just asking for clarification for staff enforcement. Tuschner felt he understood and thought the berms were established to inhibit the noise factor for the Wozney’s – that the noise would go up and over and not up and into their house. Marko responded it was a combination of the adjacent private property but also a location to put those A and B horizon soils as mining operations take place. Lien asked for clarification on the map as to where these 20 foot high berms with a 4 to 1 slope actually were. Tuschner responded that to him it was a 50 foot setback and then the berms were created, but again Marko mentioned with the agreement they have tentatively made with the Wozney’s, to allow an extra footage. Tuschner stated that was originally established with the 50 foot setback but the idea was to inhibit the sound coming to Wozney’s. Lien inquired if only the Wozney property was being talked about or are we talking along the property lines. Tuschner responded the only person’s that they talked about were the Wozney’s because that was the main concern at the town board meeting. Wozney’s were the only property owners that came to the town board meeting to express their concerns. No one else expressed concerns pertaining to that specific item – noise level, etc. Marko commented that was correct and that certainly there were other berms on the property as part of the mining operation, but they are looking at having a 20 foot berm, but the side slopes are going to be steeper than that. They will maintain the erosion on those so that it is in tact and has integrity. Lien questioned if the slopes are going to be steeper than 4 to 1? Marko responded that was right because 4 to 1 would mean that they would have to use up 160 feet of property just to have a point at the top of the berm. Lien asked if Marko understood that when the town put that condition in? Lien added he knew what slope and height is and we are talking about 20 foot high 4 to 1 slope, so that means if the Committee adopts it, that is what Lien and staff are going to expect. Tuschner commented that he understood it the same way as 20 feet high, 4 to 1 slope, he is not trying to take away property and he isn’t saying that the town couldn’t be persuaded to go to a 3 to 1 slope, but as it stood it was a 4 to 1 slope. Marko explained that quite often 4 to 1 slopes are used because it is easier to maintain those slopes with grass growing on them, etc. For this particular situation, we’re interested in creating a berm that will again intenuate that sound travel, so the steeper side slopes are not going to interfere with that as long as we maintain those berms, whether it takes erosion mat on those berms in addition to seeding those berms. One really doesn’t need to occupy 160 feet of property in order to accomplish that. Lien asked if the Town of Arcadia was ok with an amendment to the condition? Tuschner could not speak for the board as a whole but he could take the issue back to the town board to see if the town board is in agreement with a 3 to 1 slope instead of a 4 to 1 slope. Tuschner’s suggestion to the Committee was, if they want to agree or disagree to the

permit, then make it contingent up final ruling of the Town of Arcadia board at the end month January board meeting. Brandt noted that in the operation site plan (of which this is an amended version) the berms being talked about are basically what is done with overburden and it helps to deaden sound, etc. Brandt thought it sounded like Tuschner was talking about his new discussion that came up surrounding the Wozney's site and insulating it as much as possible from the mine site. Brandt stated the image is not terribly different, it would be just a whole easier for the Committee to just eliminate that town condition. If the plan is approved, the berms are already in there and these guys know how to manage it and how to deal with it in the terms of the slope, etc. Lien agreed with Brandt. Marko stated they could accept the wider berm in that area with the 4 to 1 slopes there adjacent to the Wozney property and again just to move this forward. Lien commented that is 160 feet wide if the berms are only a foot at the top and that is a pretty big area in which to construct a berm. Tuschner voiced that it was in their interest and our interest that if the plan is approved, it can be approved very well contingent on what the town board wants to finalize so that we are all on the same page. This was the town boards' wishes along with the County. Tuschner thought the Committee had approved permits before with some contingencies. If the town board agrees with the 3 to 1 slope, it is in their favor, the towns and county's favor, we all know exactly where we're going and it doesn't have to be brought back before this Committee again. Bice stated Corporation Counsel has suggested that a contingency will not work. Corporation Counsel Radtke stated this Committee establishes the conditions and to have a condition that is contingent upon it being approved by another board would appear to be giving another board the ability to establish conditions and that would not be appropriate and it may compromise the validity of that condition. Lien asked if an amendment could be made to Condition #12 to state that the berm be 20 feet high with an undetermined slope, until the town addresses it. Radtke commented it is just another way of saying the same exact thing. Millis interjected stating this Committee can set the berm height and the slope. Bice commented height should remain at 20 feet and questioned Lien about the slope. Lien stated a typical grade stave, sometimes on the back slope can be 2 to 1 and an upstream 3 to 1 and one can stabilize that for a temporary berm considering in this case it is probably mainly topsoil or A and B horizons, we are not talking about sand. Lien didn't want to tread on the towns' suggestion if they were adamant about the 4 to 1 for slope stability. Tuschner commented (he would go along with Corporation Counsel) that this would be a five year CUP with possible renewal of two years thereafter. That gives KAW Valley the right to do it the way they want it, when the renewal comes up, they could come to us and ask if there was anything the town board would like to change and at that time they could talk about it. Tuschner thought the town board would be in agreement with that and that would move the process along. Brandt noted the field road that comes down onto County Road N and commented the rock outcropping definitely inhibits the vision to the north. Brandt thought it would be impractical for the Committee to assume that the mining trucks aren't going to turn left instead of only right at some point and also impractical to assume that once they shut down State Highway 53 that they are going to be able to find some easier way to get to this site. Brandt suggested changing the conditions relating to the haul route to include going east and west on State Highway 95 and that will require a new traffic impact analysis (TIA) from the DOT which is hopefully going to have something to do with that intersection. Brandt then made a motion to require a TIA based on the same number of trucks but going east and west on State Highway 95 and reject their suggestion that they do the "big loop". Bice asked if approval wasn't already received from DOT? Brandt responded the TIA is based on their haul route which is turning right at State Highway 95, going to Winona or north to Eau Claire, back through State Highway 53 and turning right onto County Road N. Brandt is changing that to reject the "circle" route to give them permission to go right or left on State Highway 95 and to require a TIA based on that. Bice called for a second to Brandt's motion. Patzner seconded the motion. Millis believed that the condition that Lien's staff has about informing the Committee of any changes in the haul route would adequately allow the County to address, if this situation ever arose (right now the Committee is asking KAW Valley to incur additional costs on speculation as this may never happen) so KAW Valley doesn't agree with that condition. They agree with the condition that is already there that addresses the haul route and they comply with that, if there are going to be any changes to the haul route, submit it to DLM staff, etc. Bice stated they do have established haul routes in their application and those DOT has told us that for the level/number of trucks that they are moving, there is nothing that needs to be addressed. Lien responded no additional improvements were required by DOT based on the information supplied to them. Millis added there is a turn lane there and that is why DOT indicated there would be no additional improvements required. Lien didn't believe there was a

bypass heading east so if one is turning in from the west headed east, there is no bypass there (that is what Bawek had addressed). Upon Bice's request, Gamroth restated Brandt's motion, "to change the conditions on their haul route to require a TIA based on same number of trucks going east or west on State Highway 95". Bice called for any other discussion on the motion. Bice asked Radtke for clarification as to whether or not he could do a voice vote versus a roll call vote. Radtke responded any vote that is done here today can be done by voice vote. Bice asked for Gamroth to re-read the motion once again. Bice called for roll call vote stating "yes" means to go with the amendment to require them to basically change the application and "no" would be to stay with the one they have: Low – no, Quarne – abstain, Patzner stated he wasn't sure of what was being voted on. Bice inquired of Radtke if he could clarify the motion. Radtke responded Bice, the person who made the motion or the minute taker can clarify the motion. Brandt commented it has the potential to increase the cost of their operation. Any time one has to build an intersection to come up to the standards that are required by the DOT it is going to cost money. Brandt is looking at what he has seen here today, also the traffic from other mines on State Highway 95, the concerns that Bawek raised in his presentation as well as the knowledge that part of the route that they are planning on using won't exist in 2014, so what Brandt is doing is suggesting, through his amendment, that in addition to the staff recommended conditions that they change their haul route to include going east on State Highway 95 (the assumption being they might also be coming back from the east as well as the west on State Highway 95) and that they be required to get another TIA and recommendations from the DOT based on the same number of trucks that they used in their original plan. Bice stated they came in with an application which has a very clear truck route. They have said if they want to amend that they will come back to the Committee and ask for one and go through the process. Bice stated Brandt basically thinks that they may amend it and so he is trying to get them to go through some additional paperwork and TIA and he wants the Committee to basically vote on whether we should require that. Brandt voice that was somewhat of a mischaracterization and stated he is taking the information that we have gathered here today as well as from otherwise and drawing a conclusion that their request is going to be difficult to meet. Low commented when State Highway 53 closes they will have to come back for the Committee to change their haul routes and at that point they can do another TIA to find out what needs to be done out there. Low added right now if they have an approved plan they could get to work. Thompson added if they haul to Eau Claire and State Highway 53 closes it won't affect them. Discussion followed. Gamroth reminded Committee members they were in the middle of a vote at which point Brandt called the question. Bice explained "no" means the plan stays the way it is without having to change the conditions – the application is written one way, Brandt would like to see it changed a little bit. Bice added Brandt would like to see them do another TIA - they have not changed their haul route. If they haven't asked to change it Bice thought it didn't seem logical to change it. Lien reiterated "yes" approves the motion, "no" fails it. In continuing the voice vote, Patner voted "no", Thompson – no, Nelson – no, Bice – no, Brandt – yes, motion to amend failed 5-1 with one abstention.

Radtke stated he had several comments regarding the Town of Arcadia proposed conditions. It should state either owner/operator or mining site or something less specific in the event KAW Valley were to sell to another owner/operator. Radtke expressed concerns about conditions such as #5 – Town of Arcadia board review and approve final site plan and equipment list when available prior to issuance of the CUP. Radtke was having trouble understanding why the County, in adopting this permit and adding these conditions, would require the Town of Arcadia board to review anything. Further, Radtke didn't believe this Committee has the authority to compel the Town of Arcadia to do any sort of final site review. Radtke felt this type of condition would not be appropriate for this Committee to adopt for those reasons. Likewise Condition #9 and Condition #10 deal with the Town of Arcadia meeting with KAW Valley a minimum of every 6 months for the first two years, then if mutually agreed, annually, after the second full year of mining activity. It doesn't describe why they are meeting, it just says they are meeting and again this Committee doesn't have any authority to compel the town to take that action. #10 – The Town of Arcadia Board of Supervisors shall review the conditions, compliance, and complaints of the KAW Valley non-metallic sand mining permit with the owner/operators on an annual basis. Radtke expressed the same concern for that condition as well. Upon Bice inquiring if Radtke's recommendation was for the Committee to strike those from the requirements, Radtke thought they wouldn't be appropriate and that this Committee doesn't have the authority to compel the town, even if the town wants to do it. Radtke didn't understand why this Committee would be concerned with having the town do those actions as

it just seems unnecessary. Tuschner stated the reason he disagrees with Corporation Counsel is that any complaints that come, normally come to the town first (for whatever reason). We are there first in the line of defense. That is the kind of sequence that they on the town board see themselves and instead of burdening this Committee (if there are complaints) the town likes to sit with them, face to face, discuss those and get rid of those complaints if at all possible, even though they are not the enforcement agency. That to Tuschner and the town board is what they call local control, whether they have the enforcement to do it or not. A lot of times the town board can resolve things then a local issue does not burden this Committee to get into it. The town really knows what is going on, otherwise, sometimes the town doesn't even get correspondence on issues that the town should be knowledgeable if it comes from the top down. Tuschner didn't mean anything disrespectful to the Committee but if we want a grassroots governmental system, we can get things done, sometimes more efficiently/effectively with the town board because the town board knows the conditions first hand. Legally, that is your field, but rationally and realistically putting our feet on the ground, we can usually resolve most things at the town level and then they know what is going on. The town knew what was going on with the Wozney's and the town had to deal with it and had to accept that. Tuschner stated it him it was a common sense, grass roots thing that should be done. Every level should know what is going on. Radtke responded, while Lien and the DLM appreciate the town trying to limit their burden or lighten their load, he has serious concerns with the Town of Arcadia dealing with, on its own, violations of any sand mining permit and doing it in a way that the County isn't even aware of these complaints. Radtke stated the town doesn't have any authority to enforce any of these conditions, it is the County that should be doing that and it is the DLM that should be aware of any complaints or concerns related to any mining permit and it should be the County that takes care of it and deals with it and not at the towns' discretion. This is just the system that we have in place and Radtke reiterated he is sure they appreciate the town trying to resolve these issues but this is really the County's issue and the County should be handling them. That is why Radtke doesn't feel those conditions are appropriate because in his opinion, it confuses the town into thinking that they have some sort of authority to deal with the conditions when they really don't and it could really mess up a situation for the operator and/or a neighboring property owner or anyone. Tuschner replied that if the town can't do that then why should anybody apply for a permit even through the Town of Arcadia, have them come directly to the County and the town shouldn't even be involved in it. Bice clarified that Radtke had suggested striking Condition #5, #9 and #10. In an effort to save time, Radtke reiterated changing "KAW Valley" to owner/operator or mining site, where appropriate, just so it is generic in case there is a sale by KAW Valley. Radtke's other comment is on staff condition #1 which states "the owner/operator may apply for a two year extension with both the County and the Town". Radtke is again struggling why they would have to apply with the town when the town doesn't have any authority to grant or deny. Radtke stated the Ordinance is clear that it is on case by case, and at the discretion of this Committee whether to extend after two years. Radtke felt this would lead to confusion as to a party going to the town when the town doesn't have any authority. Radtke asked that "the town" be struck from staff condition #1 for that reason. Lien asked for clarification that Radtke wasn't saying the town could meet with KAW Valley and/or review their site plan, it just couldn't be a County condition. Radtke responded that was correct as they can do what they want on their own time but it is not something that this Committee should compel them to do or make it a condition that the owner/operator has to comply with. Upon Bice's inquiry if that could be done all in one motion, Radtke responded it certainly could if there is a motion. Brandt made a motion to include Radtke's recommendations into the conditions, Nelson seconded. Motion to include the recommendations carried with Thompson voting in opposition and Quarne abstaining. Brandt commented the "elephant in the room" is the situation with the Wozney's. This Committee made it clear that they felt it was important that there be an agreement between the Wozney's and the mining company. We have heard both sides of there discussion. Radtke wasn't in the room during that discussion. Brandt explained that the Committee struggled again whether or not the Committee could add a condition or something like it which states "they have to do this". Brandt asked for guidance from Radtke on this issue. Radtke wanted as much information as possible since he wasn't present at that time. Bice stated that in the last E & LU Committee meeting, the Committee asked the people who want to put the mine in and some neighbors who live close to try and negotiate some kind of settlement. The parties came back today and they do not have a negotiated settlement. We think they may be able to work something out on their own. Bice pretty much tried to inform them that we are actually passed that now and that is not an issue that we as a Committee get in the middle of.

We are not a part of their agreement. We feel as a Committee it is a good idea for them to work something out but it is not this Committee that has to do that. Bice is quite certain that it is not a requirement of this Committee to force them to make an agreement. Bice added we've worked as hard as we could to have them come to some type of agreement but they have not. Bice asked Radtke for his opinion. Radtke replied he has told this Committee in the past that he thought having some sort of financial assurance relating to neighboring property and neighboring property values, in his opinion, just isn't right. In Radtke's opinion it isn't recommended because it is very difficult to enforce. How does one establish the dollar figure that is going to be paid and who is going to pay it. Essentially that would result in the County establishing property values, or having to hire independent parties to purchase properties or having mining operations having to purchase properties in order to get a permit. There is just a lot about that which doesn't seem right and it would be difficult to enforce from an administrative stand point. Radtke has told this Committee in the past that having those conditions would not be advisable because of the difficulty relating/surrounding them. In this particular case, the Committee asked the neighboring property and the mine owner to try and work something out and they were unable to reach an agreement. Bice responded that was correct. Radtke cautioned the Committee against getting too involved as to why that proposed deal or negotiations failed or why they didn't go anywhere instead of making a decision on whether to grant or deny a permit because either the neighbor or the mine operator were being unreasonable (in someone's opinion). Radtke felt that was a very dangerous position to take. Nowhere in the Ordinance does it ask this Committee to take that into consideration. It does ask the Committee to take into consideration when issuing conditions to a permit "the financial assurances for market value of land in the vicinity of the proposed operation" – that is something that is permissible or the County must consider those factors when issuing conditions. To the extent it considers that, one neighboring property owner over all of the surrounding property owners, that is in this Committee's discretion and Radtke doesn't have a direct answer for the Committee because he doesn't want to impede on this Committee's decision, ultimately, but it is something that the Committee should consider if the market value of a property in the vicinity is going to be affected, it may take or should consider but doesn't necessarily have to mean that it is a permit that shouldn't be granted. That is ultimately in this Committee discretion in considering that factor and amongst the many other factors it is to consider. Lien stated we have a list of conditions from staff and town and there is a motion and a second on it. Brandt made a motion to table this CUP (we have done most of the work on it, we've come to agreements on conditions as well as receiving clarification from the town board) until next month giving the Wozney's and KAW Valley an opportunity to finish their negotiations, Patzner seconded the motion. Radtke interjected that a motion to table is something where there is no discussion. Bice called for a roll call vote: Low – no, Quarne – abstain, Patzner – yes, Thompson – no, Nelson – yes, Bice – no, Brandt – yes. Motion failed with 3- 3 with one abstention. Bice clarified that there is a motion and a second to add the remaining conditions. Bice called for any more discussion. A voice vote was taken, the motion passed with Quarne abstaining and Brandt voting in opposition. (Brandt then changed his vote in favor of the conditions). A motion was made (Bice) and seconded (Low) to approve the CUP. Bice called for any other discussion. Nelson stated it was tabled last month because they didn't have any agreement. Bice responded there is no requirement and they are not required to have an agreement. We asked them to try and work it out but we do not have a requirement that they have to work it out and they quite simply can't because nothing would ever happen if that were the case. Low commented if we start to require agreements, nothing will ever get done because every mine is going to held up. Lien clarified that there have been agreements in the past on several other sites. Bice stated this Ordinance doesn't require this Committee to negotiate deals. Radtke commented that what this Committee has done in the past is given property owners and applicants time to try to work something out on their own. Bice added that we have done that. Millis commented that for this Committee to require something like that, not only would it be unethical, immoral, but possibly even illegal because it is not "pay for play" here. Lien replied that Millis is correct, but Lien wanted to read this and really to think about this, "factors to be considered when adopting conditions. When considering an application for nonmetallic mineral mine permit, the County must consider among other factors the affect or impact to the proposed operation upon 1) public infrastructure including but not limited to streets, highways, schools or other facilities, 2) present and proposed uses of land in the vicinity of the proposed operation, 3) surface water drainage, water quality and supply, 4) soil erosion, 5) aesthetics including but not limited to scenic beauty and the conservation of natural resources of outstanding quality or uniqueness, 6) the market value of lands in the vicinity of the proposed operation, 7) the physical

practicality of reclamation of the site after the operation has been concluded, 8) the public interest from the stand point of smoke, dust, noxious or toxic gases and odors, noise, vibration, blasting and operation of heavy machinery and equipment.” If these are not met (these are things that must be considered) it is ok to say no. Every site is a god given right to mine and Lien felt we were losing site of that. We try to negotiate all these things but like Mr. Millis said they are unethical we can’t negotiate them, but not every site should automatically be permitted. These are all factors that must be considered - Lien reiterated “must”. Bice stated he personally has considered every one of them. Bice called for any more discussion. Bice called for a roll call vote: Brandt – no, Bice – yes, Nelson – yes, Thompson – yes, Patzner – yes, Quarne – abstain, Low – yes. Motion to approve carried 5-1 with Brandt voting in opposition and Quarne abstaining.

**Discussion of proposed changes to Chapter 13 Non-metallic Mining –Trempealeau County Comprehensive Zoning Ordinance as submitted by Nonmetallic Mining Advisory Committee**

Bice mentioned that he had received a request to postpone Agenda item #10. Quarne interjected, with a question to Radtke, stating that a citizen had asked him the question about what health, safety and welfare meant and if the Town of Preston can sue Trempealeau County for not carrying out welfare as far as Preferred Sands annexation to the City of Blair and the loss of revenue. Radtke responded he was certainly not going to respond to a person in the public asking a question about whether they can sue someone or not regardless if it is the County or not. Radtke stated Quarne was asking him to provide legal advice to someone who he is not required to provide legal advice to as it would be inappropriate. Quarne inquired if he were to ask the question would that work? Gamroth noted this was not an agenda item. Radtke continued that the person who asked the question needs to be redirected to their own attorney. Bice reiterated he has been asked to postpone agenda item #10. Nelson made a motion to put it on early in next months’ agenda, Brandt seconded. Radtke commented that before the Committee would postpone, it would be appropriate to see if anyone is in attendance who desires to speak to that issue or make a specific trip to come to discuss this. Lien reminded the Committee this is not the public hearing. David Suchla inquired what the reason was for postponing it? Brandt stated many of the people who came for this are gone. Radtke mentioned he had a variety of comments to be made so he felt a discussion would be fruitful. Thompson noted the Advisory Committee members were here but are all gone now. Bice felt if there were people present we should at least listen to what they have to say. Bice acknowledged that he had a motion and a second, but he felt it was a dis-service to not listen to the people who did come and are still here. Thompson reiterated that some of the Advisory Committee members have already left. Attorney John Behling stated he does have an expert that is here today, who has travelled a distance, so if they could just get a minute of the Committee’s time. Behling stated the expert has had a chance to review the Ordinance and felt he had some really good points that he should have a chance to convey them to the Committee. Upon Bice’s inquiry, Radtke stated it is appropriate to discuss a motion to postpone. Bice stated he couldn’t see the harm in it. Bice didn’t know the credentials of this expert, but inquired if there had been anyone here in the past on sound ordinances or anything. Thompson stated Winey had done a lot of work on sound. Bice stated what he would like to do is listen to him. Bice addressed the motion again stating it was under discussion. Radtke commented the motion can either be voted on or if it is no longer desired, as a whole, the one who made the motion can withdraw it or it can be voted down. Radtke noted that the discussion of this agenda item in general is not something where there necessarily needs to be a motion on the table because it is sort of a generic discussion. At this point, Nelson withdrew his second to the motion. Since Brandt had stepped out of the room for a minute, therefore unable to withdraw the original motion, Radtke stated majority rules, so it was decided the Committee would go ahead with the discussion. Radtke started by addressing a question Lien had asked regarding “severability”. Radtke explained that a “severability clause” is a clause in an ordinance that says that if any provisions of this ordinance are struck down as unconstitutional that the rest of the ordinance remains in tact. The intent of this body to leave in tact any other parts that were not deemed to be unconstitutional but also if any action is deemed to be unconstitutional by this chapter that everything else remains in place. Lien had asked Radtke whether we needed to include a provision like that in Chapter 13 specifically. Radtke stated to the extent that severability clauses are enforceable and would help out (there are some arguments that it may not save an entire document from being thrown out anyway), we have in Chapter 1 (1.09) a severability clause already in the entire Trempealeau County Comprehensive Zoning Ordinance, so Radtke didn’t think it was necessary to add that to Chapter 13. On Page 90, Section 1 ii, Radtke asked what the purpose of this clause

was and do we need to have that in there. Radtke read the clause, "Notice must be given to the Zoning Administrator within 48 hours of its operation on Sundays, holidays or outside stated hours of operation when a natural disaster has occurred, necessitating or needing nonmetallic mining minerals for emergency repair work". Radtke thought if we are in some sort of natural disaster or emergency, do we really need to have somebody come here and give us notice that they are going to be taking sand out because they need sand for a natural disaster? Thompson responded it is in there because last time we had the big flood, they had to haul rock and they wouldn't allow them to haul it on a weekend. Bice stated Radtke's goal is to make sure that we aren't hamstrung by government rules that say we got a disaster we have to deal with it. Radtke responded that it much broader than what Radtke was saying. What Radtke is saying is do we need it in general, he was just trying to picture how this was used. Radtke added if we are going to keep a clause like this in there, when one says, "when a natural disaster has occurred" he questioned, in whose opinion? Brandt stated there has to be a disaster declaration by the State (governor). Radtke stated if that is what the intent is to have that level of decision as to the disaster/emergency then that should be spelled out in the Ordinance, in a "State/federal declared emergency", otherwise it just says "when a natural disaster has occurred" and that could mean different things to different people as to whether it is a natural disaster or not and whether it occurred in the first place. Bice inquired if the Sherriff could make that decision. Brandt responded he is not the natural disaster coordinator. Bice responded he did not care, when there is serious issue/problem comes up we need to deal with it. This nonsense and stupidity of having to get some bureaucrat involved is nonsense. Radtke stated we have an Emergency Management Director who deals with emergency situations. Bice stated let him make the decision. Radtke commented what this is talking about is giving notice once a disaster is declared. What Radtke was asking is who declares it or how do we know it has occurred and having some third party, whether it be the State or federal government declaring something, Radtke felt was a better way rather than having someone have to make that discretionary call. Bice responded our Sherriff actually would have the constitutional authority to tell us that and he thought that is the way it should be. Low stated Bice was absolutely right – to have to call a "KGB central office" to get permission is absolutely ridiculous. Radtke continued by saying "the second offense or abuse of the natural disaster repair clause, the conditional use permit may be rescinded by the Zoning Administrator". Radtke questioned what was meant by "second offense or abuse" – what does it mean to abuse this. If one wants to have a violation, then we need to spell out what a violation is so that the CUP holder/permit holder or anybody else and the Zoning office can enforce this and understand what is a violation. If we just have "abuse" it is hard to say whether "abuse" has occurred. For this simple case of enforcement, Radtke felt better language was needed there that spells out "what is a violation", if we want to have the clause, "after two violations your permit is revoked". Low stated if there is a disaster declared they can do it, they have to contact the DLM within 48 hours of doing it to let him know – they have to call him on Monday or Tuesday and let them know that they did operate. Upon Bice's inquiry as to whether Radtke would be at the next meeting, Radtke responded that he hoped to. It has been mentioned to Bice that if we are going to go through this today, we would probably have to go through it again at next months' meeting. Radtke was ok with that and asked to hear from any experts that are here today as it may be enlightening. Attorney John Behling introduced Mr. Sanchez and passed around his resume' and credentials to the Committee. Bice asked Mr. Sanchez to give a little of his credentials. Mr. Gonzalez Sanchez introduced himself stating he was with Sanchez Industrial Design and is an acoustical consultant. He has been in business in his company since 1996 and he has been in the business for 25 years, since 1997 in this field. Sanchez was asked to help on this and look at the 45 decibel emission in the document here. The concern with that is that at 45 decibels, if you are going to enforce something like that you need to specify what it is. What kind of time frame you are measuring over, where is "a", where is "c", etc. You will need to figure out a number to have there that can be enforced. 45 decibels doesn't really mean anything. Whenever you get an of where the next place is going to be, you have to go and do measurments. You have to have precise information as to what it is. They have provided information to Corporation Counsel to let the County know that the 45 decibels will not be enforceable and if it is decided to use the 45 decibels they can offer some recommendations as to what levels/acoustic metrics can be used, going forth, to protect the people or the surrounding properties around it or in sight. Behling stated they do have some minor revisions to the Ordinance that they worked on, but in the purposes of time they will share them with Corporation Counsel and we certainly don't have to go into those today. Behling thought it important to hear what their expert had to say. Lien asked Behling to send him a

copy when they are forwarded to Corporation Counsel. Bice asked that Lien forward a copy to him also. Bice apologized for it being so late and not getting to this properly today. Bice asked if anyone wanted to address the issue. Donna Brogan stated she did not want to address this issue, but wanted to address the process. It was Brogan's understanding that this was not a public meeting and asked if Mr. Sanchez was solicited by the Committee to come here today and give testimony. Bice responded he was not. Brogan stated she had a problem with that and inquired if next months' meeting was going to be a public meeting? Bice responded it was not. Radtke clarified to Brogan that these are "public meetings" but they are not "public hearings" which there maybe is blurred line between which is which, because the Committee certainly can allow anybody to speak during a public meeting (which this is) but at a public hearing (which is in a public meeting) then this Committee has to afford the public the opportunity to speak and present its' case. Radtke explained that is what we saw today at a public meeting – people in the public asking if it would be ok to present some information and the Committee said "yes, they would like to hear that". It is a public meeting, but technically it is not a public hearing because that is going to held at a later time. Lien added at a public meeting one could say no because it is not a hearing, but at a public hearing one cannot say no as the people have to be afforded the opportunity to speak. Radtke added it is not just the Chair of the Committee that has the ability to say, "we're not going to hear from the public on a certain item". Attorney Mark Skolis understood that the next time this issue will be taken up is probably next month, Skolis inquired if that would be a public hearing? Bice responded that was correct. Skolis then inquired of Lien, if after that meeting there would eventually be a public hearing in front of this Committee on the subject of any revisions that are proposed? Lien responded how it is supposed to work is that this Committee first discusses this issue, can make amendments/changes, and then we do have a public hearing on the revision of Chapter 13 where we take into account all public comments on that, then this Committee can still make changes, at that point, forward them onto full County Board, which is another public hearing and for adoption. After that it is publicized and 30 days after that it goes into effect. Radtke didn't think at the County Board level it is technically a public hearing but they can take comment. Skolis stated he just wanted some background as to a timeframe. Eric Haas stated he sat here since 8:00 AM and several times today Bice made the comment that we have to get business going and get it done. Haas completely agrees with Bice. Haas continued that #10 is on the agenda for today, this Committee could take a vote and schedule a public hearing for the next meeting. Why the discussion at the same meeting couldn't be held, Haas didn't understand. There must be some reason for postponing it today, but to Haas, he does not understand. Bice stated the reason the Committee felt strongly about moving it simply because there were people here before, that left. Bice's opinion is, is that it is on the agenda and we really should have discussed it, but other agenda items went too long. The Committee is tired and hasn't eaten lunch and that is why. Brandt felt Haas' was suggesting that there is no reason, since after a public hearing we are going to be discussing it anyway, that we don't schedule a public hearing for next time. Everyone can be present to do the discussion that we need to do. Brandt encouraged the Chair to schedule a public hearing for next time for next time and the Committee can certainly discuss it after the public hearing. Radtke commented it is his understanding that the idea of not scheduling the public hearing or waiting is to get some feedback/from himself or some "in house" feedback so that if there are some changes that are going to be made that the public is looking at a more finished document to give an opinion on versus a rough draft and then we go through and provide a lot more changes later on, Radtke felt it would be better for the public to see a more finished product before they comment on it. Radtke added that is why there would be a delay. Bice inquired about scheduling another meeting? The Committee scheduled another meeting to go over the Chapter 13 revisions for Tuesday, January 15<sup>th</sup>, 2013 at 9:00 AM.

**TRM/LWRM Cost Share Payments/Requests** – Lien presented the following (LWRM) Land & Water Resource Management payments for approval.

**Land & Water Resource Management (LWRM)**

<u>Name</u>	<u>Type</u>	<u>Amount</u>	<u>New CSA Total</u>	<u>Reason for Change</u>
Bill Sylla	Contract	\$10,127.60	\$ 10,127.60	Nutrient Management
Bill Sylla	Pay Request	\$ 10,127.60	10,127.60	Certify Nutrient Management
Steve & Patty McDonah	Contract	\$ 9,506.00	9,506.00	Nutrient Management
Steve & Patty McDonah	Pay Request	\$ 9,506.00	9,506.00	Certify Nutrient Management

Jeff Back	Contract	\$ 1,610.00	1,610.00	Nutrient Management
Jeff Back	Pay Request	\$ 1,610.00		Certify Nutrient Management
Dennis Korpala	Contract	\$ 3,756.20	3,756.20	Nutrient Management
Dennis Korpala	Pay Request	3,756.20		Certify Nutrient Management

Quarne made a motion to approve the payments as presented, Thompson seconded, motion carried unopposed.

**Surveyor’s Update** - Lien presented a survey update and bill on T20N, R9W in the Town of Arcadia. Lien also presented the completed, final remonumentation report for T20N, R7W. Lien explained what that meant is that a notice will be sent out to all surveyors, real estate agents, attorneys and title company’s that effective February 1<sup>st</sup>, 2013 anyone that makes a property subdivision that would be 20 acres or less would be required to have a Certified Survey Map done. Thompson made a motion to accept and approve the remonumentation report for T20N, R7W as presented and to approve the payment of the survey bills as presented, Nelson seconded, motion carried unopposed.

**Set Next Regular Meeting Date** – A special meeting of the E & LU Committee was scheduled for Tuesday, January 15<sup>th</sup>, 2013 at 9:00 AM to discuss the proposed changes to Chapter 13 Non-metallic Mining-Trempealeau County Comprehensive Zoning Ordinance as submitted by the Nonmetallic Mining Advisory Committee. The next regular meeting of the E & LU Committee was scheduled for Wednesday, February 13<sup>th</sup>, 2013 at 9:00 AM. Lien asked the Committee to think about changing the March meeting date as it falls on the date of the WLWCA conference that some staff will be attending. Lien noted that the E & LU Committee is invited to that conference also.

At 3:10 PM, Chairman Bice adjourned the meeting.

Respectfully submitted,  
 Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary