

**ENVIRONMENT AND LAND USE COMMITTEE**  
**Department of Land Management**  
  
**REGULAR MEETING MINUTES**  
**APRIL 10<sup>th</sup>, 2013 9:00 AM**  
**COMMUNITY ROOM – WHITEHALL CITY CENTER**

Chairman Bice called the meeting to order at 9:02 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, Ed Patzner and Hensel Vold. Jay Low was absent. Dave Quarne had resigned at the March 28<sup>th</sup> Special Meeting.

Staff/Advisors present: Kevin Lien, Virginette Gamroth, Jake Budish, Keith VerKuilen and Corporation Counsel Rian Radtke.

Others present: Fred Nehring, Ted Marum, Gunnar Hagen, J. Michael Warner, Gerald Hawkenson, Beth Killian, Robert Tenneson, Dave Quarne, Verle Deetz, Ed Maliszewski, Ronald F. Tuschner, Gary D. Monson, Michelle Maslowski, Mary Lee Hegenauer, Travis Adams, Matt Segerstrom, Susan Faber, Lee Henschel, Terry Koxlien, Paul Winey, Jeanne Nutter, Donna Brogan, Jeff Bawek, Stephen Doerr.

**Adoption of Agenda** – Thompson made a motion to adopt the amended agenda, Brandt seconded. Since there were a number of town board members present, Lien asked to move Agenda items 7, 8, 9 in from of Agenda item 6 so that those people wouldn't have to wait as long. Committee consensus was that was alright. Motion to approve the amended agenda carried unopposed.

**Adoption of Minutes** – Nelson made a motion to adopt the 3-14-2013 and 3-20-2013 meeting minutes as presented, Brandt seconded. Motion to approve the minutes passed unopposed.

**Public Hearing – Conditional Use Permit –Debra M. Maliszewski Testamentary Trust, James M. Warner, Trustee – Property Owner /Applicant, Maliszewski Dairy, LLC– Operator, NonMetallic Mining –Sand/Shale Mine Site – Town of Arcadia.** Bice opened the public hearing at 9:03AM. Nelson read the public hearing notice aloud. Bice reminded the audience that any one who wishes to testify at this hearing needs to fill out a registration form and present it to the Chairman. Budish stated the current land use is an old shale pit that hasn't been used for a while. Since it is in the trust, Ed Maliszewski needs to have a Conditional Use Permit to use the shale. The pit is one acre and the product will be used for fill for an agricultural/free stall addition. After the CUP is issued, Maliszewski will keep the pit open for any personal use. Ed Maliszewski and Michael Warner, Trustee were present. Upon Budish's inquiry, Maliszewski and Warner responded they had no questions. Budish added the location of the pit is off of County Road XX. It was Budish's understanding that it has always been a shale pit and has been used since 1968. Bice called for any public testimony.

**Gunnar Hagen** – Registered in favor but not testify.

**Ted Marum** – Registered in favor but not testify.

**Beth Killian** – Registered to appear and testify for information only. Mr. Nelson just read the Legal Notice at the beginning of the Public Hearing. According to the Legal Notice for this, and previous, Public Hearings, the last paragraph always states: Your attendance and comments are encouraged at this hearing. If you are unable to attend and have any questions or comments, please call Jake Budish with the Dept. of Land Management at

715-538-2311, Ext. 277, or email at [Jakeb@tremplounty.com](mailto:Jakeb@tremplounty.com). or send correspondence to Dept. of Land Management, P.O. Box 67, Whitehall, WI 54773. At the last Special Public Hearing held on March 28, 2013 there was testimony for and possibly against the proposed Conditional Use Permit given by people that were not present. These testimonies used a copy of the form we complete if we are present at the hearing. I question if the rules are being followed. If this process is acceptable, then I would be able to make copies of this form, with modifications, and circulate it among my friends, relatives, neighbors, and basically anyone on the street to have them fill out the information and then turn in the papers at the meeting. I was told after that hearing, by one of the previously permitted sand mine owners, that the landowners canvassed neighbors and family members for their signatures on the copied forms. I believe that is why, correct me if I am wrong, Mr. Bice stated that there were 97 petitions for approval and only 38 testimonies against. That data may be skewed, since the people that testified against, were actually present and were not landowners, their family members, or the applicants themselves. Do you check the handwriting to verify that each form is signed by a separate individual? At the Public Hearing for the Chapter 13 Non-Metallic Mining Zoning Ordinance, held on March 14, 2013, there was a minority of 8 or less testimonies, according to my notes, against the passing of the committee's revisions versus a much larger majority in favor of the revisions as presented. There were also 36 people that requested a moratorium. If this Committee truly listens to all the testimony and then considers what the majority of the public request, I believe you should pass the Chapter 13 Ordinance as presented by the Committee. For the future, may I suggest that if someone is not present at the hearing that he/she contact the Dept. of Land Management as stated in the Legal Notice. Also that when a person's name is read from the form and that person does not wish to testify, but just register his/her position, that he/she be asked to stand to verify his/her presence at the hearing. Thank you for listening to my concern.

Bice called for any other public testimony. Bice asked for any comments from the town. Budish read a letter from the Town of Arcadia dated March 14<sup>th</sup>, 2013 which stated the town had been informed by Ed Maliszewski that he has applied to the DLM for a Conditional Use Permit for a shale pit. The Town of Arcadia Board of Supervisors passed a motion at their March 13<sup>th</sup>, 2013 board meeting stating they have no objection to the E & LU Committee issuing a CUP. Lien reminded the Committee that because this is a CUP, the Committee can place conditions on this site. Mr. Maliszewski is going to be the owner/operator of this site and once it is permitted he can use it at will. Once he exceeds one acre in size there are additional rules, etc that would apply to the site, but if he remains under one open acre he can continue to operate under a little bit less stringent rules. Only if he exceeds the one acre in size, NR-135 requirements kick in. The County Ordinance would still require him to do reclamation of the pit, in the end. Bice called for any other public testimony. There being none, Bice closed the public hearing 9:11 AM. Nelson made a motion to approve the Conditional Use Permit as presented, Brandt seconded. Brandt stated it was noted in the application as well as the longer description afterwards that in the past, and in the future, it will continue to be available to the town and the county when and if they need use of the shale. Brandt added there has also been use, in the past, for shoring up the railroad bed as well as any washouts in the town road. Brandt understood that would continue. Maliszewski responded he didn't know if they would get it free, there may be a charge. Motion to approve carried unopposed.

**Use of Public Hearing Registration Forms** – Radtke explained that he had asked that Agenda item #7 and #8 be put on this Committee's agenda to discuss, as was mentioned just prior, that there was concern, at the Special meeting held on March 28<sup>th</sup>, with the use of the registration forms. There were some forms that were created or duplicated and circulated outside of the meeting and signed by persons who were not present. Our registration forms state, "that they are here today for the public hearing", and are provided a variety of choices there. The question came up whether or not those should be honored at the last meeting. Radtke's opinion was to the Committee that if we are accepting written statements with regards to whether someone is for or against a particular mining permit that is applied for that we accept these written registration forms as written statements that someone is for or against similar as if it was received by e-mail or letter. Radtke's opinion resolved the issue at the special Meeting on the 28<sup>th</sup> but Radtke asked to have it on the agenda today to discuss putting some parameters or give more direction to the staff and to the public what this Committee is going to expect or use with regards to its' registration forms and that there be some discussion with regard to the direction this Committee would like to take. Brandt commented that when he disagrees with Radtke it usually has to do with

his desire to either codify or restrict our interpretation of things. One of the things that Brandt has enjoyed about serving on this Committee and the County Board is just how engaged the citizenry is and how willing they are to participate in the governmental process. One of the great blessings of living in Trempealeau County is to have people who want to be part of and have input into the decisions that are going to affect their lives. The other thing that has been great is that the County governments and Town governments want the people to come and participate in whatever way. The thing about democracy is that it is messy and it is also unpredictable. If groups of people organize around an issue, they will discover eventually that other people organize either against them or to push them to push back against their position, both sides will use, of an issue, whatever techniques they have either to gain an upper hand or to move the discussion/decision in that way. Brandt knows Radtke is just raising the issue of parameters but this Committee is this Committee today, it is not necessarily going to be this Committee next year or the year after, etc., so in a sense to limit not only whatever tools the public has to engage the Committee in discussion, but also to infer that this Committee can't tell the difference between an organized attempt to inflate numbers and the raising of a real issue or real support versus "created support" around an issue, Brandt suspected this might happen again but he didn't see it would happen a lot in the future as he felt things would even out. Radtke responded that he didn't mean to stifle public participation by any person on any side of the subject. The reason why Radtke asked to have this on the agenda; 1) to have the staff know what they are to accept and not accept. A person sitting at the registration table what are they to accept and not accept. That aside, is to let the public know, from a fairness standpoint, is this Committee going to accept any statement whether they are here or not here, that way both sides of the issue can go out and knock on neighbors doors, if you will, and present registration forms by persons in favor or opposed who don't want to testify. Radtke guessed that on controversial topics one may have several hundred one way and several hundred in another way. Does this Committee want stacks of paper here of people who aren't here who just oppose or are for an issue. That is the question Radtke felt this Committee has to ask itself. When a public hearing is held, are you interested in hearing from the persons who are here or are you interested in hearing from the public at large and whatever the decision is, it just needs to be spelled out to the public so no matter which side of the issue a person is on they know how to communicate properly with this Committee. Radtke is guessing, from some of the comments, that there is a feeling that one side of the issue didn't know they could do this whereas another side did, as Brandt had said, as a technique to get an upper hand and it may have skewed the numbers. Our Ordinance does not say, after the public hearing count, how many people are for it and how many people are against it, and make your decision accordingly. No where is it appropriate to look at that. Radtke added the numbers aren't as important as what may seem to be. Radtke is suggesting that there needs to be some parameters set so that the public knows, everybody knows this is what we're accepting and this is what we're not going to accept. That is the direction Radtke is looking for. Bice commented that he didn't think it was appropriate for anybody on this Committee to suggest that people out there may or may not be sincere about what they have forwarded to his Committee for their opinion. Bice continued that those that know Bice know that he puts his life on the fact that we have the greatest Constitution in the history of the earth and that Constitution gives us the Bill of Rights and the Bill of Rights gives us the ability to give our comments freely. Bice stated he will never be part of a Committee that stifles anybody's participation. Bice felt some probably don't agree with his decisions but he can tell you that you all have his respect all the time. Bice believes that the information was published that if one had comments one could submit them and those comments were read into the record and that was very appropriate and Bice thought that would continue to be appropriate and felt that Radtke would pretty much agree with him that we don't have the ability or the right. Bice added if we have somebody submit something that is completely inappropriate he felt maybe that is an issue that needs to be dealt with, but in general, anything that we do receive should be part of the record in Bice's opinion. Bice called for any other comments from the Committee. Brandt stated this is a general comment about information and communication. What Brandt is personally looking for, as a Committee member is, how it is that people are reasoning to their conclusion. Brandt wants to know (he will be better informed if someone can tell him) why they agree or disagree with something. In other words, the assumption is always that we're making decisions based on objectively approaching the information that is given to us and if 50 people say, "I agree" but nobody can tell Brandt why or verbalize why – even a short sentence or two (I support this because) that carries a lot of weight with him, because he puts that into his calculus as to why he is making a decision. Brandt reiterated that is a general comment as to how he comes to his conclusion. The

more an opinion or information that can be stated to Brandt, the more he can take that into consideration. Lien reads tons of e-mails depending on what the public hearing is every month. We openly advertise that in the papers and to the public that they can e-mail comments or send letters and we will read them. Lien felt the intent was, of the public registration form, was just that. It is a public hearing, the public can come here and testify. Staff has modified that so it basically says, "I am here today". Lien would support, like Killian stated, that in the future, if people are going to fill out a public hearing form that the Chairman ask them to, at least, stand. If they don't want to testify but register in favor or opposition that they at least stand, acknowledging they have filled out this form at the meeting otherwise the perception for a public hearing registration form is that someone should be here. Lien felt that in the past that hasn't been the case. If those people wish to e-mail or send a letter we will gladly read every one of them and we will talk about that a little bit more under the next agenda item. Otherwise staff did modify/bold this form to read, "I am here today" so that it is very clear to meet what we advertise in the paper, so we are not misinforming the public. Brandt, in addressing Bice, understood that we have "numbers" issues but one of the things that the Chair can do, after people have chosen or who choose to speak have spoken is to offer (and you've done that a few times) people who have chosen not to testify the option to do that. In other words to say, now that you've heard others speak is there anything one wants to say and that is a way of giving the people who are here an opportunity to speak if at first they thought they didn't want to. Brandt was trying to say that the "check" isn't in stone, and if they change their mind about wanting to testify that is an offer that Bice can make as a chair. Bice commented 98 – 99% of the people just simply can't get to these meetings but they still have the right to participate in government, so it is very difficult. If one wants to note more credibility to people who are here, Bice wasn't sure that was fair either. Bice knows that if they take the trouble to be here they should be and are heard. Bice stated it is a touchy subject but part of the reason this is on the agenda is because we kind of need to take a position on how we are going to respond. Bice's opinion is that he has no problem with changing this form to say "I'm here today if somebody feels that is important". Bice does think this Committee needs to make sure, or any Committee that Bice is a part of, will always allow anybody who wants to have input, he doesn't care how they do it as long as they are orderly, to have input to these hearings. Bice stated he would entertain a motion to allow Lien's modification that says, "I'm here today" on this form, but believes that it is important to take any input that anyone wants to give us. Bice takes calls from people that would like to be here but are working or can't be, so Bice is certainly not going to exclude their input. At this point, Bice announced he was looking for a motion to state that we will continue to take all input available as long as it is done orderly in the future. Brandt inquired which one Bice wanted, a motion to approve staffs' change of the form or a motion to reinforce our commitment to input. Gamroth made a comment that the Departments public hearing registration form has always stated, "I am here today, but she had now "bolded" that and added the County emblem to the form. Brandt made a motion to reinforce this Committee's commitment to maximum public input on issues that are important to the people of Trempealeau County, Nelson seconded. Nelson inquired about those that send e-mails or call. Nelson asked if that would mean anything as they definitely should even if they are not here today. Lien responded we have and always will continue to read those e-mails. Thompson agreed and felt Brandt's motion would cover that. Bice commented it might not hurt to encourage them to try and have a paragraph that makes a point. Bice called for any other discussion. Motion carried unopposed. Bice stated there are people in the audience that would like to ask questions, Bice inquired if the Committee would like to take those questions. Brandt felt that it should be allowed for maximum public input. Bice stated he was getting some resistance so he called for a roll call vote; Brandt – yes, Nelson – yes, Vold – yes, Patzner – yes, Bice – yes, Thompson – yes. Bice stated the Committee would accept questions, one from each person. Beth Killian thanked the Committee for discussing this matter. When Killian wrote her verbal presentation, she did not know that this would be on the agenda. She does agree and is very grateful that the Committee will listen to all input and we do need everyone's opinion. Killian's concern was that the paper states, the legal notice states that people may call, write or e-mail or come in person and fill out the form. Killians' concern is that, in the past, forms were filled out, but the person was not here as the form states. Killian continued that if people call, she thinks that is great and that you write down whoever it is that called and what they said. Killian stated the e-mails are also read so people do have their input. Killian's big question was, using the form and not actually being here. Killian suggested that if they use the registration form the Committee should have them stand up so that they can be recognized. Killian thanked the Committee for all their work. Bice reiterated that Killian would like anyone

who wants to testify to stand up and be identified. Killian responded if they are filling out one of the public hearing forms, because there are those other options on how to communicate their opinions. Mary Lee Hegenaur inquired if the public hearing form can now be used outside, without being present at the hearing. Bice responded a form identical to this that doesn't say that someone is here would be fine. Bice added the public hearing form says that you are here. Hegenaur inquired where one would get the other form. Bice responded one would have to make their own form. Hegenaur inquired if the form one makes could be used as a petition. Bice stated it would be a written response as he wouldn't call it a petition. Hegenaur stated that Radtke had told her last time that there was a form similar to this but they changed it at the last public hearing and it could be used as an e-mail. Radtke stated there was a form that the County did not create, but was being distributed. Hegenaur asked if the County was now going to create this form or the public just does it independently. Lien responded the County is not going to create that form. Hegenaur clarified that one can bring the forms here and they will be counted "in favor" or "not in favor" at these hearings. Bice responded we are going to take any opinions from people. Whatever they want to tell us we're going to accept and we're not going to get in the middle of any other thing. We're not going to tell people they can't because they don't have a certain form. Bice stated if Hegenaur could clarify her question, he could answer yes or no. Jeanne Nutter stated what she thought Hegenaur was saying is that at the last hearing, the public hearing form without the statement of being present was copied and circulated and people signed it. We may or may not have known where they lived. But now this form, must be filled out here, you must be present if you want to speak or not speak. Bice stated we don't verify anybody that submits this form, we don't do a verification process. Bice, in jest, added we can barely read their names most of the time. Michelle Maslowski of Ettrick questioned as she understood it, if the Committee is going to accept this form that says, "I am here today". Bice responded we have cleared that up. If they are not here today, they can't submit a form that says they are here today. Maslowski continued that if a form is circulated that does not say, "I am here today", is the Committee going to accept those comments, yes or no? Maslowski asked if the Committee was going to qualify this as saying I have a list here of people who signed this, they are not here today, but they signed it. Maslowski needed to be clear about this. Lien responded we will accept all written and public comments. Maslowski asked if the Committee would qualify them to those present saying that these were not submitted by people here today. Maslowski makes a distinction between people who bother to be here or who bother to write a careful e-mail or comment and carefully reason out their position. Maslowski wants that to mean more to the Committee than just somebody coming in and saying I have a list of people who sign yes, they aren't here, but they signed yes or no. Bice replied we are going to have a hard time giving some more credibility than others. Bice understood Maslowski's point if someone is able to and cared enough to be here, but we can't weigh the fact that if they couldn't get here their comments shouldn't weigh equally. Bice stated that is a difficult issue and as Brandt says, it's messy. Thompson asked why that would be any different than an e-mail. Maslowski responded one characterizes when one presents written comments or e-mail comments from people who haven't been here and that is why they chose to send what they send with some thought rather than just signing something that doesn't tell the Committee very much about how that person arrived at that decision. Maslowski would like some type of acknowledgement by the Committee that they recognize that a copied letter may not be as deeply thought out as a written letter. For the record, Bice stated many of the people who did submit those were here even though they may not have testified, stood up and said something, but they were here. Wade Britzius appreciated the fact that the Committee was asking for maximum public input. Britzius wanted clarity of how this process worked. If the Committee gets 100 e-mails and 50 letters is the Committee going to read all those. What is going to happen at the public hearing. How is the Committee going to tally and present the given information. Britzius understood that we want all the information, but what is the process. Nelson responded we or Lien have always read every e-mail, etc. Terry Koxlien inquired about public hearing notices stating some people don't have or use e-mail and wondered to what limit does one notify the public – the minimum? Lien explained the minimum requirement by Statute is that we publish a Class II public hearing notification which is in just the County paper for two weeks with the last publication ten days prior to the hearing. Our staff has always gone the extra mile and advertise it in the local paper wherever the public hearing area is proposed and we also send courtesy letters to all adjoining landowners. The issue with that is that to save staff time, we ask the applicant to give us that list of adjoining names and addresses. If someone is omitted, we don't really research that because the applicants gives us that information and we do it only as a

courtesy. There have been times in the past where someone has said, “Hey I just live across the road and I wasn’t sent a letter because I might oppose”. We apologize for that but we send the letters as a courtesy but it is not required. We do try and notify people as much as possible. Koxlien added it appears to be the minimal amount and added there are more interested parties sometimes than just neighbors. Bice suggested that the public approach all of the local news services and ask them to put a little headline near the top of their papers containing a little hint of what might be coming up. Otherwise if one doesn’t go through the back pages and read the fine print it can be missed. Vold suggested that a notice be sent to each of the town clerks. Lien wasn’t sure how they would distribute it. Gamroth commented that the town chairmen and clerks do get the letter that is sent to all adjoining landowners. Vold added at one time they used to notify the town supervisors also. Tuschner had two suggestions; at Town of Arcadia board meetings when an issue comes up, in order to save the clerk some time, they mandate that the individual seeking the Conditional Use Permit (CUP) do the personal contacts of all adjoining neighbors so that when they come to the meeting, one of the questions that the town asks is “have you notified all the neighbors”. Tuschner continued, if they haven’t and they had said yes then the town would call the county to say they don’t approve the CUP. The Town of Arcadia puts that burden on the individual applying for the CUP; two – with the subject matter that was on the agenda item before this – can the county ask if they are a resident of Trempealeau County. Tuschner didn’t mean it in a demeaning way, but this is Trempealeau County and sometimes that is a very appropriate thing to know, when someone is testifying, whether they are members of said County. Jeanne Nutter commented that whether you are a member of this County is really important but in the issue of frac sand mining and moving the sand it affects surrounding counties and surrounding areas. Our sand is shipped to Chippewa, it is shipped to Minnesota so people in those areas have a very strong concern about what is happening and they should be able to talk about sand trucks from Trempealeau County driving down their county roads. Nutter added to limit surrounding counties from talking about issues that affect them would not be appropriate. Tuschner replied it was not in effect to limit them it is just so that everybody knows that they are or are not a resident of Trempealeau County. Gamroth commented that she sends out notices to people/adjoining landowners. She has had landowners that have been a parcel away and they stated they didn’t get notification. One landowner stated they didn’t get a newspaper and they didn’t have a computer so Gamroth questioned how in fact this person expected the County to notify her. Gamroth added it is difficult to please everyone.

**Limitation of Written Statements read at public hearing** – Radtke stated he asked to have this item on the agenda, as a situation happened at the special public meeting where a person submitted a ten page document to have read at the public hearing. The purpose for Radtke asking to have this on the agenda was to have some discussion as to whether the Committee should notify the public that if we are going to be limiting verbal or oral speaking to 3 minutes of testimony, are we going to be limiting the reading of written statements to three minutes or something like one page or so many words, etc. so that the public can understand that if they are going to submit something in writing that they do make a concise argument or do so in a shortened paragraph rather than expanding and providing this long ten page document which may have some great points in it, but it wouldn’t be fair to give 15 minutes to read that versus 3 minutes to the person who showed up. Radtke was just asking for some parameters so we can tell the public this is what we are going to do so that they can decide whether they want to show up, write a paragraph, etc. Bice commented that was an excellent idea. Bice’s thoughts were that any submitted information should be able to be read probably within two minutes and then they can go on with a summary or more information. As far as public comment, Bice thought the Committee needed to limit that. Committee members agreed. Hensel voiced that he thought 2 or 3 minutes was sufficient for either written or verbal comments. Lien commented that depended upon how fast a person can read. Lien would rather the Committee pick a word limit like the newspapers do so it is fair and clear to the public. Discussion followed regarding the issue. Upon inquiry, Lee Henschel from the Blair Press suggested 250 words. Thompson made a motion to limit written comments submitted for public record to 250 words or less, Nelson seconded, motion carried unopposed.

**Discussion on LIDAR (Light Detection and Ranging) Resolution** – Bice stated, for those that are present and are strong supporters of LIDAR or against LIDAR (let Bice know) that his opinion is that many people have called him as they felt Bice was against LIDAR. Bice is against or hoping that the LIDAR that we eventually

do is done properly and at the least expense possible. Bice is not an anti-LIDAR person. Bice thinks it has benefits, but he is not sure as it hasn't been defined completely. Bice would like "cut and dry" information on LIDAR, so far it is still quite vague. Lien recapped the situation for the Committee. Lien presented before the full County Board, on July 17<sup>th</sup>, 2012, a resolution from the Towns' Association, basically asking the County to move forward with the purchase and implementation of LIDAR. Lien continued that his Committee, at budget time last year, made a motion to transfer \$100,000 out of the General Fund into the DLM nonlapsing account for LIDAR. Exec/Finance had tabled that four months in a row. The last meeting it was tabled until budget time this next year. When the E & LU Committee looked at the overruns from last year which were about \$126,000, the Committee made a motion at that time to put \$100,000 of those funds into the LIDAR nonlapsing fund so a transfer wouldn't have to be made from the General Fund. They also moved to put approximately \$26,000 back into the General Fund. The issue went before the Exec/Finance Committee on April 1<sup>st</sup>. There was first a motion by Ernie Vold, seconded by John Aasen to approve it, there was discussion and then it was tabled by Dave Suchla and Bice. Ron Tuschner from the Towns' Association had asked Lien to place the issue on this agenda and Exec/Finance (which Lien has done). Tuschner is here today as Chairman from the Towns' Association to talk to this issue and the need. Lien didn't feel like much progress was being made for a plan that is scheduled to be implemented in 2014 (an aerial flight for photos and LIDAR would be implemented together). Lien received some calls and e-mails in support and also inquiring what was going on. Brandt felt Tuschner should be allowed to speak. Bice stated one of the reasons that he has taken the slow approach here is because he wants to do some competitive shopping. There is more than one source that can provide LIDAR. Bice wants to make sure that we get a (Bice and Lien talked to an expert and there is good LIDAR patterns and maybe not so good) good job that is accurate. We are going to pay a lot of money for this and Bice felt we needed to make sure that it is reliable. Bice added it is also competitive and he wanted to make sure that we get the most for our money as that is very important to Bice. Bice doesn't like the concept of putting money in the kitty and then spending it because we have it. Bice wants to make sure that we do it with all the respect we possibly can to our taxpayer. One of the main questions that Bice has, which no one has been able to answer for him is (one of the main reasons we are going to do LIDAR is because we believe that it will help us as far as dealing with flood plain issues – people applying for permits in areas that should not be flood plain but are classified as flood plain to be removed from that (which is a complicated process) for insurance and building purposes) if we do LIDAR is that going to guarantee that people can submit a check for a certain amount of money, maybe hire an expert to come in and help with it and guarantee that it will clear that problem up. Lien has told Bice no. Lien responded that is still the case, but what it would do is greatly reduce their costs and provide better service and efficiencies because right now we have very little flood data throughout the County so anytime someone calls with a flood plain question related to the new FEMA maps, we have to send them either to a surveyor or engineer (estimated \$15,000 or more to have an engineering study done to determine what that flood plain elevation is). If we had the LIDAR information, Surveyor Terry Kerwin came to Exec./Finance and explained that would greatly reduce his cost in research to assist those people. Lien added Bice was correct there is no guarantee but the DLM and the County, in general, is a service department. If we can provide this service to reduce their costs and ease the stress on them in regard to flood insurance and determinations, Lien felt that should be one of our highest goals. Verle Deetz commented he owns some property right next to a trout creek, which never used to be in the flood plain but the new map says it is. Deetz stated it has never flooded and his wife's grandparents had lived there 70-80 years ago but it is in the flood plain. Lien replied the old flood plain maps were generated by someone in Pennsylvania in 1976. The DLM had the ability to go out and look at a site and make a staff determination whether or not we felt it would flood or not. With the new maps, FEMA took that same information from 1976 and laid it on top of an aerial photo and made it an enforcement tool for banks, lending institutions and the DLM. If one is in that designated flood area, the DLM can no longer issue a permit. It puts the onus and cost on the landowner to prove that they are not in the flood area. Lien felt that was a very unfair hardship for a lot of people. In the past one may have been in the flood plain but it couldn't be determined for certain because the maps were so poor. The DLM has the old flood plain maps on file so anyone can come and look at them. By FEMA digitizing that and placing it on an air photo, it is very clear who is in or out of the flood plain. Lien continued that if the County would have had LIDAR before the maps were redone, FEMA would have acknowledged the LIDAR and there would have been major changes, however the County wasn't in a place where they could afford LIDAR back when that was

done. Now we are trying to play catch up. Deetz commented his son was going to build a house on that property but after the new flood maps came out, his son decided not to. Lien stated when someone sells or refinances their property that is when it usually is brought up by the banks. Bice asked Tuschner if he wanted to address the issue. Tuschner stated at the Towns' Association meeting, with all the townships there that evening all the votes except one were "yea" votes. Tuschner has several persons within his township in which it has created hardships. One person had to take the poles out of the ground because they couldn't build in the flood plain. There are other people that are living up, well above the stream, that come to Tuschner and say, "When am I going to be able to get assistance to help get this property out of the flood plain when it is not in it". All Tuschner can tell them is, it is your responsibility as it stands right now. They get a little bit upset with the town because we have no authority for them. Tuschner does understand what Bice stated about the efficiency of purchasing what you need so that it will serve the greater number. Tuschner's questions is, (it was explained to them at the Towns' Association meeting that this LIDAR would also be applicable to other departments within the County – they could use it) how many other departments would LIDAR be available to that can use it and for what purposes. Tuschner counted four people/constituents in their town, that could use it today. If one takes the cost of \$15,000 for surveying/engineering costs, that is \$60,000. Tuschner inquired what the total cost of LIDAR is to the County? Bice responded \$300-400,000. Lien replied roughly around \$300,000 to get one foot contour intervals. Tuschner didn't know how many people it would benefit in other townships but there is \$60,000 from his township alone that his people are going to have to pay if they want to go through it. Tuschner added two of them do not have the financial means to do it. Tuschner wasn't saying we need to rescue everyone and put it on the tax base but it is there. From the towns standpoint, we all have to conserve money but he hoped that this would be done as expediently and as cost-effective as possible for benefit to the greatest number of people in this County. Tuschner thought if we went county wide, he thought we probably have 40 - 50 people/individuals that could use it. Tuschner felt if we got the contour lines closer together for more defined areas that is going to help a lot of people. Tuschner thought Lien had stated it would help in the frac sand industry also. Tuschner inquired what other departments in the County can use this and to what extent? Lien responded any Highway Department or contractors in general (for any type of road improvement project) could use the one foot contours here as there would be very little topographical surveying needed because with the one foot contours, one could basically design cuts and fills right from the DLM webpage, DLM staff could use it for designing waterways and dams, in the mining industry as almost everyone of these large mines fly LIDAR themselves over the site so they know exactly how much material is there, they know the elevations and the grade. Lien stated even though flood plain is something you could put a dollar amount on right now he felt there was a lot of aspects to this product that could help for generations. Upon Lien's inquiry, Brandt thought the contour maps were done back in the 30's and 40's. Lien continued if one looks at taking a 20 foot interval from a stream and if there isn't a rise 20 feet there is no line until one gets back to a point and that is why the flood plain is so large in this County, where if there were one foot contours you would see all of that shrink. Lien added that Eleva and Pigeon Falls spent money and did their own study and it is amazing what the mapped flood plain was and then after they did the elevation study how it reduced it greatly and took the majority of the citizens out of the flood plain. Gerry Hawkenson stated he had to agree with Deetz saying he had two building permits that were denied because of the flood plain. One person was building on high ground and the other fellow had to move his building. Bice commented that it is incredibly unfortunate that one has to go through this nonsense and the federal government made a mess of this whole thing. Brandt stated the difficult part about being a chair is representing an opinion that you don't necessarily agree with. Brandt has found himself in that position a number of times over the last few years. Out of respect for your constituents and respect to the Committee that one serves as well to the other municipal entities there are times when one just has to say this is what my Committee supports and because of that I have to support it. Brandt understood that Bice has a higher vision that allows for a different perspective which you need to express (has been mentioned at a number of meetings) and yet Brandt called on Bice as the representative of this Committee, in the larger settings, especially on Exec./Finance Committee to represent the views of this Committee as well as the Towns' Association. The benefit to this, as Bice has stated, is not the question. The efficiencies that are going to be gained, not only for the citizens of the County but for the staff of the County are also now in question. Brandt felt Bice's issue seems to be getting the best deal for the money. Brandt's suggestion again was that we can trust our staff to do that, we have a number of departments that work on this and we'll be going

into the bidding process, so Brandt encouraged Bice to represent the constituency as well as the Committees and other municipalities when deciding what to do with this money. There is no reason not to do this. In terms of the question as to what else can you one do with LIDAR, Brandt stated it is only limited by ones' imagination. LIDAR is where Geographical Information Systems (GIS) are going and the needs of this County can be really well served by this type of technology. Bice responded that was very consistent with what Bice had said and expressed that Brandt's comments were way out of line. Bice stated his comments to him were that it is unfortunate that the federal government has given us these standards for wetland areas/delineations therefore putting these people in this position. These people are not in a swamp they are in a wetland. They were classified in the wrong area which is very unfortunate and that is what Bice had said and Bice had no idea where Brandt is coming from. Bice added he has said he would support LIDAR. LIDAR is a good thing we just have to make sure we get out of it what we are going to pay for. Brandt added we have that opportunity to do that now. Bice voiced that he felt Brandt's comments to him were inappropriate. Brandt questioned how so because in Exec./Finance Committee as well as in this Committee Bice has said that he wants to go slow, you want to get the most out of the money and Brandt agrees with that as an important thing and we have the ability to get it done and we trust our staff, we trust our constituents, we serve the public and the needs that are there. Nelson commented we don't have the money in front of us, we have a share of it. Brandt stated Lien can let us know how close we are to the money that we need and it isn't just this department that is funding this. The other point is that the money's are set aside from retained fees and they go to this project as well as other projects that further land records. Bice asked if Lien was hoping for more action on this today. Lien responded perhaps Bice missed Brandt's point but as Lien read earlier that in Exec./Finance, Suchla made a motion to table and Bice seconded. Lien continued that Nelson and Bice both sit on Exec./Finance and he felt Brandt was trying to say it would be nice if Bice as our Chairman and Nelson would support the Committees' decision to transfer that \$100,000 that is sitting in Exec./Finance' hands to help support this process. Nelson stated he supported it. Lien responded Nelson supported tabling it according to the minutes. Lien reread the minutes, "Ernie Vold made a motion, Aasen seconded it and before action was taken, Suchla made a motion to table, Bice seconded and Nelson voted in favor of tabling it. Nelson responded he sits on lots of Committees, specifically highway and roads are going to hell in this County. Lien agreed. Nelson stated we are trying to find money also to fix roads without raising tax levy. Oil keeps going higher, some was just ordered yesterday and thank goodness it came down a little bit, but we still don't have any money, so it is going to have to come out of the General Fund. Nelson added he has a conflict of interest here – how much can I take out of General Fund for supporting this if I don't give my other Committee some money. Lien commented( referring to what Lien had said at Exec./Finance) that this is all about long term planning. For years the County robbed money from the Highway Department and that is why that Committee is in that situation today. If we continue robbing money like this for these uses, when 2014 comes we are going to be in that same predicament and this Committee will ask how are we going to have the money for this. Lien reiterated this is about long term planning. Over three years ago we started putting money away for this project. Lien has a planning background and his Department deals with that. Nelson stated he was the one who made the original motion to start that process. Lien stated the County Board should have done that with highways and kept some of that money (Lien added Thompson was here and many years that money got robbed from the Highway, Sherriff's and other departments. Now the Highway Department is sitting in the same predicament. Lien supported what Nelson was saying and the County really needs to look at long term planning because this is what the issue is about. We have to start out with nest eggs. If we wait until 2014 and say where are we going to come up with \$300,000, how are we going to do it. Lien has \$60,000 set aside for now, Land Records has close to \$80,00 and this \$100,000 gets us that much closer. When next year comes around, hopefully we will be able to fund it from Land Records' retained fees and Lien's department overruns where the Committee won't have to go to Exec./Finance and that money can be used for roads. Lien supports what Nelson is saying, but it is all about long term planning and that is what Lien is trying to do. Lien stated the decisions that come out of this Committee need to be supported at the next level. Lien's opinion was that if that isn't done the Committee is not being represented well and that is what Brandt was trying to say. For the record, Bice stated he takes a little different approach to some things. Basically, the DLM had approximately \$126,000 left over in the budget which they didn't spend. That money, in Bice's opinion, (he and Lien will disagree) that we have as a unit of government that is not spent belongs to the taxpayers. Bice believes that money should be in the General Fund

until we need it and we have a specific force that we need to spend it. Bice has watched/seen government get in trouble by basically saying, “well we have the money let’s spend it”. Bice doesn’t like that approach. Bice has said on public record time after time that he will support LIDAR, he is going to make sure that we do it efficiently. Bice does not want to take that money, he doesn’t like the idea that departments have a little money so they stick it wherever they want and make decisions on their own as to where it goes. Bice wants that money in the General Fund and back in the taxpayers hands – basically that is what it comes down to. Bice believes that is where it should be and that is the issue that he has taken with it. Bice doesn’t want to put the money there until it is time to spend it. Bice stated he will continue to take the approach and he will say it for the record that he will support LIDAR. He understands the concept, he is disappointed that they can’t tell us exactly what LIDAR is going to do for us. Bice would like to say here are our new maps what is it going to take to go to FEMA with a check and a survey and say I need my land moved out of the flood plain since it shouldn’t have been there in the first place and no one can tell Bice that we are going to be able to do that for \$1,000, \$10,000 or even \$20,000 and that bothers Bice. He doesn’t like spending money when he can’t have guaranteed results. Brandt has sat in a number of meetings where Bice comes back to the point of efficiency, wanting to see the numbers, or not having enough evidence to make him believe where this needs to go. Brandt felt the issue that just triggered a fairly painful memory was Bice’s comment that this money belongs to the taxpayers. The reason that is a painful memory is because that was R. Frey’s argument for taking money from the long term fund for roadways. There was millions of dollars in the dedicated fund that existed for maintenance and replacement of roadways which would have extended decades into the future. He had said we are not using it this year, why are we putting money in this, lets give it back to the taxpayers as it belongs to them and that is where we got into this mess. Brandt added Bice’s characterization of governments is accurate historically that there have been times where money was spent so that it wouldn’t be lost and that programs were developed to spend money that otherwise might not have been spent. Brandt suggested that this department as well as Land Records and the other departments, including the Highway Department are not those kind of departments. It isn’t government employees making these decisions. If you look around the people who voted to support creating the LIDAR flight next year are the folks who have been elected not only on a County level but on the town level. Whoever this government employee is that you don’t want to spend the money is not visible in the room right now and Brandt hasn’t met that person yet in the County. Although generally Brandt agrees with Bice’s perception, your characterization of what your dealing with in reality is not that, this is not the boogey man, this is not big bad government, these are local elected officials with a real concern for the citizens of the County who expect a certain level of service from the County and have appreciated what we have done in the past. Basic numbers – the remonumentation cost a pile of money but it cuts in half the price of a survey for the citizens of Trempealeau County. That is the best number that Brandt can give Bice right now based on experience. Bice called for any more discussion. Brandt stated there has been a resolution from this Committee as well as from the Towns’ Association indicating their support of transferring this money to the non-lapsing account so Brandt didn’t feel there was a need for another motion.

**Discussion and possible action on Trempealeau County Comprehensive Zoning Ordinance – Chapter 13-Nonmetallic Mining revisions.** Lien stated a public hearing was held for this at the Whitehall High School and we took a lot of really good testimony. If Lien’s count was correct we had a minimum of 37 that publicly testified in complete support of the draft changes, along with each one of those 37 asking this Committee to support a moratorium. Lien believed there was only one testimony in opposition asking for more relaxed rules on the decibel level from one of the proposed applicants in the County, otherwise there was unanimous support. Lien received one e-mail, which Lien had asked Bice about, and was told it was ok to read that. Bice didn’t recall that but instructed Lien to go ahead.

**Chris and Carrie Lejcher e-mail** – I respectfully request that the zoning ordinances for industrial nonmetallic mining; A.) draft detailed regulations that require constant monitoring of air quality, water quality and noise levels of areas within one mile of the sand mines, B) draft detailed regulations that limit the amount of permits for industrial nonmetallic mining in Trempealeau County, C) change the 50 foot setback for site boundaries to 5,280 feet from a site boundary, D) adopt conditions that protect the environment and use of land in Trempealeau County.

Lien stated this was the only call or e-mail he received for the Ordinance. Bob Tenneson commented that Lejcher was at the meeting and read that. Lien responded that this e-mail was received March 29<sup>th</sup>. Lien added that Lejcher was at the public hearing and testified but he also sent Lien this e-mail on the 29<sup>th</sup>. When Bice had visited the office, Lien had asked him what he should do with it and Bice had told Lien to bring it to the meeting. Tenneson added it was the exact same wording that he spoke that evening. Upon Brandt's inquiry, Lien responded the letter was from Chris Lejcher. Bice stated we have been through this time and time again so he is willing to entertain a motion on this. Nelson made a motion to approve the revised Nonmetallic Mining regulations that were just done by the Committee. Bice asked if that was sufficient legal wording? Brandt asked if that included sending it on to County Board. Nelson responded definitely. Gamroth asked for clarification of the motion. Bice responded basically to approve the new ordinance as written. Nelson added the revised mining regulations that were worked on by the special committee, Thompson seconded the motion. Radtke stated the motion that Nelson made, "as written from the special committee", was changed by Radtke and Lien. Radtke just wanted to make sure that it is clear in the record that the motion is to adopt the Ordinance as presented here today in front of the Committee that had gone to public hearing. Lien commented there were some things that he and Radtke had changed along the way outside of the draft that the Committee has in front of them. Lien referred the Committee to Page 99, as there were a couple of oversights. One of them is the definition that seeding shall be done according to the soil conservation service critical area. Staff recommendation was to insert NRCS because that is the correct term instead of soil conservation service (SCS) so that change had been made. On 13.06 (B) it states "Division of Land Management" and should state "Department of Land Management". On Page 98 Lien stated there was some language that had been stricken and it has been left in there. The last thing that Lien had mentioned because the Committee, especially Bice, has talked to Lien several times about how we address violations. Near the end of the meeting Lien had proposed the ordinance language that violations of this ordinance actually be included and part of this Ordinance. The Violations Ordinance will define, based upon the permit fee schedule at the time of application, and fines may be doubled depending on severity or repetativeness of violations. Lien felt that would address some of Bice's concerns because Lien felt with the pre-existing Ordinance, when he and Radtke looked at it, the maximum fine that could be levied was \$1,000. It starts out at a \$50.00 minimum with a maximum at \$1,000. This way it would have a little more "teeth" in it for anyone that would violate this Ordinance. Lien had heard from Committee members that they would like it "beefed up" a little so Lien added that language at the public hearing and it was brought forward. Lien stated that these would be the minor amendments plus the citations. For clarification, this Committee has in the past and does always have the ability to change the fee schedule as they see fit as far as permit review fees or we also have implemented that \$1500 third party review in five days. The Committee can do that at any time as that is not part of this but as far as violations, Lien's recommendation is to make that part of this document. Bice asked for any additions to Lien's amendments. Patzner stated the fine is not very much so when they do a mine they don't worry about it. Patzner made a motion to approve Lien's amendments, Brandt seconded the motion. Gamroth clarified the motion. Motion to approve adding the amendments carried unopposed. Bice called for any other discussion on the main motion. Motion to approve the Ordinance and forward onto County Board carried with Bice voting in opposition. Lien stated he and Radtke would make the amendments and give it to County Board for the May meeting.

Brandt stated that the town boards have an opportunity to weigh in on this and asked if that time period has lapsed or is it coming now or how does this work. Radtke responded the town boards have ten days after the public hearing that they can file concerns, by copy of a resolution, stating they did not agree with the amendment as proposed. As far as Radtke knew, the County did not receive any. If a majority of the towns affected submitted that, it would impact the time frame that it would be affective if approved by the whole County Board. Radtke reiterated we didn't have any of that. Radtke believed we received on resolution for the Town of Chimney Rock in favor. Lien believed that to be so. Radtke stated other than that there were no responses provided.

**Surveying Update and Payment Approval** - Lien referred the Committee to the Surveyors report of Township 20 N, Range 7 West. Lien presented the Surveyor's bill. Vold made a motion to approve the Surveyors report and approve the bill payment as presented, Nelson seconded. Motion carried unopposed.

**Set Next Regular Meeting Date as May 8th, 2013** – The Committee agreed to hold the next meeting on May 8<sup>th</sup>, 2013 at 9:00 AM in the County Board Room.

Upon Ron Tuschner's inquiry about making a statement, Bice agreed. Tuschner stated regarding LIDAR they are all for it in the Towns' Association. Tuschner did not mean to make this a controversial issue at this meeting but he wanted to say that with the present form of government that we have in Trempealeau County right now, with the number of board members that we have. These board members sit on two, three, four committees so Tuschner does understand Mr. Nelson's situation and he does understand all other board members that are up there. When one is on a committee you have to give your full honest opinions for that committee. In some senses just because you are on this committee, I understand that you don't vote aye or nay. Tuschner wanted to make that point clear from the Towns' Association perspective. When you are on a committee you vote specifically for that committee you don't vote for other committees that your on. Tuschner didn't mean that negatively but he wanted that to be known from the Towns' Association perspective.

Lien took the opportunity to thank Dave Quarne and Roland Thompson for all their great years of service with this Committee and Trempealeau County. Lien believed this was their last meeting. The public gave them a round of applause.

Bice commented they have been a part of this Committee for many, many years. In Bice's lifetime he has only known a few people that have the ability to sit back, calm and quiet and respectful and yet always make very pertinent remarks. Our congressman, for example, makes about \$180,000 a year and he kind of claims that he is a life of public service. That is about three times what he could earn in the private sector. The fellows that we have here do a true public service because it is not even a break even job to come and do what they have done all these years. Bice thanks God that we have people that have the ability and the willingness to contribute to the survival of a great society that we have. They certainly have Bice's super thanks.

At 10:28 AM Chairman Bice adjourned the meeting.

Respectfully submitted,  
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary