

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

**REGULAR MEETING MINUTES**  
**May 8th, 2013 9:00 AM**  
**COUNTY BOARD ROOM**

Chairman Bice called the meeting to order at 9:02 AM.

Chairman Bice introduced and welcomed two new Committee members; Jeff Bawek and Kathy Zeglin.

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, Hensel Vold, Jay Low, Ed Patzner Kathy Zeglin and Jeff Bawek.

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

Others present: Paul Millis, Ivan Pronschinske, Tim Zeglin, Mark Gilbertson, Jayne Benedict, Mike Bautch, Rose Ottum, Gerald Hawkenson, Jackie Hawkenson, Bob Tenneson, Dave McDaniel, Ron Rubenzer, Randy Spangler, Tim Marko, Beth Killian, Paul Winey, Robin Jones, Shirley Roberts, Charles Roberge, Rita Sosalla, David Sosalla, Jason Ivers, Milton Davis, Marianne Stonis, Tom Wik, Jeanne Nutter, Bette Moe, Ron Kugel, Darrell Sonsalla, Randy Sonsalla, Pam Knudtson, Gary Knudtson, Margaret Olsen, Roxanne Smothers, Bill Sylla, Donna Brogan, Emery Palmer

**Adoption of Agenda** – Vold made a motion to adopt the agenda as presented, Low seconded, motion to approve carried unopposed.

**Adoption of Minutes** – Nelson made a motion to adopt the 4-10-2013 regular meeting minutes and the 2-26-2013 Joint Committee (Ag & Extension, Property and E & LU) meeting minutes as presented, Brandt seconded. Motion to approve both sets of minutes carried unopposed.

**Public Hearing – Conditional Use Permit – Duplex – Jason Ivers, Owner/Applicant – Town of Pigeon**

Chairman Bice opened the public hearing at 9:03AM. Nelson read the public hearing notice aloud. Lien referred the audience to an overhead aerial photo of the site. Lien stated Section 2.05 of the Comprehensive Zoning Ordinance requires a Conditional Use Permit to build a duplex in Rural Residential zoning. Mr. Ivers is here today requesting that. Lien had in his possession letters from several of the adjoining property owners. The letter was a standardizing letter signed by them which stated, “I have reviewed the proposed plans for the structure that Jason Ivers will be putting on the above noted parcel. By signing this document, I acknowledge that I don’t have any issues or concerns with the proposed duplex”. Lien noted that all of the neighbors that touch the property have signed. Ivers noted that he is basically surrounded by property owned by his parents. Lien received no calls or e-mails, etc. for or against this proposal other than the letters he just mentioned. Lien reminded the Committee that because this is a Conditional Use Permit the Committee does have the right to place conditions on this permit. In the past, Committees have limited duplexes to the number of cars that can be parked outside. Our Ordinance currently states a limit of no more than five unlicensed cars can be sitting on any parcel. Past Committees have also recommended screening and/or tree plantings. Ivers added there will be four garage stalls so there should be enough space for vehicles inside. Bice called for any public testimony three times. Lien read a letter from the Town of Pigeon which stated they approved a plan proposed by Jason Ivers to build a duplex on a property on Sjuggerud Coulee Road. The Board does not have a problem with Ivers

being issued a Conditional Use Permit pending there are no concerns raised at the public hearing. Bice closed the public hearing at 9:08 AM. Brandt made a motion to approve the Conditional Use Permit, Low seconded. Brandt asked if this was a pre-existing parcel of 1.15 acres. Lien responded yes and there is a description on the parcel. Ivers stated it meets all the townships rules and regulations for width, depth, etc. For the record, Bice asked Ivers what it cost to apply for a CUP for the duplex. Ivers responded the cost was \$225.00. Brandt inquired if everything was in place as far as septic systems, etc. Lien responded that was yet to be determined but will be sized according to number of bedrooms of the duplex. Ivers stated the design has been done by Mark Palmer and has been sent into the state. Lien added per State Statute the septic permit has to be issued before the building permit can be issued. Motion to approve the CUP carried unopposed.

**Public Hearing – Conditional Use Permit and Reclamation Permit – Nonmetallic Mine - Add Wash Plant –Ivan Pronschinske and Gerard Sonsalla, Landowner/Applicant, Arcadia, WI and KAW Valley Companies, Inc., Kansas City, KS, Operator - Town of Arcadia** At 9: 10 AM Chairman Bice opened the public hearing. Nelson read the public hearing notice aloud. Budish stated the original plan was for extraction only and the CUP was given preliminary approval by the Committee in January, 2013. Budish continued that the applicant, KAW Valley Company came back with intentions of putting a wash plant up. Budish stated the conditions that were approved in January will still apply for this site also and there are additional conditions for today’s application. Brandt inquired if they are coming back to be permitted for a wash plant and that this operation would be a washing facility only or are they coming back to add a wash plant to the already existing plan to mine? Lien clarified it is an addition to the extraction permit already issued. Lien stated what VerKuilen is handing out right now is what Radtke and Lien had discussed over a year ago, that the Committee should, during these public hearings, be listening to the presentation and to the public and take all these things into consideration before making a decision on the permit. Budish stated the applicants have a PowerPoint that they wish to show. For the benefit of the new Committee members, Paul Millis, attorney from Weld, Prens, Riley and Ricci, Eau Claire and Black River Falls, explained they were here back in January. Millis introduced Tim Marko from SEH Engineering, Ron Rubenzer from SEH and Randy Spangler who is here to address any issues regarding the proposed wet plant. Millis stated Troy Zickert is here to address any concerns about the NSF approved flocculants that they are proposing to use and representing KAW Valley were Tim Kates and Dan Hayes. Millis added they have been to the Town of Arcadia and received approval from them. Millis believed that the Committee has received a letter of support and/or approval from the Town of Arcadia. The last time they were here, Millis stated Brandt was very concerned about Kaw Valley’s relationship with Neal and Nancee Wozney. Millis was happy to report to the Committee that they have resolved those issues and have been able to reach out to them. Millis felt it was one of those situations where reasonable people can disagree, but they were able to come together and make an agreement. Mr. Marko does have a Power Point that gives a little more of an overview of the proposed amendment to the existing Conditional Use Permit. The Conditional Use Permit already in existence has numerous conditions to it that were placed on it by this Committee as recommended by staff and the Town of Arcadia. Marko pointed out the “red” area if the 158 acre permitted mine site that Millis was talking about. Marko pointed out the Pronschinske property and the Gerard and Winifred Sonsalla property. DNR has approved a storm water management plan for the mine site already. Marko noted they have talked to Jim Johnson, from the Highway Dept., which has possibly been working with Radtke on a road use agreement. Johnson indicated that he would be getting back to Marko regarding the short segment of County Road N that they would use to connect to State Highway 95. They are looking forward to getting that agreement back and getting it in place. As one can see the “hashed” area is the proposed wet plant location. That location will include the processing equipment which Spangler will talk about after Marko discusses some of the operations that need to take place. It will also handle the location for the inventory stock piles of the processed sand as it goes through the plant. In addition to the material that we are going to be using to eventually size for frac operations, that site will also contain the 100 mesh material or 100 minus material that is washed off of the existing product and that will also be stockpiled in the pad area. One can see the blue has drawing below and that is a storm water pond that is designed for 100 year, 24 hour storm that is actually taking in about 25 acres of property to the north of that area. Again that is part of the storm water management plan for the mine site. Just to remind the Committee, off on the east side there is the green line where they are keeping the tree buffer along the high ridge along

County Highway N. Reverting back to the wet plant site, that site will actually need to be excavated down about 50 feet in order to put the wet processing plant there. So as part of the mine extraction process, they will be taking that existing land down about 50 feet and the wet processing plant will be constructed there which has a height of about 48 feet. Per the Ordinance that the County has, it talks about the need for a variance if one is exceeding over 35 feet from pre-construction grades and they won't be. They will actually be about at the same elevation once that property gets taken down to put the wet processing plant in there. The operation will be, based on approval, that they would take that property down (first they would build the storm water pond to be able to handle storm water from that area) in order to have a pad to put the wet processing plant on. They also have a site selected for a high capacity well up in the northeast corner of that pad. They will be designing that and submitting that to the DNR for a permit for that high capacity well. They are proposing to construct three monitoring wells adjacent to the site that would be in place prior to them doing any test pumping of the high capacity well so that they can look at the cone of depression in the primary well and see how that is being affected by these perimeter monitoring wells that are going in. In addition to that, they are in the process right now, as part of the County requirements to do inspections and to take sampling of the existing private wells within a half mile of the mine site. Marko thought there were about sixteen wells and they have eleven of the access agreements back right now which would allow them go in and start doing that work. They are looking for about a 500 gallon per minute high capacity well permit. That well will be used to supplement water into the wet processing plant because they will be looking at reclaiming that water to minimize the amount of water that is needed for the process. In addition to that it will be used to proactively take care of dust control and mitigate any sort of dust on the site in advance of any sort of dust blowing around. As they get the well in place and as the processed equipment is in place and preparing for operation, they will design another basin off to the west of the blue "hashed" area. That basin will follow County requirements to be concrete lined. That will be a basin that will collect the decamp water coming out of the inventory stock piles and also from the washed 100 mesh material (real fine stuff) to collect all of that material into that basin and then that water will be pulled off of that basin and pumped back to the front of the wet processing plant again to help re-use water in this process. Marko turned the meeting over to Randy Spangler to talk about the wet processing equipment and its operation. Spangler introduced himself saying he owns a company called Westerman Supply Incorporated. They are a mining equipment dealership consultation company that does mining consultation in North America and around the world. They currently have several of these plants constructed and built in the State of Wisconsin and they are up and running. This plant will mirror those other plants that are running. It is a very simple design and a very simple concept. Spangler explained a little bit of how the whole process works. If one looks at the drawing on the screen, it starts out with a feed bin – the haul trucks bring the raw material up, dump it into the bin and it is conveyed up a conveyor to a wet screening operation where the sand is then washed, rinsed through screens (typically down to about 1/8<sup>th</sup> of an inch. Anything oversized is kicked off as a rock or a gravel product which is usually used in the mine for roads and different things. The mine is 1/8<sup>th</sup> inch sand which comes out of the screen (screen requires about 1500 – 2000 gallons per minute of water for the washing/rinsing process). Brandt verified that Spangler stated 1500- 2000 gallons per minute. They strive to recirculate every gallon of water that they can. The only water that is lost in this process is through absorption and evaporation, the rest is brought back and reused, hence when Marko had mentioned the 500 gallon per minute high cap well, 500 gallon a minute, 5-6 hours a day is enough to replenish what we use up in absorption or evaporation. Sand is pumped into a hydrosizing tank which is a fairly simple operation. It is a big enclosed, ten foot diameter tank with spray bars in the bottom of it. The tank is full of water, the sand is dumped in and as the sand settles down through that water all these spray bars in the bottom of the tank have gotten pressure on them with fresh water. That water is what is called rising current. That water comes up through there and is spilled over at the very top of the tank into a catch basin. With the exact cut of water, the exact gallons of water, the exact amount of sand one can make this cut in this sand of the different grades. The courser sand settles down at the bottom of the tank, the finer sand travels up with the water and goes over, so one can make whatever cut they want and actually be very precise about it, if everything is very accurate. The waste sand and water comes out and goes into a big catch basin or tank. That is then pumped to the settling ponds or clarifying tanks or whatever the water treatment system is going to be after that point. The course sand that is brought out is put into what is called a "sand screw" which is a giant auger that augers the sand up and out of the water and starts to decant or get as much water out of it, from there it can be put into a dewatering screen. Usually at that point there is

15-18% moisture left into the sand after it has come out of the “sand screw”. Spangler stated that was basically it. At that point one has a graded material that can then be taken and used in the industrial minerals for different things. It isn’t actually, truly a frac sand. At that point it is a graded, sized product. Some of it can be used for frac sand, cattle bedding or glass sand depending on the markets, etc. There are different customers using the fine sand and the course sands for the different products. The majority of it is used for frac sand, once they dry it and split it and make the size cuts with the drying process (that happens at a different location). Spangler stated the plant is all electric, all the pumps are electric. The noise impact is very minimal. Spangler checked one the other day with a dosimeter (he was 100 feet away from the plant) and he had less than 70 decibels. The noisiest piece on the plant is the screen. When it is running, it is a vibratory unit so one can hear that running and humming. Spangler noted it isn’t one of these big flashy plants like some of us have seen around the country. North of Eau Claire some of those plants are huge and a big monstrosity. These are not that. Spangler showed the audience some pictures of a “feed” plant, an electric utilities building, the freshwater pumps (8 inch pumps with 200 horsepower electric motors), piles of sand and stacking conveyor (which they built last fall). Spangler mentioned that building the bigger piles usually happens in the midsummer going into fall time because these companies want to keep working throughout the winter and naturally one can’t wash sand in the winter time, so they need to put up some stockpiles in the late summer, early fall to get through the 3-4 months of winter time. Spangler showed a picture of the side profile of the complete plant noting the size is usually 150 X 150 feet and also the primary screening plant (6 X 23 deck screen which they screen down to 1/8 inch on). Bice inquired, once the material is screened and washed, how soon the rejected material goes back into the reclaimed site. Spangler responded that depends on the situation that the mine site has. Some sites will take and have settling ponds that the fine material is settled in, and it depends on the reserve as to how fine the sand is, where they are making a cut, and how much material is being washed. When one gets into situations where clarifying tanks, etc. are used, a lot of the fine sand is spun off and that is then dewatered and can be hauled out almost immediately back to the reclamation. Spangler reiterated it depends on the site and on the ultra-fines that are usually settled out in a clarifying tank. Bice inquired what percentage of the product is going to stay on the site rather than be hauled. Spangler estimated as best he could, based on the cut, less than 25%. Millis stated they had Dr. Severson prepare a study for them regarding that. Millis didn’t have the report with him but his recollection was that 25%. Bice clarified that basically three-fourths of the material will remain on site and not be trucked down the roads. Millis and Spangler responded it will be just the opposite. Low stated that will result in a reduction of traffic. Millis responded not necessarily as they will still be shipping product out. They are still planning on six to twelve trucks. Spangler added if one is mining 100,000 ton than 75,000 ton would be leaving the site and 25,000 ton will be staying there. Spangler stated that is one of the reasons KAW Valley is here. Rather than truck this material to another location (the 100,000 tons would be trucked) the fine product would be kept where it belongs. All that would be hauled is the usable, sellable product. Marko turned the meeting over to Troy Zickert to talk about the flocculent agents that are being proposed for use. Zickert stated his role here today is to provide a little bit of education on the use of the flocculants. As Spangler had indicated the P200 material and the washed clays are very fine. That material, by regulation, needs to be used for reclamation of the mine. In order to get that material out of the water and reduce the over all run time of the high capacity wells, they add approximately 1 to 1.5 parts per million of the ionic flocculent to the water to aid in flocculation in there for settlement of that material in these basins. It allows for the thickening of that material and improves the handling of it while providing clarified water to put back in the process, hence, the 500 gallon per minute high capacity well with the limited daily run time versus the 2000 gallon per minute water use in the wash plant. Zickert asked if there were any general questions regarding flocculants? Upon Bawek asking if it was biodegradable, Zickert answered it is. Bawek inquired how long it takes. Zickert responded typically one to three days if the half life. Zickert continued that the polyacrylamide that they use is not the issue. The acrylamide monomer is polymerized to make polyacrylamides. They have been commercially used in paper, mining, meat processing, packaging, and shingle manufacturing since 1952. The acrylamide monomer has a reputation as a neurotoxin, is not biocumulated. Zickert stated what people cross reference a lot, incorrectly, is that we are adding acrylamide to the system at these levels, and they’re not. At 1 to 1.5 parts per million of polyacrylamide, one is then adding at a maximum 500 parts per million of acrylamide. If you do the math on that you’re talking parts per billion of acrylamide and the acrylamide half life is in the one to three days. Bawek inquired if that was exposed to air and if is it also the same way when it

is buried – biodegradable. Zickert responded it is all anaerobic. Anaerobic are very similar rates at those low levels. Zickert thought 96 hours was the maximum that they found at a similar site called Belvidere Sand and Gravel in New Jersey. Zickert noted that study was actually done by the US Department of Health and Human Services and has been ongoing since 2000. Zickert provides polymer to a number of different industrial settings. It is used, as indicated, in food processing. All sugar is exposed to the exact same chemistry that they have proposed here. NSF certification, which was mentioned before, means that these materials are used in clarification of potable water to remove from streams and lakes. That has been ongoing, again, since the mid 60's. Individuals often don't understand how common these materials are in their daily life. The paper that we are writing on, every piece of that paper was used making polymers. Many food packagings are grease proof and the grease proof material is created using polyacrylamides. One of the key DNR materials used for mine reclamation is paper waste. They process paper waste using literally pounds per ton of polyacrylamide. Zickert thought it was interesting that the DNR used the paper waste as one of their key reclamation additives for these mines sites. Bawek asked for an estimate as to how much flocculent would be used per ton of sand or per acre. Zickert responded it would be on a per ton basis and one would not exceed about .2 pounds per ton of polymer per ton of sand. Bawek clarified .2 pounds. Zickert added that would be a high level for these basins. Bawek clarified that what Zickert was telling us is that there would not be any residual effects down the road once it is put back into reclamation. Zickert responded correct. They have found none to date in any of these mines. Zickert stated that is another interesting fact that as we sit here there is 100 nonmetallic mining permits in the State but they all fall under the same regulations but the use of flocculants for water clarification in these particular facilities have really been a hot button and that is the key reason. As Zickert indicated it is used in literally hundreds of different water clarification projects. Zeglin stated the concrete holding pond will be concrete lined and questioned how thick the concrete will be. Marko responded he thought five inches. Lien commented he thought they use the same standard that NRCS uses which is reinforced five inches thick. Zeglin stated Mr. Spangler had mentioned this is a mirror of other plants and inquired where those other plants were located. Spangler responded there is a plant like this in Tomah, Black River Falls, Neillsville, two up in Baron County, Winona (noting the one in Winona is a smaller designed, prototype) than the ones that he has pictures of. Bice inquired if there was anything else the applicants wanted to add. Millis stated they have received the proposed conditions from Lien and Budish and reviewed them. They certainly don't have any issues with any of them and one of them does address the concrete lining of the sediment pond. At the appropriate time, Millis would like to ask the Committee to consider an option for one of them. Millis had briefly talked to Lien about it this morning, but they haven't been able to discuss it a whole lot. Marko reiterated that when he had mentioned the pad area where the proposed wet processing plant equipment is, that location is going to be reduced in elevation by 50 feet. Per the Ordinances that they are looking at, they see that it talks about height requirements with regard to the need to apply for a variance in exceeding that 35 foot height. "Except as provided no building, structure or sign shall exceed 35 feet in height of the preconstruction grade elevation". So they have the preconstruction grade elevation that is there, they are going to take that down at least 50 feet from there so they wouldn't be looking at a variance request to exceed that 35 feet. As Mr. Spangler indicated they are looking at the height of the tower to be about 48 feet so it will be a couple of feet below the existing ground that is there right now with regard to the height of that equipment. Millis added that was their interpretation of the Ordinance. Millis hasn't had a chance to talk to Radtke or Lien about it, but with the pre-construction grade being at a certain level, and they are grading that down, it was their interpretation that they wouldn't need a variance, but they would refer to the County. Upon Bice's inquiry about any further information, Millis responded they had none but would like the opportunity to respond to any comments. Bice called for public testimony. Bice stated all testimony will be limited to three minutes. Bice also asked that for those registering in opposition but not testifying he felt it would be more helpful if we knew why one is in opposition, but that was ones' choice.

**Darrel Sonsalla** – Registered in favor but not testify.

At this point Lien questioned if Bice was going to ask the same as to why they registered in favor but not testify. Bice thought that meant that they generally like it. Lien questioned if that generally meant the same as the other folks that they don't like it. Lien felt that was being fair. Bice stated he would make the same

statement to those people but suggested that if you like something you understand that you apparently like it and if you don't we don't know why you don't like it, so he thought it would be more helpful to the Committee if we knew what the opposition was. Bice suggested that anyone here that wants to register in favor but not testify to give us a hint as to what the issue is there.

**Randy Sonsalla** – Registered in favor but not testify.

**Donna Brogan** – Registered to testify in opposition. Brogan stated she lives in the Town of Arcadia. Her objection to this project is the same as it was when the original project was brought forward which is to say that this was the personal project of Ivan Pronschinske who is one of three board members on the Town Board of Arcadia. Brogan didn't think then and she doesn't think now that town board members should be bringing forward their own sand mine projects all the while they are deliberating on other peoples' sand mine projects. It seems to Brogan a clear conflict of interest. Brogan has talked to Ivan about this before and knows that he doesn't feel that there was a conflict and he must feel that honestly but Brogan feels that even the appearance of a conflict is very troubling to a lot of us in the community. The approval process for these permits starts at the town board level and Brogan knows that once it gets to the County Committee you have a very different standard. You had somebody on the Committee who was working on a project of his own and all the while he was a member of this Committee, he was not allowed to vote or deliberate in any way on any sand mine projects. He was encouraged to resign and he finally did that. We don't do that at the town board level and Brogan thinks that these projects that are brought forward that clearly have a lot of influence in the community and should not be wielding that influence in the way they are, should matter to this community. Brogan thinks they should reject this "out of hand" and send a message to all the town board people that they should not be working both sides of the case.

**Roseanne Smothers** – Registered in opposition but not testify.

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

**Shirley Roberts** – Registered to testify in opposition. Roberts asked Lien to read her letter. My husband and I live at the top of the hill past Ivan Pronschinske's twenty five acres. I have lived here since 1992 on 200 acres dedicated to producing wood products. Our property is bordered on three sides of bluffs with an opening on the west side facing County Highway N. This rock formation creates an amphitheater which amplifies noise from the surrounding area. Noise from a wash station will be intolerable. Since we built our house, many people have moved to our area building very nice homes with extensive landscaping. We all value the peace and quiet. Several ponds are stocked with fish. A quarry was active next to our property for a short time after we purchased it. Luckily this did not last long. Our house shook from the blasting and big trucks were always on Highway N. The noise from the proposed project at Highway 95/County Road N would be intolerable. Fumes from the trucks and equipment together with silica dust (the new asbestos) will render our homestead unlivable. Serious consideration should be given to the heavy traffic that will be generated by the project. Highway 95 is already extremely busy at certain times of the day, particularly shift workers employed in Arcadia. A steep incline east of the project could contribute to a serious accident if a driver lost control. A blind corner to the west has always been scary. Are the owners/operators of the project going to live next to the project with their families? If not, this permit should be denied for this reason and several other reasons.

**Paul Winey** – Registered to testify in opposition – I respectfully request that you deny the approval to the amendment to the KAW Valley CUP to include a wash plant. With the addition of a wash plant there is obviously more processing. This results in more handling and stockpiling of a refined product and an increase in silica particulate matter. Of this, PM 2.5 is the known cancer causing component of silica and will increase proportionately. There are already three mines within a short distance that have unmonitored stockpiles of washed and raw sand. No one is monitoring these mines and neighbors are being exposed needlessly to a known cancer causing agent. Please do not add to this problem. Instead, processing can take place in a true industrial setting where tighter control standards can be imposed and public protected. Should you grant this

amendment I would request that you stipulate additional air quality monitors to include the PM 2.5. This testing should be completed at upwind and downwind sites, before, during and after construction as well as during operation at peak capacity and compare to days of inactivity. It should be carried out for a minimum of two years of operation and periodic review for extension if indicated. We should not solely rely upon DNR standards as these are only minimums and are not protective of those living near these mines. Please deny this CUP amendment or include tighter standards. I've included as a second page a map that was created with the online services. Each one of these small circles is approximately a half mile in diameter. As you can see to the west is the City of Arcadia, to the east Blair, to the north Whitehall. Right now the blue indicates any mines that are opened and permitted, the green – mines that are permitted but not yet open the yellow- ones that are being proposed and one being talked about later this morning. The red is the FTS/Proppant mine. This is the only one in the area that will be required by DNR to have any air quality monitoring and that is in the works right now. As you can see there really is a daisy chain of the six mines that overlap – from Arcadia Sands (within the City of Arcadia) to the Alpine Mine just south of our residence. This is creating quite a saturation, in fact, while each mine may be able to meet their individual standards as far as pollution control, each one is going to add a cumulative affect to the others. I have a greater concern about individuals residing in American Heights to the south of many of these mines and to those along North Creek Road as well as my family. So I would ask you to consider denying the permit or if you cannot choose to do that, including much, much tighter standards on air quality. Winey believed that Mr. Spangler himself spoke to creating larger stockpiles that will be unmonitored throughout the winter months when water is turned off and it would be very difficult to control dust and we have had very dry winters. So even the industry is recognizing they are creating what could be a potential problem.

**Jayne Benedict** – Registered to testify in opposition – My home is across the road from Fagernes church where County Road D and N meet at the top of Square Bluff. There are 13 sand operations plus one rumored, two washing plants plus the wash plant being considered today all within a nine mile radius of my home, one of them being right down the hill. We have six acres on the hill. My husband and I have tended the earth and planted much over the years. We raised our kids here, planned to retire here, die and be buried here and will a little piece of earth to our grandchildren. Those of you who have approved the destruction around me have stolen our dreams, our lives and our legacy. You are thieves of the worst kind. Shame on us, the people for trusting in you to do the right thing, and shame on you for selling us out. There are many health ramifications to all of this. I live where I do because it is peaceful and beautiful. It is calming and daily reminds me of the beauty and love of God. I have many health problems and my home is my sanctuary to keep me as stress free and calm by working the earth and listening to the songs of the country. You have stolen that from me since the approval of Tenneson's and Husmoen's and Highway 53. I finally realized what is happening around me. You people need to take a break. Stop and see what is going to transpire for the community before approving any more contracts. The health of the families in this community need to be considered. All of God's creations are at risk here, give us time, pay attention and see what we will be dealing with. This is all so brand new. Nobody knows what will happen to our people, our water, our streams, our land, our children, the creatures. There is just not enough evidence. When you have the knowledge and evidence then take the next step whatever that may be. For me it is already too late. There are so many sand mines surrounding me (crying). When you people in this community chose to ruin our lives and destroy our land and homes you should have made it mandatory for these sand mines to have to be responsible for the people that choose to lose their homes and start over. You can't blame the people that have sold and now people are selling just to get out. But our homes are worth nothing. Nobody in their right mind would move into this area. The mine companies should be responsible and accountable to the people whose lives and homes they have ruined. Our homes are worth nothing. I am sure as I move forward in my crusade there will be many more people that feel as I do. For those of us that stay there will be lawsuits from those that have gotten cancer, leukemia, lung diseases, autoimmune disorders, heart attacks and poisoned from the air we breathe and the water we drink and the wrongful death suits. This is a dark time coming for us here. Everybody whether you are opposed, you've got to speak up, we have got to speak up. It has already happened, it is too late as far as tourism-our animals, our hills, our valleys. The other night I took a road over by Haas's over in the hills and saw all the cows grazing, the sun was setting, and it was beautiful. Where you are proposing right now the cows are there and it is beautiful. From State

Highway 95 where you are to Arcadia there are seven mines and now you want another washing plant. What about the wetlands across the street? Who is going to protect them? You say that these chemicals that you are using have been from the 50's – alright everybody knows that because of what we have done to our food we are killing our children. Children are having diseases of the pancreas, lungs, and leukemia's. Look what is happening to us with all these autoimmune disorders – does that make it all right because we aren't going to do any worse than what we have already done. Please pay attention here.

**Bill Sylla** – Registered but he had already left to attend the City of Whitehall meeting.

**Linda Mossman** – Registered to testify in opposition. – Mossman had also left to attend the City of Whitehall meeting.

**Margaret Olson** – Registered to appear and testify for information only. Olson stated she felt an important point was made about taking the time to do a cumulative impact study. She thought that was very important. She understood that this proposal involves trucking. At the March 28<sup>th</sup> meeting she heard referenced, twice during that meeting about rails. Olson quoted the chairman's word, "we're working toward all rail very soon". Olson was wondering who "we" was. Bice responded that if Olson was quoting him and he said that (he stated it was definitely not him) but what he understood was that if you don't ship your sand by rail real soon you will not be able to sell it because it can't be competitive. Bice stated he has no involvement with any rail industry, any rail spur, and has nobody that he is working with, with any rail. Bice would encourage rail. He thinks it is a positive thing for getting this product to market rather than trucking it on our roads. Olson stated Bice actually used those words twice that day, once over at the old school and once over here when one of the other Committee members asked about the condition of a rail that was in Phase 2 (Highway 53 site) and there again Bice stated, "we're working on the rails". Olson again inquired who was "we". Bice responded it was not this Committee nor him, nobody he is associated with that he knows of is working on rail. Bice will say that he encourages rail. If we are going to ship sand out of Trempealeau County rail is the way to go.

Lien had another letter, which Millis had referenced from Neal and Nancee Wozney. The letter stated this is to advise that we have come to an agreement with KAW Valley regarding our property. We will not object to the pending Conditional Use Permit application for a sand processing plan adjacent to our property.

Budish had a letter from the Town of Arcadia dated March 13<sup>th</sup>, 2013 which was received by the DLM (Department of Land Management) office on March 18<sup>th</sup>, 2013. The letter stated that the Town of Arcadia Board of Supervisors have been informed that KAW Valley Nonmetallic Sand mine have applied to the Trempealeau County DLM for a permit to establish a wet processing plan onsite. The Town of Arcadia Board of Supervisors have passed a motion at their February 26<sup>th</sup>, 2013 board meeting stating they have no objection to Trempealeau County E & LU Committee issuing a permit. Budish noted there were no conditions attached.

At this point, Jayne Benedict requested that Lien read the goals of the Department of Land Management.

1. Preserve, protect and enhance land and water resources of Trempealeau County.
2. Protect the health, safety, welfare and quality of life of Trempealeau County residents.
3. Provide for efficient, responsible, timely and accountable land management services to County residents and landowners.
4. Provide for the efficient and orderly development of Trempealeau County.
5. Trempealeau County Environment and Land Use Committee strive to implement the goals of the Trempealeau County Land and Water Plan and the Comprehensive Zoning Ordinance.
6. Cooperate with other appropriate committees, departments, county's, state and federal agencies on land management issues.
7. Formalize communication with town boards on land management issues.

Bice mentioned that they've gone through that list time after time and it is a very good list.

Millis stated they recognize the concerns and they are concerns that they have heard before. Consistent with the goals that were just read it is the job of Lien and his staff to make sure that this project complies with the Ordinances. Millis thought we have heard hear today that they have a plan in place that is going to protect and preserve the public. How does one do that? By the conditions that you place on this project. There are already numerous conditions on it. Lien and Budish have seven more proposed conditions which are acceptable to KAW Valley. Millis asked that they be allowed to move forward with the wet plant. Millis noted this is already a permitted site so they are not asking for a permit for nonmetallic mining, they are just asking for a permit to do wet processing there. In addressing Winey's concern, Millis stated one of the conditions that the staff is recommending is a movable air monitor at the expense of KAW Valley and at their direction the filter would be sent in for analysis at any given time that they desire. Millis reiterated that they are addressing that through the conditions being placed on the project. Bice called for any other public testimony three times.

**Tom Wik** – Registered in opposition but not testify.

Roseann Smothers stated Spangler had said he has a mining equipment and consultation business and inquired whether he was paid to come here and testify. Spangler responded no. Zickert stated he was not paid to be here. Bice closed the public hearing at 10:16 AM.

Low made a motion to approve the addition of the wash plant to the KAW Valley site, Bice seconded the motion.

Brandt stated that Millis had suggested that this is a permitted site and that this public hearing is for a CUP for a wet plant only. Brandt's understanding was that because this is a significant change to the original permit, that by requesting that significant change they are in fact opening up the entire permit process so that it is the option of this Committee to change any of the conditions from the previous permit as well as adding permission to do the wash plant? Brandt asked for clarification. Radtke stated that whatever conditions are adopted, that if they are adopted or modified, it would have to relate to the application for the amendment that is made here, so there has to be some relationship between the two.

Brandt had a number of concerns. Radtke having answered the question that way, Brandt was going to assume that the applicants understand that the proposal that was brought forth the last time, which they are permitted for is in fact the proposal that they will be working under going forward. Brandt's concern has to do with the operation/site plan that was submitted for this wash plant which mirrors the previous site plan with the exception that there are a number of storm water infiltration basins that don't appear on the new site plan. There is also an existing tree line on the north and west part of the property that no longer exists on the current site plan that is being used for the wash plant. There is also a building to remain (Darrell Sonsalla's home) which doesn't exist on the existing site plan. Based on Radtke's interpretation we have approved this and Brandt would like some guarantee or assurance that this is the plan that they will be mining with in terms of the infiltration basins, keeping the trees on the west and north side and leaving Darrel's house alone. Marko responded that the site plan that was presented and submitted for the mine site is the site plan with the approved storm water management plan by the DNR. They put all those infiltration basins on this drawing for the wet plant. Part of the element that Marko discussed with the Committee is that they will be redesigning another basin to collect the wash water coming off of the stockpiles of material. All of the storm water ponds that are shown are part of the plan. Vold stated that they had said the processing plant would be 50 feet cut down but yet the storm water basin is there at the level that it is right now and inquired if they will be cutting that down. Marko replied the storm water basin is at about its grade there to be able to collect the surrounding water. Marko continued that it will be dug in, in order to create the capacity needed to handle the 100 year/24 hour storm event. Upon Vold's inquiry if it would be dug down below the 50 feet, Marko responded that will be dug down in its' current location there and that will be collecting the surface water drainage from the site. Marko added the other pond (basin) that we are talking about is the settlement pond. Zeglin stated they had logged seven wells and inquired if they were primarily for single family homes, farmsteads, livestock use or do we know how these wells are being used. Marko stated they are all domestic use wells. Marko thought the total

identified within the ½ mile radius of the mine site (per county codes) was sixteen. Those are the wells that they will doing inspections on and also taking a water quality test from as a baseline prior to any activity out of this mine site. Zeglin added that the water use from each of those wells will definitely vary usage wise between household and livestock as if one is a dairy farmer they use a lot more water than a single family home. It was Marko's understanding that other than the well that is south of this property at the other mine site, none of these wells are high capacity wells and the DNR rates high capacity wells as any well greater or equal to 70 gallons per minute or the ability to pump 70 gallons per minute, sustained. Marko would classify all the wells he is talking about as domestic wells whether they are located to a barn or that type of facility or whether they are there for a single resident family. Upon Zeglin's inquiry about livestock in the area, Marko wasn't sure. Patzner inquired what would happen if one of the wells went dry. Marko responded they will put those three monitoring wells on so they can monitor the drawdown that is taking place, if there is drawdown. They anticipate constructing the high capacity well in a deeper aquifer than the shallower aquifer that is used for these domestic wells. Marko didn't anticipate any problems like that because there is quite an aquifer of water available. Patzner asked if they would take care of the well if it was a problem. Marko replied if there was a problem that was caused by this site, there would be a lot of parties involved in it, the DNR, etc. Patzner thought that should be written in there because one can say these things but if it isn't written in the contract, who is going to pay for the well? Lien responded that in some cases the Committee has conditioned that in the past. Lien stated it really comes down to a civil issue because if the well goes dry, the applicant is going to point the finger at the mining company and the mining company is, in reality, going to say we need to have proof. Lien himself had a well that ran dry in about 2008 and there wasn't any mining activity around him. It becomes a civil issue where the landowner needs to prove why. Lien felt if there was proof that the mining company adversely affected it somehow, he is sure they would come forward with that. The reality is that this Committee can't really be the overseer because it becomes a civil issue. In regard to the high capacity well, for the DNR they will be doing a drawdown requirement. There will be a cone of depression that will take place from the groundwater level in this location. As it pumps, it will asymptotically move back up to that original groundwater elevation. As Marko mentioned, they are proposing to put some monitoring wells out on the property line so that they can monitor what is going on at those locations to know whether there is any adverse effect taking place out farther away. These private wells that we are talking about are within that half mile radius. Bawek inquired if we had normally asked that they be in a different aquifer than the local wells? Lien responded it depends on the gallons per minute. Typically, when they get to this level, they are going to be in the Wonnewoc formation where the Eau Claire formation is typically where most well waters are at. Bawek stated the plan says "Cambrian". Marko explained one of the things the DNR will look at as they permit this high capacity well is any adverse drawdown that might be taking place during this well test pump. Quite often they may make one put a casing down further in that well in order to cut off taking any water from those shallower locations. It is something that the DNR takes a very close look at during the permit process. Bawek understood that they have the ability to haul water offsite. Bawek suggested that it would be a good policy to have this well not in the local aquifer. Bice responded they had already stated that they are going to be in a much deeper aquifer. Bawek stated he didn't understand that because it is not stated in their groundwater information. Marko replied stating those terms of shallow aquifer, deeper aquifer, are kind of interchanged. Marko explained they are going to go to a deeper location in order to draw this water instead of being up closer to the surface (maybe at the 125 foot level) to be trying to draw water from that location and then taking it away from these domestic wells. They are going to be at a deeper location to look at getting a permitted high capacity well and that is something that the DNR will be review very carefully and will look at the test pumping data as well as their drawdown indicators with those monitoring wells. Brandt inquired of Budish as to how far along KAW Valley was in meeting all the conditions of their previous permit (in terms of the DNR permits, road use agreement). Budish stated he has received a Notice of Intent for the storm water from DNR. Budish thought they could address where they are at in certain situations. Marko mentioned they had talked to Mr. Johnson (Highway Dept.) and he was working with Corporation Counsel to put a road use agreement together to give to KAW Valley with regard to that segment of County highway. Brandt inquired about the reclamation bond? Budish replied the financial assurance amount has been determined and is pending. Zeglin asked if the monitoring well depths are at the same depth as the surrounding landowner's wells. Marko responded they will want to intercept the groundwater elevation so those will be deep enough so that we have at least twenty feet of

screen below the ground water surface so that we can determine any sort of drawdown with those monitoring wells during the high capacity well pumping. Marko added the other wells are farther away and we are going to make sure that we can really demonstrate what is happening with this high capacity well and that groundwater table comes out within the area there. Bice asked Lien to address his thoughts on the high capacity wells in relation to the local wells involved. Shirley Roberts commented that her son is in the well business. He said all the wells on the top of the ridge are very low because of the drought for four years. Several neighbors have sand, etc. in their wells and if there is any more water drawn, all of those people on the top will be out of water. Lien explained that Trempealeau County is one of the rare county's that has been given well delegation authority from the DNR, but Lien thought that ended at 70 gallons per minute. Everything beyond that is considered a high cap well and the DNR issues that, so wells that are less than 70 gallons per minute the County does issue permits for that. Brandt asked why the applicant didn't apply for a wash plant in the first permit as Brandt had asked that question specifically in the first hearing. Brandt was assured at that time that it wasn't going to. Marko responded that it was an addition to their client's (KAW Valley) wishes to site a wash plant. Marko felt if they had planned on that from the beginning they would have rather done that all in one motion instead of adding it after the fact. Millis stated their original business model did not include a wash plant. Given what is going on in the industry, for them to be successful here, they have made the business decision to do a wash plant that was located onsite. As we all know the best laid plans sometime need to be changed. There wasn't anything that was brought before this Committee beforehand to try to misrepresent anything. This is a true business decision that came out after the fact. Bawek understood that the original permit allowed raw extraction and the original plan is to be followed and just add a wash plant. They will still follow the original raw plant conditions. Marko stated they will follow the original extraction permit. Bawek asked about reclamation? Millis responded those conditions are still in place unless KAW Valley comes back and asks for a modification of those and they will have to comply with those going forward also. Bawek read aloud from the plan, "permitted raw extraction where Phase 1 was mined and then reclaimed as Phase 2 was mined and sequentially thereafter maximum public exposure is in Phase 1 and 2. In approximately 3 years time, mining exposure along State Highway 95 and County N would be completed. Wet plant processing would open parts of Phases 1, 2, 3, and 4 for the entire projected mine life to 2027. Buffering has actually decreased with the installation of a wet plant. An open line of site from State Highway 95 and County Road N to the wet plant would compound public exposure and complaints. Wet plant processing concentrates noise, smells, traffic and dust. This creates a public safety issue at the intersection of two busy highways that was not there before. It also opens the possibility of immediate water contamination". In talking about elevations for the wet plant, the elevation for the wet plant on County Road N is 864 feet; the wet plant base floor is 890 feet correct? Marko responded the base elevation for the wet plant is 920. They are going to keep about 20 feet of material there. The bottom of the mine is around 890 or 900 and they are maintaining that 10 foot of separation there with the groundwater table. Bawek asked how steep the access road would be going down on to County Road N and also where the access road enters onto County N and read aloud from the plan "dominant southwest summer breezes will directly impact adjacent house site from the proposed new access roads because of the dominant southwest winds and the traffic coming out". Bawek felt that was an issue. Upon Brandt's inquiry if this was a new access road. Lien and Marko responded it was in the same location. Bice mentioned Bawek was concerned about the steepness. Marko explained the detailed design hasn't been done yet, but it is going to have to be at a grade that the trucks can maneuver, so they are kind of swinging around and following the existing "berm" with the existing tree canopy on it to get to the wetland site. Bawek asked if the access road intersects at a 90 degree angle which is required in zoning. Lien responded that it would have to. Bawek inquired what the distance was from County Road N to the intersection. Bawek is questioning that because if there is a semi, a tractor and an implement and two cars (like they pile up behind a tractor and implement) and the semi is turning onto County Road N from State Highway 95, coming from the east, and then there is a tractor and implement and two cars wanting to turn, Bawek wondered if they can all get on that length of highway before the access road. Marko responded it looks like it is probably less than 90 but they will make sure it is 90 when they connect to County Highway N, but it looks like the connection point is somewhere around 2-300 feet from the access road into the mine site to State Highway 95. Bawek noted there is a big difference between 2 and 300. Marko stated 300. Bawek noted he has asked to have that measured and it looked like it was slightly under that. Bawek inquired about the berm or ditch around the wet plant and which

one it was, how high and how deep? Bawek voiced that it makes a big difference to the public as to how they view? Marko stated it looks like it is just 300 feet from the access road to State Highway 95. Bawek asked if Marko had checked with anybody to see what type of distances are safe for the amount of traffic that will be coming in there? Marko responded the discussions that they have had with the County Highway Commission, was looking at the intersection and agreeing that it is designed geometrically to handle the traffic and looking at where their access location is into the mine. Similarly they have talked with the WISDOT and they have looked at the geometrics of the intersection and looked at the route that caused planning with regard to exiting from this site and heading west and coming back to the site from the east to take those right turn lanes that are there. Those are the discussions that Marko has had with those authorities at this point. Bawek clarified that they hadn't discussed the access onto County Road N and the distance. Marko responded they have discussed that and have shown that to Johnson (County Highway Commissioner). Johnson had met with Dan Hayes at the site and had also discussed the situation with Marko. Bawek asked what Johnson's feelings were on that and if there was enough room for traffic to safely use that highway when they want to get off State Highway 95. Marko responded he couldn't put words in Johnson's mouth and wasn't sure they had talked about that specifically. Bawek asked if that was something that could be found out. Millis responded Mr. Hayes is here and indicated that Mr. Johnson raised no concerns about that intersection (County N and State Highway 95). Bawek asked if he took into consideration the traffic. Vold inquired of Lien if there wasn't a 300 foot minimum on driveways. Lien responded the Highway Department has the authority to issue a driveway permit, but the County has in the Comprehensive Zoning Ordinance set highway requirements and a 400 foot sight distance is required either direction and then there is also a driveway slope requirements tapered back from the shoulder, etc. Lien suggested to Bawek, if he felt more comfortable, that when the Committee starts discussing conditions he make a recommendation that they meet with the Trempealeau County Highway Department or get Johnson's approval as they will be working on a Road Use Agreement anyway and then that issue would be covered. Bawek inquired if Johnson would listen to his concerns as to the type and length and the amount of traffic? Bawek noted that he has used the road for thirty three years and it is fine to have this mine, but suggested we make it so that we can all use the road safely. Bawek reiterated his concern of whether that is enough distance. Marko added they want it to be safe also so they will be working with Johnson to make sure. Millis stated if Bawek wanted them to notify him when they meet with Johnson they would certainly let him know and Bawek could be present to be involved in those discussions also. Millis added if Bawek has a concern, they want to address it. Bawek asked about Phase 1, 2, and 4 being open whereas in the original plan they talk about sequentially 1, 2, 3 and 4. Now 1,2,3,4 will be open until 2027? Bawek asked how we handle that and how does one buffer it – are you going to leave more frontage so that it won't be seen? Marko responded it won't be open. They are going to be excavating and extracting to get to the mine elevation and basically taking the material from that area and stockpiling it until they are able to process it. Marko continued if Bawek is saying that is going to leave it open and using that term then it is a change to allow the construction of the wet plant. Bawek verified that it is a change to the original plan. Marko responded it is where they are siting the wet plant, yes, but their intent is then to pick up and work back on that sequential pattern there from the original mine permit. Bawek asked if they would be willing to change by leaving the front buffer and mine that last so that would leave the least amount of public exposure to the dust and noise and sight. Bawek explained that people have a tendency to look when they reach this intersection. Just a few days prior, Bawek was coming home with a tractor and an implement at 7:30 PM and this intersection is a large rounding curve. Bawek had his tractor flashers on. There is a County Road N sign probably 3-400 feet, then there is a mailbox and then there is another County Road N sign right at the intersection. Bawek had his flashers on, he signaled at the mailbox and he saw a semi in his rear view mirror coming. When Bawek put his flashers on, the semi is already looking past the corner and not paying attention to Bawek. Bawek was turning in and the semi passed him. The semi swerved and he hit the right side gravel (traveling east) and that is what is going on at this intersection. It needs to be addressed. Millis reiterated again that they are going to work with the County Highway Commissioner. Marko added that is why KAW Valley has picked their haul routes the way they have so that the traffic that they are putting on the roadways is exiting heading west and returning via the right turn lane coming from the east. That was one suggestion that Bawek had and the other suggestion was to keep the front buffer and mine that last so one has less distraction at the intersection. Mining representatives indicated they were going to keep that buffer; the wetlands and the wooded hillside will all stay there and never be mined.

Upon Millis's inquiry, Lien stated that the buffer was part of the original conditions but it was going to be phased but now because of the additional wash plant it will be more acres so it is a change. Bice inquired what Bawek was reading when he mentioned public safety. Bawek responded he had just made some notes as he was going through the plan. Bice mentioned that since there is more reclamation and it is a very important part of all these and part of the Ordinance, ideally this will leave more reclaimed material available. Before it was being shipped out and now it will stay here. If one looks at some of the mines around the County, one will see that there is big hole in the ground from many years ago; we will have material to deal with that now. Brandt stated in the original Conditional Use Permit, the returning trucks would be loaded as well because they would be bringing back material from where it was processed (fines, etc.) and that would be the reclaimed material. Now with the potential of a wash plant, that stuff is going to stay on site. The question Brandt had is, are they anticipating bringing back material from some other site. Marko responded no. Brandt clarified that the trucks would be returning empty and so that would also be a change to the plan. Bawek stated the purpose of a wash facility at a mine site is basically to eliminate truck hauling. Bawek asked why they can't agree to have less trucks hauling. Marko, in trying to speak for his client, stated they certainly have a business plan in place, and that business plan is taking into consideration the operations there at the site and using 6-12 trucks per hour, so it will be in that range. Bawek disagreed with that. Bice stated some years farmers grow soybeans which yield 50 bushels an acre and some years they grow corn which yields 200 bushels an acre and supply and demand and the markets of the product determine how many trucks one puts on the road. Bice added they are not trying to change the number of trucks and he didn't think we should probably consider that an issue. Bawek reiterated that a wash plant is to eliminate the amount of trucks. Bice responded it is to keep more reclaimed material here. Spangler clarified that the same trucks that are hauling the amount of sand out would be returning with material on so you are using the same amount of trucks to haul the product to market. Those same trucks would be utilized to return product (fines) back, now those trucks will come back empty. Marko added same trucks only now they won't have to be loaded at the other facility where it is washed and take that labor and equipment in order to bring those trucks back to the site to be loaded again for the process. Bawek commented fewer trucks, less traffic congestion at the corner/intersections. Millis stated if one looks at it during the duration of the mining process there is going to be fewer trucks because there is going to be less material leaving the site, so over the term of the mine there will be fewer trucks but business plan wise there will be 6-12 trucks and that is what they have asked in the past and the WISDOT has approved that. Bawek asked if the mine will be open less years. Millis responded that will be determined by the market. If there is a heavy demand, the mine certainly would be fewer years than if the market is slow. Millis wished he could tell Bawek that it would be 10 or 15 years but that is just not possible. Marko thought more of a factor to the mine life is the economics (supply and demand) versus whether there is a wet plant on the site or not. Brandt clarified that Millis had stated that the WISDOT had approved the number of truck traffic and actually they don't approve the number of trucks, they approve the efficacy of the intersection – that is their concern as to whether the intersection can handle the number of trucks. Marko responded KAW Valley is to provide them with the number of trucks that they are planning to utilize and they take that into consideration. Millis stated Brandt is right technically, they have the number of trucks that we are proposing and they approve that based on the information provided to them. Vold asked to hear the additional conditions. Upon Bice's inquiry, Millis stated they received a copy of the conditions yesterday. Budish noted he also has the original conditions, previously approved in January, up on the overhead screen in the event there are any clarification/questions.

- 1.) Well water testing shall be annually and performed by a third party independent inspector and the results shall be presented to the Department of Land Management and also the applicable well owners.
- 2.) A drawdown analysis on the effects of the high capacity well cone of depression shall be provided from the owner/operator to the Department of Land Management.
- 3.) Concrete bottoms must be in all wash ponds that may contain flocculants.
- 4.) A flocculants usage and disposal log must be maintained by owner/operator including test results of wash pond sediment and disposal procedures.
- 5.) If the mine operator is not the owner of the land subject to the nonmetallic mining reclamation permit then all lease agreements affecting such lands shall be provided to the Department of Land Management.

- 6.) Install a moveable/mobile air quality monitor with removable filter. The mine operator shall work with the Department of Land Management staff in moving/locating the monitors. At the direction of the Department of Land Management staff, the filter shall be periodically sent to laboratory to be analyzed with the cost paid by the mine operator.
- 7.) Billowing dust from dumping shall be controlled on a fixed and/or moveable crushing operation using methods such as including but not limited to staging curtains, water sprinklers and/or plastic stripping inside of the enclosure.

Brandt noted that was another concern of his when they were describing the wash plant operations being somewhat smaller and not enclosed and the possibility of more dust, so he is happy with this condition. Bice inquired if Bawek would like to see that they confer with Johnson from the Highway Department in there to make sure that they are in agreement with the Highway Department. Bawek responded just so that there is adequate distance for a tractor, an implement and two cars to get on that road off onto County Road N all at once. Bice mentioned when the word "adequate" is used that might be a little difficult to write, but asked how that can be done? They had stated they would invite Bawek to the meeting with the Highway Commissioner to discuss that issue so Lien asked Bawek if he was comfortable with making some type of motion where we add the condition that they meet together. Without having Johnson present Lien wasn't sure what his feelings were or what kind of issues the Highway Department had. Lien stated we have always kind of taken into account that they are going to meet the Road Use Agreement with the Highway Department whatever those conditions would be. Bawek asked what authority he would have. Lien responded it isn't a question of authority but we could make it a condition that they meet the Highway Commissioner's requirements and Bawek could stress his concerns to Johnson so that they are taken into account. Bawek had asked Budish to get some information from WISDOT on information pertaining to that and Budish is waiting to hear back from them. Bawek wouldn't be able to recommend what the adequate distance is until he hears from WISDOT as he is not the expert he is just trying to address a concern that seems quite obvious to him after having used that intersection for so many years. Lien thought it was a condition on the other permit that they meet the WISDOT recommendations so that part is covered if WISDOT would come with different conditions. Brandt commented one of the standard conditions is the Road Use Agreement with the County. That being said, if the Highway Commissioner would say that nothing is required than that is the condition. Bawek asked what the back-up plan is if there is not adequate distance. Lien responded any time through the Ordinance, if we have issues or concerns, at any given time, the Zoning Administrator or the applicant can bring them back in and we can modify/add/ or delete conditions. If what the Highway Commissioner allows does not work in the future we can bring them in and modify the conditions. Bawek stated he would be happy to sit in on the meeting as a representative of the E & LU Committee as long as Budish could get something from WISDOT and Johnson would agree to that, and if this Committee agrees to that. Radtke stated he has some concerns with adding a type of condition relating to the intersection. It sounds like, to Radtke, that the requester/the amendment sought does not increase the traffic from the previous plan and as Radtke had mentioned to Brandt earlier, what we are looking at today is the amendment and the new items (wash plant and any changes to the plan) and whether to grant or deny that and also to add conditions that are related to that. It seems to Radtke that if the number of trucks is the same now as it was in the previous, and that was approved and there are already conditions pertaining to it, adding conditions to the amendment relating to the traffic use does not seem related to the amendment that is sought. Radtke cautioned the Committee from having that type of condition as it may just go beyond the scope of what the amendment is sought here. Zeglin addressed condition #6 regarding moveable/mobile air quality monitors asking if there was only one for the mine. Lien responded that is what the Committee has "steered to" in the past. Lien thought there was up to three air quality monitors at a site that were fixed and we learned that they were pretty ineffective. They were not good quality and they weren't doing what they were intended to do. We have learned since then that there are air quality monitors that have a removable filter that can be periodically tested to see if we really have the silicosis issue or the PM 2.5 issue that are of concern to the public. If we had a moveable one it can be strategically placed on the downwind side depending upon the season or the event to actually do some measuring it would better meet the industry needs and public's needs so that is why the Committee has gone in that direction. Staff has been doing some research and there are some available. They are more expensive so that is why the Committee went from requiring three that were somewhat ineffective to one good one that can be moved around/mobile so that the industry has accountability

and the people around them also have that. To date Lien stated we don't have one up and running. Zeglin stated she would like to specifically make sure that they can monitor to include PM 2.5 as that is important. Zeglin asked what will determine when they are moved, the winds, etc. Lien responded right now the condition reads at the direction of DLM staff, but it doesn't state the PM 2.5. Lien suggested Zeglin make an amendment to include those items. Bice asked if we can monitor that. Lien responded the monitors that staff has looked at do monitor that so it is possible. Bice asked if we basically use the same monitor but we just state that they measure to the PM 2.5. Millis explained that when the filter is sent in to be analyzed they do test for that already so it is already included. Millis stated they did not have any objection to that condition of being monitored at PM 2.5 being added because it is already being done through the process. Zeglin wanted that included, Bice considered that a motion and seconded it. For the benefit of the record, Bice repeated the motion as to be sure that the monitor will measure any PM 2.5 particles when the monitor results is sent in. Gamroth clarified that an amendment is being made to Condition #6 that the air quality monitor will measure PM 2.5 particles. Radtke commented we are probably a step ahead of ourselves as the motion on the floor is to approve the permit and there hasn't been a motion to add the proposed conditions that the Chair deemed amending. It is not quite on the floor yet. Radtke advised either backing up and making that motion and then amending it or since we already know that some members are interested in it that when the motion is made to add the conditions that could be added in. Low made a motion to add the 7 DLM conditions, Brandt seconded. At this point Zeglin withdrew her motion and Bice withdrew his second on the previous Amendment to Condition #6. Bice reiterated that the motion and second is to add these seven conditions. Zeglin made a motion to amend Condition #6, Bice seconded. Bice called for any discussion. There being none, a voice vote was taken and the amendment passed with no opposition. Brandt stated he is always uncomfortable with the phrases "periodically" explaining that periodically could be once week, once a quarter, etc. Brandt made a motion to amend Condition #6 again to read "the filter shall be sent to a lab quarterly for at least two years", to replace the phrase "the filter shall be sent to a lab periodically", Bice seconded the motion. Bice asked if there could be leeway on "quarterly". Lien and Millis had talked about it. How staff would like to administer it is that depending on volumes, weather conditions, etc., there probably would be intense periodic testing in the beginning and then taper that off to perhaps an annual testing. Lien noted that DNR does an annual testing now. Lien didn't think, nor did he feel staff or the public feels that is adequate. Lien doesn't care for loose terms but it does give the staff or the applicant some flexibility. Lien didn't have a problem with quarterly however there are some quarters where there is more activity than others. Lien would still like some flexibility in there that if there is a dry, high volume summer that staff have the ability to work with the applicant to do more intense testing. Brandt asked if Bice would agree to his changing the motion to "at least quarterly" which would give them the ability to do it more often if necessary. Lien commented it is a difficult thing because if it was a really wet summer and we had rains every week maybe quarterly testing would be too much but if it is a really dry summer quarterly testing maybe isn't enough. A discussion took place on quarterly. Upon Lien's inquiry to the applicant if they knew how much it costs to have the filter analyzed, Marko responded they had not. Lien added they know what the air monitor costs but not what the testing costs. Marko knows that there is a mine site in Chippewa County that is analyzing air monitors and he believes it is on a quarterly basis and they are providing all of that data to the DNR. Marko didn't think anything has been detected at even a P4. Lien commented that earlier we read our mission statement which is to protect health, safety and welfare of the public and that is what we are trying to do. Marko didn't have any objection to any of this he was just noting that there is some data being taken at other mines and those owners are providing that to the DNR. Bice doesn't know either but he is a bit concerned as staff keeps telling us they are busy and so he assumes this means that probably staff would need to go out there and gather this. Lien responded the onus will be on the industry. We will work with them on the placement of it depending on the time of the year but they are the ones that are going to have the monitor up and then the filter sent to a third party lab and DLM would get copy of the results. Bice asked Lien what his recommendation was. Bice wasn't real concerned about this; he does think it is a good idea to monitor this and asked what Liens' opinion was. Lien thought at a minimum quarterly and would still like the flexibility that if it is a hot dry summer that there be more testing. If it is a monsoon season then there is no need necessarily to put that burden on staff or the applicant. For record clarification, Lien stated it was amended to "at least quarterly for two years". Brandt noted we are not actually amended his motion, they are just agreeing to add/or change a couple of words. Radtke explained that the best procedure is

following Roberts Rules of Order strictly but this what is called a “friendly amendment”. What it is, is someone makes an amendment and it is seconded and then after some discussion they decide to go back and change one or two words, so instead of making a motion to amend there is kind of a collective “ok” to change the original motion and amend it to this way and there is no objection made, it is technically proper procedure. It is just not the best procedure. Bice called for any more discussion on the amendment. Motion carried with no opposition. Bice announced we are now back to the original conditions and called for any more discussion. Bawek questioned, as far as the height variance, he would like more clarification on preconstruction height. Lien stated he and Radtke will need to look at that as KAW Valley has an interpretation on that and the County has theirs. Lien added that pre-construction grade could be conceived as what is there today or it could be conceived as prior to erecting the structure, so Lien and Radtke would like to review the Ordinance and discuss that issue. Given that, Millis asked if it is deemed necessary for KAW Valley to obtain a variance, perhaps that should be addressed now rather than having them have to come back three months from now. Lien didn’t think the applicant would have to come back, but Lien reiterated that he and Radtke want to take a closer look at the Ordinance as far as what “pre-construction grade” really means. If we took pre-construction grade today and drop that 50 feet and one is not exceeding 85 feet in height there would be no need for the variance, so that is why Lien and Radtke want to look at all aspects of the Ordinance, not just the nonmetallic mining part. Lien wasn’t aware that was KAW Valley’s interpretation coming in so it kind of caught staff off-guard but he understands where the applicant is coming from. Upon Bice’s inquiry as to the worse case scenario regarding this issue, Lien responded they would need to come back for a variance. Bice stated he thought Lien just told them that wouldn’t be the case. Lien said no, he said that he and Radtke would review it. Upon Millis’ inquiry as to whether they would have to come back to this Committee for a variance, Lien responded no and that they would go before the Board of Adjustment for a height variance. Brandt asked if a condition was needed specifying that the trucks will be returning empty. Lien didn’t think so. He felt it could be run past WISDOT as far as the TIA (traffic impact analysis) but either way he felt that would be a benefit. Lien added as far as the reclamation plan goes, whether those trucks are dumping the material or it is coming off a conveyor that reclaimed material is still staying behind. Brandt’s issue has to do with whether the business plan changes and they decide to open it up to other sand mines for processing. Lien responded that is a change and it would be at that point that we would bring them back in. Lien stated right now that is not approved and that is allowed in the conditions. In addressing Condition #1, Millis stated it creates the potential for impossibility to meet because they can’t force any private property owner to allow them to test their wells. They have obtained eleven access agreements already. Presumably everyone will want KAW Valley to test their wells and they are willing to do that, but he asked to look at that. Also, in looking two, three years down the road, as an alternative to annual testing, if the DLM approves monitoring through monitoring wells, there would not be any further need to do the private well testing. Lien thought that was clarified in the last permit that there is a 2500 foot perimeter and those are the people. There are people in that perimeter that will say go away and there is a waiver form for that and that is why the word “applicable” is used. If they don’t want their well water tested and are not going to, then they are removed from the list. Lien offered to provide the waiver form to the applicant if they didn’t have them. Millis inquired if they refuse to sign the waiver or allow testing then the applicant should just send a letter to the DLM advising about that property owner. Lien responded that was correct. Millis and Lien had briefly talked about giving the DLM some discretion on the private well testing, whether monitoring wells can be used. Millis asked that it be considered as an amendment to Condition #1. As Millis and he had talked about prior to the meeting, Lien stated the groundwater issue is amazing in our County. Many models can be used and each model will produce different results so none of us really know what is going on in the ground. Although monitoring wells are one way of looking at groundwater, neighboring wells are a huge concern as to what people are being “tested” with. Personally, Lien stated two weeks ago a large pond behind his house with 12 feet of water and about 1 ½ acres in size went down a hole and the water didn’t come out anywhere. We have fractures in our ground here, we have caves, we have sand and we don’t know what is going on. Lien felt the individual testing of personal wells is a must. Maybe over time as annual testing has been done and there are hopefully no issues, we will learn what is going on, but today we don’t know that. Upon Patzner’s inquiry as to who does the well testing, Lien replied an independent third party and the analysis will be sent to the DLM office and the landowner. Zeglin mentioned she is uncomfortable slacking off in successive years. As was stated, water greatly fluctuates in this County and she felt it needs to be done annually

or for the life of the mine and/or plan. Millis stated they were ok with that. If it is jointly decided that there could be some amendment then they will come back and ask for that in the future. Millis stated they understood the concern and they are agreeable. Zeglin commented on their farm, they are near the top of the ridge and in these dry years they have to be really careful how often they pump water for their animals. If the aquifer is drawn down it is going to make it even sketchier for people like herself, so she is very concerned about water. The backbone of this County is agriculture and she doesn't want to see that disturbed. Bawek again questioned the berm or ditch around the wet processing plant. Since it is going to open in 1, 2, 3 and 4 (parts of) will it be a berm or a ditch. It is stated as a berm or a ditch and Bawek wanted clarification as to which one. Marko responded around the wet processing plant they want to control the surface water drainage so there may be berm to control the drainage and ditches to convey the surface water. We want to move that surface water, that is not part of the process water, to the storm water infiltration basins. The processed water we want to move to the basin that was constructed with the concrete liner. Upon Bawek's inquiry about whether the wet plant would be seen or not, Marko stated based on the elevation that the wet processing plant is going to come down and based on the tree line that is along County Road N and the tree buffer down below, he felt it was going to be fairly difficult to see the wet plant. Perhaps one would see it coming from the west but Marko felt those elements would shield it. They weren't proposing to build berms high enough to try and shield the wet processing plant. The berms would be in there to help convey surface water drainage to move to storm water basins. Lien commented when he read the plan he was assuming that was just to take care of the surface water that is not going to be pumped, so surface water, depending upon the final grade will either be diverted by a berm or by a ditch to runoff. Marko agreed. Lien added it is not a screening berm it is a berm to convert surface rain water. Upon Brandt's inquiry about the storm water management plan being approved by the DNR, Budish responded the Notice of Intent. Upon Brandt's inquiry as to whether the air quality or air exemption permit had been applied for, Marko responded no. Marko continued that there will be a registration permit applied for the wet processing plant but those things will come after this decision. Bice called for any other discussion. Gamroth clarified that the motion on the table was to approve the conditions as amended. Motion to approve the conditions as amended carried by voice vote with no opposition. Motion to approve the Conditional Use Permit passed by voice vote (6-2) with Hensel Vold and George Brandt voting in opposition. Bice announced that Corporation Counsel was comfortable that the motion passed. At this time the Committee took a short break.

**Revisit - Conditional Use Permit and Reclamation Permit – NonMetallic Mine – Steve Schneider, Property Owner/Applicant, Arcadia, WI and Minnesota Frac Sand, LLC, Eau Claire, WI - Town of Arcadia – Motion to table at November 2012 meeting.** Chairman Bice called the meeting back to order.

Nelson read the public hearing notice aloud for the benefit of the public present. VerKuilen stated this is a revisit from a previous application that was heard back on November 14<sup>th</sup>, 2012. VerKuilen referred the audience to a overhead aerial photo of the site. VerKuilen stated this is a raw extraction site of approximately 157 acres gross permitted and 110 actually mineable acres. It is approximately 2.5 miles east of Arcadia and is primarily used as agriculture pasture land and there are some wooded areas. There are six proposed phases to this mine each spanning 2- 3 years in length. Reclamation seems to be a phased reclamation as they mine starting from the south portion and working north. The life of the mine is proposed to be 20-25 years. VerKuilen has attached a staff condition allowing an initial five year permit and two year extensions after that. VerKuilen has received 3 public comments and an approval letter from the Town of Arcadia. David Daniel with ACA introduced himself and Roy Burlingame, Minnesota Frac, LLC. McDaniel gave an overview of the aerial site photo. McDaniel stated they have some permitted property on both sides of this property. There is drainage to the south and a little bit of drainage out to the east. The next slides showed how they are proposing to collect storm water at those discharge points to meet DNR requirements. They are proposing to stay away from any of the potential wetland areas that are identified on the DNR maps. McDaniel showed two slides showing the existing use of the site that being cropland and some pasture areas. McDaniel pointed out a navigable stream where they will need to maintain a separation distance. On the north side mining would be limited. On the south side McDaniel pointed out approximate locations of where stockpiles will be located. The plan is just raw extraction. Truck traffic would be going out to State Highway 95. There is a basin to the south and another basin off to the north in the northeast corner for collecting storm water. There is a navigable water way off to the east which they would need to maintain some separation from and it affects a small area

right along the property lines. The phases of mining goes from south to north and those phases would be reclaimed as we are moving on into the next phase the first phase would be reclaimed using the material that they strip from the site as well as material that is coming back from the fines. McDaniel showed a few more mining phases off to the north. The plan would be to continue to bring this material down to State Highway 95 using conveyors to transport the material across the easement at the corner and haul down to State Highway 95 and out to the plant. They are diverting the clean water around the disturbed/mining areas. They will be putting up some small berms/diversion waterways to keep clean water off the site or to manage water that came onto the site. All the storm water management would be in accordance with DNR storm water management. McDaniel asked to entertain any questions the Committee had on the site. Burlingame commented on a couple of things. Burlingame stated we will never see them back here asking for a wash plant permit and the reason is that they are sort of “the white filling in an oreo” because they have two mines directly to the east and to the west of them. The one to the west is probably going to be a pretty big operation. They are concerned with having to put three high capacity wells in a location so close to each other so they took the position back when they came to the Town of Arcadia that they didn’t want to get in the middle of any of that. They will do their extraction and their haul and then wash in a different county. The second thing is they have also agreed to a couple of conditions out of the Town of Arcadia, regarding their neighbors to the north (on the back) that they would get some screening and some berming on there. They haven’t come to a complete agreement because they are dealing with the mine to their west right now and how that is going to affect their easterly border with them. As soon as they get that, then they will go back to the owners and discuss screening options. At the Town meeting they had talked about the values of their property if the owners decided that they wanted to leave. Burlingame felt they have come to a quasi-agreement that they will get somebody to put a value on it and the applicant would get someone to put a value on it. The applicant’s only condition is that they are a state certified appraiser or somebody like that to determine the value. Burlingame stated they are willing to do just exactly what the township had instructed them to do. For the record Bice asked the applicants to state who uses the sand that they are producing and what it does for society. Burlingame stated he looks at what they are doing here in Trempealeau as the “point of the spear”. They are going to be extracting sand which is actually no different than anyone’s beach or playground sand. It is just a much courser material. Mother Nature has left us, in this pretty area – central Wisconsin, a product of a rounder grade and stronger than what is found pretty much anywhere in the United States and that would go all the way into Minnesota (up to New Auburn and down all the way through here). Burlingame continued what they are going to be doing is extracting it, putting it in a truck and taking it to a facility. The difference between what they are going to do and the guys that were previously at this meeting, is they are going to cut out the middle man. These guys are selling to everyone; the applicant will be selling strictly to an end user which allows them a little different economies of scale. There is no built in margin that these guys would have to operate thus giving the applicant the ability to process at a little different location. Completely separate business plans, but ultimately when the product makes it to North Dakota, Texas, Oklahoma or Kansas, all over, basically that product is shot into a well with high pressure and water and the seams of where the sand goes into is a little bit bigger than the tip of a pen and that is why the sand that they need, needs to be very round because it acts as marbles in a glass of water. The rounder the sand, the more oil and natural gas can come back out of that sand. This area (on Schneider’s property) has got very course sand (20-40, 30-50) which will be used in oil. Natural gas sand which is 40-70 grade of sand, which works similar to the grit on sand paper, that grade is what they shoot down the hole for natural gas. So what they are taking in, they are going to sell it to an actual existing “fracker” out in the oil patch and they want the product so they can insure that they have the quality they need and the distribution so they know when they are fracking wells that they are not going to run out of product. Bice inquired if the advantage to this is less oil wells over all? Burlingame responded the advantage to this, in the country, is probably more oil wells but the technology is evolving where 10 years ago they were putting maybe one or two wells down one hole. Now they have the ability to do 30 or 40 or Burlingame has heard of as many as 60 wells in one hole. One has to remember that in North Dakota, the width of the shale where all the oil is, is 2 miles down. When they hit that 2 mile mark the shale depth is only 40-60 feet so they are taking their drills and drilling at approximately two miles somewhere in the center of that shale. They adjust that based off of the computer modeling that they do. Bice stated therefore making it far more efficient to get far more oil - domestically produce oil and gas in this country? Burlingame responded absolutely. We don’t have to import as much as what we used to and it is good

for the economy as one will see in Texas and North Dakota. Those economies are booming because of what the applicant is doing. Burlingame added hopefully we will not have to import oil from the foreign countries at some point. Patzner inquired what percentage of the sand is real good. Burlingame stated basically they have a very good mix of 20-70 and then there is 100 mesh. Over 50% of the product sits on the 50 screen so it is very course. Patzner asked if their wash plant will take some of the other sand and use it for other products. Burlingame replied yes and that they believe, depending on what the market is at any time, at a minimum they will be bringing about 20 % back. If they would have done this last year, then the market only wanted a 20-50 mix. Now natural gas is coming so the market wants the 20-70 meaning that less sand will come back, but the baseline of 20% will allow them to reclaim as they need. McDaniel commented they were assuming 50% would be coming back to the site as far as reclamation. There is some range there that they will clarify when they get further into the project. Zeglin stated Bice had spoke regarding the benefits to society. Zeglin questioned what benefit is this to Trempealeau County? Burlingame responded jobs - jobs for the entire frac sand industry within Trempealeau County. He thought there had been quite a few and usually a little higher paying than what is being paid for by people at Ashley and Gold N' Plump. The wages are generally higher. The value also with the decrease of energy prices which has an impact on everyone of us. Burlingame thought the price of gas would be lower if we had the refining capacity within the United States but we don't have that. As soon as we get that, Burlingame stated we will be seeing gasoline in the low 3's real soon because the market capacity is not there right now. Zeglin stated Burlingame had mentioned jobs and inquired how many jobs he proposed for this mine and what exactly will they be doing? Are they going to be local or will people be brought in because they need some technical skills? Burlingame responded they are going to need truck drivers, backhoe and dump truck operators and maintenance people. For this project Burlingame projected approximately ten to twelve people plus another ten drivers because they are only allowed to operate fourteen hours per day within the confines of the Ordinance within Trempealeau County. When one is talking about \$20-\$40,000 per year plus benefits that has a lot of impact on a lot of people that work here because of where they spend the money. The cumulative effect for even that few of employees is quite large.

At this point Brandt made a motion to take the issue from the table, Nelson seconded the motion, motion carried with no opposition.

Bawek questioned the contemporaneous reclamation which is going to be a partial reclamation at a time? Burlingame responded they are looking at doing it in phases and then when a phase is done, they will be at the level that they need and then they will continue back to the hill and then work their way back toward Schneider's house. Bawek stated the plan read "it may or may not define a reclamation" and they use the term "contemporaneous". McDaniel responded their intention was to strip enough so that they could work - mine sand, stockpile the topsoil and the material under the topsoil on site and then as they move back into the hill, the next time that they strip material, at that point they would be reclaiming some of that initial mining area and the stripped soil will come back. At the same time they will be bringing in some fines and stockpiling those from the wash plant. McDaniel reiterated the fines will go back in, the under burdened soils will go on top and then the top soil. The map that McDaniel showed prior to this slide showed three phases on the south side. They may be half way up the end of that first phase before they are able to start reclaiming that at the south side. That progression will move through. McDaniel stated they are not going to strip the whole site and have the whole area mined before they start reclaiming the area. Bawek inquired of Lien if the land that is still partially opened, is that going to be open to a fee? Lien explained through NR-135 anything that is not considered 70% sod cover is considered open acreage whether it is an excavated site or stockpiled material piled on it or whatever. The definition through NR-135 is 70% sod cover and less than that is considered open acreage. Upon Bawek's inquiry if they are basically going to be spreading out the material that they are hauling back in, McDaniel responded that was correct. McDaniel added there will be some stockpiling of that material and then a phased approach to reclaiming that area. It is not going to just come back and then be spread truck by truck. Brandt questioned where the applicant was last November. Brandt didn't see the plan had changed at all and it was well organized when it was received and Brandt didn't think the property owners had changed. Burlingame explained they needed to make sure that their supply chains were completely taken care of and issues resolved and then there were just some other operational issues, so they wanted it tabled at that time. Burlingame called

it an economical reason and stated it has been brutal out there on the frac sand side. As we went through winter the prices of sand have gone further and further down. Schneider and Burlingame agreed that, because there is a two year time window/ agreement at the Town of Arcadia that if it was anything over two years the permit would go away, and that six month gap gave the applicant an extra six months on the back end. Brandt stated 175 loads per day is the number that he pulled out of the plan and the minutes from the meeting. Brandt thought that was just about the highest of anybody in the County and inquired if the applicant felt they would be able to generate that. Burlingame thought they had the ability to do that, but thought if they got 12 that would be great. When they wrote the plan, they just wrote it that this was the maximum as to what they thought they could do along with what WISDOT was going to allow them to do. In Brandt's initial reading of the plan there was no mention of blasting and within this plan it says if there is blasting it will meet all of the regulations. Brandt asked if the applicant was coming to the Committee with a plan to include blasting. Burlingame thought they would like the ability to blast if needed. That is just one more cost and there are areas that they are a little unsure of. Once they break in with the backhoe than they can accommodate that. Brandt commented that many applicants who have come in here over the last three years had thought they could do it with a backhoe and pretty soon they are coming back for a blasting permit. Brandt recommended that be part of the conditions that there be a blasting plan that is approved by DLM staff and the state, etc. Brandt suggested that the Committee be allowed by the applicant to put that in the conditions because Brandt stated "you will be back". Upon Brandt's inquiry as to if the applicant had a storm water management plan that was approved by the DNR, they responded no. Brandt stated the applicant talks about being internally drained and with the creeks and with the drainage, especially on the southern side, (the DNR awhile ago stopped approving internally drained sites because that also is impossible) but he assumed that the applicant will be working with DNR to get that approval. Brandt's hardest question is how are they going to get from the north to the south site? There really is no way to stay on the property and the reclamation plan shows significant slope on north side of the south unit, south side of the north unit so his assumption is that they will be going around it or over it and down and in so that Phase #3 is going to be open to some extent. Burlingame stated they are not asking for any equipment on the site at all, they're just going to get it in a particular state, get it into a truck and then finish all the processing, basically dump it into a pile (if it can't be thrown into a truck immediately) and front end load it into a truck. They want to do that as close to Hwy 95 as possible. Brandt mentioned a previous applicant (from the month before) had gone to all the neighbors upfront and offered them fair market value if they chose to sell their property and couldn't sell within a year. Brandt inquired if this was in the process? Burlingame responded they are not but if the neighbor to the north of us decides they would like to sell, they have no issues as long as it is done fairly. Brandt noted that during the last public hearing the neighbors on Andre Lane wanted a guarantee that there would be no traffic to the mine off of North Creek Lane and onto Andre Lane. Brandt asked if the applicant had any intention of accessing the mine from the north at all. Burlingame responded no and that was a condition from the Town of Arcadia. Rita Sosalla noted that was not agreed upon. Sosalla stated the Town of Arcadia said they couldn't put that in a stipulation that it had to be done at the County. Burlingame stated they were willing to agree to that. For clarification Lien stated condition #21 states there will be no exit on North Creek Road, it doesn't say Andre Lane. Brandt stated the neighbors concern was ingress. Lien commented maybe that is what the towns' intentions were but perhaps the condition should be modified. Zeglin noted no bond being mentioned in the plan and asked if that has ever been addressed. VerKuilen stated that has not been discussed yet. He was aware there is a section of the plan that estimates cost and that has yet to be determined. Burlingame stated they fully understand that they will need to have a bond. Bice asked staff to explain how they arrive at that number. Lien explained that typically depending on what type of conditions or what comes out of today's hearing, staff will review the final site plan, set a bond amount and discuss that amount with the applicant. Lien stated that is done according to NR-135. Bice asked Lien to explain NR-135. Lien explained that NR-135 basically is Chapter 20 in the County Comprehensive Zoning Ordinance which requires reclamation of sites. It requires annual review and inspections and it is really the only fee generator for nonmetallic mining that the County has. The County is required by NR-135 that we charge a fee to the applicant based upon the services that we provide. Historically, with all the mines in the County, it kind of equates to approximately \$170.00 per open acre. This Committee has the ability to change that fee; however we cannot charge a fee greater than the services provided. Those services include staff time, wages, benefits, vehicles, etc. Bice asked for clarification regarding condition #21 on the Town of Arcadia list. Bice noted this

is not a public hearing, but two people would like to address this issue. At least one of them addressed this the last time. Bice called on Rita Sosalla. Sosalla stated this would be repetitive of when she was here in November. Sosalla asked that her house be shown on the overhead aerial photo so that everyone could see the proximity of their house to the mine. Bice stated he believed that they will be able to add to the conditions the fact that the applicant will not be using Andre Lane. Sosalla inquired how close the nearest stockpile would be to their home at Phase 3. McDaniel thought they showed it at 300 feet to the creek. Lien interjected that 300 feet is the shore land zoning requirement. McDaniel didn't have a measurement but responded to Sosalla's question by stating it looked like it is twice as far, about the same distance from the creek to their house as they are showing it from the creek to the stockpile. Daniel's added they have some flexibility there as to where the stockpile is located. Sosalla asked if there would be berms placed close to their property or where will they be? Burlingame thought they had talked that when the three of them had talked that they would be before the creek and it would be done as they were coming over the hill. Burlingame thought height and width of the berms would be decided at that time. Burlingame stated they want to be the good neighbor here and be as accommodating as they can. Lien noted that the berms cannot be any closer than 300 feet to the south side of the stream so that would be the closest point that there would be activity. Sosalla stated fair market value for the future was discussed as well as employees and other persons related to the Steve Schneider sand mining operation not using Andre Lane has an inlet or outlet for any service or any other type of vehicles. Sosalla's had also talked with Schneider and would like to work on an agreement further that trees be planted and that Schneider pay for them. Sosalla's felt it would be a barrier from the sand and the dust. Burlingame stated the question that came up is are we going to plant trees now and then potentially put a berm up – that could be an issue. Sosalla requested to choose the type of trees to be planted – white pine or some type of pine and perhaps in the future those trees may have to be removed. Sosalla commented the blasting was a change from the November meeting and wanted clarification that there would be blasting? Burlingame responded they are going to ask for that but they are going to try not to. Bice asked Sosalla's where they wanted the trees and how close Sosalla's wanted them to their house. David Sosalla responded they would talk it over with Schneider and get back to them. Burlingame added they all agreed at the town meeting that they would do it and felt reasonable people can agree on reasonable things and added they understand it compromises Sosallas' view. Bice called on Paul Winey who wanted to address this issue. Winey referred the Committee back to the map that he had included at the first public hearing concerning the saturation of mines in this area. This now brings the total to three mines that overlap each with half mile radius. Winey read aloud, "Dear Committee members, I respectfully request that you deny the approval of the CUP for the Steve Schneider mine. If this were to pass this would result in the saturation of six mines within a four mile long corridor along Highway 95. It really defies common sense to think that there will not be any problems with air quality in this area. I have enclosed a map showing current and permitted mines in the areas with the half mile radius circling each site. Many families with children reside in American Heights and along North Creek Road. Both of these areas are easily within windfall of this and the other mines. Please consider these mines and children. MSHA requires limits to exposure within the mine site but no one is protecting those on the outside exposed 24 hours per day, 7 days a week. EPA has set exposure standards so the hazards are recognized. On their own, each mine may not exceed the limits but the cumulative effect easily exceeds these standards. Each mine should be required to more extensively monitor the effects on the neighbors. If you do choose to grant the permit I would request, as before, more stringent monitoring of the PM 2.5 with particular attention to the crystalline silica with the testing devices as specified along the Highway 53 mine and now the KAW Valley. Thank you very much for including those details into that permit. This testing should be completed at upwind and downwind sites before, during and after construction as well as during the operation at peak capacity and comparative days of inactivity. This should be carried out for a minimum of two years of operation and periodic review for extension if indicated. We should not solely rely upon the DNR as these are only minimums and protective of those living near mines. Increased truck traffic will also create a hazard. Four other open mines are already using Highway 95 as their haul route. Four other mines approved, but not yet opened using the same access. This will be nine mines along a five mile stretch of Highway 95 competing for use of the highway and with other travelers. Mathematically this is accidents waiting to happen. Winey is not familiar with the previous permit but Winey understood in the past there were concerns with the DOT as far as driveway access. Winey hoped one of the Committee members would bring up clarification of the three mines along there, Proppant, Schneider and

Patzner and how these all work in compliance with the DOT. Please deny this permit until additional studies can be completed regarding air quality and cumulative affects of these mines and until traffic patterns can be fully assessed. Winey is also working with a group called Midwest Environmental Advocates who is also petitioning the DNR with the air quality permit on the Proppant Mine. Their attention was gained last Monday and they are recognizing that there is a saturation affect. Winey knows that they will be looking closer and feels this is something that will change". Bice stated Winey had alluded to this earlier and mentioned it again that these people are exposed to a cancer risk. Bice asked Winey to find him the factual information on that. Bice didn't mean silica he meant the products that come from the sand mines. Winey responded that is silica. Bice acknowledged that was correct and thanked Winey. Brandt clarified that there were seven conditions from the Schneider mine and the town. Lien responded there are fourteen from staff and twenty one from the town. Bice stated this was not a public hearing but he had allowed a little more testimony because this was a somewhat unusual application. At this time, Bice asked for a motion from the Committee. Low made a motion to approve the Conditional Use Permit, Vold seconded. Brandt made a motion to accept the town and County staff recommended conditions as written, Low seconded. Brandt asked if it was a standard condition that the blasting plan is within the confines of the state requirement. Lien stated it is in there. Lien felt it might be more prudent to go through each condition separately as there were issues with several of them. Lien started with the town recommended conditions.

1. All structures and wells on the properties immediately joining 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 as well as structures should thereafter be periodically inspected to determine to the extent practical whether or not damage has occurred as a result of the mining operations. Inspection and damage costs shall be borne by Schneider.

Historically, Lien stated instead of "immediately joining" we have had "2500 feet" to be consistent. Lien reiterated these are town recommended conditions. Lien felt VerKuilen tried not to duplicate what the town did.

Radtke made the following point. The very last word - inspection and damage costs shall be borne by "Schneider". Radtke would rather see "owner/operator" and asked that "Schneider" be struck so in the event the property is sold that Mr. Schneider is not held personally liable.

2. The opening of the mining pits, depletion of those permits and reclamation of those areas shall occur in the order presented to the Town of Arcadia by Schneider Nonmetallic Sand Mine. Reclamation of the mine site shall begin no greater than one year time with three month period for reclamation to be completed. Inactivity within the mine for a period of twelve months means the mine is inactive. Thirty working days of activity in succession, the one year period will start.

Lien commented this is somewhat repetitive of NR-135. NR-135 states if there is no activity for 12 months reclamation should start. Past Corporation Counsel had agreed with our language (it has yet to be resolved) that if they paid their annual fee and there is a caveat of an inactivity fee. (There are several mines that have been permitted and no activity has ever commenced there) but recognition of paying that annual no activity fee was past Corporation Counsel's belief that there was some type of activity taking place – just by paying the fee, so they were allowed to remain open and reclamation was not required. Lien felt this condition could be contradictory to NR-135 and that belief. If one starts to decipher it "shall occur in order presented to the Town of Arcadia", Lien stated we don't know in what order that was presented and again it says "Schneider" and Lien preferred "owner/operator". Lien's preference would be that it be stricken completely because it is already dealt with under NR-135.

In going back to Condition #1 where Radtke had recommended striking "Schneider" and putting "owner/operator", VerKuilen noted at the footnote of the towns' conditions it stipulates that all of the above conditions are to be in perpetuity to any future owner/operators of the Schneider Nonmetallic sand mine. Bice noted it was a good point and that the change would be made anyway.

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 Schneider non-metallic sand mine activities must always comply with the most recent DNR standards

Lien's only issue with this condition was the word "Schneider" and suggested it be amended to owner/operator. Radtke felt it was unnecessary because if there are changes to DNR standards the applicant is going to have to comply whether it is a standard condition of our CUP or not. Obviously if they are going to change the way they are doing things, they may ultimately have to modify the CUP. The Committee was comfortable with striking the condition.

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.

Lien felt this condition was out of County control. Lien felt it was fine if the owner/operator wants to meet with the town. Radtke didn't feel it was appropriate and it would be delegating some type of authority illusory authority to the Town of Arcadia by saying they have to review and approve a site plan. Radtke stated that is the jurisdiction of the County and this body. Radtke asked the condition be struck. Lien asked if this was something that the Town could base its' decision on in the event they didn't feel the site plan or site plan was adequate. Radtke stated that this has been discussed before where there are conditions asking the town to get a list of things or to review something and it has always been Radtke's opinion that: it is outside the scope as the County doesn't have the authority to tell the town what to do and it is not related at all to the CUP from the County's perspective as to whether the town reviews that. Radtke continued that all the Ordinance requires for a CUP is a letter from the Town – simply a letter – it doesn't say approval, or a list of conditions, it doesn't require the town to do much of anything other than to write a letter to this Committee. Obviously the town is an interested party here and often a partner with the County in dealing with a lot of these issues so their input should be important but to give the town the authority to review and approve things related to the CUP is delegating beyond what this County should do. Ivan Pronschinske stated perhaps there are conditions that the Town would like to see rather than what the County's viewpoint may be. Radtke didn't mean to diminish or dilute any of the comments from the town it is just that Radtke's position as Counsel for the County is to look out for our permit and are the conditions that we are approving appropriate and within the law or authority of this Committee to do. Radtke explained that the current town board is saying the town is willing to review this (he assumes by them asking for the condition) but what happens if the town board changes and then they don't want to review these and then the County is telling the town that they have to review these because it is part of the conditions of the County's CUP. Radtke reiterated that is something the County cannot do. The County often partners with the town on different issues and should take input from the town, but Radtke is more of the "gatekeeper" to make sure we are not adding conditions that are not appropriate or hard to enforce or exceeding our authority. Bice stated his understanding of what Radtke just said is that the County cannot enforce the towns' rules. Pronschinske commented that Radtke had mentioned all was needed is a letter from the town saying the town approves or disapproves of it, but when the people come to the town asking for conditions why is the town wasting time. Lien commented that Radtke just stated the County cannot put on conditions that are unenforceable or repetitive. Lien felt it was good that the town address certain things and bring them forward and a lot of these items will still be in here as conditions.

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.

To be consistent Lien suggested striking the word “continual”. We have asked that prior to blasting we receive a plan stating when blasting will occur and how often. Committee consensus was to delete condition #7.

8. Financial assurance amount will be established after final site plan approval and prior to any excavation activity.

Lien felt this condition was redundant. Radtke’s recommendation was to delete any duplication of conditions. If we are compelled to do it already anyway there is no need to put it in as a specific condition. Committee consensus was to delete condition #8.

9. The Town of Arcadia Board should meet with Schneider 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.

Lien thought this was a good idea that the town and applicant meet. Lien suggested changing “Schneider” to owner/operator. In reality the County would not have jurisdiction over whether the two parties meet. Radtke and Lien agreed the condition should be deleted. Radtke questioned why the applicant is meeting with the town board or what is to be achieved and inquired how this condition is related to the Conditional Use Permit. Pronschinske commented, that as a town board member, when people open up these mines and it sits there for a year or two years, all they have to do is pay a little fee and that mine can sit there and look that way forever and ever. What the town board is looking at is a simple means of closure. Radtke responded that even if someone were to come to the Town of Arcadia board to make complaints about the mine or whether it is being used or following the rules, there is nothing that the Town of Arcadia Board can do about it, they would have to refer the matter to the County where the County could take enforcement action to get compliance with the ordinances. If there are issues that should come to the County there is nothing that stops the town board from receiving a call from a neighbor and then redirecting that person or even the town contacting Lien or the Department and forwarding that on. Radtke felt that was the appropriate channels. But to require the applicant to meet with the town, open ended, really doesn’t achieve anything from a County enforcement standpoint. Lien thought this might carry over into Condition #10 too. Lien has heard this a lot in the last year and perhaps the Committee should consider putting it on a future agenda discussion on the reclamation period that is in the County Ordinance and NR-135 and how to address that. Lien knows that is going to become a continual concern especially in the area where there are so many mines open right now. Pronschinske commented there are three mines that haven’t moved a pound of sand in the last year and a half. They come up and pay their fee every year and that open mine could go on and on, so someplace along the line, if the Town doesn’t have any authority then somebody has to make the decision as to when we quit collecting fees and start closing things up. Lien explained how this all came about is that Kramer Company has a lot of quarries in the County. Those sites may sit active for five years unless there is a road project nearby. Kramer didn’t want to have to reclaim that site and start over with a new permit process (because they only use it once every five years). The County was trying to look at how to treat mining in general fairly. Lien gets that it is not the same scale. There are a lot more mines on that Highway 95 corridor that is why there probably needs to be an in depth discussion on how to handle it. Lien understands why it was done in the past – the aggregate industry would probably take out a thousand tons every five years. This industry is a lot different. Bice inquired if both Condition #9 and 10 should be struck. Lien replied yes. Committee consensus was to strike Conditions #9 and #10.

11. A 50 foot setback adjacent to the property line must be reclaimed at a maximum of a 3 to 1 slope.

Lien stated the town has offered this condition in the past. It is a little confusing to Lien. Lien thought what the towns’ intention was, was to have no activity for 50 feet and slope 3 to 1 away. Pronschinske responded yes it was but the County has a 10 foot setback. Lien stated that 50 feet has become a standard by every town and the new draft Ordinance has that. Lien felt it needed to be modified to state that there is no disturbance for that fifty

foot setback and then a 3 to 1 slope from there, so again just clarification. Upon Lien's inquiry, the applicant stated that is how they interpret it also. Consensus in the room was that everyone was alright with the change.

12. A 20 foot berm shall be established along property lines and along State Highway 95 at a 4 to 1 slope.

Lien felt that was a really large berm. Lien asked if the applicant was aware of what that looks like. Lien stated his staff is going to enforce that. Burlingame expressed that was ok, that is what the town wanted and that is what they will do.

13. No truck or equipment staging on State Highway 95.

14. Entrance and exit driveways shall be black topped prior to operations.

Lien's only question, unless it was designated in the plan, was how far back are they supposed to black top? Burlingame stated he thought into the berm. Lien asked if Pronschinske could elaborate as to what the intentions of the town were. Pronschinske responded back to interior of the berm. Bawek asked if there wasn't only one entrance. Lien stated yes and they would pass each other entering. Lien suggested deleting the word "and" and the "s" on driveways because it is only one.

15. Schneider non-metallic sand mine shall be responsible for picking up rocks and/or debris on adjoining land at the land owner's request.

Lien commented that should never happen. Radtke stated debris is undefined and is a fairly broad term. Radtke didn't think anyone would go there, but questioned if this means picking up all the debris and rocks in the yard or is this rocks and debris that was caused by the owner/operator? It was agreed that was the intent but should maybe be reworded so that someone couldn't misinterpret it for their own benefit. Lien suggested striking "Schneider".

16. The back up alarms used on all the mining trucks/equipment must be the new style low tone alarm.

Brandt has had a couple of conversations with persons who work in mines, who stated it is MSHA who makes these decisions and say that they have to be loud. Lien stated they still have to meet MSHA requirements, there is a decibel level and a type of noise that they need to be. They are controversial but again they are only during daylight hours. This has been sort of a standard. There is a new style alarm and it isn't quite as intrusive and still meets MSHA requirements.

R. Sosalla inquired what type of back-up alarms the applicant would be using. Burlingame responded as low and nonintrusive as what MSHA will allow. Bice has heard to new alarms and they are a huge improvement.

17. All mining trucks leaving will be tarped.

18. All lighting shall be shielded and directed towards operation of the Schneider non-metallic sand mine.

Lien stated this is a standard condition. Lien suggested to the applicant to keep lights shielded and to the ground. In addressing Condition #17, Bawek questioned if there would be trucks coming back into the site and shouldn't they also be tarped? Lien suggested striking the word "leaving" and just put all mining trucks shall be tarped. Burlingame suggested the Condition state "leaving" and "entering" the mine because if they are moving product from one side to the other, the applicant really wouldn't want to have to tarp those trucks. Committee was alright with "leaving" and "entering".

19. Schneider 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.

Lien suggested removing “Schneider and replacing it with “owner/operator. Otherwise it is a standard condition.

20. Non-metallic sand mines that are within 1 (one) mile of each other shall not simultaneously blast.

Lien stated blasting is going to become an issue over in that area. Lien continued that the DLM has a blasting log and on average most blasting occurs around 11:00 AM. There might be a compounded issue with multiple mines there. Lien knows sometimes it is a scheduling issue because very few mining companies have their own onsite blaster usually it is a contracted person.

21. There will be no exit on North Creek Road.

Lien stated this has been discussed somewhat about Andre Lane and perhaps we can leave this condition for now because #12 of staff recommended conditions addresses the Andre Lane issue. Lien asked for any other questions or comments on the Town of Arcadia conditions. Bawek addressed “no exit” on Condition #21 and asked what the other condition #12 addresses. In reading staff condition #12, the suggestion was made to add “entry” for the Sosalla’s peace of mind. The Committee moved on to staff recommended conditions.

1. Notification must be provided to the County 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 Zoning Administrator within twenty-four hours of the relocation of such equipment.
2. Public roadways must be scraped clean of materials at the end of the working day where non-metallic mining equipment leaves the non-metallic mining site and enters a public road.

Lien stated this has been somewhat of a problem in the past and the County is not going to be very tolerable about tracking pads not being utilized well. In the last site the town actually required where the blacktop ended, they had a washed tracking pad in beyond that as well. Bawek suggested using the term “brushed” instead of “scraped” because scraping will not remove sand off of blacktop. Lien stated past practice has revealed that if the Sherriff’s Department gets a call they will bring the fire department out there that will hose the road off and bill the applicant. Bawek thought that brushing will make sure that the motorcycle drivers aren’t running into something that could be missed by scraping. Bice suggested the word “cleaned”. Committee consensus was that “scraped” should be removed and “cleaned” inserted.

3. The County may require monitoring wells to establish the groundwater level prior to the commencement of non-metallic mining operations on a site.

Lien stated in this case where there is not going to be high cap well and they are not excavating into ground water, he thought the word “may” is there but again any time the County find something that they have concerns with they might bring the permit back in to add conditions.

4. The County upon its review of the conditional use permit may require screening from adjacent public highways and adjacent non-compatible land uses. Existing vegetation shall be taken into consideration provided it is of sufficient height and density.

Lien stated that conversation has taken place but it is not really a condition. Lien asked the Sosalla’s if they were alright with the language. Upon Bice’s inquiry as to how long it would take Sosalla’s to decide where they want the trees, they responded one day. Sosalla’s and Schneider had a brief discussion about the trees.

Lien asked R. Sosalla if they wanted it a condition that trees be planted on their property line on the north side. Sosalla replied “yes”. Lien thought it was recommended that the condition be modified that trees be planted on the Schneider/Sosalla property line as agreeable by both parties. Bawek asked if there should be a time limit as to when they were going to do it. Lien suggested prior to any excavation activity. Brandt stated the problem with that is, excavation where, or are we saying any excavation anywhere? Radtke commented that many people plant trees and then they die. The neighbors want trees that are alive and stay living. Radtke wasn’t sure how to address that but when one talks about enforceability, it has to be clear and in writing what the condition is. Discussion followed on the type of trees, etc. Lien stated Condition #15 should read, “trees will be planted on the Sosalla/Schneider property prior to any excavation activity”. More discussion followed between Sosalla’s and Schneider regarding the trees.

5. All mining operations/activity will be mindfully accommodating to the presence of the Torrey Sedge (“Special Concern”) species on-site. Strict erosion and siltation controls will be implemented in appropriate areas to prevent unreasonable degradation of this species’ habitat.

VerKuilen stated that was part of the endangered species review from the DNR. As it says it is a “special concern” so there were no recommendations from that research. Lien asked if that species was located in an area planned for excavation. Brandt stated it is a wetland species. Lien responded they have to stay out of the wetlands but one can’t be mindful of it if it is an area that is planned for excavation because it is going to be gone. VerKuilen added it didn’t specify where on the mine site that the species was. Upon Lien’s inquiry as to if McDaniel’ knew where the species was on the property, McDaniel responded he did not. Daniel’s stated he has read the same document and they are staying out of the wetlands but it is still not clear as to where the species is. Consensus was to leave the condition as is.

6. The cleared stumps and woody debris are to be chipped and utilized as mulch on-site.

In the past when one has cleared wooded areas, Lien stated the stumps were just left to be dried or burned. The Committee has made it a standard condition that they be ground up and used for mulch. Burlingame asked if it was possible to haul them out of there, at their choice. Lien replied it doesn’t state that in the condition but questioned if that is what the applicant would like. Burlingame explained one doesn’t know what the biofuels issue coming up in the next seven to 10 years will be. If there is somebody who is doing grinding to send these stumps to an energy plant rather than to use them as mulch on premise, the applicant would like the opportunity to do that. Lien and Burlingame agreed it could be addressed at that point in time.

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. 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 the County.

Lien stated again this has been a standard condition.

9. The mine shall minimize the generation of air borne dust. Water trucks shall apply water around the mining site daily if necessary so as to minimize dust conditions and to minimize tracking of material outside the mine operation.

Lien felt this was kind of an industry standard, but the applicant hasn’t asked for or applied for a well. Lien asked the applicant where they were going to get water from for dust control. McDaniel responded they were going to have some storm water basins, but they really hadn’t thought about it. Lien stated this sand is very porous and it is very hard to keep dust in control, so if there is dust it will be an issue. Lien added the DLM’s most effective method is a Cease and Desist stop work order. Lien asked the applicant to keep in mind as to

how they are going to water that. Lien added the condition would be left as is but the applicant needs to figure out how dust will be controlled.

10. As stated on page 12 under *Description of Mining Operations* “The topsoil (A-Horizon) and the B-Horizon will be segregated from the overburden material.” As phased reclamation begins reapplication of segregated material will be reapplied in preexisting soil horizon sequence.

Lien assumed from the applicants presentation and from reading the plan that first the fine material will be laid down and then the B Horizon and finally the A Horizon. The applicants responded that was correct. Bice encouraged the applicants to take that very seriously because when reclamation happens they will get a much nicer job if those soils are kept separate.

11. Implementation of the Department of Transportation’s (DOT) recommendations via Traffic Impact Analysis (TIA) must be completed after permit approval and before permit issuance.

Lien stated before that permit is actually issued those additions or modifications need to be made. Brandt inquired if there were any recommendations from the DOT. VerKuilen responded not at this time. They are still working on a new access permit. McDaniel explained they indicated what they expect the plan to look like as far as turns and entrance to the highway; they just haven’t gone any further than that. Bawek asked if anyone is taking into account school bus hours since all of these trucks are going to be running up and down that road. Lien stated typically that is an added condition that they work with the school bus on that route as we have tried to eliminate some trucking on that, but this site is coming onto a State road. Lien added we can condition that they be mindful of the school bus hours. Bawek asked if it could be conditioned to not haul during that hour and a half that school buses are on the road. Lien thought it was part of some conditions in the past that they work with the school regarding those hours so there isn’t hauling activity. Burlingame stated they had no issue with that. Upon Lien’s inquiry to Bawek if Condition #16 was to be added regarding school bus hours, Bawek replied “yes”. In saying that, Burlingame expressed that they are really cutting down the applicant an additional three hours per day. Bice hoped that the school would say that the buses will be at a certain point between, i.e. 4:15 and 4:30 and therefore would be pretty consistent times. Bawek asked what the stated haul route was because if it just going to be between the mine to Arcadia, one could time that out pretty easily. Burlingame responded they are going to have a facility up in Chippewa Falls to haul out of and then they will have one over in Jackson County so they can go either way depending on which rail they want to use at any given time. VerKuilen stated there was a haul route given of direct access to State Highway 95, going east or west at that point. Lien felt that more than likely the TIA is going to be a Type B1 intersection that has a bypass and a turn lane that allows them to go either direction. Zeglin asked if there was a limit on number of trucks per day. VerKuilen replied that it was 175 total trucks as submitted. Bawek stated so it was 350 trucks round trip.

Lien stated for Condition #16 he has written down, “Work with the Arcadia School District to prohibit trucking during pick-up and drop-off times”.

12. Employees and other personnel related to the Steve Schneider mining operation are not to use Andre Lane as an inlet and outlet for any purpose. They are to use State Highway 95 for all traffic.

Lien’s only comment was to state “owner/operator” or as Radtke suggested “permitted mining operation” instead of a specific name.

13. DNR approval for both an air and storm water permit must be obtained prior to issuance of conditional use permit by the Environment and Land Use Committee and before any excavation activity begins. Any attached condition(s) from DNR approval shall be implemented to site plans as a prerequisite to excavation activity.

Lien stated those are pretty standard. Typically for a site like this we will probably see an air exemption permit because they are not processing. It depends on the number of machines one has but until we get that back we don't know.

14. . Entrance/exit point to the proposed mining site must be locked and gated during non-operational hours.

Lien thought that was a standard condition. Lien noted that Condition #15 and #16 were added.

Bice asked to go back to Condition #6 regarding cleared stumps and woody debris will be chipped and utilized as mulch on site. Bice inquired if that was aesthetics? Lien replied no, but what was happening is stumps were being removed and they had so much other soil, etc. that they were either being used as fill (which is never a good idea) or they were being piled up and burned. Past Committees' suggested utilizing the stumps for mulch. Vold suggested it read "utilized as mulch whether it be on site or otherwise" as sometimes the mulch can be sold to landscapers. As long as they are not being buried, that would clear up what Burlingame was asking. Lien reread the condition, "Cleared stumps and woody debris are to be chipped and utilized as mulch" thus eliminating the word "onsite". Zeglin saw nothing here about air monitoring. Lien responded we typically haven't required an air quality monitor when there isn't processing. He didn't know if that was right or wrong but historically it hasn't been required. Zeglin commented dust can still blow from digging around. Lien felt the Committee's logic behind that has been that the air borne pieces we are talking about are the ones that are cemented in amongst the grains of sand so if it is blasting and not being crushed, washed and dried on site, the likelihood of them becoming airborne other than during the time of blast is less likely than if processing is being done. Upon Lien's inquiry as to that comment, Winey responded one is not going to find something one doesn't go looking for. The concern Winey raised is because of the saturation/accumulation, it seems like it is very favorable for protecting folks. Rather than stipulating two years one can run that shorter and say lets make sure that it is not a problem. Because of the neighboring mines, what if it is blowing over from Patzner's or Proppant? There are still the effects. In the aspects of safety, looking for it and maybe setting less rigid requirements, maybe not as many times a year, and maybe for not the length of time, again putting the onus on the owners to say this is safe. If it is safe then it should be fine for everybody. If it is not we need to know that early because the effects of this don't show up for years or decades. That is the concern. Show it is safe early and then you're really taking the step forward in protecting the public. Burlingame stated the only issue he would have with that is that if there are any gravel roads in the County, when it is really dry aren't we dealing with the same issue there or in every mine or gravel pit that is within Trempealeau County. Someone from the public commented crushed rock is limestone. Lien commented it is a different product and a lot of that stuff, like the soil one sees blowing the air while cropping is taking place, is weathered dust and it is not the same as the silica dust so there is a difference, but it is somewhat "splitting hairs" as the County hasn't required it for limestone quarries in the past and we've only required it when there has been processing on site, but that is not saying we're doing the right thing either. In terms of trying to do the right thing, Burlingame stated they are not opposed to doing a monitor on site because they would be just as concerned with Proppant on their westerly side as he would be for them because of what they are going to be doing over there. Burlingame added his sand is going to be wet coming out of the ground and any of the blowing around is going to be what is on the ground immediately. Burlingame added if it is the Committee's desire to have monitoring in there like KAW Valley they are ok with that. Winey added one also needs to consider, in addition to the respiratory silica, soot from diesel equipment and if we're talking about a large volume of trucks in a limited area, the cumulative effects from that and then the addition of blasting. It is understandable that there is always background particulate, but when one is saturating with this number of mines you will increase that particulate matter; there is no mathematical way to say it is not going to exceed that level. If it does you and the people that live there need to be aware of that. Winey added if the standards are put in place and in two years they are doing a great job then at that time the standards could be relaxed. Lien suggested it be added that prior to any blasting, that the foundation investigations be done within 2500 feet. Lien felt it was overlooked because there initially wasn't any blasting in the plan. They wouldn't have to do the foundation inspections unless they intend to blast. If they choose to blast then the inspections have to be done, prior to blasting, within 2500 feet of the perimeter of the mine site. Lien stated it is not a condition in here now but that should be Condition #17. Discussion

followed on whether this was a standard condition or not. Condition #17 should read as follows: All structures and wells within 2,500 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 of the site. These wells and structures should thereafter be periodically inspected to determine to the extent practical whether or not damage has occurred as a result of mining operations. Inspection and damage costs shall be borne by owner/operator. Lien asked if there was any more discussion on the air monitor. Zeglin responded she would like to see that and if it something that the Committee hasn't been doing as a standard for each mine, she would like them to consider that. Bice asked to put that on next month's agenda. Since the Committee was still in the middle of making "friendly" amendments to the conditions, Condition #18 was added. It was agreed it would be the same language as on the other permit. Bice asked if the majority of the Committee was in agreement with this. Committee consensus was in agreement of adding the air monitor condition and using the same language as KAW Valley. Bawek asked if the Committee had any criteria for setting the number of trucks per day from a mine in order to be fair from one mine site to another or do we have the ability to say "no" to a mine because of how we feel about the amount of truck traffic out of one mine and can we allow it on another? Bawek asked if the Committee had a standard in place such as so many acres – so many trucks. Lien responded there is nothing like that in place and he felt the reason why (we've had the DOT here a couple of times) is it is contrary to our local beliefs, DOT has said we are not anywhere close to the capacity that these roads can handle. Even with the cumulative effect, these roads can handle so much more. Lien thought we might all be used to rural driving where it is pretty relaxed and not a lot of traffic and Lien felt the roads are designed for far more than what we are seeing. If one drives in Minneapolis for one day, one can see the capacity as to what these roads can handle. Lien added the DOT has come to this Committee a couple of times. They stated they like doing the TIA's and glad they have that relationship, but again we are not anywhere near the capacity of what these roads can handle. In order to be fair, Bawek asked if the Committee should use the same standards when applying their own judgment as to whether one mine gets 12 trucks per hour as well as the next. Lien responded the DOT is recommending to us that they are all ok and that these mines are not anywhere near the capacity that the roads can handle. Lien added at some point it may be a problem. Lien stated the DOT already knows that the intersection of State Highway 93 and 95 is already a potential problem and one will probably see some changes to that intersection. Bawek inquired if the Committee should take that into consideration? Radtke responded in the Ordinance (10.04) which is a general ordinance regarding Conditional Use Permits, there are sixteen items that the Committee may consider, "to aid in the review of the proposed project, the Zoning Committee may take into consideration the following factors or additional factors deemed to be relevant to the decision making process with respect to the project in question". Number 9 of that list says, "whether the proposed project adversely affects neighborhood traffic flow and congestion". Radtke added it also talks about vehicular and pedestrian access. So, Radtke stated, generally that is something that the Committee can consider – traffic flow, etc. Radtke's understanding is the reason why the number of trucks vary is because that is what the applicant is asking for. That is what is in their business plan. Radtke stated it is something that the Committee may consider. Bice stated we do to some extent tell them where they can go and what roads they can use. How often they can use the roads, the Committee has kind of avoided that. Bice called for any other discussion. Bice stated the Committee has gone through the list and made many amendments and a few additions and it appeared that there was pretty much a consensus on all of those, so Bice believed the Committee was ready to vote on the conditions. Radtke felt it would be appropriate to have a motion to amend the town and staff conditions consistent with what Lien's reading has been here and then vote on that. Vold made a motion to amend the town and staff conditions consistent with Lien's reading, Low seconded the motion. Bice reiterated that the Committee went through the conditions and appeared to have a consensus on those conditions. Motion to approve passed unopposed. Radtke stated that brings the Committee back to the original motion to add those conditions because there was a motion made by Brandt to add those conditions "as written" and the motion that was just voted on was to amend the conditions "as written". Upon Gamroth inquiry if there was a second on that original motion, Lien responded Low had seconded it. For clarification Radtke stated there was a motion made and seconded to approve the permit, then there was a motion to amend, essentially to add in the town and staff conditions, then there was a motion made to amend the conditions from the town and staff consistent with the reading here and that was voted on and passed. Now what is back on the floor is the motion to add the conditions as amended to the first motion which is essentially to adopt the permit. A voice vote was taken to

add the amended conditions to the permit, motion passed unopposed. Bice called for any other discussion on the CUP. Radtke stated he knows the Committee probably doesn't care for him requesting the Committee go through the Ordinance to make sure that they've evaluated everything that the Ordinance requires us to evaluate, but now that we have a motion to approve the permit and some conditions formulated, to make sure that this proposal and the conditions as asked for here, and that they have been properly analyzed under the Ordinance. Radtke believed everyone on the Committee was handed out documents, but under Chapter 13.01 of our Ordinance, the County must specifically analyze non-metallic mineral mining proposals in light of the County's interest in providing for: 1) the wise use of natural resources of the County, 2) aesthetic implications of the siting of such a mine and given location, 3) the impacts of such a mining operation on the general health, safety and welfare of the public. For the purposes of the record, Radtke invited the Committee to have some discussions regarding those criteria. Bice requested that DLM staff or Radtke read each one of those and discussion will be held. Brandt felt what Radtke was asking is that the Committee discuss specifically the three in 13.01 as opposed to all of them. Radtke responded that was correct. Brandt reread the three. Radtke reiterated there are sixteen items this Committee may consider, that is not required. Radtke is only referring to the ones that the Ordinance says the Committee "must" analyze in making its' decision, those being the three that Radtke had named. Radtke addressed "the wise use of natural resources of the County". Brandt responded that is a tough one, as Bice has pointed out throughout his questions, that this particular resource is being used in an industry in which it is essential. Though Brandt disagrees with Mr. Burlingame's assessment of how valuable this is in controlling the price of oil or gasoline, it certainly is a needed resource for the current oil and gas industry. Brandt questioned whether it is a wise use. Brandt continued that the natural resources of our County are the hills and how it is that people experience our County aesthetically but also in terms of the ability of our landscape to filter water, to control water, to supply habitat for animals, etc. Brandt felt this one really goes both ways. Anyone who has been around for the past three years knows there are arguments on both sides when it comes to this one. Brandt "falls down" on the aesthetics, water and wildlife side of it. Brandt knows from his discussions, Bice falls on the other side of it and other members of the Committee have expressed opinions as well. That is Brandt's take on it and personally thinks it is a mess. Bice commented that as for resources, there is a market for it, it seems to be a thing that somebody feels is good and can use. He is not sure that it has a negative overall impact. As far as our hills go we are pretty much taking out less than 80 feet of elevation on our hills. If it is done properly the main sand is generally 80 feet or less throughout Trempealeau County so we modify our hills somewhat but we don't lose our hills. We don't end up with the big sand pits like in the southern part of the County and other areas when we are done, because they just keep going down until they hit water, in fact they go down into water. As far as water resources, we are monitoring that, we aren't allowing them to get within 10 feet of groundwater when they mine the sand. We are watching our wetlands and our streams and DNR is also keeping track. We have gone through quite a few steps here to make sure that the wells of people surrounding the mine are protected. As far as habitat, our reclamation requires this land to be reclaimed. Trempealeau County is one of the first to put in a reclamation requirement in this part of the State. In example, Bice knew where there is sort of a reclaimed property where trees have been planted. A friend of Bice's sprayed those trees when they were young and his friend told him that as the white pine trees got bigger every single one of those trees had at least one bird nest in it. There were also two turkey nests and this was on four acres. Low wants us to keep in the forefront of our minds that we still live in a constitutional republic as well so we talk about the County's resources and Low thought the Committee is protecting the County's resources through the method's Bice just mentioned, but ultimately the product that is being sold, taken to market is not the County's resource, it belongs to Mr. Schneider, so he is doing as he sees fit with his private property. He is well within his rights; it is a legal activity and we as government need to be protecting those individuals' rights to their private property, so we need to keep that in mind as well. Zeglin asked when those property rights of the particular owner infringe on the property rights of the neighboring owner, however. Low stated you have to apply a reasonable standard to it. If you are aggressing at an unacceptable level than you are infringing and that is why we have the Conditional Use Permit process. We try and limit that. We concrete line settling ponds so that we don't have flocculants going into our ground water and aggressing against other people. We are doing our best to monitor air quality. We are hoping to find out whether or not (there is no evidence out there) this is actually creating cancer or is a hazard. Zeglin responded there is also no evidence that it does not. Low stated and we are trying to find that, but in the interim it is a constitutional

republic and people have a right to their private property. Zeglin would ask the Sosalla's if they are happy with their property rights, right now, if this mine is approved. Low stated that he lives in Galesville and when he bought his house he had a decent view from his bedroom, now he has a business across the street and it is all porto-potties and that has become his view. Life doesn't always go ones way. If Low wanted to get rid of those porto-potties there, he should buy that piece of property and make it his own and get rid of them. One can't always be happy all the time. Bice inquired if Zeglin had an answer for the question that she asked as to where the property rights come down. Zeglin responded we could debate property rights all afternoon. If one allows one person to do something then you are essentially infringing on the rights of someone else so there has to be some balance. She wasn't sure that we could strike it here. In regard to Bice mentioning reclamation, Zeglin commented we have yet to see what happens with the reclamation. Bice has personally witnessed a few reclamations and he can say that we in Trempealeau County are on our way to much better reclamation than what has been done in the past because we have a better ordinance now and better foresight and oversight. Zeglin hoped that was true. In regard to the mines that are west and east, Zeglin asked if those were all up and running or active right now. Lien responded the Patzner mine is a "haul and extract" and Proppant/FTS International is a total processing operation but it is not up and running yet. Budish stated Soppa's (to the west which is a haul and extract) is also active. Zeglin inquired how many acres total, in this particular area, have been permitted for mines. Budish didn't have the acres for just the corridor but he had the acres for the County currently. Pronschinske stated Soppa's is seven acres, Patzner's is fifty-five, Proppant bought a little over 400 acres on which nothing has been done. Bawek asked if the Committee had to take into account the possibility of the property's annexing to the closest city and placing an undue burden on the township residents that lose that property value. Bice responded not at this time, that is not part of the Committee's decision. Radtke commented there is nothing in our Ordinance that would ask this Committee to consider that fact or potential fact. Lien commented the reality is that this Committee has been pressured in the past to relax or modify rules to stop annexation and that has been ineffective. This Committee has no control if someone wishes to annex. That control lies with the applicants and the city or village that is willing to take them on. Lien felt it has been a constant struggle because this Committee has realized that if they don't do something about the Ordinance, more annexations are going to take place, so the Advisory Committee was brought back and they did make modifications that will be on the next County Board meeting, but annexations are still taking place. Lien added that Radtke's statements are correct in the fact that this is something that we can't control or address. Nelson stated the townships are hemorrhaging and they will be a lot more if we keep losing them to the cities but what does one do about it. Radtke commented it is something outside of the control of this County. Radtke knew that the State Towns' Association is working on some legislation to bring forward addressing the current law of annexations, but that is something well beyond this County as it is at the state level. As mentioned it is between the towns and cities/municipalities and outside of the County. Radtke has advised in the past that it would be inappropriate to either amend our Ordinance or take certain actions to avoid some third party person or municipal entities actions. He didn't think that would be appropriate under this Ordinance and he advised against it. Bice called for anymore comments. Brandt was inferring something from the points that Radtke brings up and that has to do with something this Committee has been involved with the last fifteen or sixteen years and that has to do with land use planning. Brandt continued that the tools that we have used in order to meet these concerns; wise use of natural resources, aesthetic implications, health, safety and welfare has been in planning. A commitment that we have made in that process has been maximum public input. We are just beyond that or have become beyond that in the last three years because a land use has moved into the County which was unpredicted, unforeseen and caught us (not only as a Committee but staff also) unaware. We are having this discussion outside the context of what we have been doing for the last sixteen years. We are talking about a land use which is by its' nature destruction, by its' nature transforming and by its' nature detrimental to communities in which it is active, so it is very hard (addressing Radtke) for Brandt or us to discuss this because we are talking about things sort of back here, when it is up here, it is like the issues are really up here and we are talking back here and within a context that we are not prepared for. Brandt appreciates that Radtke brings this up every month, and every month we are getting closer to catching up with what the real issues are. Imagine that Highway 95 corridor is an unutilized, fine road at least between Arcadia and Blair and it can hold a lot more traffic but it also cuts the County in half. There has been nothing in any of our land use plans which images a mining district that goes across the middle of the County thereby basically separating the north and the

south. This creates something which we just can't deal with. That is the broader frustration that Brandt feels in trying to address the issues that are listed here. They were written for a time and place that doesn't exist anymore. Bice replied that Brandt stated this is destruction, detrimental and transforming. Bice agreed it was transforming. In addressing destruction, Bice told the story those years ago, by Centerville, the DOT wanted some fill to help make the new road into Winona. They approached a farmer right there that had a great big mound in his farm field. They peeled back the top, took the sand out, built a road with it, pushed the topsoil back and now they have added irrigation to that field and it produced three bushels an acre corn. This is nothing destruction that is transformation. In talking about detrimental, Bice sited another example in Trempealeau that there was a farm field many years ago he didn't know what it was for but prairie birds lived there, etc. and Bice supposed to turn it into farming was detrimental but it did produce food for the continent. Since then it has been turned into a golf course. They turned this sandy old, fairly low quality farm field into a golf course and people have paid a fortune to build homes along the edge of it because they consider it so beautiful. That is a flawless reclamation, but detrimental I guess we all have opinions and Brandt's opinion would be detrimental but Bice doesn't see what we're doing here as an overall negative thing. We are basically part of society, we are given the responsibility to make good intelligent decisions and that is what we are trying to do. Brandt agreed we are trying to do that. Bawek commented we win on one hand and we lose on the other. Bawek thanked McDaniel's and Burlingame because they have taken the initiative to deal with neighbor issues and that makes this a lot easier for the Committee to look friends and neighbors in the eye and say that we tried to get something done and they have already done it. Bice called for any other comments or moving on to the next issue. Radtke commented instead of going list by list, he has been reading through these and thinking that the Committee has kind of discussed all the things that need to be discussed. It was discussed whether it was contrary to public interest, whether it is detrimental or injurious to public health, safety and the character of the surrounding area. The majority of this conversation has been talking about the existence of nonmetallic mining mineral deposits and the location of it near State Highway 95 and the proximity of transportation facilities. There has been discussion about the ability of the operator to avoid harm to the public health, safety and welfare. There was a lot of discussion during the conditions and the ability of the operator to avoid legitimate interests of property in the vicinity of the proposed operation. Radtke believed that was basically discussed at the various parts. Those are the things that the Ordinance states we must consider and must analyze. As for adopting conditions, the Ordinance says that the County must consider, potentially among other factors, the effect or impact of the operation on both public infrastructure (highway, schools, public facilities, etc.) regarding conditions, present and proposed use of land in the vicinity, surface water drainage, water quality and supply, there has been some basic discussion, soil erosion, aesthetics, market values of land in the vicinity, proposed operation, physical practicality of reclamation, public interests from the standpoint of smoke, dust, noxious, toxic gases, etc. Radtke believes that the Committee has discussed all of those in a round about way, so instead of Radtke going down the list on each one, he thought the Committee had covered the bases of what is needed in regards to the Ordinance. Brandt stated one of the issues that Radtke brought up has to do with the ability of the operator to protect or the Committee to make sure that the operator can guarantee the health, safety and welfare of the population. One of the things that has become obvious (he can point a finger because the Dept. of Justice is involved) is we have been working with the Winn Bay/Preferred Sands operation for three/four years now and it is quite clear that we ( as a Committee at the time) were unable to see how it was they would undermine our trust in them and the trust that the County, as a regulatory agency, placed in their ability to do what they said they were going to do and they didn't do what they said they were going to do and continually try to find ways to not do what they agreed to do. Under Preferred Sands, they negotiated by sitting on the Metallic Mining Ordinance Committee negotiating for hours of operation even at the same time they were negotiating with the city to be annexed. What Brandt is trying to say is this is why we have become more cautious in terms of how it is that we permit people. We've limited the amount of time or years rather for the initial permit and it is also the reason that Brandt is more than a little leery of this whole business of mine, reclaim, mine, reclaim. We've got to get on top of that and Bawek is correct in pointing out at the last hearing that suddenly what had been an extraction site is now going to have basically the first four sections open for the entire life of the mine when in fact they were talking about having it reclaimed within ten or twelve years. This is a danger to the community and Brandt's suggests that we are dealing at times with people who are not interested, no matter what they say, in being good neighbors and are in fact interested in finding ways to

undermine the quality, the community and the effectiveness of local government and that is something that we need to be very careful about and have constantly on our mind, because as much as Brandt would like to think that all these guys are what they say they are, Brandt knows, from past experience with Winn Bay/ Preferred they are not. That is something we need to keep in mind whenever we deal with this industry. Bice clarified to Brandt that his comments were not really relevant to this application. Brandt agreed it wasn't but stated it was sort of a wider health, safety, welfare, ability of the Committee to see what the needs are and the danger is. Bice called for any more discussion. A voice vote was taken and a motion to approve the Conditional Use Permit passed with no opposition.

**Approval to Televis Committee Meetings** - Radtke stated, with regard to this item, it is kind of contradictory since it is already being televised. UW-Extension Committee has created a policy with regards to which Committee meetings are televised and as part of that the UW-Extension Committee approves, to make sure there is enough staff and resources in the TV Studio, if it wants to have the Committee meeting televised and then the actual Committee that is being televised has to agree to be televised as well. The UW-Extension Committee, at its' last meeting, had voted to have these meetings televised, just as a formality to follow policy. Radtke asked to have this on the agenda to have the Committee make it formal what their desire is in regard to being televised. Bice's opinion is that it is wonderful to have it televised as long as it doesn't cost the taxpayers any money. Brandt made a motion to continue to have the meetings taped and cabled out whenever there is staff and/or volunteers available, or the Committee sees that there is a particular need, Nelson seconded the motion. Upon Bice's inquiry as to whether there was a fee involved in this, the consensus was that there was not. A voice vote was taken and a motion to approve passed with no opposition.

**Approve Amendments to Comprehensive Plan for Town of Chimney Rock** – Lien explained that any amendments to the towns' comprehensive plans come through this Committee and then are forwarded to full County Board for modification and/or approval. When the original planning process was started in the late '90's it was agreed with the towns' that every three years those plans would be revisited and revisions made as needed. That was done for several years. When a planner could no longer be funded, the towns were told that they had to develop that they had to adopt their Smart Growth Plan by January 1<sup>st</sup>, 2010 and we agreed that this Committee would put money aside and their plans would be revised every five years (2015 and by State Statute it has to be revised by 2020). Lien has the Town of Chimney Rock Land Use Plan in his possession. Each Committee member should have received a couple of sheets in the meeting packet. They wanted to make some clarification and some minor amendments to their plan. Lien has the original language and the new proposed language. Lien suggested reading the revisions to the Committee. Lien stated the town is asking that the County adopt this amendment and then it would go to full County Board for adoption and then the physical plan would be amended. Lien added the Town of Arcadia is near or at completion of their plan (on the towns' May 23<sup>rd</sup> agenda) so that one will be coming to this Committee with some changes as well and the Town of Unity is working on some changes to their plan. Lien has made it clear to those towns that they will not be revised in 2015 as the County won't have the money available; they will need to wait until 2020. Lien added Town of Chimney Rock was a "no cost" plan as they did the minor modification with an attorney. This plan still will be up for review in 2015 with possible changes then. Upon Brandt's inquiry as to whether Peter Fletcher was involved in this, Gerry Hawkenson stated Fletcher had assisted them in some language. Lien added Fletcher is also working with Arcadia and Unity. Brandt made a motion to approve the amendment from the Town of Chimney Rock, Vold seconded the motion. Lien had a letter from the public also. Bice stated he has done a fair amount of reading on this and so he is personally a little bit uneasy moving forward on this. Upon Bice asking if this all stems from Smart Growth, Lien responded from their Smart Growth Plan this was the language. Bice is curious and knows that some of the audience is from this town and would like to see this approved. Brandt stated the Chimney Rock Town Board is present. Bice inquired how many people were part of the Chimney Rock Smart Growth Committee. Bice stated he was the Chairman for the Town of Dodge and he too took all his guidance from Peter Fletcher. Upon Bice's inquiry as to if he could ask why they are moving forward with this change, Lien responded it states why in their paperwork. Bice asked if the property owners that were involved, if the town had gone to them to inquire if they were in agreement with this change. Tim Zeglin pointed out that he was not on the Smart Growth Committee. There was no compulsion on this to

approach every property owner and ask what he/she thought about this. As the whole town board, this is the Chimney Rock response to all the dangers that Mr. Brandt just talked about a few minutes ago. So the response of the majority of the people of Chimney Rock has been to decide that they do not want sand mines in their township. Bice asked if we were talking about sand mines. Zeglin responded we are talking about industrial scale frac sand mining. Bice replied he thought we were talking about changing peoples' zoning of their property. T. Zeglin stated Bice had asked for a rationale for amended the plan. The rationale for amending the plan is in the handout, but we can't just summarize for the Committee, the people of Chimney Rock feel that the detrimental effects of sand mining far outweigh any benefit and they voted that way. T. Zeglin stated they voted in K. Zeglin as a representative and got rid of a "frac sand" person. T. Zeglin stated the town voted unanimously to approve these amendments. They held a public hearing and at the public hearing the support for the amendment was overwhelming. T. Zeglin believed the County was 18 people in favor of the amendments and 2 people opposed to the amendments and two people who were simply there to listen – they did not testify. T. Zeglin pointed out that the whole town board is here, the town clerk is here in support of the amendments. There are many people here who have sat through the last 5 ½ hours in support of these amendments. T. Zeglin pointed those people out. T. Zeglin stated there is a large percentage of the community who want to protect the aesthetic quality and the natural beauty, all the things that we value, we want to protect them. They are trying to work with the County. Amending the Comprehensive Plan seemed like the best way of working with the County. They might have adopted some sort of licensing ordinance, but they are trying to work with the County and amend the plan. It is not an ordinance it is just recommends that since frac sand mining is inconsistent with the existing character of the township that the town board in the future discourage or vote to deny frac sand mines. There is also another amendment about Farmland Preservation. T. Zeglin stated, basically, this is what the people of Chimney Rock want so if one is going to bring up some objection, it would be objecting to the will of the township. Hawkenson shared that they ran the public hearing notice in the paper for two weeks for the specific purpose. They did have the hearing at the Independence State Bank. Everybody was aware that this was taking place. The people at the town board level and people within the township knew that this was taking place. Rose Ottum commented she posted it in papers that it didn't necessarily have to be posted in – the Ad Delite which hits all the households. It was posted at the library as she wanted to make sure everyone was aware of this public hearing. T. Zeglin added the amendments were overwhelmingly supported at the public hearing. Brandt asked if it was zoned predominantly Rural Residential before. Hawkenson responded that was correct. Brandt added they haven't changed the zoning per se but have added these amendments as explanations and guidance for the future. Brandt commented the map itself has not changed. Lien stated their plan was adopted on June 19<sup>th</sup>, 2006 and at that time, every single property owner in the Town of Chimney Rock got a letter. The town had a long series of meetings which started out with Peter Fletcher and finished with Andrea Sveen helping adopt the plan. Lien felt there was a lot of work and planning that went into this. The light green areas show Rural Residential which is predominant. The Town of Chimney Rock has the largest Environmentally Significant zoned area which is DNR owned land and is dark blue. By State Statute the dark green areas were the areas that had to be zoned Exclusive Ag to meet the Farmland Preservation requirements. It states in their original plan which was adopted, "the Town of Chimney Rock Advisory Planning Committee recommends that if a property owner with a Farmland Preservation Program contract determines that contracts' end, they no longer desire to be eligible to receive Farmland Preservation tax credits and the property owner requests to be designated in a different land use category, it is recommended that these properties be designated as Rural Residential to be consistent with the other property's in this area. Bice stated "if a property owner requested" and asked if the property owner has requested this? Lien responded no and that is why they wanted to reaffirm their land use plan with Rural Residential by changing a few words (this is a recommendation from the town as to how they want to implement their town land use plan) such as rather than "recommended" it reads that it "shall". Bice asked if they weren't recommending that the properties in Farmland Preservation automatically become Rural Residential. Lien responded not at all. Once that Farmland Preservation contract expires then it shall revert. Bice asked if that doesn't go against the idea that they ask the property owner. Lien responded they did – they sent out letters through the land use planning process. Bice commented that what he is getting at here is that he was the Chair for the Town of Dodge of the Smart Growth Committee. Bice worked with Fletcher and Sveen. Bice, as Chair, was very specifically told by Fletcher (Bice can get many people to testify to this and he swears this is the truth) to lay it out how you want to. If one wants

to make some changes in the future, a property owner can designate his own designation. It will have to wait until we go through the process but they can decide for themselves. Bice felt what this appears to be doing is telling the people right now that are zoned Agriculture that they will become Rural Residential. Bice didn't know the legal part of this but he does know what he was told as Chair for the Town of Dodge and so he would like to see this issue tabled so that we can move forward and figure out what is appropriate here. That was his opinion. Bice has no idea what his own land is classified because he knew he wasn't going to develop it now so he thought he was going to let it go, but that was because he was told "no problem – if you want to make a change, make a change. Fletcher sat there time after time, as Dodge was one of the last towns to put the Smart Growth into place, simply because Town of Dodge did not think that this was a place for government to be setting up as to how people use their property. We were told, initially, that if we didn't cooperate we were going to lose town road aids. Bice asked Fletcher to find where exactly it said that they were going to lose town road aids. Bice stated that Fletcher came back and said to him, "sorry, I guess that is a rumor". Bice stated that he is not comfortable basically telling these people how their land is going to be established as far as zoning goes. Everyone, like Bice, was told by Fletcher that it won't have any tax consequences of any kind, but Bice felt if we get the right people in Madison, people zoned Agriculture versus Rural Residential could be a huge difference. Bice hasn't had a chance to research this. He has tried to get some information on it. In Bice's opinion this is something that needs to have a little more research before we can move forward on it. Bice knows the Committee and major members of the township are involved up there, but Bice is still personally not comfortable. Bice isn't sure what his authority is, he is basing what he is telling today on what Fletcher, who was a representative from Trempealeau County, told him as Chair and he has to do his job based on what government has told him in the past. Having said that Bice personally feels we should take a little more time in making this decision. Lien felt that Bice and Fletcher were both right. People had an opportunity when this plan was developed and they had an opportunity to approach the town again with this amendment and it is their decision whether or not they show up. Lien has been a part of the planning process in Ettrick and it lasted almost two years. It is somewhat "hodge podge" because people came in and they were very adamant that they wanted R-20 (Residential -20) out in the middle of land that they felt they wanted to sell for house lots when they retire and that is ok and that is what the plan for Ettrick reflects. Lien continued saying Bice has been here long enough to know how many times people come in for rezones. That is still an option. People can come forward for rezones in the Town of Chimney Rock – first they appear before the town board, then they come before this Committee. People always have that option. The land use plans are a work in progress and they are meant to be amended. Chimney Rock's next amendment is scheduled for 2015. Everyone at that time will be sent a letter. If they want a change, they can come forward. Lien suggested looking at the County as a whole. The Town of Hale is zoned predominantly R-8 (Residential 8) and that is a "hands down" and agricultural community. Lien stated Rural Residential like Chimney Rock is proposing allows for every agricultural use in the County as a permitted use but R-8 does not. If one wants to do an ag expansion in the Town of Hale such as a new chicken barn, they have to come to this Committee to get a Conditional Use Permit and that is what that town predominantly wanted. Lien questioned if that meant every single landowner is happy with that and stated probably not but they didn't come forward and speak at those meetings. It is kind of like voting, if you didn't vote you should probably keep silent after the election. The people of Chimney Rock were given this opportunity to change this plan, it is the town board's goal and authority to make suggestions and amendments. They have held a public hearing, they got input and they voted on it. Historically this Committee has supported the towns' role because this is in essence the towns' plan. Collectively all of these plans are added together which makes the County Comprehensive Land Use Plan. There is a lot of Rural Residential on the County map because it allows for the development of some lots yet allows the continuation of agricultural use. Lien can see what they are trying to accomplish here and it doesn't affect people. When it does, people still have that appeal process. On an individual basis they can come to the town for a rezone or they can wait until 2015 to approach the town to amend the plan at that time. Brandt thought one of the other things that Bice is trying to bring up is tax implications. Brandt felt it wouldn't have tax implications because land use is different than a land use plan and zoning is different than land use. Brandt's land is in an agricultural zone, he has pasture and hay land. It is taxed on the agricultural use value assessment. Brandt assumes that anyone doing agriculture in Chimney Rock has their property taxed based on the use, not based on the zoning, so there really is no tax implication. Brandt was here at the inception; in fact a planner was hired before Smart Growth was even proposed. What Fletcher

was telling Bice is correct that anyone who wants to change their zoning has the ability to do that as there is a process to do so. It is not an issue of this particular plan because it is the towns' plan; it is the people of the town who are making these decisions. It is their desire to move this direction. T. Zeglin stated if the Committee is going to accept the doctrine of local control, you should support and vote for this. Low stated local control should come down to the individual property owner if one wants to talk about local government. Low understood what T. Zeglin is saying but if there is one property owner there and you as a collective get together and decide that one person can't do something with their property because we said so then you are no longer protecting. Brandt interjected saying this is to document how the town view requests in the future and this is the committee that makes that decision. Bice reiterated that he has no idea how his property is zoned because he figured it didn't make any difference as he knew he wasn't going to be selling off lots and that was all he needed to know. Bice never looked at it as he chose to wait to see what the future brings. Fletcher steered Bice's committee and said Bice would have that choice to make at whatever point Bice wanted to make that change. Bice recollected that the first question on every single survey that came back throughout every township and first response reflected keeping agriculture as the center of importance. These people are classified as Agriculture and Bice felt that they should be the ones to go to Chimney Rock and say they want to change that. Bice didn't believe that government (them as a unit) should force that on them. Bice would personally like some time to research the whole thing because he feels there is an injustice being done here. K. Zeglin stated the Rural Residential zoning does not restrict agriculture in any way – there are no restrictions on agriculture at all. Bice responded it does not allow sand mining, in our Ordinance agriculture zoning includes with a CUP the legal ability to mine, so it excludes the ability to mine and that is probably what a huge amount of this is about. Bice will say, in his opinion, we will see tax consequences coming down the road because if it is purely agriculture it is going to be looked at differently. When it can be developed our state is going to say we need revenue and they need revenue in a big way. K. Zeglin responded Rural Residential does allow anything in what is considered "traditional" agriculture. The zoning of the township was Rural Residential before a majority of these people chose to go into Farmland Preservation which changed their zoning. If you ask any of them at the time they chose Farmland Preservation if they were aware it was changing their zoning they would tell you no that they had no idea because they could still do the same things, so all the township is asking is that when those properties come back out of Farmland Preservation that they revert to the zoning of the rest of the township – Rural Residential. Bice replied that when people signed up for Farmland Preservation it insured that would be reserved for pretty much farm use, very little housing or residential expansion, probably to a family member and only one or maybe two. They did that because there was some tax incentive to do it and because some of them felt it important that it be preserved. Bice didn't feel it was our place as government to tell these people that they are going to be moved from Agriculture into a Rural Residential setting. K. Zeglin commented that when their contract is up, (their zoning changed when they wrote that contract) they should go back to what the zoning was before. Bice asked Lien if there was evidence that all the properties involved there were zoned Rural Residential before they went into Farmland Preservation. Lien read that their plan stated (it was predominantly Rural Residential other than the Environmentally Significant area) Farmland Preservation - properties currently enrolled in the Farmland Preservation Program were designated as Exclusive Ag 2 properties. State Statute requires that for a property owner to receive Farmland Preservation tax credits the property must be designated an exclusive ag district. People that had existing contracts or wanted to be in Farmland Preservation had to zone it that way to meet statutory requirements otherwise this map would have looked all Rural Residential because that was the predominant feeling of the Board. Brandt stated we get Bice's point, question and concern and have heard it and understand where he is going with the conversation but there is a motion on the floor and Brandt called for a vote on that and asked for any other public input. Bawek stated that yesterday, Tuesday at 11:00 AM he called Peter Fletcher and Fletcher basically reiterated what Lien and Brandt have talked about that this township does have the right to do what they are proposing because they have gone through the process and the residents do have the right to appeal, so they do have the right to do what they are proposing. Bawek wanted to be clear on this and Peter Fletcher himself told Bawek that information. Bice responded that he is fighting his case because he is very aware of that and it is accurate. Bice doesn't think it is appropriate and he is basing his comments on the fact that everything Bice has said is what Fletcher had told him at the time and that is how Bice and many people in Trempealeau County made their decision and that was they would not be forced to do anything in the future.

Lien read an e-mail from Gary Weltzien, Eleva. Weltzien wrote, I have been a resident of the Town of Chimney Rock for 23 years of which I have farmed my property. I am concerned about the possibility of my property never being zoned as it should be. My property is currently zoned Rural Residential. As the township economic plan reads, the summary results state that eight out of twelve concerns is to preserve farmland and limit development of houses. Where does Rural Residential zoning limit this? Please see page 44 of the Town of Chimney Rock economic plan which he has attached below. The second amendments that the township is proposing go against what the economic plan states. Is it possible to table this matter in order to get more input from the property owners of Chimney Rock? I am strongly opposed to this amendment along with many of my fellow neighbors. Thank you in advance of your consideration of the matter.

Lien commented his property is currently zoned Rural Residential so it really doesn't affect him as a landowner but he has the right to come before the Committee for a rezone change at any time if he wants. Lien felt that Bice's interpretation and what Fletcher told him is right. Everyone does have the opportunity to change. Lien stated his land is all zoned Rural Residential but on his tax bill it is assessed at a value for what Lien is utilizing for his residence, but that is just assessment and not zoning. Taxes are based on assessment and usage not on the zoning. If taxes someday revert to a zoning classification, one will see a county wide zoning amendment because everyone is going to want to designate it something different if tax implications apply because we were told by the State that they never would. Bice responded they have changed that since they said they wouldn't. When we got use value that was a whole different ball game from what they said they were going to do. Bice's comment is that Lien just said, yes a person can come in, pay the fee and rezone, but questioned if Lien was saying they will automatically get their change or can they just a request a change. Lien answered that would be making the mind up of this Committee which Lien couldn't do. Bice added that Fletcher did not tell Bice and the Town of Dodge that and he assumed that Fletcher didn't tell the other towns' that they would have to be operating at the whims of government at the time. He made it very clear to Bice that they were going to be a designation. In the Town of Dodge, Bice got his input from the same guy that Chimney Rock is getting their input from and Bice has to do his job based on what he has seen happen and that is very clear that people supposedly had the ability to make their own decisions rather than have the government decide for them. K. Zeglin asked Bice why we have zoning at all with his point of view. Bice responded we have zoning for several reasons one being uniformity. K. Zeglin stated Bice was essentially speaking against zoning period. Bice responded he was not, he was speaking because these people are being forced into something they were told or at least led to believe wasn't going to happen. In the Town of Dodge where Bice was, they were told they would be able to make this change later, and not only that everyone that came into the Town of Dodge got their designation with one tiny exception (that wasn't reasonable and they said no on that) but for the most part everyone got their designation. There being no more discussion, Bice called for a voice vote on the motion. Upon K. Zeglin's inquiry as to what was being voted on, Bice clarified that the Committee was voting on approving the Amendments to the Comprehensive Plan for the Town of Chimney Rock. Bice stated since their was confusion on the voice vote he called for a roll call vote with "no" being not to approve and "yes" being to approve; Bice – no, Nelson – yes, Patzner – yes, Brandt - yes Zeglin – yes, Bawek – yes, Low – no, Vold – yes, motion carried 6 – 2 with Bice and Low voting in opposition.

**Board of Adjustment Appointments** – Lien stated we have three Board of Adjustment members that are up for reappointment in June. Jim Andre, Arcadia is currently the Chair, is up for reappointment. Lien had called Andre and Andre expressed that he would like to continue to serve on that Board. Robert Lunde has asked not to be reappointed as he has too many other things going on. Lien was unable to contact Randy Severson who is the alternate so Lien wasn't sure whether he wished to be re-appointed or not. By State Statute we need to have five standing members and two alternates and they cannot be located in the same town. They have to be staggered throughout the County and they should represent town areas and not cities or villages. Brandt asked if Lien had contacted anyone up in the Osseo area. Lien replied that after the last appointments and everything that went on, Lien felt he would leave it up to this Committee to see which direction staff should go or if the Committee members have suggestions. Bice inquired if there would be time to research to find someone who is willing and interested. Hawkenson suggested a nominee from Arcadia. Brandt stated we already have someone

in the Arcadia area. Discussion followed. Lien explained that any suggested names that come out of this Committee would go to County Board Chair, Ernie Vold, to appoint these people. Lien wasn't sure whether Vold would do interviews like he did last time or how he would make the decision. Lien commented there was a little bit of time and there was further discussion. Bice asked if the Committee was comfortable looking for candidates and letting it go until next month. Nelson made a motion to handle it that way, Brandt seconded the motion, motion carried with no opposition. Bice felt it was important to get people who are knowledgeable and capable. Gamroth stated the current Board is very good and they are very knowledgeable. Gamroth has listened to all the meeting minutes and Gamroth personally felt that Andre does an excellent job as Chair (he knows Robert's Rules of Order and runs the meeting "very tight" and everyone on that Board is excellent. Bice commented he wasn't saying they weren't doing a good job, he was just saying it was a very important Committee.

**LWRM and TRM Requests and Payment Approval** – There were no pay requests this month.

**Surveying Update and Payment Approval** – Lien stated Nelsen is working hard in Township 20 North, Range 9 W – Town of Arcadia. Lien presented a report and bill from Nelsen. Vold made a motion to accept the report and pay the bill as presented, Nelson seconded. Brandt asked if Nelsen was maintaining the old positions as well. Lien responded he was because a lot of surveys, etc. were done from the old ones so he doesn't destroy them. Brandt was talking about the ones that Nelsen has already set. Lien explained that usually the highway department or towns (if they are doing a road project, etc.) will come and remove it and then put it back. That is part of the ongoing maintenance. Motion to approve carried unopposed.

Lien read two letters aloud.

Letter from Whitehall Agriculture Department – FFA Secretary addressed to Lien, Thank you for taking the time out of your busy schedule to come to the Whitehall Agriculture Department to teach the Great Outdoors class about land use policies. The students learned how sand mines operate and how they affect the land. Thanks again for your time. Lien commented that he spent about an hour there one day going through land use planning processes and showed them how to use the website.

Letter from Whitehall Agriculture Department – FFA Secretary addressed to Jake Budish, Thank you for taking time out of your busy schedule to come to the Whitehall Agriculture Department to teach the Great Outdoors class about waterways. The students really liked your demonstration that one should not build in a floodplain. Lien explained that Budish took the runoff model (the Committee had approved the funds for the purchase) to the school and let the kids use it and they reaped a lot of benefit from it.

**Set Next Regular Meeting Date as June 12th, 2013.** Bice stated he had two additional agenda items for the next meeting. Bice wants to know what the rules on manure piles are and he wants to discuss the height elevation requirements for non-ag structures. The Committee agreed to hold the next meeting on June 12<sup>th</sup>, 2013.

At 2:54 PM Chairman Bice adjourned the meeting.

Respectfully submitted,  
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary