

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

**REGULAR MEETING MINUTES**  
**August 21st, 2013 9:00 AM**  
**COUNTY BOARD ROOM**

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

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

Committee members present: George Brandt, Tom Bice, Michael Nelson, Ed Patzner Kathy Zeglin and Jeff Bawek. Hensel Vold and Jay Low were absent

Staff/Advisors present: Kevin Lien, Virginette Gamroth and Jake Budish. Corporation Counsel Rian Radtke. Vickie Stalheim and Forester Scott Laurie and Nicole Hunger – Health Dept. were present for part of the meeting.

Others present: Deanne Sczepanski, Gerald Stalzer, Lee Henschel-Blair Press, Roger Osegard, Donna Brogan, Andrew Schultz, Deb Klaser, Margaret Backes, Sarah Kostner, Henry H. Schultz.

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

**Adoption of Minutes** – Brandt made a motion to adopt the July 10th, 2013 regular meeting minutes, Nelson seconded, motion to approve carried unopposed.

**Appearance – Forester –Tree Planting Summary** Scott Laurie DNR Forester appeared before the Committee. Laurie presented the Committee with the 2013 Tree Planting Summary. Laurie stated the last couple of years the CRP program has waned in lieu of higher commodity prices so the tree planting program has suffered accordingly. Laurie presented \$880.00 to the Committee from the program. Upon Lien inquiring if the tree planters will need any repairs, he replied that Mark Carlson handled the machines this entire year, so if Carlson says they are good, then they are. Laurie commented that a little maintenance on these machines goes a long way and he thought Carlson was aware of that. Bice inquired about the outlook for next years' CRP program. Laurie responded it doesn't look real big. There aren't a lot of people re-signing up for another 10 or 15 years. Laurie personally has three new CRP planting contracts. The other Forester probably has 3 or 4 as well. Not anywhere near the 70 or 80 they had ten years ago, so the program has decreased substantially with commodity prices going up. A discussion took place on oak wilt and emerald ash borer (eab) issues with Laurie noting that Trempealeau, LaCrosse, Crawford and Vernon counties all have positive eab infestations, so they/we are quarantined. No firewood/wood can be hauled out of the County without a compliance permit with DATCP (Dept. of Ag, Trade and Consumer Protection). All the local mills have been advised of this and they have compliance agreements with DATCP. Upon Bice asking if Laurie knew how the emerald ash borer got to this continent, Laurie replied from Asia, it is native to China and it came over in some packing materials, into the Detroit area about 12 years ago and it has spread since then to about 15 states and will continue to spread. Brandt asked Laurie to speak about the invasives. Laurie stated the more we look the more we see them. The barberry, honeysuckle, Japanese knot weed and buckthorn are spreading like "wildfire" as people don't know what it is; they don't know how to identify it. They buy barberry from ornamental dealers and don't realize it is going to spread. Laurie added that the biggest challenge is that we are losing any potential re-growth of seedlings (oak, maple, cherry) which are being shaded out by the buckthorn so we are losing that diversity and we are losing our future forest because of the heavy canopy that invasives can cause. Brandt made a motion to accept the \$880.00 from the Forester, Zeglin seconded, motion carried unopposed. Brandt inquired how many

acres were in the Managed Forest Program in the County. Laurie stated close to 40,000, but it isn't continuing to grow as fast as it did a couple of years ago. The Legislature keeps changing the program. There has been some concern by people entering the program as to what is going to be the liabilities down the road. In years past, people have opted to lease their land out, then that option was revoked and Laurie thought now it is being put back in. Now they are thinking about allowing people to pull out a small piece of land for a potential building site and that was never the case 5 or 10 years ago. In Laurie's opinion every legislature has a different take on a program as to what should or shouldn't be in it, so we are always being pulled in different directions as to which way it should go and it is a challenge. Years ago it was a "no brainer" as Laurie noted it would save one taxes and one could manage their woodlands. Now there is a little more constraint and people should have more concerns before they enter the program. Laurie advises people to read the fine print and think about it because the program can change at any time. Bice inquired if, once a person has a contract, they can still change it? Laurie replied they are not calling it a contract anymore. Bice thanked Laurie for his report.

**Appearance – Gerald Stalzer** Lien stated that Mr. Stalzer is here today about an issue that he has in the subdivision where he lives. Staff has received several complaints of a possible violation of the kennel language in the Comprehensive Zoning Ordinance. Lien read Section 2.05 from the Zoning Ordinance, "a kennel is a Conditional Use and are only allowed in Exclusive Ag, Exclusive Ag 2, Primary Ag and Rural Residential". Lien continued that this particular property is an R-20 (Residential-20) zoning where a kennel is not allowed. The persons in question have been seen or viewed to have multiple dogs on the property. The Ordinance states that one needs a kennel license once they have over 5 adult dogs over the age of 5 months. Staff does not have record of the number of dogs. Lien introduced Nicole Hunger from the Health Dept. who was present. Lien stated Hunger has visited the property and was not allowed in. Staff has driven by and there has been e-mail correspondence with the property owner. Lien thought there had been complaints to the Sherriff's Dept. and some other things going on with the property owner. Lien explained that the Town of Trempealeau had issued kennel tags and the town was unaware of the County Zoning Ordinance requirements. Lien had e-mailed that information to Doris Dahl, Town of Trempealeau clerk/treasurer. Dahl has revoked the kennel license and brought to the property owner's attention that the license should not have been issued. The situation has gotten to the point where if the Health Dept or DLM staff is not allowed on this property (and the property owner has basically stated they would not allow staff on their property), a court order/injunction would need to be issued to be able to go down there with a Sherriff's Dept. deputy to count dogs. Lien added the DLM takes every complaint as valid and staff tries to follow up on them. Stalzer has very valid concerns about the property and he wants to talk to the Committee about this issue. Hunger explained when she was at the property the first time, she knocked on the door and she stated the property owner was clearly there but wouldn't open the door. Hunger went back the next day and she was greeted by 5 adult dogs and Hunger felt that was part of the reason that the property owner did open the door then because the dogs were "bombarding" Hunger. Hunger noted that in the front yard there was a small plastic pen with 6 or 7 puppies in it. Hunger saw 5 adult dogs and then all of the puppies at that time. Lien stated the property owner has stated in e-mails that they don't have 5 adult dogs but yet they refuse to let persons onto the property. In Lien's opinion he has been cordial however the property owner has been somewhat nasty in their e-mail responses to him. Lien has told the property owner that if they would just let staff verify how many dogs, then if it isn't an issue, the whole thing will be dropped. Lien provided the Committee with copies of the e-mails between him and the property owner and a letter from the Town of Trempealeau. Stalzer stated he has pictures of animals roaming the neighborhood. He has pictures of a dog that bit a child. Stalzer stated a child was pawed in the chest by the dogs, the mother was screaming, and the property owner came and pulled the dog off the child. Lien assumed those were some of the Sherriff's complaints that have been filed. Stalzer replied there are six complaints, which are a matter of record, from August 2012 to August 2013. These cases have been investigated, confirmed and are on file with the Sherriff's Department. Stalzer provided the Committee with a packet of information on the issue. Stalzer also provided copies of the property owners "Ruff Life" website. Stalzer stated he found the Dept. of Land Management very cordial and knowledgeable on the issues of law and these dogs. Stalzer appreciated the cooperation and he commended the DLM. Stalzer felt that the information he provided proved that this is a business. Stalzer explained some of the information he presented. Stalzer confirmed that the property owner has 6-8 puppies inside plus 5 adult dogs and 9 puppies outside. Hunger commented that per the website, this business gets these

animals from places that have had natural disasters, etc. (basically rescue type work which “muddys the waters” as to the number of dogs) and then adopts them out. Hunger added there is also an application on the website which interested persons can fill out to be “foster” dog care people, so these dogs may or may not all be on this site. Brandt commented that he and Stalzer had talked a little before the meeting and what adds to this is that this is in a fairly “high end” housing development for Trempealeau County, it is zoned R-20(Residential -20), north of Perrot Park and there are other animals (horses) in this development. It seemed to Brandt (Brandt verified that there was a covenant for this subdivision which allowed for two dogs) it is an allegedly, self regulating association and the issue becomes aesthetics and health, etc. Lien noted that prior to the R-20 (Residential-20) subdivision going in, a property down there had two horses on it and it was a “grandfathered” property. Lien had dealt with this issue a couple of years ago when Wayne Wilbur was Town Chairman because the property was going to change hands and the new owners asked about adding additional horses. Lien had told them that they couldn’t add additional horses but the ones that are there are considered legal, nonconforming. If they ever go away for a period of twelve months, they can’t be brought back. Lien reiterated that there is this R-20 subdivision which has horses in it, but the horses were there prior to it becoming a R-20 subdivision so they are “grandfathered” in. Lien stated the property owners are claiming that the County is harassing them (because there are horses in the subdivision) but Lien added the rules are very clear, since the horses were there first, they can keep them there. The dogs are something new that have come along and are not a permitted use. Lien commented that this is the “heart” of zoning and this is the kind of land use conflicts that the DLM deals with. This is why we do land use planning and why there is a Table of Uses in the Zoning Ordinance which lists what is “permitted, conditional uses, and uses not allowed”. Brandt commented there are the dogs, the manure issue, the smell, the potential for health and permitting issues. Brandt inquired as to what Lien or Stalzer were asking the Committee for. Lien responded that Stalzer just wanted to appear before the Committee and present information. Lien stated that he and Hunger would probably have to work together to determine if and who should get some kind of court order to enter the property to verify the complaint. Stalzer added that in regard to the odor, there has been a patrol officer there almost every day for the last six days and he has confirmed roaming dogs, and the smell. Brandt mentioned that the last time he had visited Stalzer the neighbors had started building a fence and asked if they had completed it. It was Stalzer’s opinion they will never finish it as they never finish anything they start. Upon Brandt’s inquiry, Stalzer stated the dogs roam everywhere unleashed. Lien thought he and the Committee understood what is going on and what needs to be done. Stalzer then produced another set of pictures and more information. Stalzer requested the Committee to use its’ authority and get a police/sheriff’s order to go in and investigate that property. Stalzer stated that the health inspector from the Dept. of Ag has been out there twice and on the second visit (the first visit everything was clean because they had two days notice that the inspector was coming) she came back eight weeks later for a second inspection. She came unannounced and found fresh feces on the table. The inspector said she was going to suspend their license from the State unless they cleaned it up right now. Stalzer added that is why today the property is so pristine. One cannot see the outside feces from the road but one can smell it. Stalzer smells it everyday when there is a northwest wind. Stalzer listed other neighbors by names that have complaints. Lien expressed the fact that this would be a good example of intergovernmental relations, wherein if a court order was issued, the Health Department and DLM staff go there together to see if there are any valid complaints that either department would need to follow up on. Stalzer would also like to see the Committee call for a public hearing on the business that is being run there. Lien stated since the property owner is in R-20 zoning, they would have to rezone to a different district to be even able to apply for a kennel license. Lien explained a kennel license is a conditional use but is not allowed in an R-20 zoning district, so first the property owner would have to apply to rezone the property to a different district and then they could, at that same time, have a second hearing following for the conditional use, if the rezoning was changed. Lien’s opinion was that the Town wouldn’t support changing that from anything other than an R-20 when it is in the middle of the subdivision. Stalzer stated the Town does not care. Stalzer continued saying this was presented to the Town board and when Stalzer had asked for governance of the community, the Town told him it was an issue among the residents of the covenant and the Land Management Department. Lien stated the County has absolutely no jurisdiction of the covenants. Covenants are landowner agreements made amongst the people of the subdivision. The zoning issues or health violations are things the County can address. In Stalzer’s opinion the township was totally useless in these issues. Stalzer didn’t

understand why the County is paying the town revenue from property taxes when there is no enforcement of law by the town. The only thing Stalzer felt the town does for him is plow out the driveways in the winter time. Bice stated the Committee would go through the information that Stalzer submitted. Bice asked that it be put on next months' meeting agenda to discuss and possibly take some action on it. Bice expressed his appreciation to Stalzer for coming to the Committee with the information. Stalzer thanked the Committee and commended the Sherriff's Department and Health Department for their services.

**Department of Land Management 2014 Budget Discussion and Approval** Lien stated all Committee members should have received copies of the 2014 budget information in their meeting packets. Lien and Stalheim didn't have a lot of time to work on it as it has been extremely busy in the Dept. but they were able to get it together. Lien noted that the budget does include the merger of the Real Property Lister into the DLM. The Committee went through each budget item. Lien talked to the Committee about the department vehicles and the possibility of trading two of the vehicles. Lien commented that he budgets for keeping the vehicles updated (new and replacement) by billing back to each of the different programs which utilize the vehicles therefore using very little taxpayer money. Brandt noted he didn't see any of that listed in the anticipated revenue or the DLM mileage revenue. Stalheim responded it is hard to budget the revenues so she uses the fund balance that the Dept. has to offset the expenses for 2014. Discussion took place on the "billing" back of expenses. Upon Zeglin's inquiry about the number of vehicles the Dept. has, Lien replied six – but at one time the Department had as many as twelve. More discussion took place on the economics/ mileage, etc. of some of the vehicles. Upon Zeglin's inquiry as to whether Lien rotates through the dealers or how that is done, Lien replied a resolution was passed a few years back by full County Board which allows Lien to go to the new car dealerships in Trempealeau County (which is two right now). Lien has to get written bids from the new car dealers in the County. The Committee and County Board at that time preferred that the vehicles be purchased in County. Lien commented the dealers have been good to the Dept. Bice inquired if we are not allowed by our rules to get a price from, i.e. a Ford Dealer in LaCrosse. Lien thought it stated in the resolution from Trempealeau County but he would double check it. Bice stated he would prefer to buy in Trempealeau County but they need to know that there is some competition out there. If a County dealer knows he has a "captive" audience there, Bice saw no reason why we couldn't go to an out of county dealer to get a price. Lien stated he would look into the wording of the resolution, but whatever the Committee wanted is what he would do. Lien gave an explanation of the planning budget and the agreements with the towns on their planning and the cost. Bice asked why Real Property Lister, Nick Gamroth was present. Lien explained that he had asked him to come for the discussion about the Zoning Ordinance. After discussion of how long it would take to get to that agenda item, Bice stated it was ok. In discussing the TRM (Target Runoff Management) Grant budget, Lien stated the County was awarded a large scale TRM grant application (for the Elk Creek Watershed) by the State to do conservation work on the land so that is why there is a huge increase for this next year. Lien explained the question will be whether or not people in that area are interested in doing the work. Several years ago the DLM sent out a flyer (at Dave Suchla's request because of the Bugle Lake issue) to everyone in that area that stated the DLM has some money and engineering services available, so come into our office if interested and the DLM received zero response. Lien is hoping there will be some interest this time because money like this isn't easy to get. It is kind of a one time thing and the grant allows 2 -3 years for implementation of the projects. Lien added that Bugle Lake has been a hot topic. It is sedimented in, there are a lot of issues with that lake and this grant is like a mini-watershed grant. DLM will be looking at the upstream landowners and what we can do to control erosion and improve the water quality. Upon Bice's inquiry about what was going on with the dam on Bugle Lake, Brandt replied they have opened it and are repairing it prior to the road construction. Bice asked if the County had \$800,000 that could go to revitalizing Bugle Lake. Lien replied, "No", it goes to the watershed upstream of it. Lien stated it doesn't qualify for use for dredging and enhancing the lake, it is for conservation work upstream like a barnyard, riprap, waterways, perhaps even contour stripping, etc. Lien stated it will definitely enhance the quality of that lake but it has to be upstream. Lien didn't think dredging, etc. qualifies. Upon Bice asking if Lien was sure, Lien responded he wasn't 100% but he would double check on it. Bice commented, as he looked at that lake a few days ago, it could be bulldozed rather than dredged and expressed that it was outrageous that it sits like that and that government can't fix that problem. Lien added that the money for this TRM grant becomes available January 1<sup>st</sup>, 2014 and is specifically for the Elk Creek watershed. Lien

stated Carla Doelle found out this grant was available and that not many people apply for it, so the DLM applied for it and was awarded the grant. More conversation took place on how these grants work and maintenance of the projects. Lien stated the money source was DNR. Bice encouraged Lien and Doelle to research, ask or beg, or whatever else it takes to see if there isn't some way that this money can be used to revitalize Bugle Lake. Bice added they have been working on that project for years and nothing has happened. It is a disaster. Bice's argument is that sediment is there for years and years. If we clean that out, everything that does settle in there does not go to the lower part of the river. It stays there. So we can kind of clean up the lower part by cleaning that up and do a huge amount for the area. Bice encouraged Lien to be very persistent, with perhaps Senator Vinehout and Representative Danou, as that would be a real win for Trempealeau County. Zeglin commented there has been a Bugle Lake Fund in existence for at least five years that she is aware of that people have been asked to contribute to. Zeglin didn't know who was in charge of the fund but often wondered what they are doing with her money. Someone from the public stated Mary C. Anderson would be a contact person for the Bugle Lake project. The LWRM (Land and Water Resource Management) Cost Share Account drew some discussion. Lien stated Keith VerKuilen and DATCP Engineer, Pete Wurzer have been working on a lot of these projects which include riprap, waterways, barnyards, etc. Upon Zeglin's inquiry as to the amount the landowner must pay, Lien responded the standard amount the landowner pays is 30% and the LWRM fund pays 70% of a project. Lien explained that the State gives out a certain amount of money and occasionally another County doesn't use all of their money so Trempealeau County has been able to obtain some of those other county's' funds. Bice asked if these funds were independent of the Farm Service Agency. Lien responded "yes" and they don't have any ties to any of that. Lien added there may be times where DLM and FSA work together. FSA may have a project that a landowner is awarded money for (i.e. EQIP) and they will use our engineering staff to implement the work and then we get a percentage of that. In discussing the DLM budget, Lien stated meeting "zero" budget means one has to cut somewhere because wages and benefits, etc. go up. With a one person department like the Real Property Lister, he would have had to take furlough days because he has nowhere to cut. Lien commented that the DLM utilizes Gamroth a lot. Gamroth finds all of the parcel split violations as he is the first one to review them. Gamroth will be a great fit in the Department as he is very knowledgeable in that plus he can be utilized for other things. The Committee discussed Budish's ability/time available to visit mine sites, etc. as well as cell phone use in the Department. Lien credit Stalheim in doing a great thing which helped with budgets, that being she went over the last five years' budgets. Lien and Stalheim went over those five year budgets and noted that the DLM budget is very dependent upon the economy. It is very hard to judge the income that will be coming in because it is very economically based. Lien and Stalheim prepared budgets using a five year average which Lien felt was an accurate way of doing things. Brandt asked where he was going to see the amount of money that comes in related to open non-metallic mining acres. Lien responded that was Line #7, Account #46818 which includes permit fees, expedited review, open acres for mining, etc. Lien noted the annexations took money out of this fund. Upon Brandt's inquiry if there was any money to bring on more staff, Lien responded without levying, he would say no. Lien explained and discussion took place on staff funding coming from DATCP. Brandt thought it was important to note that the WLWCA (Wisconsin Land and Water Conservation Association) lobbied heavily with current administration to keep that funding in the budget. It had originally been cut out significantly and it got put back in. Lien stated in the last few years we've had a strong emphasis on mining but that is directly related to conservation as there have been runoff issues to public waters, neighboring properties and road ditches. Lien stated Rod Stenulson is also doing erosion control monitoring on all new construction sites and that is a form of conservation. There may be more erosion on a home construction site than there is from a farm field. It is all conservation work which Lien still feels strongly about. Upon Nelson's inquiry about where the reclamation bond money is kept, Lien explained that it was something like an insurance policy; it is not actual funds that the department is holding. Zeglin inquired if there wasn't a position open created by VerKuilen taking Carlson's position. Lien explained that VerKuilen was hired to do a number of things which included taking Carlson's position. Zeglin felt the Department was understaffed and somehow the Committee needed to find money for additional staff because even though the moratorium is going to go through, there are still 26 mines permitted. Lien noted that even though a couple of the mines have annexed, every time there is a runoff event the DLM is involved and has to go out there because it is usually outside the mine perimeter. Bice suggested sending the city's a bill for DLM expenses for "policing" these runoffs, etc. Lien explained that the intent of NR-135 was

that those expenses of following up on issues should be covered by the open acre annual fee, however when the mines annexed to the City, the City gets those fees and DLM gets nothing, but the mine is affecting lands outside the city border. Lien said he would talk to Tom Portal from DNR about this issue. Brandt stated if a new position is created there has to be a job description. This Committee has never decided as to what Budish should do if a mining company says there going to be doing this the first year and this second, etc. and then the company is at year five in a matter of two months. Discussion took place on what a new job position should look like and what steps would need to be taken to fill it and whether or not there was a position already created in the DLM plan that is not filled. Funding for filling the position would possibly come from the open acreage fees if the other mines open up. Brandt felt there was enough interest within the County amongst the citizens to support an increase in the levy in terms of some funding for an extra position. The issue is that the County is restricted on how much they can raise the levy. Bice asked Budish how many more mines he felt were going to open by next spring. Budish responded that was dependent on the markets. Lien commented when the discussion on Chapter 13 takes place a little later, that will answer Bice's question. Bice commented there are people on this Committee that would like to hire some additional people. Bice's "take" on it was that he believes in efficient government and he is satisfied that our staff is doing a great job, having to set priorities to accomplish the majority of their work demands. Bice thinks that part of being efficient is probably not covering every base, especially the ones that we can prioritize a little bit. Bice wasn't sure where the money would come from for staffing but if the mines open up and we have a bunch of extra revenue coming he could see that maybe happening. Lien discussed the issue of raising the 911 address/sign application fee to \$50.00 due to increasing costs and inquired if the County wanted to raise the fee now and "bank" some funds or wait until we have to get the new signs which will come at a cost increase in approximately 2-3 years. Consensus was to leave the cost as is. Brandt made a motion to approve the DLM budget as presented, Nelson seconded, motion carried with no opposition. Bice commented that each time he sees Stalheim she always has a smile on her face.

**Discussion on Trempealeau County Comprehensive Zoning Ordinance –Chapter 13 – Nonmetallic Mining- Hours of Operation and Discussion on Trempealeau County Zoning Ordinance - Citation Ordinance regarding the impacts of Nonmetallic Mining.** Lien handed out a paper copy of the changes that he made to the Ordinance noting that the changes he has made are highlighted in blue. Lien noted that everything else the Committee has approved and has not been amended or touched. Lien referred the Committee to Page 96 of the Ordinance. Upon Bice's inquiry, Lien stated he was in agreement with everything he is presenting to the Committee with the minor changes that are in blue. Lien read aloud, "in the event that a Conditional Use Permit has been preliminary granted, after a public hearing was held for the operation of a non-metallic mineral mine, the applicant will have twelve months to complete all the conditions agreed on during the public hearing. If no activity has taken place at an industrial sand site or rail load out facility under the permit whatsoever, or alternatively where activity was originally commenced" and stated that is the same language. The problem is (where there was conflict), we had the language that said if nothing happens for a period of twelve months or nothing happens initially the permit is supposed to lapse. Lien stated the DLM has never enforced that. The reason DLM has never done that, is under "1" - "the nature and intent of separating construction aggregate mining from industrial sand mining is clear in nature by the separation of the product and scale. Construction aggregate sites are primarily for infrastructure in a given area to reduce hauling from sites that are not in the vicinity. The footprint, historically, is much smaller in scale as well as runoff and erosion issues are greatly reduced. Industrial sand sites are rarely, if ever, used for local infrastructure, footprints are very large in nature, the separated sand particles are prone to both wind and runoff erosion at a much higher rate than construction aggregate". Lien explained that is his reason for putting in the definitions that the Advisory Committee originally came up with. They are separated out only for reclamation and activity purposes and because we have had approximately 50 permitted aggregate mines in the County. As an example, Lien used the Whistle Pass Quarry and Peacock Quarry which are in two different areas of the County. Lien continued stating there may not be activity there for five years unless we have a road project in that area. It makes good sense – why should that permit lapse if we don't have runoff issues, erosion issues, but we also don't have a road project in that area. Industrial sand isn't the same. Industrial sand is something that is used outside of the County, an exported item. DLM has had numerous complaints on these large open pits. If there

is a period of time where the mine sits inactive for twelve months, the town has asked that they be reclaimed. That is what the Comprehensive Zoning Ordinance and NR-135 says. DLM hasn't enforced it because it really doesn't apply, or shouldn't apply to aggregate mines. Lien thought this resolves what the town is asking DLM to do, it meets the aggregate industries requirements and the industrial sand mine requirements. It may be unfortunate for those people who have lost contracts on industrial sand, they may have to reclaim and open that pit at a later date or something. Lien then referred the Committee to page 99. He had corrected what read as "Soil Conservation Service" to "NRCS (Natural Resource Conservation Service)". At this time Rian Radtke rejoined the meeting and the Committee went back to review Page 96. Lien recapped for Radtke what he and the Committee had discussed. Bice had questions about a site that there have been issues on. Upon Bice asking if there was a bond on that site, Lien responded yes. Bice inquired if the bond was sufficient and Lien responded it may not be. In Bice mentioning that work has to be done on the reclamation amount of money that the County gets, Lien stated he thought the Committee had addressed it and it is where it should be now. Lien explained how the new reclamation requirements would be implemented, if adopted. Bice inquired as to what happens if a company just walks away from the property and the bond money does not cover the reclamation, does the County end up with that property and keep the bond? Lien explained at that point, he and Radtke would get involved so that the County could reclaim that site prior to the bond lapsing as there are time lines associated with them. Patzner asked what happens if there isn't enough money to cover the reclamation. Lien felt the DLM has addressed that; however there may be times when the bond is short because perhaps there is more area opened up than what the County realized. Lien stated that would be addressed by trying to get Budish out in the field more. Lien noted the aggregate sites have never been a problem. It is the industrial sand sites that need a closer watch because of the amount of material that leaves annually. In Bice mentioning that the Committee needs to deal with the issue of the miners leaving a shear cliff, Lien responded that NR-135 does address that issue and in certain cases it is allowed. Lien has yet to see a stable vertical cliff that he is comfortable with. Staff has the right to exercise some authority there and has allowed some benching and NR-135 does allow a vertical wall with a bench. Lien added that whether it is limestone or sandstone it is really tough to demonstrate, that over long periods of time that it will be stable. Brandt stated Bice had asked if the County gets the land and the ability to reclaim it. Brandt continued that the bond will cover the reclamation, but the County doesn't take anybody's land. Lien commented there would have to be a default on taxes, etc. before the County would take over the land. Brandt added the bonds' responsibility is strictly for the reclamation. Lien asked Radtke that if the reclamation bond wasn't large enough and the County had to expend money beyond that, if that was something that legally the County could assess to the taxes of that property. Radtke responded not that he was aware of. Lien added that we as a Department and Committee have to do a really good job to make sure that the bond is big enough to cover reclamation. Bice mentioned there are other situations in government where we are required to go in and spend money and we levy that against that property and that goes on the tax roles. Radtke responded that those are situations specifically authorized in the Statutes that the County can assess a special assessment onto a property. Outside of that specific authority in the Statutes, the County has no authority to just tack on to someone's tax bill some costs that they have incurred. Radtke wasn't aware of a statute regarding reclamation or NR-135 that would give the County authority to do an assessment against the property itself or to take ownership of a property due to failure of reclamation. Lien added it depended on the contract/agreement as to who is responsible for the reclamation. In referring back to Page 96, Radtke stated he understood what the draft language is attempting to do. Lien and Radtke had discussed "preliminary" approval or being approved subject to complying with certain conditions before the permit is issued. Radtke stated it isn't really developed in the Ordinance as to what that procedure is and it is really not very well developed in the CUP's we have been granting. It is a list of conditions, but it doesn't say which ones are preliminary, or prior to issuance or which ones apply after issuance. It is just understood by the reading of them and the nature of them. Radtke thought it would be a good practice or something to have in the Ordinance which identifies that concept of a "preliminary" approval or based upon "conditional" approval and then identifying within the CUP which conditions must be met prior to issuance or which ones would apply even after issuance. Radtke had concerns with the terminology on the proposed language on Page 101 (E), such as "in the event that a conditional use permit has been preliminary granted after public hearing was held", Radtke questioned what "preliminary granted" was. Radtke stated there is a definition of "preliminary permit" which is not "preliminary granted". Radtke read the definition of "preliminary permit" as being, "occurring

after the public hearing and prior to the issuance of the conditional use permit, and all conditions have been met and viewed complete by the Department of Land Management staff and Chair of the Environment and Land Use Committee will issue the Conditional Use Permit for the proposed site”. Radtke thought that all made sense and for him, it basically comes down to some terminology to make sure that we are clear on what is being stated there, what is required, what the procedure is. One of Radtke’s recommendation’s today is going to be that we add some language that talks about the approval of a Conditional Use Permit, that it would lapse and become void if the Conditional Use Permit is not issued within one year of the approval of the Committee and also a provision that would say that the Committee would have authority to extend that one year time frame upon just cause being shown. Radtke had obtained language from an Eau Claire County ordinance that deals with that issue. Discussion took place on that language. As Brandt understood it, that the issue is under the definitions we have something we call the “preliminary permit” and what Brandt is hearing is that it would be a good idea to just eliminate that but yet to describe that period between the approval of the Committee and the signing of the CUP by the activity that’s allowed. Lien stated the existing Ordinance did address that, saying if no activity has taken place, meaning the conditions haven’t been completed, for a period of twelve months then it is supposed to lapse, but the County has never enforced it. Radtke commented that the way it is written it is not clear, because it says, “in the event a conditional use permit has been granted”. Radtke questioned what that meant but stated that by practice we have distinguished “issuing” and “approval”. More conversation took place on terminology. Brandt thought there were two areas of concern; one is the permitted or the approved mine where nothing has happened, people haven’t tried to meet the conditions and they haven’t talked to the County or the towns on road use agreements. Maybe they have a bond in place but no other activity has happened and things just look the same and then the other thing that goes on is when somebody begins a project, gets to a certain point and then shuts it down without reclaiming it. Brandt thought that was the issue that wened to deal with as opposed to both of them actually. Lien stated this attempts to deal with both. Brandt is hearing from the citizens and the townships that the second one is a major issue but Brandt is hearing from the neighbors that the first one is also an issue. Bice asked if there is a mine permitted somewhere and nothing has happened if that mine can be sold as a mine with a permit. In other words, if they sell the property can they just start off where the other permitting left off? Lien responded yes and the permit goes with the property. Lien explained that we have seen these turnovers in mine ownership and the Committee decided that no fee or public hearing would be required but we do want that new owner to come in and go through the conditions that apply to that site with them. Bice asked if that differentiated between people who have a contract to sell sand and people who might sell the land. Lien stated no, it doesn’t matter. More discussion took place on the language and the distinction between “preliminary” versus “nonpreliminary” and which one this paragraph applied to. Radtke recommended creating two separate paragraphs that deal with each one individually so it is real clear and consistent language that says this is approved but hasn’t been issued yet, the timeframe involved and just cause for extensions. Then have another paragraph that deals with the permit that has been issued and if we’re seeing no activity, what is the timeframe where there has to be activity or it will lapse. Radtke stated this is a complicated issue because there is another issue that looks similar, but is separate, and that is the reclamation and the reclamation non-activity. That is why Radtke was suggesting having distinct rules on when they would lapse and when they wouldn’t. Upon Bawek inquiring if there was a description for “activity”; Radtke responded not a definition that is clear. Radtke felt one of the biggest challenges for this Committee was going to be to come up with some really clear language as to what is activity and what is not and have it be specific enough to deal with each situation but flexible enough to deal with the various types of activities that non-metallic mining encompasses (rail load outs, wet plants, dry plants, extraction, etc). Conversation took place on the definition of “activity”. Radtke thought the Committee needed to decide what it is this Committee/County wants to see happen, in a twelve month period of time to be satisfied that there is activity, before a definition can come into play or also what is meant by “nothing”. Brandt felt the Committee needed to address what the Committee concerns are. We are the Environment and Land Use Committee. We are the successors to the Zoning and the Land Conservation Committees. Our concern is for soil and water and the issues having to do with “activity” relate, in Brandt’s opinion, mostly to reclamation. Our concern is if there is a pile of sand, is it going to end up in the river. If there is a flat open space of exposed bedrock, are we going to have stuff going into the ground water? Those are the things that Brandt felt should be first in the Committee’s mind when we start talking about “activity”. In other words, don’t open up thirty acres and then

find out the market collapses and not reclaim – that is the kind of stuff we need to be looking at. Bice stated he has gotten a bit of an education over the last three months as he was always under the impression that before Stage 3 opened in a mine, Stage 2 or 1 was going to be reclaimed, but now we find they are into Stage 4 before they think they are going to start reclaiming. Bice thought if the Committee couldn't come up with a definition for "activity" perhaps they could come up with a definition for reclamation. Radtke commented that was just another issue of when reclamation should start, which is different from the previous discussion about a preliminarily approved permit and activity on an existing permit. Radtke has looked into the reclamation issue as well. Radtke spoke to Tom Portal, DNR at length about this issue and his position is, when reclamation should start is unique to each site and that it should be identified in the reclamation plan that is approved and that is what tells us whether we start reclamation. I.e. if a reclamation plan says, "before we get to phase 4, phase 1 will be reclaimed", then that is what the approved plan says and that is what should be happening and if it is not then it should be enforced that way. Radtke continued that if a plan comes through and it does not have adequate language about when reclamation should start or what phases or what is considered kind of intermittent mining and then how reclamation impacts that then the plans themselves should be modified or whatever is approved should have some language to deal with that and then that is the avenue, according to Tom Portal, DNR, to deal with when reclamation starts because each site/plan is different. If it is not in the plan, Radtke stated that should be a concern that this Committee should raise during the public hearing and say, "we don't see a good plan – when does reclamation start, (in the end this is what it is going to be like), what happens if one has to stop half way through, what it is going to be like if the market turns cold and one needs to wait out for a number of months before things start back up – what is the plan. To deal with it in that manner rather than dealing with it in the Ordinance, in a way that says after a certain amount of time/activity that reclamation would start. The Committee discussed various reclamation plans. Radtke stated the idea he was presenting was that there wouldn't be something in the Reclamation Ordinance to deal with when reclamation starts but rather deal with it in each reclamation permit which gets approved/reviewed by this Committee. Radtke didn't believe it would need to be made a condition because if their mining plan says one phase doesn't start before the other one is reclaimed, then there are tools in the Statutes and the Code to enforce and to either use the bond for the County to do it themselves (obviously we would start with a letter identifying the problem) and then there are other techniques such as cease work orders and citations for violations. Radtke wanted to make clear the concept he was suggesting and that it is this Committee's decision whether that is the route they want to go. It has appeared to Brandt in the last year, that when an applicant comes before this Committee, those plans are suggestions. Brandt understands them to be what it is that is going to happen. It seemed in Brandt's mind, based on the experiences the Committee has had, that they are just putting it out there because they need to put out a plan. Radtke responded the applicant submits it as their plan and it is this Committee that approves it and once it is approved, it goes "hand in hand" with the CUP – two separate things but they come to the same meeting and they are dealt with at the same meeting. What this Committee is doing by granting a CUP is also granting their Reclamation Permit and part of that is approving their plan. The plan is what has been submitted/presented to the County. Brandt said the impression he gets is that "this is our plan; we can change it if we want to". Radtke stated that is true, with the approval of the County. If the County is disagreeing that the plan should be altered then the applicant or permit holder is stuck with the plan that is approved. Lien thought that as a Committee we need to pay close attention to what they are telling us because when we look at it and see phases, he felt that we're thinking it would make sense or assuming that when they get to phases 3 and 4, they start reclaiming 1 and 2, but if they don't state that in the plan, then in reality they can have each phase open. Bice directed Budish to make sure that reclamation is very clear from now on, on every plan. In going back to the discussion on inactivity, in regard to the plan, Brandt questioned if they are doing anything that relates directly to their plan. Are they mining, are they reclaiming, and if they're not doing any of that in a year, specifically if they are not reclaiming open land, then Brandt felt the Committee has to do something. Whether it is to take the permit away or start reclaiming ourselves – where is the "trigger"? Is it the time or the amount of land that is open? Bice inquired if Radtke could work on this? Radtke stated he would but he would want to work on it in tandem with Lien to try to put together some draft language if that is what the Committee wants. Based on the general discussion here, they could put some options together. Radtke further commented that if one is going to create a comprehensive definition of "activity" (which would be good) and also enforcing reclamation through our permits, the Department is going to need someone "on the ground",

out at the sites on a regular basis noting and documenting what the activity is that is taking place. If current staffing levels are not going to be able to comply with what this Committee is asking, then that is something to think about too and whether or not we want to put that in our Ordinance. Bice asked if the Committee was comfortable with Radtke trying to sort this out with Lien's help. Zeglin thought the Committee should go through right now, paragraph by paragraph, what is in question, addressing the definitions as we go, and tweak that in a general way. At this point the Committee agreed to take a forty minute break for lunch. Bice called the meeting back to order at 12:35 PM. Bice stated the first thing the Committee is going to discuss is the bonding formula so the Committee can understand how the dollars are arrived at. Lien explained that each individual mine site is unique in character. Budish has a general formula for the dollar amount for area but then one has to look at if it has rail, a wet plant, dry plant or all those other things. Based on conversations that Budish has had with different contractors, he was told that all the bonding amounts, for all the sites are too low. Lately Budish has been addressing financial assurance bonding amounts as \$10,000 per acre with earthwork and grading. Another \$2,000 is added for the seed mixtures, fertilizer, etc., so one would be looking at a base sum of \$12,000 per acre. The amount of acreage has been including the entire site, for most mines, based on the location area. If the area is going to be fairly steep with a lot of terrain, the entire site is bonded because in reality there will be erosion pretty much on everything if they open up the entire site. If the site is generally flatter, more field (they are taking the ag fields out), Budish has recently been bonding the entire site at \$12,000 per acre. The bond is basically like an insurance policy. Budish continued saying if there are conveyors, mobile crushers, etc., if it is mobile, it is not factored in. If one is putting a wash plant on top of concrete, all of that concrete, rebar, footings, etc. has to be removed. High cap well abandonment is factored in, even if it states in the plan that it is going to be kept in there, one still factors in taking that out. Budish has been using \$7,500 as the figure for abandoning a high capacity well onsite. If there is a rail load out, Budish has been figuring \$5 - \$6.00 per tie for removal and factors in the length of the rail spur. A one mile rail spur would be approximately 5,280 ties multiplied by \$5 or \$6 and that would be the cost for removal. The reality of a rail spur actually getting pulled out, is that it probably won't happen but one has to factor that in for the reclamation plan/financial assurance. Budish has been told by contractors that removing ballast stone (stone under railroad tracks) would cost a minimum of \$15,000 per acre. Budish uses a spreadsheet to calculate everything. Budish further explained he starts with bonding the whole site and then with the five year permit time frame and 2 year extensions, if one proves they are a good operator in the first five years, there is no reason that the County couldn't drop the bonding amount after that time period perhaps eliminating the area that has already been reclaimed. Discussions took place on how they arrived at or are determining bonding amounts. As suggested by Zeglin before the break, the Committee decided to go back to Page 96, Subsection A of the Ordinance and started to review it again. Radtke read aloud subsection "A" regarding "preliminary permit" and "activity". Upon Bice's inquiry as to if Radtke had a good way of wording that section, Radtke responded he did not. A number of different suggestions were made in regard to changes to this section. Bice stated he was comfortable, after having this much discussion, in letting Radtke take this, define this, and come back with the changes on this particular section next month. Radtke inquired about the section requiring the permit holder to come in, and upon just cause, could ask for an extension of that 12 months. Radtke asked if the Committee would like to see Lien and Radtke work on and add some proposed language. Discussion took place on a timeframe for the length of the extension, etc. for this section and Radtke referenced Eau Claire County's ordinance language. Zeglin suggested limiting it to one extension for just causes. Zeglin thought at the end of one year they should be able to realize the problems they will encounter and should be able to ask accordingly for any extension. Lien addressed what he has heard stated at many meetings that this is a permitted, legal land use. Lien continued there is no such thing as that related to nonmetallic mining. In Section 2.05 Table of Uses in the Comprehensive Zoning Ordinance, there are permitted uses, conditional uses and there are uses not allowed. Lien stated it is very clear that when we look at mining in general, it is a conditional use only allowed in agricultural districts which means it is, nowhere in our Ordinance, a permitted use. Lien stated it is a conditional use only allowed in certain districts, so if one is in the wrong district, they first have to rezone and then apply for a conditional use permit. Lien reiterated that no where in the County Comprehensive Zoning Ordinance is it a permitted land use. Lien has heard that towns and members of this Committee feel that if they say "yes" once, they have to say "yes" every time. Lien added that every mine is unique. If one looks at the Comprehensive Zoning Ordinance, Page 95, Factors to be considered for Adopting Conditions - #4, it states "County

Empowered to Reject the Permit Application. If the Committee reviews all the conditions and finds those conditions not applying to a particular site or in conflict with some of those conditions, this Committee does have the right to reject it and the reasons as to why it is being rejected have to be clearly stated". Lien wanted to clear up those misnomers. Lien reiterated it is not a permitted use, it is a conditional use only in certain districts and the Committee, upon reviewing each and every individual one, on its' own merits, has a right to say no if there are things in that particular application that don't meet the Ordinance requirements. The Committee then went on to discuss separating the definitions of aggregate and industrial sand mining and clarified some of the language. Lien referred the Committee to Page 98 noting that the Committee had discussed that section at the last meeting. Lien read #3 which stated, "Minimum reclamation standards for sites less than one acre are as follows". Lien thought the Committee had taken it out once and then decided to put that section back in again. Upon Zeglin inquiring if there were any sites under one acre, Lien responded not industrial sand, but there are aggregate sites/borrow/shale pits. Lien noted the change on Page 99 of "SCS" to "NRCS". Lien stated the next changes were on page 100 where some definitions had been inserted. Lien noted that the definitions for "industrial sand" and "construction aggregate" came directly out of the Advisory Committee. Lien referred the Committee to page 101 specifically to "activity" and "nonactivity" as those were items that needed clarification. Radtke commented he had notes from Tom Portal, DNR to aid in getting these definitions down. Lien referred the Committee to the last page of the Ordinance, referencing that Patzner had brought this up earlier, which dealt with how one levy's a fee/citation. Lien didn't remember ever issuing a citation or stop work order for an aggregate mine and there have been several issued for industrial sand. Lien felt it was just the nature of the industry as the sites are usually large and difficult to control. Lien has been begged to give a citation in lieu of a stop work order. The maximum penalty that the DLM had was around \$1,500 per day which doesn't do much. For Lien a "cease and desist" stop work order is the last resort to get compliance. We don't want to do that but that seems to be the only way to get compliance because our current fines aren't heavy enough. Lien commented that the industry doesn't want to violate, but things happen whether it is error, gross negligence or whatever it may be. Lien thought the fines need to be severe enough to send a message and right now the language isn't there. Lien suggested using the acreage as a basis for fines just like our fee schedule for permitting. Bice suggested Budish look into fees for violations when attending the enforcement conference the next day. Lien added that the County needs to look into enforcement because the message DNR is sending isn't a good one - nothing happens. The Committee's job is health, safety and welfare and we're permitting these mines so we need to be sure they are following the rules. Lien thought the only way to do that was through fees/citations. Lien stated we have the ability and brought up the Citation Ordinance which is where he thought this should be done. This Citation Ordinance was last updated in 2000 and it doesn't pertain to non-metallic mining too much. Brandt inquired if #1 on Page 102 was basically referring to the fee schedule. Lien responded that was correct. Lien stated that earlier in the Ordinance it states that the fee schedule is set by this Committee and can be reviewed on an "as needed" basis. Radtke had a number of concerns. Radtke stated doing it in this manner, in this section; he didn't think this was the right place for it. The Citation Ordinance would be the place to deal with this, if that is the intent to be able to site the violation. Radtke didn't see anything wrong with basing the site penalty/citation/forfeiture amount based off of the fee schedule. A couple of concerns would be: 1) under the Statute, to have a Citation Ordinance there has to be a fee schedule and basically here are several ways to enforce the Ordinance. One files a summons or complaint in court, there is then an answer provided by the defendant. Radtke noted it is a civil matter. It goes to trial. Radtke continued that the Statutes offer a shorter version to enforce the Ordinance through the citation method. That Statute is very clear on what has to be in a citation ordinance and what has to be in a citation and one of those things is that it has to have a schedule of deposits. There is no discretion and the Ordinance should state the exact dollar that is on the citation. Radtke didn't see any issue in basing that penalty amount off the fee schedule, it would just have to be stated in the Citation Ordinance. It would not be able to be subject to change each year based off of this Committees' decision, it has to be in the Ordinance. If the Committee wanted to change it annually, the Ordinance would have to be amended annually. Radtke added that he is just concerned that it is the wrong equation and some of the wording needs to be changed. Radtke addressed the severe, repetitive violations as it gives too much discretion as to what is "severe". Radtke suggested a penalty provision based on "offenses", such as a second "offense" would mean doubling the forfeiture amount. Radtke recommended amending the Citation Ordinance and incorporating it into this Ordinance. Radtke could tell just

from a “first glance” that the Citation Ordinance needs to be updated. Radtke added that there is a “violations” section under Chapter 13. It says “violations or any violation” or do we just simply take that out and say “violations of Chapter 13 result in forfeiture”. Radtke stated there could be violations of Chapter 13 that may be a violation of the CUP where one is going to want to revoke the permit or maybe a violation where another remedy is going to want to be used other than a citation form. If that is the case, Radtke recommended putting in some language that (if this violation section would survive) staff is able to use any remedy that is available under its’ Ordinances, making sure that it is clear and not singling out the remedy for violations. Radtke commented it is a bigger project than just adding a paragraph in. Bice inquired if the Committee could change the fee structures today. Radtke responded no that it has to be approved by the full County Board and publication. Radtke would check whether a public hearing would be required. Lien added this Committee could make recommendations. Discussion took place on the courts’ fee schedule and what the Committee’s abilities are to set fee schedules. Lien stated, to his knowledge, his Department has never received any money from any citations that the Department has issued and inquired how that works. Radtke wasn’t sure of how those moneys are distributed and thought that would be a good question for the County Treasurer and the Clerk of Court. More discussion took place on the fees. Lien asked if there has to be a separate fee schedule or if the fees could be incorporated into the Ordinance. Radtke thought he would keep it all together rather than having to go to each chapter to find what the deposit schedule would be. Many chapters in the Ordinance have a violation section and Radtke stated it refers one to the Citation Ordinance or a “catch all” violation section. Zeglin asked if this could be dealt with in the Comprehensive Zoning Ordinance as we have a Chapter 11- Enforcement which also includes citations. Radtke responded he would need to look at what has been handed out and also what is in Chapter 11. Some discussions took place on what is in Chapter 11. Radtke commented Chapter 11 refers to the citation ordinance and who has it and says they have the authority to issue citations. Radtke stated the question is whether the Committee wants to take this document and turn it into Chapter 11 and have the citation authority in that section as well. There are arguments to have it in there and there are those to keep it separate too. Radtke stated he would need to research the issue more. Brandt recapped that Lien wants to know if it can just be put in Chapter 13 under violations, Radtke says yes but refer to the Citation Ordinance for the fee schedule, Zeglin is wondering if it should be under the enforcement part of it. Brandt stated things need to be consistent. If we are going to create another section of the Citation Ordinance that is something that needs to be referred to in the enforcement part. Bice questioned if all that could be answered today? Radtke reiterated he didn’t have an opinion without sitting down and looking at how everything fits together. Radtke understood the concerns and would work with Lien on putting this all together. Committee consensus was that they were comfortable with Lien and Radtke moving forward with research and coming up with some guidelines for the Committee. Lien stated the Committee sort of skipped over agenda item #9 and discussed #10, so Lien wanted to go back to agenda Item #9 for a minute.

### **Discussion on Trempealeau County Comprehensive Zoning Ordinance –Chapter 20-Reclamation**

– **Inactivity on mine sites.** In Chapter 20, Lien referred the Committee to Page 218 and the revisions that he made and stated we just talked about the reclamation plan review fees and how we address that. Lien stated right now our County is unique because we have a double ordinance. We have one public hearing for both the conditional use permit and reclamation permit and we don’t charge a separate fee. We charge one fee. Lien made a couple of language changes to this part of the Ordinance on Page 218 and Page 219 which talks about reduced fees for inactive aggregate mines because the history has been, since the inception of the Nonmetallic Mining Ordinance and the Chapter 20 Reclamation Ordinance that, if a historic aggregate mine had no activity there, in that annual year, they paid the minimum \$75.00 review fee for the DLM to update their plan annually and that is all they had to do. Lien thought that served the aggregate industry well. DNR was happy with that reporting method and DLM collected that minimal fee. Lien didn’t feel that was the case for the industrial sand industry because of the sheer size of the them and the amount of work that goes into those plans. Lien stated Chapter 20 is very close to NR-135. Upon Bice asking if it could be eliminated, Lien replied he didn’t think the Committee wanted to do that. Brandt noted the changes are fee increases for the expedited plan review and the number of days decreases in terms of what expedited means and the other change has to do with aggregate. Upon Brandt’s inquiry, Lien clarified that, if amended, it would require a public hearing and approval by County Board. Radtke added that, initially, DNR would need to review it as well. Bice commented he hates to

waste money and it almost seems like it costs more than it really accomplishes so we should just leave it as is. Lien thought this probably could be addressed through Chapter 13, however the annual fee that we pay is not Chapter 13 it is Chapter 20 that is why Lien wanted to clarify it in here. Lien doesn't want one industry or the other to feel that we are singling them out for the wrong reasons. More discussion took place on "aggregate" mines and fees. Bawek asked if Lien wanted to charge a separate fee for the reclamation permit. Lien responded no, he just wanted it to "mirror" more of what Chapter 13 says. In Chapter 13 there is a fee schedule and we just charge the one fee, but we deal with them both (CUP and Reclamation permit) in the one hearing. If someone submits a nonmetallic mining plan to us, we also make them submit a reclamation plan (a state requirement). Brandt stated the changes relate to plan review. Lien added the one exception to Trempealeau County versus other parts is that we also make them submit it for less than one acre and that is why the Ordinance in Chapter 13 references reclamation for less than one acre. The State is not involved in sites under one acre. The States reclamation - NR-135 only applies to sites that are over one acre. If a site stays under once acre they don't necessarily have to report to the State. Gamroth asked why we want an expedited plan review fee as the Department has had some issues with that. Lien responded the language is verbatim in Chapter NR-135, so they didn't want to exclude people from that option. Lien added there are only so many hours in a day and we're bound to the Class II notifications, so even though one does an expedited review, a public hearing can't be held prior to meeting the Class II notifications. Brandt felt Gamroth's point was that she has seen the intense work an expedited review creates and the confusion associated the Class II notices. Lien continued to explain the reasoning behind the expedited review fee. Discussion took place regarding the costs associated with updating an Ordinance. Zeglin didn't think there was anything right now in regard to an "inspection" fee and asked if that was something that the Committee should be considering. Lien explained there is the fee that the mine is charged every year based upon their open acreage which covers that inspection fee. Lien stated the problem is that, when NR-135 began there was basically an annual inspection. DLM would call up all the mines at the end of the year and tell them that DLM needed to view their pit and their records, etc. Very rarely did the mine area change or it was plus or minus an acre. Now we're finding that weekly, bi-monthly at a minimum, the industrial mine sites need to be inspected because they are different than a typical aggregate mine. Bice asked when the fees were last revised. Lien responded it hasn't been revised since its' inception and it is basically \$170.00 per open acre. What has saved us is that the industrial mines have so many acres open. We cannot charge more than the service that we provide. Some of the larger mines are paying a really high fee probably offsetting the smaller scale ones that aren't but they all require as many visits. The DLM does get audited every year and has to justify to DNR what fees are taken in compared to what is spent. We also want to be fair to everyone. Lien and Radtke will work together and hopefully come back next month with sufficient language.

**Kraemer Company versus Trempealeau County lawsuit update** – Radtke had asked that this be put on the agenda. Radtke preferred that the Committee not have any discussion on this agenda item as this is a pending case. Radtke just wanted to let the Committee know where things are at. Radtke stated the Kramer Company and their property holding company filed a legal action against Trempealeau County, a declaratory judgment action. Procedurally, a motion was filed to dismiss the complaint and the parties have briefed the legal matters and the court is set to make a ruling on that motion to dismiss this coming Thursday at 2:30 PM. If the judge were to dismiss the case, the case is done. If the judge doesn't dismiss the case, it continues. Radtke advised the Committee that if they had specific questions about the suit itself they should contact him individually and he would talk about it with them. Since it is an ongoing case, Radtke didn't want to get into details but wanted to let the Committee know where things are at with the case.

**LWRM and TRM Requests and Payment Approval**

<u>Name</u>	<u>Type</u>	<u>Amount</u>	<u>New CSA Total</u>	<u>Reason for change</u>
Pine Creek Ridge Acres	Contract	\$991.20	\$991.20	Well Decommissioning
Pine Creek Ridge Acres (John Glodowski)	Pay Request	\$991.20		Certify Well Decommissioning

Brandt made a motion to approve the LWRM payment as presented, Nelson seconded, motion carried unopposed.

**Surveying Update and Payment Approval** – Lien referred the Committee to two reports of the surveying activities and payment requests for last month in Town 20, Range 9W and Town 20, R10 W. Nelson made a motion to approve the survey reports and payments as presented, Brandt seconded the motion. Motion carried with no opposition.

**Set Next Regular Meeting Date** – The Committee set the next meeting date for September 11<sup>th</sup>, 2013.

Brandt commented that there is a moratorium in place but it doesn't address staff reviewing plans.

At 2:07PM, Chairman Bice adjourned the meeting.

Respectfully submitted,  
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary