

ENVIRONMENT AND LAND USE COMMITTEE
Department of Land Management

REGULAR MEETING MINUTES
September 11th, 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

A moment of silence was observed for the victims of 9-11. Bice commented that he wished we could learn from that, that we would be better off in this country if we could stay home and tend to things at home rather than try to police the entire world.

Staff/Advisors present: Kevin Lien, Virginette Gamroth and Jake Budish. Corporation Counsel Rian Radtke, Vickie Stalheim and Dick Miller, County Board Supervisor, were present for part of the meeting.

Others present: Lee Henschel-Blair Press, Donna Brogan, and Tom Forrer.

Adoption of Agenda – Brandt made a motion to adopt the agenda as presented, Nelson seconded. Brandt suggested that County Surveyor, Joe Nelsen, come to the meeting to give his report since he is in the office here today. Motion to approve the agenda carried unopposed.

Adoption of Minutes – Bice made a motion to adopt the August 21st, 2013 regular meeting minutes, Brandt seconded. Brandt had a grammatical change on Page 2 and Page 3. Zeglin noted on change on Page 10, changing AM to PM. Brandt didn't see it on the agenda but at the last meeting Bice had asked Lien to look into whether or not the TRM grant that the County was awarded could be used for the dredging of Bugle Lake. Bice allowed Lien to share that information with the Committee. Lien stated that, on the application itself, there were only select watershed areas that qualified and that particular area (around Bugle Lake) doesn't qualify. It was only particular watersheds where one could even apply for what is called a large scale grant. Lien read aloud some of the grant information criteria, "costs for dredging of sediments are ineligible for reimbursement", there fore with this grant, Lien stated we are not allowed to do it. Brandt agreed with Bice that something needs to be done there and Brandt wanted to be clear as to whether this money could be used for that. Bice stated he was pretty much aware that dredging was not an acceptable use for that grant but Bice's experience with the government is that, under the right circumstances, with enough persuasion and the right people involved, one might be persuaded to say, "yes that would be a great cause, let's use the money for that purpose". Bice did make approximately fifteen calls on the issue. Bice encouraged most people that he talked with to keep pushing because that is without question, a very important and worthwhile thing. Bice appreciated Lien's research of the issue. There being no more discussion on the minutes, a motion to approve the minutes, with the changes noted, carried with no opposition.

Discussion on Trempealeau County Comprehensive Zoning Ordinance –Chapter 13 – Nonmetallic Mining- Hours of Operation and general review of ordinance. Lien stated he and Radtke were able to get together and go through some of the definitions and verbiage changes. Lien explained that it was a difficult process to define "activity" or "non-activity". Lien felt the language that is being presented to the Committee does as good a job as one can. Committee discussion started on Page 96. Lien and Radtke had discussions on "preliminarily approval" and what that means and how that is to be addressed. After a public hearing is held

and those conditions are attached, staff will develop a form that we send to the applicant which will say, “you have been preliminarily approved, contingent on meeting all of the conditions”. The conditions will be typed up and sent with the letter. Once the applicant meets the conditions then the permit is issued. Lien added that we do that now, but not in a formal way. The applicant is given a list of conditions and are told that is what they need to work on but it isn’t done in a formal manner. Staff will work on a format to do that better. Brandt inquired if there was something within that format that states “within 12 months or by this date”. Lien noted that was some of the language that was added. Lien referred the Committee to “a” on Page 96 and read aloud, “The County may preliminarily approve a conditional use permit if the County requires certain actions to take place prior to actual issuance of the conditional use permit. Any preliminarily approved conditional use permit shall expressly identify that the conditional use permit is only preliminarily approved and shall state that the issuance of the conditional use permit is dependant upon the satisfaction of all identified preliminary conditions”. Lien continued reading “1” on Page 96, “The applicant shall be allowed twelve (12) months from the date when the conditional use permit was preliminarily approved to satisfy all preliminary conditions.” Lien commented that was the language the Committee had talked about last month. Lien continued reading “The preliminary approved conditional use permit shall lapse as a matter of law upon the failure to satisfy all of the preliminary conditions prior to the expiration of the twelve (12) month period.” Lien read “2”, “The County may allow one extension of time to the twelve (12) month period to satisfy the preliminary conditions, upon the applicant showing just cause. In order to seek such an extension, the applicant must submit a written request to the Department of Land Management prior to the expiration of the 12-month period.”. Lien explained that would give them “hardship case” ability where if they say, “this came up or this was unforeseen”, then the timeframe could be extended. Zeglin inquired what the length of the extension would be. Lien thought it would be dependent upon the circumstances, on a case by case basis. Zeglin asked if there shouldn’t be some language for the extension to be not more than one year or perhaps not more than six months. When Radtke was putting the language together that was a question that Radtke had which he was going to present to the Committee. One extension whether it be 30, 90 days, 6 months or 12 months, do you want a fix date or do you want one that is flexible and be able to look at the circumstances and make that decision when presented with it. In either scenario, Radtke recommended make that clear that either the length of time is at the discretion of the county or that it is for a fixed amount of time. Bice asked if Lien could give the Committee some examples of potential issues in which there might be an extension needed. Lien responded that one thing he could see, which would be kind of out of our control and somewhat out of theirs also, would be if there is a hearing coming up for them regarding wetland mitigation with the DNR. If we choose to approve the permit contingent upon them mediating that issue, and if there is no wetland bank or wetland reserve for them, or some other issue, that may take them more than twelve months. Lien thought Radtke had urged the Committee in the past that we shouldn’t be approving things contingent upon another agency, to maybe avoid those circumstances, but if we did, that is a case where an extension might be needed. Bice commented basically these are situations, where if they are dependent upon another department of government, etc. Brandt inquired if it was the Department staff or the Committee that makes the decision for the extension. Radtke stated the use of the word “County” is defined in Chapter 13.05 (4) – “County” shall mean the standing committee of the County Board of Supervisors that is assigned the responsibility for the implementation of the County Nonmetallic Mining Ordinance”. Brandt suggested going with the advice of staff in terms of the flexible amount of time as opposed to saying a specific number of days/months. Lien thought it would be case dependent, if they have completed all of their conditions except that one which is out of their control, Lien didn’t have a problem being flexible. But if there is someone that has little to nothing and then say’s we just forgot or didn’t do anything, then Lien didn’t know if those needed to be extended. Lien thought they should be on an individual basis. Upon Bawek’s inquiry about who would make the call, Lien responded the Ordinance says the “County” so it would basically be this Committee. Bice thought if we automatically put in a year extension of something, Bice and Brandt agreed it would basically make it two years. Bice disagreed with Brandt that staff should make that decision. Brandt stated the staff makes the recommendation. Bice continued that he hates to put more pressure on the Committee but; i.e. if Lien says no, you haven’t done anything and now you want more time, if that decision is purely in his hands than that could lead to potential problems. Bice felt that the Committee should ultimately keep that responsibility and certainly listen to staff recommendations. Bice just didn’t know about the additional time frame and suggested saying, “the limit of a year” or something

like that. Brandt stated to repeat Bice's point that if one puts a number on it then that becomes the length of time that people will try to fill. Patzner thought if they were working on it for a year and it was something like an issue with DNR, it probably wouldn't take a whole year to resolve. Lien added when they come "to our table", those issues should probably be resolved. Bice asked if Radtke wanted to give the Committee some specific language on this issue. Radtke suggested adding a sentence after the first sentence there that says, "the length of any extension shall be at the discretion of the County." Radtke added that the use of the word "County" means the Committee. Bawek stated that, personally, he doesn't like to see contingencies. Bawek felt 120 days was long enough because before they come before the Committee, they should do that research. Bawek felt it was research that could be done ahead of time so that they don't run into those problems. Radtke wasn't sure what Bawek was referring to. Bawek stated Radtke wanted to set or asked for a time limit and Bawek felt 120 days or 4 months (it not a year – it is a 3rd of the year) in regard to the contingency was sufficient. I.e. wetland mitigation, Bawek thought that was something that could be done far enough in advance that it isn't an issue. Zeglin clarified that Bawek meant before they come before the Committee with their application that they should have all their "ducks in a row" with other agencies. Radtke clarified that Bawek was opposing the idea of a preliminary approval system. Bawek stated no, that was fine, but it is going beyond just giving them an unspecified amount of time to meet that preliminary approval status. Brandt understood what Bawek meant, especially if it is dependent upon another agency. Brandt thought Bawek's concern had to do with staff recommending or the Committee saying, "just take as long as it takes to get this done" without an end to it. Brandt suggested that it be the Committees' responsibility and staffs' recommendation to say, "in conversation with this other agency it should take you "x" amount of time". Brandt stated the Committee can still set a time and felt that is what the Committee would do and also do what the staff recommends. Brandt didn't see it as being open ended because that is what we're trying to get away from is the sense that one could take as long as they want and will just come back whenever. Bawek saw the Committee as being somewhat overloaded if this is put in the Ordinance without specifics. It is a lot easier when things are specific. They know this is what they have to meet and that is it. Radtke had said the length of time would be an extension of the County and we could put in there the length of time is a fixed amount of time and at the discretion of the County. This would require the County to make a decision as to a fixed amount of time. It already allows for one request for an extension. Having a fixed time and only being able to ask for it one time would kind of close that open-endedness. Bice felt it was important that we realize that our goal here is not to stifle any applications but it is very important that we make sure that we do have some guidelines. Anything that can run on and on is a waste of a lot of time. Brandt agreed with Bice and hoped he wasn't putting words in Bice's mouth, but Brandt's sense is the industry is here, obviously it has a huge impact on our community, we can't turn the clock back three years, we have three years of experience to call upon and make these decisions. Brandt thinks, based on his experience, which goes back in zoning to 1996, the message we're trying to send is, you can be here and we'll embrace your activity, but you have to play by our rules and these are the rules. If you don't want to play by these rules, go someplace else or decide to play by the rules and that is what we are trying to do here. We have lots of experience, we know who we are dealing with, we know what the issues are, we just have to draw the line. Brandt understood what Bawek's point was, that we don't want to be the place where everything is kind of up in the air and just go on and on. Brandt appreciated the opportunity to be doing this kind of tough/boring work but this is how we decide what the rules are that people are going to play by. Bice thought he was in full agreement with that. Lien asked if the Committee was ok with the proposed language that Radtke had talked about. That it was a one time extension and there be a fixed date given. Upon Zeglin's request, Radtke stated this would be a sentence added after the first sentence in subparagraph 2, "The length of any extension shall be for a fixed period of time at the discretion of the County". Lien then moved on to "B" and stated at the beginning of that paragraph and at the end there was some language modified, otherwise it is the base of the old Ordinance, "after the conditional use permit has been issued, if no activity has taken place at an industrial sand mining site or a rail load out facility under the permit whatsoever or alternatively where activity was originally commenced but then has been terminated in such a condition of nonactivity, exclusive of required, ongoing reclamation under such a permit, has continued for a period of twelve (12) months in succession, the permit shall lapse as a matter of law and no further or other activities in operating the site other than reclamation will be allowed. Conditional use permits for Construction Aggregate mining sites shall not lapse regardless of whether activity is taking place or not. The County shall identify at the time of permitting

whether a site is Industrial Sand or Construction Aggregate.” Bice stated we have had some that are both. Lien stated two or three. Bice mentioned that the first part of what Lien read kind of leaves them open because we basically say if nothing happens whatsoever. So if a guy goes out and puts some flags out that is probably something. Lien stated he would elaborate more in the next paragraph. Bawek stated we have “nonactivity” in the Ordinance but we really don’t have a definition. Lien assured Bawek he would get to that. Someone had mentioned there were some sites that were both industrial sand and aggregate and this subpart B, treats them differently. It does not address or deal with the situation where there might be both going on. Radtke added we need to have some sort of “tiebreaker” in writing here to deal with that so that we don’t have somebody whose permit lapses with regards to the industrial sand portion but not the construction aggregate and then what happens. Radtke didn’t have the answers but if it is going to come up, it needs to be addressed here in writing before we get to the question of what is that activity or inactivity. Brandt stated this goes back to something that was brought up last month which Brandt has “latched” onto and this has to do with the reclamation plan. The reclamation plan is part of the CUP; it is something we require them to do when they say they are going to do it. Brandt thought part of the plan will describe the percentage of the extent to which they use their site for aggregate and the amount that they use for industrial sand. In the most recent past, we’ve discovered that if they get kind of “wishy-washy” or if they get vague in terms of describing the process and we approve it, that vagueness is solidified into the plan and they can go back and forth on what they do. What the Committee will need to do is ask them, “What is your plan” and insist that they tell us what they’re plan is. Brandt was thinking that if the Committee stays focused on making sure the applicant is clear about what their intentions are and that gets spelled out in the plan that we approve that really shouldn’t be too much of an issue. Radtke felt that deals with reclamation and the reclamation permit for the life of the mine until it is reclaimed. But again, Radtke asked what happens if there is both going on, on the site and they haven’t done any activity under what we are going to talk about and Lien’s decision is that there is no activity on the industrial sand end of it, that permit will lapse. But at the same time, Radtke stated if we are going to treat construction aggregate different, they can say, “this is construction aggregate site and under your rules here, those do not lapse”. Brandt and Lien agreed that was the answer – that it would stay as a construction aggregate site, but they would not be permitted to pull industrial sand out of there. Radtke suggesting requiring two different permits for the same site – one for industrial sand and one for construction aggregate for the same site but with two different plans. Radtke wasn’t sure if that was possible. Lien thought DLM had actually been opening them as two files. Lien could think of two scenarios where we had existing aggregate mines and they came in for industrial sand to go underneath the aggregate and DLM just started another file. DLM still kept the aggregate mine site open, with their reclamation plan and fees and then a new file was started for industrial and if the industrial mining never takes place, the existing one would still be deemed active. Brandt added we have geology to deal with. Brandt referenced the Werlein quarry and Whistle Pass quarry in which there is limestone on top and the sand underneath. They are going to have to do something with that limestone and if they don’t have the crushers nor their screens set up for that, it is pretty obvious they are not doing anything with the aggregate. If they are just moving aside that is one thing but if they are selling it then they are doing an aggregate operation. Brandt commented there are other places in the County where they don’t have that “cap” of limestone, it is a lower elevation and they have other kinds of sand that they can use for foundations. Those two sites specifically, they have to get rid of that rock (a considerable amount of it) before they get to the sand. Bice stated he hasn’t seen any reason that we wouldn’t go with a double permit application as it seemed to Bice that would clean that up a bit. Bice thinks everyone is going to push for a double permit because that is what they want to do. Bice wasn’t exactly sure how that could be done but he thought to separate the two would be a reasonable thing to try. Lien’s concern was that if the sand market stays as it is, there are people that are going to come in and say, “We’re going to switch this from industrial sand to aggregate and then they would be exempt from reclamation and other things through the ordinance. Upon Patzner inquiring if an aggregate mine has to do reclamation, Lien responded no, not until the end of mining. Bice commented that, as far as making sure that reclamation happens, his way would be quite simply, a certain amount of land open is the limit, he wouldn’t care what the application is. In other words, Bice is suggesting that we put that a certain amount of acres so that when they lay out there plan and we move forward with this that twenty acres is the limit that is unreclaimed. They need to lay the whole thing out so that we have a clear open area and rules to start reclamation on it. Some discussion took place on how open acres are taxed. Lien stated, unless something

shifts, we are going to see a huge burden on the residential taxes in the County because of how the mines are being assessed at the State. Taxation of mines and the effects on school districts, etc, particularly in the Blair and Arcadia area were discussed. The possibility of a tax on sand leaving the County was touched on briefly. In getting back to “dual” permitting, Brandt asked if it is staffs’ concern that if this Ordinance language is left the way it is, we will have people coming in and taking out these dual permits thereby getting out from under the 12 month activity thing. Lien responded, it is possible, but in continuing to read the Ordinance, Lien liked the discretion that is given as far as making those determinations. Lien added the reality is that each one of us can make some determinations on what we think is going on, but to put it in writing is somewhat difficult because they are kind of on an individual basis. Lien explained that if we have a site that is permitted for industrial sand and they switch to aggregates and they are not actively backfilling basements, or using it as road fill or anything else, Lien thought that could be a judgment call which determines whether or not it is an aggregate site. Lien stated we are talking about a product (industrial sand) that is more susceptible to wind and water erosion. Lien added the aggregate mines we have in the County are not issues. Lien read aloud, Page 96 (b) (1), “The Zoning Administrator shall determine whether activity or non-activity has taken place at a mining site. Activity shall include, but is not limited to: Blasting, Construction, Crushing, Drying, Extraction, Hauling (truck/rail load out), Washing, Screening, Stripping, Non-metallic Mining, Operation, and Processing, all as defined in this chapter. Upon the basis that the ultimate goal of non-metallic mining is to sell and/or remove non-metallic minerals from a given mining site, the Zoning Administrator shall consider whether progress is being made at a mining site to produce a finished product intended to leave the site in determining whether a mining site is active”. In discussing this, Radtke asked in a twelve month period, what does this Committee want to see at a mining site – to satisfy that a mine is active. The words that came to Radtke’s mind are, is there some sort of “progress” there and how does one define “progress”. One has to look at what the goal is, what is it you’re trying to achieve. The goal of non-metallic mining is to create a product and sell it and have it leave the site. Radtke explained that is how they came to the definition that is here. He and Lien had also talked about what are the minimum requirements or minimum efforts required because that is where DLM staff is going to deal with the real issues. There are going to be company’s who want to excersize the minimum efforts to get by. What are those and how are those defined. Radtke added they didn’t really define that but the paragraph includes all those activities that are related to mining. That gives Lien discretion and to help him make that decision is the idea to look at whether or not there is progress being made to get a finished product to leave the site. That is not always a “black and white” rule. Bice inquired if we could raise the yearly fee that they pay for open areas? Lien responded NR-135 is very clear and DLM can only charge fees based upon the services DLM provides. Lien added this year is going to be a great year because we shouldn’t be receiving a lot of new applications which should give Budish a lot of field time to get out there and actually do a good job tracking and documenting of sites, and we will be able to see what kind of time it is going to take and the cost to DLM. Lien added part of the problem is we only have six sites mining out of twenty eight permitted. Budish added that everything is under DNR enforcement right now so actually the only sites operating are the two within the city limits. Four of them are at a stand still while trying to come into compliance with DNR. Discussion took place on DNR enforcement on the mines and our working relationship with DNR on enforcements. Brandt stated Budish doesn’t just work for the County, he works for the people of the State and DNR as our staff provides information to other entities and makes it possible for them to do their job partly because they don’t have the people to do it. Bice expressed concern about Brandt’s definition of employer, etc. In getting back to the Ordinance, Lien asked if the Committee was ok with Page 96 (b)(1). There being no comments, Lien read from the top of Page 97, (2), “The legislative purpose of separating Construction Aggregate mining from Industrial Sand mining is based upon the type, volume of product, and the scale of the mining operations. Construction Aggregate sites are primarily used for infrastructure projects in a given area to reduce hauling from sites that are not in the vicinity. The foot print of a Construction Aggregate mining site is historically much smaller in scale and correspondingly runoff and erosion concerns are significantly reduced. Industrial Sand mine sites are rarely if ever used for local infrastructure projects; footprints are very large in nature. The separated sand particles from an Industrial Sand mining site are prone to both wind and runoff erosion at a much higher rate than Construction Aggregate”. Lien added that is the justification as to why they need to be separate. Lien stated there were no changes to (b) (c) or (d) on Page 97. Lien noted there were no changes on Page 98 and 99. Lien pointed out the definitions on Page 100, 13.05. On Page 101, Lien read aloud (10) (a)

and (b). (10)(a) – “Industrial Sand” is a high purity silica sand product sold for any of the following uses: glassmaking, metal casting, metal production, chemical production, paint and coatings, ceramics and refractory’s, and oil and gas recovery (i.e. “frac sand”). This sand is classified as 212322 Industrial Sand Mining according to the NAICS (North American Industry Classification System) Standard Industrial Classification (SIC) System”. Lien read (10)(b) – “Construction Aggregate” is either sand and gravel or crushed stone (stone crushed from bedrock) that is predominately produced and used for local construction purposes (i.e., asphalt or concrete roads, concrete, asphalt, building or dimension stone, railroad ballast, decorate stone, retaining walls, revetment stone, roofing granules, and other similar uses) or used for agricultural uses such as ag lime or bedding sand for livestock operations. Small amounts of sand and gravel or crushed stone may be produced and used for other purposes such as salt and sand for icy roads, water filtration systems in septic systems, landfills, mortar sand, and sand for sand blasting”. Bice asked if anyone knew the definition of stone. Brandt responded it has to do with sizing, something is sand, something is rock, something is stone, etc. but it has more to do with size rather than make-up. Brandt stated the North American Classification System has been referenced as well as the Standard Industrial Classification System and inquired if there were any classifications for the things which are talked about under Construction Aggregate. Lien responded not that he was aware of. Lien added those two definitions came right out of the Advisory Committee and that Ron Garrison, Geologist for Kramer Company came in with those definitions as the very first meeting of that Committee. They weren’t changed and the whole Committee was in agreement (including the aggregate industry and the industrial sand industry representatives) that those definitions were correct. Brandt inquired if these changes to the Ordinance were significant enough to require another public hearing? Lien thought so. Radtke and Lien had discussed it and thought they were major enough that they both felt it should go before the public again. If it is approved at that point then it would go onto full County Board for adoption. Bice commented he was happy with it. Bawek asked if anything had changed in the hours of operation. Lien responded not since we last talked, but those modifications were done previously on “receptor based” instead of property line. Brandt liked the changes. Radtke inquired about the feeling of going for two separate permits and inquired if there should be language in the Ordinance that specifically states that, as it is not clear if that is the case. Radtke clarified that currently it is one process for a CUP and all the Ordinance says is that, (new language), “at the time of permitting that this Committee would identify whether this is industrial sand or construction aggregate” and if we’re talking about situations where they’re both going on at one site, where one can lapse and one can’t, does one just require two CUP’s. One separately for construction aggregate and one for industrial sand, and if that is the case then something should probably be put in the Ordinance to that effect to make that clearer. Lien stated, in looking at this Ordinance now, and how the CUP process works, if someone came to the DLM office and said they wanted to do both, Lien would make them fill out two applications and there would be a list of conditions for industrial sand and a list of conditions for construction aggregate and there would be two separate hearings. The hearings could be on the same day. Lien felt that would resolve all those issues. Bice inquired if that is what we have now or if that is what Lien wanted to see. Lien responded that is how he would address it with this Ordinance. In the past, he wouldn’t have because we hadn’t defined industrial sand versus construction aggregate it was all just general mining. Bice inquired if Lien was saying the Committee didn’t need to take any additional action to make that happen because Bice felt the Committee was pretty comfortable. Lien responded, in his opinion, the way this is worded today, that no the Committee would not. DLM would just modify their application form so that when someone applies, it is very clear whether they are applying for an industrial sand nonmetallic mining permit or a construction aggregate nonmetallic mining permit. Radtke felt it was worded in a way that we can get by, but could we be more clear because if one looks at the very beginning of the first page (89) of the document where it talks about nonmetallic mining and it talks about the permit application and what should be in that permit application, Radtke thought that would be a good place to add some language identifying in the permit application whether one is seeking a CUP for construction aggregate or industrial sand as just little things like that could help. Lien suggested adding a line right under, “permit application”. Lien read aloud the proposed wording, “the application for a conditional use permit shall include details of either industrial sand or aggregate”. It would go under “A” under “permit application”. Nelson’s opinion was that we should require a permit for each item. Committee consensus was that wording under “permit application”, should read, “The applicant for a conditional use permit shall identify whether the permit application is for construction aggregate or industrial

sand.” Nelson clarified that a permit would be required for both/each one. In regard to the fees, Radtke referred the Committee to the bottom of Page 94, 13.03(1) which states “non-metallic mining operations shall be inspected annually to ensure compliance with the requirements of the permit”. Radtke noted that staff is obviously going out way more than just annually. Radtke continued to read from the Ordinance, “inspection fee is required to be paid by the operator” and is set by this Committee. Radtke stated the original design was to go out once a year and inspect and have that fee be consistent with what it costs the staff to go out there. Radtke suggested that if the Committee wanted to change the wording, perhaps they could change it to “at least inspected annually”. Radtke felt the way the Ordinance was worded that it certainly gives this Committee the authority to increase the fee to be more consistent with how often staff is going out. Radtke referred to 13.06 and that those fees could be established annually. Radtke thought the system was set up fine but he wanted to answer questions about the fees and how they came to be, etc. Lien stated that, since the inception of NR-135, which allows us to charge that fee, we charge \$170.00 per open acre. For many years it was very consistent and a budget could be balanced very easily. When industrial sand came in, it was “boom/bust” and we started losing staff, etc. and it was really hard to regulate. Lien noted DLM has not had a full twelve month period where we have had the same staff, and also have had consistent fees (because we have had two really large annexations which are going to take money away). The one annexation last year, fees were paid in January so they are going to reflect our budget this year but they won’t next year (it was a pretty big amount of money). Realistically, Lien stated it probably didn’t cover all the enforcement staff hours that occurred on that site and NR-135 requires a minimum annual inspection. Lien added prior to industrial sand one could get buy with one visit to an aggregate mine site per year. With this ordinance being part of industrial sand, those inspections can sometimes be weekly (at a minimum if complaints are received). Lien thought a good idea would maybe to change to it, at least, “minimum or weekly”. Brandt clarified that the language in NR-135 doesn’t require only one inspection but at least one inspection per year. Lien stated that was correct. Lien suggested changing the language in the Ordinance to read, “ nonmetallic mining operations shall be inspected as needed by the Zoning Administrator or annually to ensure compliance”, because then that would open it up as often as need be. Bice asked if that would open us up for the ability to assess a fee for the revisit. Lien responded that annual fee can only be assessed based upon open acres but that fee might have to be increased across the county. Lien felt it wouldn’t affect the aggregate mines that much because they have such a small footprint. Brandt stated what it does do is give the staff a better handle on how much it costs to do the inspections and we can only assess a fee that reflects the actual costs, so then staff can recommend whether the fee be raised or lowered. Lien explained how DLM reports this staff time/mining costs to DNR. Complaint based fees were discussed and Lien wasn’t sure that could be done. Lien had talked about DNR reviewing fees and Brandt asked if that was for reclamation or is that for Chapter 13? Lien responded it is actually both because DNR allows DLM to charge an annual fee to make sure they are compliant with Chapter 20, so it has really little to do with this, other than this is our compliance mechanism. Radtke commented Chapter 20 also provides for inspection. Lien added we have the double hearing but we only charge one fee. There isn’t an additional reclamation fee nor is there a Chapter 13 fee, but there is an annual review fee. The question Radtke has, is why wouldn’t there be, because under Chapter 20, your reviewing reclamation and looking at all the reclamation whether they are compliant in that regard. A Chapter 13 review of a site/ inspection site is looking at, are they complying with the conditions of the conditional use permit. Lien thought he could follow up on it but he knew through the state we have the ability to charge that fee based upon Chapter 20. If we are allowed to charge a separate fee for compliance with Chapter 13 versus Chapter 20 would be great. Radtke stated it is already in our Ordinance. Lien replied it is in there but we don’t charge a separate fee we just do the annual fee that we get reimbursed from. Lien added, of the fee we collect, a percentage of that goes to the State DNR for reclamation. Radtke thought that was all the more reason to have a Chapter 13 inspection because Chapter 13 is to ensure compliance with the requirements of the permit. Upon Nelson’s inquiry about the \$170.00 per open acre fee, Lien explained that is for a compliance visit, as every year DLM needs to report to DNR each year on every mine site. So on small sites, it doesn’t amount to much but those sites don’t take a lot of staff time either. This is an ongoing record of what is being mined and what’s being reclaimed behind it and those are the minimum requirements through Chapter 20 that we need to do. Lien felt what Radtke was saying is that through Chapter 13 (actually enforcing the Ordinance) we could charge a separate fee related to that. Radtke thought the Ordinance already said that and referred the Committee to Page 102, 13.06 of the Ordinance which says, “permit fees which apply to this

chapter are established annually” and added that is what is being referenced where it talks about an annual inspection fee where the inspection fee is required to be paid by the operator which is to ensure compliance with the requirements of the conditional use permit. Radtke reiterated that he thought the language was already in the Ordinance it is just a matter of doing it. Lien stated we will be reviewing a fee schedule at the end of this year once we get a little more of a finalized budget as to where we are sitting. Bice stated what Radtke is saying is that the language is already there and then Lien is saying we can look this over at any time, no changes have to be made to the Ordinance and we already have the legal right to do that if we want to. It seemed to Radtke that there is a requirement for a fee for inspection. Bice stated his wishes will be that we make sure that these mines cover the cost. Zeglin asked if these fees right now don't apply to the application fee itself. Lien responded no as that was a separate review fee. Lien added this would be more of an enforcement fee to make sure they are compliant. More discussion took place on how fees can be charged. At a previous meeting Bice had asked where the citation fees go. Lien explained that a minimum forfeiture fee is \$55.00 through DLM and what the applicant receives in the mail is approximately a \$206.00 citation. \$55.00 of that goes to the County General Fund, there is a \$20.00 fee that is assessed for the Jail (\$10.00 of that goes to the County and \$10.00 to the State), and another small fee (approximately \$11-\$12.00) goes to the Court system, all the rest of the money goes to the State. Lien added it is all divided up and goes somewhere else and a very minimal amount stays in the County and absolutely nothing comes to DLM. Upon Bice's inquiry as to if this Committee can change the citation amount, Radtke stated it is on the agenda here so it can be discussed and it was talked about briefly last month. Radtke hasn't had a chance to look at the Ordinance enough to come up with something to share with the Committee but he has gone through it and done some research. For Chapter 13, the fee is covered under “All Other Violations”. Radtke read the forfeiture and fee amounts and stated that is established by the County by Ordinance so that is something the Committee can change. Radtke looked into different citation amounts and when it comes to reclamation (which this isn't applying to), Chapter 295 implies a list of specific parameters on what citation amounts can be. As to Chapter 13, Statute 59.69(11) talks about that Ordinance is to be enforced and can be enforced by appropriate forfeitures. Radtke stated there isn't a whole lot of guidance as to what is an appropriate forfeiture and he is still continuing his research on that. It seems that the County could tie a forfeiture amount to the number of permitted acres. Radtke gave some examples of how this could work. Radtke was still doing research as to where that appropriate forfeiture amount lies. Radtke read aloud examples of what some of the forfeitures and fees would/could be. Radtke added if we are going to make some other changes to this Ordinance it would probably be a good time to look at some of the other deposit amounts to see whether they are good or need to be increased. Brandt questioned if any changes would require a public hearing and to go before full County Board. Radtke responded this would not be a Zoning Ordinance so it would not need the public hearing and all the special procedures that we have to follow with regards to changing Chapter 13. This would require an action by this Committee and it is an Ordinance so it would still have to go to County Board but it wouldn't have to have a public hearing, notice to the towns, etc. Bice commented he will definitely be in favor of increasing fines and making them to the point where they realize that they don't want to violate these rules or it is going to be very expensive. Every fine Bice can think of is a fraction of what the gain is for committing the infraction. Bice's approach to that would be, when you say double the fines for second offense or something, that is an excellent approach, but the first time Bice wants to make sure they understand they need to follow these rules or these are the rules but he would make it really painful for a second offense. Bice wanted that on an agenda fairly soon because he thought most of these fines are a joke. Zeglin agreed that at their current levels they are a joke and they need to be enough to get their attention but not be exorbitant. Bice reiterated this was something we need to put on our agenda. In regard to adding things to the agenda, Radtke stated suggested a couple of changes to Chapter 10 which deals with general criteria for conditional use permits. In regard to the letter from the town, right now Chapter 10 just says, “A letter from the town”. Radtke thought we could do a better job on what we need from the town. Radtke noted it wasn't on the agenda to discuss right now, but that is something he would like to have on a future agenda. He and Lien could work on some proposed language for the Committee to take a look at. Brandt asked if a motion was needed to approve the changes that were talked about today. Radtke felt he had some good feedback as to what sounds good. There may be some minor changes. What Radtke would like to see is if he and Lien could go back again, make those minor changes, and then present this Committee with a written document and then make a decision. Radtke didn't want to be put in a position where we are approving

something and then “tinkering” with it after the fact. Radtke would like to make those minor changes and then bring it back. Bice asked where we stand right now and what is our Ordinance – is the Ordinance that we had in place a year ago, is that still in place? Radtke responded it was. In regard to Bice’s idea of determining a reclamation, limiting a certain amount of open acres or size, Bice asked if that was something that we can discuss or do. Lien responded sure and the next item on the agenda is discussion on Chapter 20. Lien and Radtke had made one minor change on Page 219, clarifying “aggregate mines and industrial mine”. Lien mentioned to Bice that this is an area in this Ordinance where the language could be changed. Lien felt that one of the things in Chapter 20 that we could do a much better job at in the future, as far as reclamation, is when the applicant comes into us, they give a reclamation plan and say, at the end of mining or the end of phase three, we’re going to reclaim this to ag land or it is going to be recreational land, etc., and the County doesn’t set a time line. Lien thought the problem with that is they might finish mining in phase one but it is not completely reclaimed and they just keep going on to phase 2, phase 3, etc. and if the plan doesn’t state specifically that phase one will be reclaimed in 2014, etc., we don’t have anything really good to bind them to it. Lien suggested, that the next plan that comes before this Committee, that one takes a closer look at the reclamation plan, make it a specific condition and hold them to it, that the progression plan/staging plan states that the applicant is going to mine, i.e. one and two, and when they move to three and four, one and two will be reclaimed and clarify as to what year that is going to take place. Then we need to hold them to that, and then we can require reclamation to the plan. Lien stated the language does exist in Chapter 20; we just haven’t put a lot of emphasis on reclamation. We have put more emphasis on the conditions related to mining, not the conditions related to reclamation. We have separated soil types and we’ve done a good with that for reclamation purposes. Bice asked Lien if we are getting cooperation on that. Lien responded yes, it doesn’t seem to be an issue. Lien added that most of these large mines sites, when they open up, have these large berms and most of these berm are the A and B soil horizons that are being saved. Bice stated he learned a huge amount about reclamation in that first mine. Bice thought this was a standard procedure and expected and mandated. In that one they were allowed to open 15 acres and when that 10 acres was done it was Bice’s impression that they were going to begin reclamation on that 15 acres because when one opens up the second fifteen acre area/second phase, they would have topsoil so then that topsoil was to be moved over to the first phase and reclamation was to begin. Somewhere in there we lost track. Nelson commented they weren’t doing it. Committee consensus was there should be a fine for that. Lien stated we have to be more particular about what is in the reclamation plan then we could shut them down or fine them, but if we don’t make that a specific condition it is hard to hold them to that. Brandt stated Radtke has suggested that, by approving the reclamation plan, which spells that out, that becomes a condition of the permit and if one doesn’t do what the reclamation plan states then one of the conditions of the permit has been broken because the applicant is no longer in compliance with their reclamation permit. Brandt felt what we had now, is a commitment on the part of this Committee to do that, to enforce the reclamation permit as stated. Brandt added we have noticed that they have changed their language to include, “as possible, at then end of mining, when available”. We see that kind of language but we can force them to change that language to be more specific and then that becomes part of what the inspections are about. Committee members seemed to be in agreement. In getting back to the “activity” issue, the suggestion was made that as long as they continue the activity lets not tie it to a year but a phase of the reclamation plan. Lien gave some examples of problems with that. Lien thought there needed to be some mechanism that triggers when reclamation needs to start according to the plan, otherwise it will just be ongoing – they’ll leave a stockpile in the corner and say, “we’re not done with that phase yet”. Lien thought it needs to be a timeline or something. We all understand that markets can change, so again it has to be somewhat of a judgment call because when one sees them actively running through phases 3, 4, and 5 and the first one is still sitting unreclaimed, there are problems. Lien stated reclamation costs them money – there is no profit in it but that is part of the privilege of mining. Lien continued that part of what we have seen (there are really good aerial pictures that had a lot of areas open – a lot of issues) is that they haven’t reclaimed, but have stabilized the land. Lien stated that stabilizing the land will take it out of that annual fee because it is all seeded down. It will be mined again in the future (it was overburden stockpile areas put on future mining areas) that made it open acreage. It was very susceptible to runoff and wind erosion, so what they did is spread some thin topsoil on it, seeded it heavily and once it gets to the point of 70% sod cover that is considered reclaimed so then we don’t charge a fee for that. It will be mined again in the future but because of the DNR enforcement they had to

control it somehow. Brandt questioned if that was a change to the conditional use permit or their reclamation plan. Lien thought most definitely yes if they are under our jurisdiction. Bice felt Lien had just described what someone might describe as “temporary” reclamation and he would advise to be careful with that. Bice thought that the idea of putting three inches of topsoil over whatever is insufficient and to try and recover that a few years down the road is very difficult because it is difficult to separate the top three inches from the next three inches. We need stabilization but Bice is a little bit leery that if we don’t get the reclamation done properly it may not ever happen. Bice is a firm believer in that reclamation is an important part of what we do. Discussion took place on different incidents in the area in regard to reclamation. Bice stated that we need to make sure that reclamation should be as good as or better than it was when it started. Bice believes that is possible and that if we can, we should try our best to do that. If Bice had his way, he would require the use of a Ternopol – basically a scraper rather than a bulldozer because if one could bring in a machine that takes off the top inch and stacks it somewhere, then takes off the next inch, etc. then one can clearly define the A and B horizons. Lien added the problem is that in a wooded area, once you take out all the trees, it is hard to come up with enough good material to revalidate the area. Lien restated there was just the minor change to Chapter 20 unless (as Bice suggested to change the maximum amount of acreage open) the Committee had additional changes. Lien thought this could perhaps be addressed on a case by case scenario, depending on the size of the mine, by conditions and tie it to reclamation. Brandt thought it had to be case by case because we have seen so many plans and some of the phases are three acres, some are fifteen, etc. and we can make those kinds of calls on a case by case basis. Lien thought there needed to be some kind of control mechanism whereby they can’t move forward before they reclaim something behind them. Lien asked the Committee to think about that for next month. Bice commented that those topsoil’s (A & B horizons) have to be moved and in some cases they have set up their berms and their operating areas, but in general there is no reason, once they get that scooped up, they might as well start that reclamation. Another huge advantage is that then they don’t have so much open, it costs them less money, we get reclamation and reclamation is much cheaper if it is done then rather than clean out 100 hundred acres and then try to reclaim 100 acres later. Lien stated he and Radtke had decided that one of the options this Committee has, is the right and the ability to bring in those past applicants and perhaps over the next twelve months, if things are a little slower, that would be a good time to bring some of them in and review those reclamation plans and maybe tack conditions on as needed. Discussion took place on using percentages of open acres, etc. for reclamation. Again Brandt made the point as to what is the Committees’ goals in terms of our thinking and decision making process. Is it to preserve soil and water – then that’s what we look at when the site comes in with a reclamation plan? How is the applicant going to preserve the surface water? How are they going to keep their soil from eroding? Sometimes they can do that on a twenty acre site and sometimes they can’t do it on a five acre site. We have to find some way to make sure that happens. Bawek stated that Lien made a comment about requiring 70% APH (annual production history) yield for reclamation if viable crop land is taken for sand mining. Bawek asked if, for future generations, that is something this Committee should try to include in the reclamation. Lien thought so and added it also came from several other counties. When Lien was at one of his district meetings they had talked about that if it is a crop field, it should be returned to a crop field. Lien felt 70% of a past yield isn’t unrealistic. Upon Bawek’s inquiry about whether 70% is attainable, Lien responded, as Bice is very adamant that these fields can be as good or better, if they can be as good or better 70% should be a really low goal. Bice stated he has no problem putting that in there. Bice added we have county soil maps, they haven’t been updated for a few years, but we roughly know how much topsoil is there. If that isn’t required, Bice is in favor of making it a requirement. There are a lot of people involved in this whole mining thing right from owners whose farms have been in the family for years to the company’s who are actually buying the land. The ones who have had it for a long time have a little incentive – it belongs to them and perhaps their children some day. For someone who had just bought the land there isn’t much incentive and if they can get away with not doing a reclamation, a million, five million dollars that is nothing when one considers trying to reclaim 100 acres. Bice is strongly in favor with going with the 70% requirement if not more. Bawek asked if that was something the Committee should require for open acres. Lien responded we can do that as a condition. Staff had recommended that before and Lien thought the Committee had approved one plan that way. Brandt clarified that the land would not be considered reclaimed until the land yields 70% of the annual production history. Radtke and Lien clarified that agenda items 6, 7, 8, and Chapter 10 will be on next month’s agenda.

Revisit Dog Issue In Town of Trempealeau – Lien stated he has been employed by Trempealeau County for over 21 years now and he got his first inspection warrant last month. Radtke drafted it on Thursday, the judge signed it Friday morning. Lien got a Sherriff's Dept. deputy and he went down to the property in Trempealeau. Lien had to have a warrant because the landowner had made it very clear that Lien wasn't allowed on her property or in her resident. They didn't see any animals on the property. They knocked on the door. Nobody answered the door. The warrant said Lien could enter the property. The deputy opened the door which was not locked and yelled "Sherriff's Department – warrant" and they could hear dogs coming. The deputy shut the door and five adult dogs were jumping on the door. They took some pictures through the window. Upon the deputy's inquiry, Lien told him they didn't need to go through the house because there were five adult dogs in view. As they were leaving, the landowner pulled into the driveway. Lien and the deputy talked to them. Lien stated the landowner verified they have seven adult dogs in the house and she is not going to get rid of them. Those are her pets and she is trying to adopt them out (some are licensed in LaCrosse County). She indicated to Lien that she has no intentions of reducing down to four adult dogs. Lien sent a letter to the landowner stating that this Friday would be the deadline date for her either applying for a rezone and conditional use permit or reducing down to four adult dogs. Lien continues to have e-mail correspondence with the landowner and she is stating that she is not going to reduce the number of dogs. She doesn't feel that a rezone or conditional use permit would be granted. Lien felt the situation was at somewhat of a stalemate. Lien will probably give her until Monday and then go down to the site again to see whether they're complying and then a situation would be issued at that point. Lien has sent two letters previously. Lien has given the landowners copies of the Ordinance several times as she is questioning why she can't have these animals. Lien didn't view any health hazards on the premises so it is just a zoning issue. Lien continues to receive complaints and DLM also received a petition from neighbors. Lien thought her intentions were good, she is just in the wrong place (in the middle of an R-20 subdivision) to house that many animals. Upon Bice's inquiry as to whether the Ordinance was in place when she moved there, Lien responded yes. Lien explained there is only one property in that subdivision that was "grandfathered" in and it had two horses on it before the zoning change and the subdivision was created. DLM has documented and has correspondence with the town that on that property the owner is allowed to have two horses there for perpetuity. If the horses were to leave for a period of twelve months that privilege would lapse or if they wanted to add more horses they would be in violation, but the two horses are allowed on that property only. Lien has never had any complaints about the horses, but there was someone looking at buying the property that wanted to add additional horses and they were told they could not add any more horses to the property. Brandt stated that Gerald Stalzer called him and wanted to express his gratitude to Lien and the Sherriff's Dept. for going down and taking that action. Brandt said apparently Stalzer was speaking for people in the community. They felt that something had happened that hadn't happened before. Bice inquired if since Lien already had the e-mails stating she wasn't going to comply, if Lien, in fact, had to make another trip down there on Monday or could he just go ahead and issue the citation. Lien responded that he had to verify that she hasn't reduced down to the four dogs. Lien didn't feel that in good faith he could issue a citation without knowing whether she has reduced the number of dogs. At this point the Committee took a short break.

Surveying Update and Payment Approval – Brandt made a motion to pay the survey bill/payment as presented, M. Nelson seconded the motion. Joe Nelsen, County Surveyor was present and referred the Committee to a report of the surveying activities and payment request for last month in Town 20, R10 W which one would call the very southwesterly part of the township. Nelsen has been setting and finalizing the section quarter monuments and referencing them. Right now 21 of the final corners are set, monumented and referenced. 54 of the corners have GPS control and they are continuing with setting those corners until they get them all in place. Nelsen stated this is the last township. Upon Patzner's inquiry as to whether Nelsen had found the "Krumholz" corner, Nelsen responded he is still working on that. Nelsen explained that he had talked to Patzner to try and get some assistance on a corner. It is a corner where there seems to be a huge search area. Nelsen has already excavated a search area approximately 30 feet east/west by about 10 feet north/south without any luck. It is that area where there is real rough terrain. Nelsen has seen that in the 1937 air photos there were line fences there at one time. When Nelsen goes back into the woods and projects the line fences they encompass an area about the size of the room and it is pretty steep. Nelsen has been talking to just about every

old timer in the area hoping to solicit some information on that particular corner, but he hasn't been too successful yet. Nelsen has found a 1872 deed that conveyed some property south in the woods so they are going to go down in the woods and try to find evidence. Nelsen does have another corner down in the valley in which they are trying to negotiate with the owner to try and get the County backhoe in there and look in the hay field. If Nelsen can find that marker that will help. Upon Bice's inquiry about what the County backhoe was, Nelsen replied he works with the County Highway Dept. and they bring their backhoe in and help search. Typically, the backhoe is used in roadways because obviously Nelsen can't dig by hand in the roadways, so Nelsen usually has them do it. In this particular area, because of the size (huge search area), Nelsen is hoping to get the backhoe in there and use that to speed up the process. Nelsen added those are typical corners for Arcadia township because of the terrain and lack of surveying in the past. Nelsen said he relishes the days of Town of Hale and some of those other more farmed areas where the line fences were kept in place and where the terrain wasn't nearly as bad. Nelsen is glad we are getting towards the end of it so that the worse corners don't encompass a much larger area. M. Nelson asked if in the past, because it was so rough, that is why they just didn't bother with it. Nelsen thought, from the original survey in the 1850's to probably 1960's they weren't to concerned with it, because if they couldn't farm it, they really didn't care about it. Nelsen said so what happens, is you will see really good evidence of line fences at the true corner locations in the farm areas but as soon as that line started part way up the bluff then they sometimes went the easiest route and that is part of the problem. Nelsen uses a lot of the old line fences to help isolate search areas. Another part of the problem is that Nelsen thinks they used short cut methods when they did the original survey. They may not have done it actually the way the instructions required. Brandt asked what Nelsen meant. Nelsen explained that if one looks at the rectangular township – 36 sections – they are required that one survey crew laid out the exterior first and then another contract with another surveyor would have subdivided those townships into sections. There was a specific procedure that they were supposed to follow to do that. They would start at the south and go north and measure east to the adjoining township line. There were two reasons for that; one was to check the work of the town surveyor and the other was to make sure that those north quarter corners were set half way between the section corners along that line. Nelsen thought, because of severe terrain, they would get looking and over there they would see that huge hill, they wouldn't go over it, they would just come around the other way where it is flatter. Nelsen thought they wouldn't go over and check it like they were supposed to, Nelsen felt they just stubbed it in. Nelsen said a lot of times he will go back and look at the amount of people on the surveying crew. Typically if there are more than five people in a survey crew, Nelsen thought they used some kind of a short cut method, because they didn't need any more than five in a survey group. They typically had the surveyor/instrument man, two people to chain/measure and then two people to cut line or run flags – five max. In some of these townships they had nine people. Nelsen thought what they did is split into two crews, so one crew would start at a certain point and another crew would lag behind them by one section. But if the first crew ran into good (easy, flat) country, they would get way ahead. If the second crew ran into good country they would get way ahead, but if the second crew got ahead there was nothing to measure into. Nelsen didn't think (each crew may have been paid one dollar a mile) they were going to stop and wait. Nelsen thinks they just kept going and therefore created some really irregular sections and really large search areas but we can't just assume that. If we do assume that it just enlarges the search areas. Nelsen is also the surveyor in Buffalo County. There was a surveyor by the name of Captain John Ball out of Winona who did a lot of the subdivision surveys and he always ran with a nine man crew. He was a military guy and he knew how to get stuff done – Nelsen's opinion was that he wasn't sure it was by the book and so the end result was that one would see section corners that would come up, and where this quarter corner was supposed to be dead online or close to the line, it might be 100 feet off. Brandt asked Nelsen about setting the monuments. Nelsen stated he places them where they set it – which means that is where it is supposed to be, which means it isn't necessarily mathematically where it would have been. Nelsen explained that once the Surveyor General in Iowa signed off the contract and those surveyors were paid, those corners became the corner, it didn't matter if they were exactly where they were supposed to be or not. Where ever that corner is that is where it is. It doesn't matter if it is 100 foot short here or 100 foot long there, it doesn't matter and that becomes a complication of Nelsen's job. Nelsen is not setting corners fresh and new like they did, he is restoring corners they set about 160 years ago. Lien wanted Nelsen to remind the Committee about what happens in a case where Nelsen can't find the corner and the mathematical equation that is used to set the corner. Nelsen explained there are cases where there is no evidence of a corner

remaining. There is a set procedure by state and federal law that has to be followed to set the corner and then that typically becomes a mathematical situation – however it is also the last resort. Nelsen added in T20, R8, he only set about 3% of the corners by not finding some sort of the evidence, otherwise Nelsen found a lot of evidence. Bice inquired if the corner that Nelsen finds, and a surveyor submits a survey map to the County, there could be a question as to whether or not their methods are considered accurate. Nelsen responded there could be. Once Nelsen sets the corners and documents those positions that is the corner that every surveyor should be using for any future survey from that point. Nelsen added we do have some situations, in the past, where a corner was established by a private surveyor and he didn't find the evidence of the old mark. Nelsen stated that can create a dilemma and that scenario is one of the major reasons why we need to get these corners in the ground before people start doing a lot of surveying so that we are all using the same foundational corners for all future surveys. Once Nelsen sets those corners and a private surveyor comes and does a job, he should be using those corners and then do whatever they need to do for a private survey. At that point it is kind of out of Nelsen's hands because it is between that surveyor and his client as to what happens. Lien stated there is case law out there and mentioned an example. Nelsen commented what Lien is talking about is adverse possession or acquiescence which are both legal terms that allow people to acquire rights to property that they may not have title to. More discussion took place on these two terms and some of the potential legal procedures. Upon Brandt's inquiry, Nelsen stated he started the remonumentation project in Trempealeau County 1996. There are some other counties down south (Milwaukee and Brown) that have done remonumentation projects. M. Nelson inquired about the monuments that Nelsen uses. Nelsen explained there is a sign post that is set near the monument. Nelsen actually uses a 30 inch long, 7/8 inch diameter rebar that we have a 3 3/4 inch aluminum cap that is affixed to the top and those are usually installed flush. Nelsen then puts a PVC warning sign (if they can) within a foot of the monument just letting people know that there is a monument in the area. Discussion followed about a specific area with markers located there that M. Nelson had questions on. Nelsen explained there had been a County Surveyor from about 1970 to 1985 and some monuments were set. If a new monument is set in a hayfield, Lien asked if that would be set and then secured with some markers or will that be set sub grade so that one could continue to crop it. Nelson stated they set them down two feet. A lot of times they will talk to the landowner and there are some that have been set deeper because of chisel plowing. There are some monuments that aren't set so deep because they hit bedrock at fourteen inches, etc. Typically the monument is put down below plow depth so that there are no issues with farmers interfering with the monument. Bice questioned Nelsen about a monument Bice had found in Buffalo County. Nelsen explained it could have been a Mississippi River Commission (MRC) marker. The MRC was designated by the federal government to do a survey of the Mississippi River in about 1898. They did a triangulation survey. They had set markers about five inches in diameter and a lot of them stick up about a foot and a half out of the ground. Nelsen added they set those and they did triangulation back and forth across the river. They measured very accurate baselines by hand up in St. Paul, down in St. Louis and sporadic places where they could actually measure across the river and then they used the bluffs on both sides to turn very accurate measurements back and forth and then they used those monuments for any control surveys, mainly for barge traffic, in about 1898. All of that was done and when the Corp. of Engineers start putting the lock and dam systems in, they used those monuments for their base surveys. If one stands on that monument, one should be able to see two other ones, both of them probably across the river. Usually they are on really nice vistas/beautiful areas because they wanted to see a long way. They would do the surveying at night and they would put a lantern on their foresights, which is going to be way across the river on one side and another lantern on the back side and that is how they did their survey. Nelson stated all the section corners of the County will be monumented and there are nearly 2400 of them. They set four reference monuments for each corner which makes about 10,000 and they also have about sixty high accuracy reference GPS monuments which are the foundational monuments for surveying throughout the County, so it is quite a network of surveying that Nelsen has created in basically the last 17 or 18 years. Motion to approve the surveyor's bill/payment passed unopposed.

Set Next Regular Meeting Date – The Committee set the next meeting date for Wednesday, October 9th, 2013. Lien stated there is one mining hearing on the agenda for October. Three mines made it under the moratorium deadline, so the other ones will be on the agenda in the upcoming months.

Dick Miller, County Board Supervisor was present and asked to speak to the Committee. Miller attended two meetings Monday night; one for the township and the other was part of the City of Blair meeting. Miller stated a mine made a presentation to the City regarding their new hauling routes for mining materials. It was just for discussion. Miller asked if they have to get permission from the City for their routes. Lien replied that DLM staff has requested that they get a letter from the City with either approval or denial of the proposed haul route, unless they were to amend the plan so that it doesn't go into the City. Lien added that as it is presented now, in the City of Blair, DLM staff has said we won't put it to public hearing until we get a comment from the City of Blair. Miller asked if the township needs to give approval for driving on the township roads. Lien responded DLM would request that a road use agreement be in place. Miller clarified that it would be something that would have to come before the town for consideration. Miller has noticed there are a lot of changes to names on these companies and asked if /how that affects when they come in for a permit? Lien stated it doesn't really affect anything. DLM has a transfer form they can fill out and transfer ownership at any time. If a company has come through the permit process and they change ownership, the Committee has decided they want the new owner to come in so the Committee can review the conditions with the new company so that they are aware of the conditions on that particular site.

Bawek inquired if the revisions to the Ordinance on Chapters 13 and 20 are approved, do they at any point become retro-active? Lien responded yes, and that all mine sites would get a letter which states that effective of this date, your timeline starts. Brandt clarified those mines that are either inactive, preliminarily approved, etc. would get a letter that says, "Effective this date the clock starts ticking". Brandt asked if that would include sites that are actually mining – particularly the Soppa site. Lien stated it would be retro-active to the date of the letter.

At 11:28 AM, Chairman Bice adjourned the meeting.

Respectfully submitted,
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary