

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

**REGULAR MEETING MINUTES
February 13th, 2014 9:00 AM
COUNTY BOARD ROOM**

Chairman Brandt called the meeting to order at 9:06 AM.

Brandt verified that the Open Meeting Law requirements had been complied with through notifications and posting.

Committee members present: George Brandt, Tom Bice, Michael Nelson, Jay Low, Kathy Zeglin, Jeff Bawek and Rick Geske.

Staff/Advisors present: Kevin Lien and Virginette Gamroth. Keith VerKuilen, Carla Doelle, Vickie Stalheim, Judy Betker , DeWayne Snobl – USDA APHIS Wildlife Services, Peter Fletcher, Mississippi River Regional Planning Commission, Corporation Counsel Rian Radtke, County Board Chair Ernest Vold were present for part of the meeting. Others present: Gary Bixby, Tom Forrer, Lee Henschel, and Dennis L. Youngbauer.

Introduction of the new FSA Chair, Rick Geske was done at 9:06AM when Geske arrived to the meeting. Brandt thanked Ed Patzner, who was present, for his service on the E & LU Committee for the past year or so.

Adoption of Agenda – Nelson made a motion to approve the amended agenda, Zeglin seconded, motion carried unopposed.

Adoption of Minutes – Nelson made a motion to approve the minutes, Zeglin seconded. Zeglin noted one change on Page 6. Motion to approve the amended minutes passed unopposed.

Wildlife Damage Abatement – DeWayne Snobl – Snobl distributed a handout to the Committee regarding shooting permit harvest exemptions, 2013 claims review and approval and deer donation. Snobl noted that all the landowners made their quotas so the Committee wouldn't need to deal with any harvest exemptions. Snobl stated there were four landowners who requested a formal appraisal and their claims are dealing with hay, corn, and soybeans. Snobl explained that based on the crop prices set last year, the appraised loss total are those totals and then payable amount is minus \$500 unless they go over \$5,500 and then it is 80% of that amount over. Snobl briefly explained each of the 2013 WDACP claims presented.

	Appraised Loss	Payable Loss
Daniel Erickson	\$5,182.47	\$4,682.47
David Nelson	\$6,491.89	\$5,793.51
Steve Ravnum	\$3,275.53	\$2,775.53
Greg Tollefson	\$7,658.08	\$6,726.46
Total	\$22,607.97	\$19,977.97

Upon Brandt's inquiry about what Snobl was asking of the Committee, Snobl responded the Committee needs to make a motion to approve the claims – the payable loss amount, then Brandt as Chair would sign each of the claims and then they are sent on to the state. Snobl added that these are all state funded dollars. Brandt clarified that the landowners are not calling into question the numbers of the appraised loss or payable loss and that they understand the "nature of the discount" so to speak. Snobl responded that is all explained to them and the landowner has already signed the claim. Once Snobl does the appraisal then if they have questions they are requested to contact Snobl as soon as possible to go over it so that if need be they can go back out to the field

together and look at the situation. Snobl reiterated that all the landowners signed their claims. Zeglin made a motion to approve the payout of the payable/loss amounts totaling \$19,977.97, Nelson seconded. Lien stated Snobl has said this was about the same dollar amount as last year but there was a new person. Lien asked if there was someone else on the claim last year or were the other three claims higher. Snobl explained there was someone different on there last year and that person did participate but forgot about shooting his deer so he realized that and didn't call for an appraisal because he would have been denied. Upon Bawek inquiring if they would be required to harvest some deer this coming year, Snobl responded that because they went over \$1,000 they are required to get a WM-40 shooting permit before February 15th to start harvesting deer. The threshold in the Statute is that if one exceeds \$1,000 the previous year, to maintain claims eligibility the following year you have to take the permit by February 15th and then one has to have 80% of the deer shot by September 15th. Bawek questioned where the "80%" requirement comes from. Snobl stated he doesn't come up with that number, DNR comes up with it. Basically Snobl certifies that they are enrolled and DNR decides how many tags they get. In most cases DNR uses a formula that factors in huntable land and harvest numbers in the unit for a three year period and they come up with a number. Snobl further explained the number of tags that the landowner may receive from DNR and how they could be eligible for more tags. Lien clarified that if the landowner is given 10 tags they need to have 8 of the deer harvested by September 15th and that it is not 80% of the herd on the land, but 80% of the tags given out by DNR. Bawek clarified that the landowner has from February 15th until September 15th to harvest the deer. Upon Bawek asking Snobl where the deer are taken, Snobl responded that right now there are registration stations open so one would take it to their normal registration station. Snobl stated all deer in the State of Wisconsin, including ag tags, have to be registered. Snobl wasn't sure what was going to happen in the future with ag tags and the changes being made to registration, etc. Further discussion took place on the processing of deer. Brandt asked Snobl to explain the nature of the permits as to who gets to shoot the deer or who has to shoot the deer. Snobl stated the permit itself gets its' own set of tags and has nothing to do with anyone's current hunting license. There are purple back tags that are provided to the permittee and also authorizations. Basically the farmer fills out and authorizes whoever he chooses to go out and hunt on their property. The permittee gets to set the timeline. If someone gets a permit the DNR decides how many tags are going to be available on that permit. All the tags and authorizations are given to the farmer. They fill it out, the top copy stays with the farmer, the back copy has to be on the person out hunting, the third part is actual registration information so that goes with it and that is the paperwork it has to be registered on. At the end of the year all the tags, etc. that are unused and all the authorizations filled out are sent back into the DNR. The DNR then evaluates registered deer using the registration stubs, the authorizations that were filled out and then the log book that contains the number of deer harvested by the deadlines. Upon Bawek's inquiry as to who registers the deer, Snobl responded the person that shoots the deer has to register it. The farmer fills out the authorization to allow an individual to hunt on his property during the valid periods of that permit which the farmer decides, but it is still like the hunting season where the hunter that shoots the deer is responsible for tagging it, field dressing it and registering it. At that point what the hunter does with the deer whether they use it themselves or donate it is up to them. Motion to approve the payout of the payable/loss amounts passed unopposed. In regard to deer donation, Snobl stated overall it is down and felt it was a logistics problem. In 2006 there was over 800 deer donated, 2007 just under 700 deer, but Snobl stated once we lost two processors in Arcadia that left only Strum and it is a logistics problem. Snobl works in Clark County and they have the same thing happening. There are only two processors and they are way in the northern end. Snobl added that doesn't mean more deer aren't being donated it is just that once it goes into another county it is reported under that county. Snobl reported that last year it was 36 deer and now it dropped down to 15 donated in Trempealeau County. Snobl went through some of the other county donation numbers. Snobl didn't have any statewide numbers for deer donation but guessed it was going to be down. As far as pounds per deer, on average, Strum did real well with the 15 deer as they averaged just 55 lbs per deer. Snobl noted that the deer donation program has shown us that adult deer average about 40 pounds per deer. Strum does a really nice job by getting 55 pounds on average per deer. The low was 24.5 pounds on average up to 58.5 pounds per deer donated. As far as other wildlife information, Snobl stated there are going to be changes to the deer season as far as registration, etc. Deer units are now going to be County boundaries so Trempealeau County will be a unit. They are developing committees for each county to determine harvest goals, etc. Each County is going to have a "deer" Committee working through deer numbers, etc. Trempealeau County was

59C and some of 61 and that is going to go away. Snobl thought it was going to be the Conservation Congress member in the County that is supposed to be the lead and work with the DNR on putting these Committees together.

Public Hearing - Trempealeau County Comprehensive Zoning Ordinance Revision –Chapter 4.09(3) - Communication Towers, Antennas, Transmitters – Chairman Brandt opened the public hearing at 9:30 AM.

Nelson read the public hearing notice aloud. Copies of the proposed Ordinance were distributed. Brandt informed the public that anyone who wanted to testify would need to register and bring the form to him or Nelson. VerKuilen stated that as far as the fees for the co-location siting and collocation I and II, the Committee had set the fees for the new siting and collocation I at \$1,500. The rules allow for a fee up to \$3,000 for each permit. Collocation II was set at \$500 and that was the maximum fee for that as well according to the Statute. The Committee had decided on collocation II being just an over-the-counter permit. Brandt clarified that a CUP was required for collocation I. Brandt called for any public testimony three times. Brandt closed the public hearing at 9:34AM. Nelson made a motion to approve the Ordinance revision, Brandt seconded the motion. Radtke stated that last time the Committee talked about setting a fee of \$500 for a Class II collocation. Radtke reviewed the Ordinance after last months meeting. Radtke informed the Committee that what the Statute actually says is that for a Class II collocation it is the lesser of \$500 or the fee for a building permit for commercial development or land use development. Radtke didn't know what that fee is and questioned if it was less than \$500 and if it was the fee would have to be lowered. Lien stated that for commercial development, since we don't do UDC inspections, those permits are basically a \$50 land use/zoning permit. With that said, Radtke stated the Statute would restrict this to being \$50. Lien asked if that was because it needs to be consistent with the land use/zoning permit that is in existence. Radtke commented that under Statute 66.0404 which is the statute regarding tower regulations – under limitations B (1) – it states, “the County may not charge a mobile radio service provider a fee in excess of one of the following amounts – for a permit for a Class II collocation the lesser of \$500 or the amount charged by a County for a building permit or any other type of commercial development or land use development”. Radtke reiterated that a fee may not be charged in excess of the lesser of those two – of the permit fee or any other type of commercial development or land use development. If the land use development fee is less than \$50 obviously it is less than \$500 and the County is prohibited from charging a fee that is in excess of \$50 for a Class II collocation. Brandt questioned what is meant by land use development? Lien commented he wasn't sure without looking into the definition of it. Lien explained that if some type of commercial business would come into the County, the fee for the actual structure would only be \$50 but there would be a stormwater/erosion control permit that would apply to that site because it would be greater than one acre so then there is additional fees that would apply to the site, but the actual land use/zoning fee for the structure is only \$50. Brandt asked if there were fees related to the commercial development as Lien had stated the reason it is \$50 is because we don't do building inspection for commercial development. Brandt asked if there were fees through whomever it is that does commercial inspections. Lien responded yes and they charge a fee and a plan review fee for anything over 50,000 cubic feet. Upon Brandt asking if Radtke was advising the Committee on a language change, Radtke responded yes, as it would appear that setting the collocation fee of \$500 would not be consistent with the Statute even though it may not be clear what commercial development or land use development is. Lien asked Radtke if there was a date tied to that, in the event the Committee, in the future, would change the fee for land use/zoning permit then would we also be able to amend this. Radtke stated the way we are doing it here, by putting the fee right into the Ordinance, if the fee was changed or amended, one would have to come back to amend the Ordinance, but there isn't a date that it is tied to. Zeglin suggested incorporating that exact language into the fee schedule. If the permit fee changes from \$50, we don't want to specify \$50, as in the future it would save us from coming back. If we had the same language as in the Statute, the lesser of \$500 or the commercial building fee, that should cover it. Zeglin made a motion to incorporate the statutory language as to the fees for the collocation II, Brandt seconded the motion. Brandt called for any discussion on the amendment to the suggested Ordinance revision. Motion to approve the amendment passed unopposed. Brandt stated we are back to the Ordinance revision as amended. For the benefit of the new Committee member present, Lien explained that the reason the Committee is amending this Ordinance is because statutory changes came out that required the County to not be more restrictive than what State Statutes say so we had to amend the Ordinance to be in harmony with that. Motion

to approve the amended, revised Ordinance passed unopposed. Brandt noted that this would be sent on to County Board.

Review draft changes to Trempealeau County Animal Waste Management Ordinance and Fee

Schedule Doelle referred Committee members to the revised Ordinance in their packets. Doelle went through the changes with the Committee. Doelle noted that she had not attached the fee schedule but was presenting it now. Doelle stated the purpose of updating the Ordinance was to bring it current with the correct standards that are in the NRCS (Natural Resource Conservation Service) practice standards and specifications and there were also some statutory changes that needed to be updated as well. Doelle wanted to do some “clean up” and make the Ordinance more current. Doelle added some things that had not been a part of the Ordinance in the past such as waste storage closure so if someone is not using the storage facility any longer and they are abandoning it, there will be a procedure in place to follow now. Doelle added a “transfer of ownership” so if someone transfers ownership of their animal waste storage facility or the farm changes hands, that is a good time to take a look at whether or not that structure is still meeting today’s standards and specifications. Doelle referred the Committee to definitions under ‘Permittee’ that was changed to “permit holder”. Under definitions on Page 3, Doelle added a definition for “substantially altered” so we have a better idea of how to address that when people are making changes. Doelle added a definition for “transfer of ownership”. Doelle made other grammatical changes. On Page 4, Doelle added the standard for closure of waste impoundments. In 4.04, temporary unconfined stacks of manure and derivatives outside the animal production area are being addressed. Within the 3.13 Standard of the NRCS Practice Standards and Specifications, Table 10 provides guidance on unconfined manure piles and where they can and cannot be. It is broken down into two categories based on the percent solids. Doelle explained you have 16-32% solids or greater than 32% solids and each of those dictate setback distances, length of time a pile can stay in a spot, the size of the pile, soil types, separation distances from groundwater and bedrock. That is a reference that DLM uses if called out on a complaint for an unconfined manure pile or if the landowner wants advice on where to have a pile. Brandt asked if Doelle had the tools to measure liquid and solid make-up of the manure. Doelle responded we do not but typically it is fairly obvious - a lot of it is poultry manure which if it is broiler manure it is going to be very dry. The breeder manure can be a little more of the wetter consistency, but yet still from the study that Discovery Farms did it still found that at around 48-50% solid, so that is very helpful information for us. Doelle added that typical pit dairy manure is not going to pile very well and pen pack manure is going to be greater than 32% solids. Under 5.03 for permit fees, Doelle stated the permit fee since 1987 for an animal waste storage structure has been \$25. Doelle explained that many hours go into these permits, reviewing plans, siting, test pits, etc. and \$25 is not a good reflection of the amount of time that goes into these permits. Doelle has attached a fee schedule which is a separate document on file in the Department. The fee schedule identifies the breakdown of ones fees, based on animal units, which is most typical of how the DLM does things. Everything else is broken down under animal units and livestock siting. The DNR WPDES permits are broke down under animal units. To stay consistent that was a good way to do it. A brief discussion took place on animal units. Doelle continued that she broke it down by the animal units, added a fee for the closure of \$100 because a plan, a design and inspection needs to take place during a closure to ensure that it is being closed according to standards and specs. The ownership transfer fee would be \$100 as well. Upon Bawek inquiring if that was something that is recorded on a deed, Doelle responded it is not. Bawek asked how Doelle finds out about that. Doelle responded she may not always know. Bawek asked if it was the landowner’s responsibility at that point, Doelle responded it should be - yes. In 5.04(8), Doelle was unable to determine how 660 feet was chosen in 1987, so she changed it to 300 feet which is consistent with other County ordinances. In 5.05, Doelle added the application requirements for Manure Storage Facility Closure. On Page 6, Doelle added the application requirements for transfer of ownership of a permit. In 5.07, there was a strike through of a sentence that Doelle didn’t think was appropriate to have in the ordinance – that if we fail to approve or disapprove the permit within 30 days, that it basically means the permit has been issued and the applicant can just go ahead. Doelle felt it sounded like bad advice. Lien felt this might have stemmed from 1987 when there weren’t the nutrient management requirements, etc. that are required today that take time to implement so Lien thought it was a good idea to have that removed because there might be sources outside of our realm of authority that hold up an application. Doelle agreed with Lien. Bice asked what happens if they don’t get approved from the County – are they on hold and not allowed

to move forward? Lien responded the only reason that someone would not get approval is if they didn't meet the minimum state requirements as in 313 design criteria or 590 nutrient management or siting location may require a variance if they were in the shoreland area or some other place. Lien added that years ago, prior to having the state standards or even the 590 nutrient management standards one could issue a permit and landowners could build things that were perhaps not in compliance and we had leaking, failing manure storage systems. That is why there are a lot of closures of ones that are pre-existing. Lien couldn't think of any application that has ever been denied but now there are more, strict state requirements – 590 nutrient management requirements that were not in place back in 1987. Doelle went through the rest of the minor changes in the document. Brandt announced that what the Committee is doing today is reviewing the changes to the Ordinance that Doelle just outlined, making any amendments and then a public hearing would be held next month. Radtke wanted to research as to whether or not a public hearing would be required for this Ordinance as he was unsure whether it was an actual “zoning” ordinance. Low suggested talking about 5.07 where Doelle struck the sentence about the 30 day requirement. Low stated it says, “The Department of Land Management has 30 days to either approve or disapprove” and then he felt Doelle was telling him that might not be the case. Brandt stated Low was pointing out an inconsistency. Low continued that in the sentence before the “struck” sentence it says they have 30 days, now due to circumstances beyond the departments' control it could go past that 30 days. Lien responded DLM would approve or disapprove their application but not necessarily issue the permit if they don't have their 590 nutrient management standards met or other things. It means the DLM will review it to see if it is complete within the 30 day period and let the applicant know that the application is complete, but we can't issue the permit until they meet, i.e. the 590 requirements or other things that are also state requirements. That way we are not holding them in the balance we will let them know within 30 days whether they have a complete application or they don't, as far as what DLM has authority over. Upon Low inquiring as to whether they still couldn't move ahead with the project, Lien responded not until they meet the other state requirements. They need to have a nutrient management plan. Lien added that Nelson and Geske would both be aware of those requirements- that if one has a waste storage facility you have to meet those 590 requirements (stating how many tons per acre are spread, where they are spread, etc.). Bice stated, having said that, it is apparent to him that the situation is that if they meet those requirements, this is taking their ability away to get started. The law says they have to meet those requirements, this is just simply striking the information that suggests that they can get started because Trempealeau County, for whatever reason, has not finished their process. That wasn't how Lien read it. Lien stated it says we will let them know within 30 days if it is complete or not complete. Geske commented this is stuff beyond Trempealeau County. Bice asked Doelle to explain to him what is being struck. Doelle responded we are striking the part that says if we don't do our part, and you don't have a permit, you can just start. Bice thought that is the way it should be. As long as they have met the requirements, just because Trempealeau County hasn't followed up and finished whatever we're dragging our feet on, doesn't mean that we should have the ability to stifle property owners on their right on their property. Bice didn't believe that should be struck. He thought that was put in there originally to protect the landowner from whatever, we'll call it internal politics, something not done properly or finished, that allows them to move forward. Since Bice has been on the Board he has seen many people have projects held up because of situations that come up, between information that is deemed necessary before they can get started, yet they are held up from projects that they want to get started on. Upon Lien asking for an example of that, Bice stated we had a contractor from near Blair, two years ago, that could not get all of his things in order and so rather than start a major project before the ground froze and weather was difficult, he was stopped from doing that. We need to work with these people rather than against them – we used bureaucratic nonsense to hold up that project and that is wrong. Lien asked if he could explain the “bureaucratic nonsense”. Brandt stated there were three phrases that he was curious about; 1) “feet dragging”, “political nonsense” and the other is “bureaucratic nonsense”. Brandt asked if Bice was suggesting that staff is somehow dragging their feet or that there is some kind of bureaucratic red tape that is intentionally being used by staff to keep people from doing things? Bice responded we are not doing it to the best of our ability, what is right when it comes to dealing with people and their projects, it is that simple. Geske asked if that was an agriculture deal. Bice responded no. Geske stated this is an agriculture deal. Geske added he has been involved in a lot of building and has friends that have done a lot of building and the County is always the entity that is ahead – they are waiting for the state. Bice added it is very obvious that all this does is allows them to (if we leave this in there) have the ability to

move forward rather than be at the mercy of the County (and it is only if the County hasn't done what they are supposed to do). Brandt commented that the sentence before says, "The County, Department of Land Management has thirty days from the receipt of the additional information in which to approve or disapprove". Brandt continued that staff has already assured us that within that 30 days the landowner will be notified as to whether their permit has been "approved or disapproved". Brandt felt "approve" or "disapprove" is maybe the language hold up here because our responsibility is to tell the property owner whether they have a complete permit. Doelle agreed and stated, i.e. a landowner brings in a permit application and something is missing so Doelle immediately reviews it and identifies the things that are needed and it states, "after I have received the additional information I have 30 days to tell the landowner if they meet or don't meet. Our staff, as Brandt understood, is assisting the property owner in making sure that their part of the permit is complete so that they can move forward. Doelle added it is going to keep things moving along by having those 30 day windows without just giving them the opportunity to go ahead and build something that we may not have all the information for – and it could potentially end up being a bad site. Bice stated Brandt had made his point – Brandt had said that we've got this all covered, everybody is honorable, everybody does their job and in 30 days it is going to happen. In Bice's opinion, if it doesn't happen, (in Bice's opinion that is why that paragraph was in there) and he strongly felt it should be kept in there. Bice made the motion to leave the language, "if the Land Conservation Department fails to approve or disapprove the permit application in writing within 30 days, of the receipt of the permit application or additional information as appropriate, the application shall be deemed approved and the applicant can proceed as if a permit has been issued" in the document, Low seconded the motion. Geske thought that by leaving it in – you're looking for failure because somebody is going to think they're permitted, they are going to go out and start a job and then it is going to come back and they are not. Now they have spent time and resources and they had no ok to go ahead – Geske thought that was ridiculous. Bice stated that sentence has nothing to do with anything other than forbidding the person from moving forward after the 30 days. They still need to follow the requirements – Bice isn't changing the requirement. Bice gave the example that we just went through a government shutdown and when that happened a lot of things happened. This is an example where after the 30 days if government doesn't follow through like they're supposed to and they do that constantly, even though a lot of people think that doesn't happen in government and it does, we should not have that in there, these people should not be stifled because we, somehow for whatever reason, have not finished the process or got back to them within thirty days. Brandt recapped that within the conversation we have heard Bice suggest that this Department has been stifling people from doing things; Geske has suggested that from his experience that this is the Department that helps people move things along. Low stated he didn't think Bice was suggesting that this Department is stifling anything, Low thought Bice was suggesting that the possibility exists (and we're not saying it is ever going to intentionally occur either) but it is always a possibility and we're looking to protect the individual property owner and their rights to move forward with developments, projects and improvements. Zeglin voiced that she felt removal of this sentence actually benefits the landowner as it would prevent the landowner from moving forward and investing a large amount of money on a project that may not be suitable, it may have flaws and then they essentially have to start all over again. Zeglin added that removal of this sentence is a benefit. Nelson commented he wouldn't dare move ahead until all the permits are in place, why would I want to get fined. Bice stated that no one would, but if you (addressing Nelson) had a major project that you wanted to do and for whatever reason they didn't come through with the final paperwork and you needed to get started or you had contractors lined up to show up on a certain date, at least this way you can get started. You still have to follow the rules (Bice wasn't saying you didn't) but he was saying now because the County maybe hasn't followed through and done the final paperwork, etc, that now you can get started because otherwise one can't – you're sitting there at the mercy of a problem that has happened in government. Brandt called for an individual vote. Brandt clarified that a "yes" vote will be to leave the struck out language on Page 6 in, a "no" vote will be to leave it struck out. Low voted yes. Bawek asked for clarification on the vote. Brandt stated this is the vote on Bice's motion to leave the struck out language on Page 6 which describes, "if the Land Conservation Department fails to approve or disapprove the permit application in writing within 30 days of the receipt of the permit application or the additional information as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit had been issued". Doelle has suggested striking that out, Bice is moving to make sure that stays in. Brandt clarified that a "yes" vote would be to keep it in the suggested, revised Ordinance and a "no" vote

would be to strike it. Bawek voted no. Bice asked for clarification once again. Brandt restated that since the motion is to keep it in, the “yes” vote is to keep it in. Zeglin voted no, Geske-no, Bice- yes, Nelson – no, Brandt- no. Motion to leave the struck out language failed 5-2. Brandt stated at this point we will follow through with Doelle’s suggestion to strike it. Brandt asked if there were any other concerns that the Committee had. Radtke would determine whether a public hearing was needed by the E & LU Committee or it just needed to be forwarded on to County Board. Geske made a motion to approve the Ordinance changes as presented. Gamroth asked for clarification as to whether the Committee was approving the fee schedule also. Lien responded they are approving it but it is not in the Ordinance as there is a statement in the Ordinance that says the Committee oversees the fee schedule. Bawek seconded Geske’s motion to approve the recommended changes. Motion to approve the Ordinance changes passed with Bice and Low voting in opposition.

Update on North Branch and Upper Elk Creek Subwatershed Targeted Runoff Management Project

Doelle stated that in April 2013 the Department applied for a Targeted Runoff Management Grant (TRM) for two subwatersheds within the Elk Creek Watershed. Doelle referred the Committee to a map in their packet with an area highlighted showing the two areas (North Branch and Upper Elk Creek). Doelle continued stating the reason it was chosen is there has been a lot of discussion on the Bugle Lake and the issues that are happening downstream of these two subwatersheds. In 1979 through 1989 there was an entire Elk Creek Watershed project and around two million dollars was spent on conservation practices, at that time, taking care of animal runoff, sediment runoff, etc. Since that time a lot of things have changed in the area. There is a lot less animal agriculture. We have more cropping practices taking place. Things that we believed to be good before, i.e. 100% fencing cattle out of the stream and letting trees grow up, are not always a benefit to the streambanks. Trees like to fall over, pull out tons of sod with them and then that all goes downstream. This is an opportunity to revisit things. In this process, when Doelle applied for the grant, she was limited to 38 square miles. That is why Doelle chose the two areas that we are going to be working on – North Branch and Upper Elk Creek. The thought process behind this was let’s start at the top and work our way down. Doelle explained that we have \$925,000 cost share dollars to offer to landowners that live within this area. That would allow practice total costs to be \$1,321,430 to max out the \$925,000 cost share dollars. As part of this project, the goal is to accomplish compliance with the Ag Performance Standards and that would be sheet and rill erosion, nutrient management, no unconfined manure piles located within soil and water quality management areas (300 feet of a stream or 1,000 feet of a lake), no over topping manure storage structures, no direct runoff from feedlots to streams and no unlimited livestock access to streams where sod cannot be maintained. The thought process behind livestock near stream corridors is that it can be managed and that one can maintain a sod cover of at least 70%, and one is still allowed to have livestock in those areas. Brandt commented that is the change Doelle was talking about - change from fencing in the stream. Doelle replied that was correct. Doelle knows that some of the participation maybe, back in the entire Elk Creek Watershed, was that people weren’t necessarily “excited” about fencing the cattle out of the stream, but now we have lesser cattle and if they have cattle maybe it can be managed in a way that is more appropriate to accomplish the goals that we are looking for. These Ag Performance Standards are set by the Department of Natural Resources through their NR-151 code. Upon Brandt inquiring if we are required to oversee them on a County level, Doelle responded yes, we have a MOU (Memorandum of Understanding) with DNR so we are their acting resource here for them to enforce and implement NR-151. Brandt asked what Doelle’s plan was for maximizing the conservation practices and how she is going to move forward with making sure that people get the money. Doelle replied that she and Keith VerKuilen have drafted a letter to the landowners (244) in the two subwatersheds letting them know of this opportunity and inviting them to a meeting on February 26th at the Hale Town Hall at 1:00 PM and 7:00 PM. Doelle hoped that one of the two time slots would work for the public. Doelle hoped to give an overview of what we can do and help with, explain the cost share rate of 70% and have a question and answer session. Hopefully, if there are people that are interested and would like additional cost sharing, we have invited the NRCS (Natural Resource Conservation Service), Mark Kunz and his staff to attend these meetings as well so perhaps landowners could “piggyback” EQIP (Environmental Quality Incentive Program) cost share money on top of this so they could potentially get 100% cost sharing on these practices. Doelle is looking for high implementation with such an outstanding amount of money being offered to landowners. Brandt asked what sort of practices Doelle was talking about. Doelle listed the following practices which landowners can apply

for, if they are eligible and it is a suitable practice to achieve an Ag Performance Standard (because that is our goal) (Doelle explained if someone wants to put in a dam on their property just to water the deer, that is probably not going to happen as there needs to be a reason for the dam that ties to a Ag Performance Standard to be an eligible practice). Doelle continued that we are looking at types of manure storage either constructing one or the abandonment. If there is one that is old, failing, leaking, etc., barnyards, critical area stabilization, waterways, grade stabilization structures, fencing. If we have cattle that have been 100% in the stream and we are looking at an exclusion, we could look at doing some type of watering facility for them to eliminate that as their water source and maybe they want to be fenced, maybe they can manage it so that they can maintain that 70% sod cover. We can look at roof runoff systems so if they did have livestock and a conventional barnyard didn't work, the standards that were used in that time period of 1979 to 1989 for what our standards today are for a barnyard are different. There isn't that little filter strip that comes off of the concrete lot to settle out any nutrients, etc. before it goes beyond that. Now a landowner is limited to a 10,000 square foot area if they are going to do a filter strip. Anything beyond that one will need a vegetative buffer area. Where some of these barnyards are located, one may not always be able to get enough area because they are adjacent to streams, and with other setbacks one can't always make those things happen so you look at doing roof systems because that is what works best. Other practices are waste transfer and waterways and well decommissioning. Old wells that are out there are definitely a resource concern that we would want to address. Not only in this area but county wide. There is a whole gamut of stream practices such as crossings, riprap, shaping and seeding and fencing. We are also able to do milk house waste control (runoff from the milkhouse – where is that going), leachate control (off of silage pads, etc.). Doelle stated things we are not able to do with this grant, just because it is not an eligible practice because we are not in the right area (if this was considered a TMDL (total maximum daily load) where this stream was limited to so many pounds of phosphorus per day (that rule had been set by DNR) on this stream we would be able to incorporate other practices like contour farming, nutrient management, pest management, strip cropping, etc.), we are not a TMDL stream with the Elk Creek we are not able to offer cost sharing for those practices which is actually very unfortunate. Upon Geske asking what causes that, Doelle responded it has to be ranked by DNR – that is something that happens on their end. Doelle added that she and VerKuilen are taking the lead on this. Doelle mentioned that Rob Herrmann, landowner right outside of Pleasantville, has been very instrumental in helping to get the word out there and is willing to go “door to door” with Doelle to talk to people. Doelle hasn't worked much in that area and doesn't know a lot of landowners. Doelle stated it is very exciting. Doelle stated the timeline is for two years; however there is an opportunity for a third year extension, potentially even a fourth. Once we near the end of the timeline of these two subwatersheds, then we would look at applying for additional area downstream. Nelson mentioned that Bruce Valley needs a lot of work as it is “wall to wall” corn. Doelle added and not a lot or no waterways. Doelle felt we were very fortunate to have good resources like UW-Extension to help with information and education type of work on this project. Mary Anderson had invited Doelle to come and speak about this subject at the Independence City Council meeting in relation to Bugle Lake which Doelle did the previous Thursday. Doelle felt the City was very excited to hear about this. Doelle is also doing a short segment on Anderson's farm show that she has on TCCTV in order to get the word out. A press release has been sent to the newspapers. Bawek asked if there was any enhancement for fish habitat. Doelle stated absolutely and added that is the driving force behind some of Rob Herman's work. Herman works for DNR as a heavy equipment operator and is very proactive on fish habitat enhancement. Doelle mentioned that DLM also has a smaller scale TRM grant for the North Creek and Newcomb Valley areas. Doelle wrote the grant as a Stream Restoration/Fish Habitat Improvement Grant and we have \$150,000 which is open to any of those landowners in those two stream corridor areas for riprap, stream fencing, waterways, etc., anything to benefit the stream basically. Again we are dealing with very small numbers of livestock. Doelle stated we have had a tremendous turnout of interested landowners. What Doelle likes and feels is really good is that they see the neighbor doing something and pretty soon her phone rings and they are asking her how they can do that same thing. Doelle elaborated on some of the things available for fish habitat improvement. Bice asked if Doelle had the authority to mandate that people who participate in this program go to 100% or 99% no till. Doelle responded we do not. Bice stated that was a real shame because tilling these valley's, normally one can get away with it-no problem, but when we have one of these massive storms you have 200 years of damage. Doelle added this was a good time to try to encourage farmers to leave a buffer or a separation so that when there is runoff there is some buffer area before it starts

taking out the streambanks and defeating the purposes that we are trying to accomplish. Bawek asked if any outdated dam structures would be updated? Doelle stated yes, if people notify us about them, that is an eligible practice. Doelle encouraged Committee members to spread the word.

2013 DLM Budget Resolution - Stalheim referred the Committee to a copy of the budget resolution in their packets. Stalheim stated it is a standard resolution that the County requires for all state grant monies when DLM receives more or less than what was anticipated. Stalheim then went through the resolution with the Committee. Brandt asked for a motion to approve the revisions to the 2013 budget. Zeglin made a motion to approve the revisions, Nelson seconded. Bice stated he didn't understand why we were doing this. Bice added that he understood why we need to revise the budget but asked why it is happening today. Stalheim explained she received the printouts from the County Clerk's office for the end of the year. It is just a standard resolution. Stalheim stated she could have brought it forward either this month or next month and the County Clerk's office requires it. It has always been done to adjust the budgets. Motion to approve the 2013 budget resolution passed unopposed.

Farmland Preservation Planning Grant – Peter Fletcher, Mississippi River Regional Planning Commission and Judy Betker were present for this part of the meeting. Betker stated she listened to some of the Committee's questions last month during the discussion of the planning grant. Betker wanted to come down and go over a few things with the Committee and give more information so the Committee will realize what is all involved with this. Betker explained Fletcher was able to be here today because he had another meeting in Whitehall. Fletcher can help address any additional questions the Committee has in regard to the Farmland Preservation plan and what we will be doing with it in the next couple years. Betker stated the Committee had questions on where we are at with Farmland Preservation in regard to number of agreements, what has been going on in the program and what we are doing. Betker explained that back in early 2000 we had approximately 700 or so contracts, 2006 we were down to 644, 2010 we had 402 and about every year from 2011 through 2013 we have about 50 contracts expiring. As of today, Betker had 203 active contracts, by 2021 she will have 48 and our last contract expires February 17th, 2034. Betker explained this is a program that started back in the late 70's (78,79) and there was a "boom" of contracts. Trempealeau County has historically always been the number one county with Farmland Preservation payments - the reason being we have the agreements; we do not have Farmland Preservation zoning. Betker asked the Committee not to confuse that with the zoning for farmland at the county level. They are two different things. They call them the same thing but one is comparing apples and oranges and that issue gets very confusing. Betker emphasized that we have "county" zoning not "township" zoning. Brandt stated the benefit of Farmland Preservation for those with contracts is a property tax credit on your income tax. Under those agreements one files a Schedule FC when filing income tax. At the "bare bones" minimum one is able to get 10% of their property tax payment credit back as a credit on your income tax. Betker stated the statistics have really gone down on how much people can claim. The government never adjusted the income schedule from back in the early 80's and it maxes out at \$40,000, so the statistics now – the 2012 average credit was \$700 per claim which only amounted to \$3.88 per acre. Now with the new Working Lands Program the credit is not a whole lot higher but the maximum credit there would be \$5.00 per acre. Brandt commented that Farmland Preservation describes to some extent what it is the landowner is able to do with their land or has committed to do with their land. Betker responded that is correct and to be eligible to sign up your land had to produce \$18,000 worth of gross farm profits in 3 years or \$6,000 in one year and then the old rules were 35 acres in/or 35 acres in CRP and you had to have 35 or more acres of contiguous land to sign up. It is a program that in 2009 we ended being able to sign new people up. The State changed Chapter 91 and it is now the Working Lands Initiative. Part of Betker's work load has been to do with all the relinquishments which is the expiring of these contracts. Trempealeau County has a different parcel numbering system now than it did back in the 1980's and part of the '90's and these contracts are all recorded and tied to the land in Register of Deeds so these relinquishments have needed to be recorded, releasing the agreements when they expire. Betker has spent a lot of time working on taking the old contracts, looking at the legal description, updating and giving DATCP (Department of Ag, Trade and Consumer Protection) the correct information so when they are releasing the land we are not having title issues coming up. That has been a huge workload for Betker. Brandt asked Betker to explain the planning grant application.

Betker explained, in regard to the planning grant, when DATCP started the Working Land Program they took the most urban counties and they were required to do their Farmland Preservation plans first. Trempealeau County's was set to expire the end of 2014, but what happened is they ended up with a budget deal where everything was postponed a year because there wasn't any planning grant money. We were notified this fall that, all of a sudden, they are trying to use up their money from before (their 3rd year group and evidently people are passing it by). Betker stated we were encouraged to jump on this and that is where Fletcher comes in. We are looking at updating our Farmland Preservation plan. Brandt stated in reviewing the minutes, the Farmland Preservation plan is a component of the Comprehensive Plan and we need to update that. Betker responded it is a requirement of the Comprehensive Plan and we were able to basically prolong this. Lien signed a letter that we sent to Ben Brancl, DATCP, requesting a two year delay in the expiration of the plan so we can update the County Comprehensive Plan at the same time. Betker turned the meeting over to Fletcher. Fletcher stated we still ultimately have two plans. There is the requirement to have a Farmland Preservation Plan and a Comprehensive Plan. Fletcher commented it would be easier if DATCP would accept the decisions the County makes in the Comprehensive Plan and Land Use Map as a Farmland Preservation plan/map, but they don't. They require that County's now, under the new Working Lands Initiative, update their Farmland Preservation plan. A lot of these were done in the late '70's and early 80's at which point individual maps were prepared for each town and the County plan and if you were designated in a Farmland Preservation area those were areas where landowners are eligible to receive tax credits. Now the requirement is, under the Working Lands Initiative, this document has to be updated. When this update is done and modifications are made to the map, the key thing is that both the Farmland Preservation/Working Land Initiative Program and the Comprehensive Planning law require that the documents be consistent and that the maps be consistent. Fletcher explained that what we are going to be doing during this update process is (the most recent mapping that has been done in regard to land use has been through the Comprehensive Planning process) taking a looking at that mapping and we will then reach out and communicate with the towns (saying this is what you have on your land use map) and make sure that the map that they prepare for their Farmland Preservation map is pretty consistent with that. For a lot of the towns Fletcher didn't feel it would be that difficult because a lot of the towns have designated on their land use map that those areas/land use districts in Exclusive Agriculture or Primary Agriculture fit perfectly with the Farmland Preservation requirement. However, Fletcher commented there are some towns that designated the majority of their land Rural Residential or residential areas and those can't be mapped as Farmland Preservation areas. At that point, landowners within those towns, if they want to receive those tax credits, and they remain in a residential district, that is not us doing that, that's the law, that is how the Farmland Preservation Program is. Upon Brandt inquiring if that would require a rezone, Fletcher responded no, it would require that ultimately, through this process of looking at the Farmland Preservation maps, towns might want to look at their land use maps in the Comprehensive Plan and make modifications to those, whether it is from residential to agriculture. Fletcher re-emphasized that the documents have to be consistent. Those areas that are agriculture on the Farmland Preservation map, they ultimately define your Farmland Preservation map and they also have to be that way on the Land Use Map in the Comprehensive Plan. Brandt announced the Committee is under a time constraint as Nelson has to be at another meeting shortly. Brandt stated that the grant was for \$30,000 and required a \$30,000 match. Brandt asked what the Committee's responsibility was here, do we come up with the \$30,000. Fletcher responded that through the Regional Planning Commission, ultimately when the grant is approved, MRRPC would enter into a contract with Trempealeau County that MRRPC would provide planning services and provide matching funds through MRRPC. The MRRPC serves nine counties in this area of which Trempealeau County is one. If you look annually on your budget, you see a contribution amount that is put to the MRRPC. Fletcher stated we offer our services and we are able to utilize a lot of that funding that they receive from the county's to assist in programs like this where they can go out and provide some of the matching funds. It is a reimbursement program. The County will have to pay it up front but the County is going to be reimbursed, but MRRPC will go towards that 50% of the project, so the "out of pocket" would be potentially no dollars for this to be completed. Betker added that the grant has been applied for and we have received notice that we will be hearing very shortly. Betker was instructed to send a letter requesting the extension on our plan first. Betker stated we took the full two year extension to give us plenty of time to get this done. Our goal is to be done prior to 2016. That letter needed to be sent to Ben Brancl, DATCP, first and then once that was received then they will act on that and then the grant papers will be sent in the mail. Betker

has pretty much been told that we will be allotted the full \$30,000. Brandt mentioned the Committee was interested in the Ag enterprise area program. Betker replied that is part of the Working Lands for us to apply for an Ag enterprise area. Betker listened to the discussion during break last time and Nelson remembered his details very well on what he was saying on how an Ag enterprise area works. Betker prepared a handout on this. Brandt suggested the Committee take the handout home and read it. Betker wanted to draw attention to a part in the handout which showed there are 25 Ag enterprise areas in the state now and that a lot of these have dealt with specialty crops and big business areas. Betker suggested if the Committee members have questions, while reading through the information, to contact her. Betker informed the Committee there is a Senate Bill in the works right now to increase the acreage from 1 million acres to 2 million and it looks like that is going to pass, so there will be more opportunity for these Ag enterprise areas.

Discussion of Reclamation Authority for Hi-Crush Operation in the City of Independence

Radtke stated that as the Committee knows there was an annexation to the City of Independence. Hi-Crush has an operation in the City of Whitehall and the City of Independence. The DNR was asked to give an opinion as to whether or not the facility in the City of Independence needed a reclamation permit and they came to the conclusion that it did. The City of Independence, at that time (probably a month, month and a half) did not have a reclamation ordinance which would mean under NR-135 that the County would be the regulatory authority for reclamation in the City of Independence because the didn't have their own ordinance. Radtke contacted the clerk and it appears (Radtke had also talked to LaVerne Michalak, Counsel for the City of Independence) that the City is intending on adopting a reclamation ordinance. Radtke talked to the City this morning and read the minutes from the meeting held one week ago which stated that the City of Independence did adopt a reclamation ordinance. After that, Radtke was able to talk to TJ Maglio, DNR (because an ordinance like that needs to get approval from DNR before it is final) and he stated he is not the person that receives the ordinances for approval as Tom Portle does and he wasn't in the office. Maglio didn't know whether the City of Independence had sent them an Ordinance yet to review or not but said that he would send an e-mail to Lien to update him if and when that is received. Maglio indicated the DNR would likely review that and if it is a "boiler plate" one, which Radtke believed it would be, based on discussions with Michalak, the DNR said they would review that and possibly approve it within a few weeks. The reason Radtke was telling the Committee this was because right now, as of today's date, the County is the regulatory authority for reclamation in the City of Independence. However, it appears the City of Independence is taking steps to have their own reclamation ordinance and in that case, once that is approved, which sounds like it should be happening fairly shortly, the City of Independence will be. Once the City of Independence is the regulatory authority, obviously they are the ones that would issue a reclamation permit for that site. The DNR, in communicating with the County, after their opinion that there was a need for a reclamation permit in the City of Independence, was that there should be one permit granted, not two even though it is one operation in two different municipalities. Radtke would encourage the County to work with the City of Whitehall in issuing one permit. Radtke believed that, had the City of Independence not taken the action that they have, Lien was going to recommend that the County work with the City of Whitehall since the City of Whitehall has already issued a reclamation permit for the City of Whitehall portion of that project. Since the City of Independence has adopted an ordinance and is just waiting approval from the DNR (we don't know exactly when that will happen) Radtke wasn't really sure if there was anything that the County should do today in regards to that. Lien stated that the reason it was placed on the agenda was because as it stands, right now today, Trempealeau County has regulatory authority over NR-135 of what has been annexed to the City of Independence. Whitehall has authority over what has been annexed to the City of Whitehall. The DNR has made it clear they want one regulatory authority that oversees that site because it is a contiguous site. So the site, even though it is in two different cities, it is a contiguous site so they want one oversight permit. Lien's recommendation was going to be to work with the City of Whitehall to give the authority that we currently have to the City of Whitehall so they oversee it, but as Radtke said, the City of Independence is moving forward with getting an Ordinance, then the City's of Independence and Whitehall can work it out because in the end there is only going to be one of them that has authority over it. Lien felt there was misinformation out there that they feel they can have NR-135 over what each of them has jurisdiction over but the DNR has made it clear there is only going to be one entity that ultimately has authority. Lien reiterated that the County has NR-135 authority over what has been annexed to the City of Independence and the City of

Whitehall has NR-135 authority over what has been annexed to Whitehall. Either the County would meet with the City of Whitehall and say, “here you go, if you are willing to accept it” or in this case we just continually hold off and let Independence move forward and then work it out. Lien had stressed to Hi-Crush Attorney, Mark Skolis that this kind of thing should have been worked out before earth was moved. Lien understands it is “bureaucracy” but we all have rules to live by and follow. Radtke commented that those who were around for the City of Blair annexation can recall the County was the regulatory authority in the City of Blair immediately after the annexation and then once the City of Blair had their reclamation ordinance then the County transferred their regulatory authority to the City of Blair. Radtke added that was a little more complicated because the County had already issued a permit and had a bond. This one there isn’t a permit issued in that municipality but it is a similar concept in that it is a transfer of regulatory authority once the underlying municipality would adopt a reclamation ordinance. It was Bice’s observation that since things have changed we should take no part whatsoever in that. Bice didn’t understand why the DNR is asking us to be involved, we were involved, we lost jurisdiction, we should stay out of it and we shouldn’t waste taxpayer money and complicate the issue. Brandt stated staff is offering us a couple of options: 1) begin conversation with the City of Whitehall relating to transferring our authority to them on the reclamation permit, 2) sit back and let Whitehall and Independence “hash it out” in terms of who it is that is going to hold the reclamation permit. Brandt asked if Lien was asking the Committee to make that call. For what it is worth, Radtke spoke to TJ Maglio, DNR Mining Specialist this morning. Basically they talked about what Radtke had just summarized here and Radtke had asked him what, if anything, would the DNR recommend here as to how the County should proceed. According to Radtke, Maglio had indicated he thought it would be good if the Committee just sit and wait to see what happens with the City of Independence but he couldn’t speak to the reclamation ordinance because he is not the person who receives it and he doesn’t know if the person who is supposed to, did. But if that is the case it should be approved fairly quickly and then the County is out of it. In the meantime, Geske inquired if the County could be held liable for anything that would happen there. Lien didn’t know because legally, at this time, we have the authority on the site. Lien honestly doesn’t want it because it is annexed to the City. According to Lien, best case scenario would be they adopt it and then let those two entities work it out, but Lien didn’t know when that was going to happen. If it happens quickly, great, if not, Lien suggested the Committee meet with the City of Whitehall to urge the City to amend their plan to have authority over the site. Geske asked if we had a pay scale on which to charge them if we have to do that regulatory authority for them. Lien responded we have all that stuff in place. Lien knew their intention was to get authority but Lien reiterated that he thought there was misunderstanding that they each feel they’re going to have authority. This thing may take months to work out if the two sides don’t agree. Lien would just as soon get it “off our plate”. Brandt stated he hasn’t seen any appetite for instructing staff to begin any conversation. Committee consensus was to just let the issue be for now.

Surveying Update and Payment Approval – Lien instructed the Committee to look at the reports and bills in their folders. County Surveyor Joe Nelsen has been doing maintenance work in the towns of Sumner, Gale, Caledonia and Trempealeau. Lien noted there is a road project coming up on State Road 121. DOT contacted Lien and said they are going to be coming in and meeting with Nelsen because there are several corners that are going to be destroyed and will have to be relocated and removed. Nelson made a motion to accept Joe Nelsen’s report and approve payment, Geske seconded, motion carried unopposed.

Set Next Regular Meeting Date – Lien stated staff will be attending trainings next month and so he would like to suggest a different meeting date. The next regular meeting date was set for March 19th, 2014 at 9:00 AM in the County Board Room.

At 11:02 AM, Nelson made a motion to adjourn the meeting, Geske seconded, motion carried unopposed.

Respectfully submitted,
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary