

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

**REGULAR MEETING MINUTES  
May 14th, 2014 9:00 AM  
COUNTY BOARD ROOM**

Chairman Brandt called the meeting to order at 9:04 AM.

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

Committee members present: George Brandt, Michael Nelson, Wade Britzius, Curt Skoyen, Wayne Skroch, Kathy Zeglin, and Jeff Bawek. Rick Geske was absent.

Staff/Advisors present: Kevin Lien, Virg Gamroth, Jake Budish, Corporation Counsel Rian Radtke.

Others present: Mary Anne Bixby, Gary Bixby, Jeanne Nutter, David Wallin, Bill Hulett, Tom Forrer and Linda Mossman.

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

**Adoption of Minutes** – Zeglin made a motion to approve the April 23rd meeting minutes, Skroch seconded. Bawek made a small correction to the minutes. Gamroth stated she would be adding three more people to the “others present” of the minutes. Motion to approve the amended minutes passed unopposed.

**Public Hearing – Conditional Use Permit and Reclamation Permit – Non-Metallic Mining – Construction Aggregate Pit – Jerome H. & Deborah A. Reincke, Ettrick, WI, Property Owners/Applicants, and Wallin Trucking, LLC, Ettrick, WI, Operator - Town of Ettrick**

Chairman Brandt called the public hearing to order at 9:07 AM. Nelson read the public hearing notice aloud. Brandt instructed the public present that anyone who would like to testify at this hearing should fill out a registration form found in the back of the room and give it to him. Lien stated the location is just north and a little west of the Village of Ettrick. Lien pointed out the site on an overhead aerial photo. Lien reminded the Committee of a CUP that was issued on this property for a dog kennel and there was a borrow pit for personal use opened up at that site to build that kennel, so there is an existing personal borrow pit that is open there for the landowner’s use. At this point Lien turned the meeting over to Jake Budish. Budish explained that currently the applicant and the operator want to further excavate the approximately six acres total, with only one acre being open at a time, to haul out on an “as needed” basis for various projects. The knob, over the years has created water runoff into the buildings so the removal of it is important. They are waiting for a storm water permit that is pending upon an archaeological review by the DNR. Budish stated as soon as that information is received that is when the storm water permit will get issued and possibly the Conditional Use Permit (CUP) also. Budish added there are no wetlands, navigable waters, the property is not in the Flood Plain nor is it in the Farmland Preservation program. Budish has DOT correspondence in which Budish sent Brent Pickard an e-mail inquiring about the intersections on State Highway 53 and the Town of Ettrick. Budish read aloud from his e-mail to DOT, “Good morning, I was inquiring about whether the Wisconsin DOT would have any input on the intersection of the Reincke pit located near Ettrick Wisconsin, Section 30, Township 20 North, Range 7 West in the Town of Ettrick. The applicant is proposing having less than an acre open, hauling on an “as needed” basis. Attached is a screen shot of the haul route and map. Please let me know if there are any questions or concerns”. Budish read the response that he received back from DOT, “Chris and I took a look. The intersection shows up on our map as a town road. Given what we assume to be a very limited number of intermittent trips, the Wisconsin DOT has no concerns that would need to be addressed at this time”. The

e-mail was dated April 21<sup>st</sup>, 2014 from Brent Pickard of the Wisconsin DOT. Budish introduced the applicant, Dave Wallin, who was present at the meeting. Lien referred the Committee to the overhead aerial photo and pointed out the Hegg Mill LLC parcel nearby. Lien stated he has been working with Travis Thompson, the current owner of Hegg Mill and that they will be coming before this Committee for a rezone change on the parcel and they plan to move the mill to that parcel. Lien explained that one of the reasons they are opening this borrow pit is that the fill will be utilized at the Hegg Mill LLC site. Wallin agreed with that. Lien continued that because the land is not owned by the same entity, they will actually have to get a mining permit to be able to move the material from one landowner to another. Lien added that is one of the major reasons for the CUP and that CUP will be on the June agenda. Budish stated there is a letter from the township too that is in support of the proposed site. Lien read aloud from the letter which stated, "I have been approached by Dave Wallin d/b/a Wallin Trucking, LLC regarding any issues/concerns that the Town of Ettrick may have with a borrow pit permit on the Jerome Reincke property located in N23223 State Highway 53 in the Town of Ettrick. We, as a board, have no issues with Wallin Trucking, LLC obtaining a borrow pit permit on the above listed property with less than one acre open at a time with the reclamation of each acre as mined". Budish stated the letter from the Town of Ettrick was signed by Chairman John Vehrenkamp. Brandt asked Wallin if the permit has been characterized adequately. Wallin responded that everything has been put straight forward to him. Lien noted that after the Ordinance was revised, it is very clear on the application as to whether or not someone is applying for "industrial sand" uses or "construction aggregate". Lien stated in this case, it is clearly a construction aggregate permit, so if the permit were to be utilized in another manner that would start to lean towards industrial sand, the applicant would be brought back before the Committee. Lien continued by saying that though there is sand on the site, the intentions and permitted use will be construction aggregate uses. Budish displayed up on the overhead screen the CUP application that Corporation Counsel Radtke and Budish have been working diligently on and stated that it is now finalized. Budish went through the new form with the Committee. Budish read aloud some project information from the Wallin application, "This is just a brief description of the general location, surrounding land use, building structure present and the nature of the nonmetallic mining site. The mine area is located in a pasture out behind his farm. This is borrow sand and will not need to be blasted so there are no concerns there. There is a knob that has, over the years, created water runoff into the buildings to removal is important". Brandt commented that Budish stated he has been working on this new application for some time to help with our records but also to give the applicant some sense of what to expect from us as the regulators. Brandt called for any public testimony.

**Bill Hulett** – Registered to testify in opposition. Hulett stated he owns the adjoining property. Hulett pointed it out on the overhead aerial photo. Hulett asked if he heard correctly that Hegg Mill is going to be moved and that would be a rezone. Lien explained that if one looks at the zoning layer, many years ago Jeff Saxe had bought that triangular piece of property and rezoned that portion to commercial in order to move the mill down there. Lien stated that Travis Thompson will be coming in to extend that Transitional Ag border a little farther to Commercial because it overlaps where he wants to place the mill on that property. Lien added this is not really a part of this meeting but Lien wanted to let the Committee know about that rezone because that is what part of the fill from the CUP site will be used for. Hulett continued saying he is concerned about the future property value of his own property. If he wanted to build houses on that property, they are concerned about traffic, noise, dust on the road, is there going to be a water truck and how much traffic. Hulett questioned who would want to build a house right next to an existing mine. Hulett questioned, if this was approved, would it be easier for another permit to be made for frac sand mining and expanding the mine just because there is already a mine there for aggregate? Hulett asked if there was a reclamation permit required for the first CUP. Lien responded there was never a CUP issued on it because it was for use on the landowners property so that was a permitted use. Lien further explained that if a landowner wants to open up a pit on their own property to use for bedding sand for cattle or fill for their own use no permit is required for that and no reclamation is required either. Lien added that with this permit reclamation would be required. Hulett inquired what experience the applicant has in reclamation of a mine. Wallin responded not as far as mining was concerned but general reclamation as far as slopes and topsoil, seeding, erosion control, etc. he has done plenty of in the past. Hulett inquired if there would be oversight. Lien responded "yes" and there is a minimum of annual inspections. Hulett stated he wasn't aware that sand was going to be moved across for Hegg Mill, but there are quite a few

sand mines already and questioned where the local people are getting the sand now. Hulett continued that most sand mines have a by-product of wet screens and three inch breaker rock, so is it necessary for the future and questioned how long this will take? Wallin responded that it is in the sense of cost effectiveness; it is so much more to haul the sand into this site than it is to get it right next door and even for future use. Wallin stated the closest site for him to get sand is Blair or Trempealeau and it would be nice to have something locally to keep the costs down for everybody.

**Tom Forrer** – Registered to appear and testify for information only. Forrer stated he came this morning and his normal role, usually, was not in favor of. Forrer wanted to make sure that there was clarification here and a few things have been mentioned that may need clarification. Forrer stated he was on a committee of seven in the Town of Ettrick that wrote a Nonmetallic Mining Licensing Ordinance and at that point, we had to make a distinction between frac sand mines and quarries. At the time, those terms weren't popular so they weren't integrated into that particular ordinance as clearly as Forrer would have hoped. Forrer continued on that this is a request for a quarry and as long as it does not say "frac sand mining", it is in conformity with the ordinance that the Town of Ettrick has already written. If they hit frac sand and want to mine frac sand, they have to go through the Town of Ettrick ordinance and the County. It would definitely be in violation if they did anything that bordered on frac sand mining, so when the Town Chairman, John "Peach" Vehrenkamp approved this with the other two members of the board, they had the right to do that in the Town of Ettrick ordinance as long as it remains a quarry. Forrer thought it was sort of a double protection and wanted that known.

Hulett expressed that he thought most would not want to build next to an existing mine where there is a quarry or a frac sand mine.

Brandt called for any other testimony from the public. There being none, Brandt closed the public hearing at 9:24 AM and opened it up to the Committee for action and discussion. Brandt handed out the Nonmetallic Mining CUP criteria information for the Committee to go through and explained that we went through this last month with Radtke giving a tutorial on elements to keep in consideration as we're talking about acting on a request for CUP's. The information today is specific to nonmetallic mining and taken directly out of our Ordinance. Nelson made a motion to approve the CUP and added for the purpose of discussion, Zeglin seconded the motion. Bawek had a question as to the potential size as Wallin had stated that there is a knob in the pasture. Bawek inquired as to the potential size that this could grow into. Wallin stated, at the very most, six acres total with less than one acre being mine at a time with reclamation after each acre. Bawek inquired if there was anything that joined this "knob" in this six acre pasture? Wallin responded, "No". Upon Bawek's clarification that there would be no blasting, Wallin responded, "no, there would be no blasting". Bawek clarified and Wallin agreed that it would be put back to Ag land. Wallin added that it can only go back that far because of power lines that run through there so the end would be at whatever distance that the power company requires one to stay away. Bawek stated that the neighbor mentioned that there might be dust issues and inquired what the issue was for dust. Wallin explained it is a gravel road and generally the most trucks that Wallin would have hauling out of there would be two at a time. Wallin does have a water truck so it is not an issue and it can be watered if dust becomes a problem. Bawek asked if there were any buildings or housing next to this. Wallin responded only the property owner. Upon Bawek asking Hulett if he had any buildings or a house in the vicinity, Hulett responded no. Nelson asked if this was a shale pit or a sand pit. Wallin responded it is a sand pit. Brandt stated the issue of processing was raised. Wallin stated it is just digging it up –loose fill sand. Brandt questioned the name of the town road there. Budish commented WISDOT has it labeled as a town road but it is unnamed. Upon Britzius questioned the time frame on this permit, Wallin stated he had applied for up to five years. Lien stated it is a maximum of six acres, five years and at the end of five years he could apply for a permit extension. Brandt asked if the no-activity on the site regulation applied to this permit. Lien responded it does not as this is a construction aggregate site. Britzius asked what reclamation amounts to in this case. Lien explained, basically at the end of excavation, their plan is a "leap frog" approach, so if one looks at a six acre site, they are only going to have an acre open at a time. As they're mining out that acre they will reclaim behind them which means maximum slope is 3 to 1, putting a minimum of 6 inches of topsoil and seeding it down. Right now that land is currently being used as pasture and is all Lien honestly ever sees it as in

the future. Lien didn't feel it would ever be a crop field; it will probably just be additional pasture for Reincke, because there is sandstone very close to the earth's surface. Lien is assuming it will make a little nicer pasture for him and move that area behind his buildings as right now there is sort of a shear slope behind the building that is currently there. In the photo, because it is an old photo from 2010, it doesn't even show the new building on there. The new building is much larger and he has a dog kennel in there (a CUP was received a few months ago from DLM for the kennel. More discussion took place about the soil on the site. Brandt commented that in terms of aesthetics, one has to look hard while driving by on Highway 53 as it is a good ¼ or ½ mile off the road. Zeglin inquired if Wallin would be using a maximum of two trucks as he stated. Wallin replied, not maximum, but for the most part. The only time that there would generally be anything more than that would be when hauling to the possible new site for Hegg Mill. Upon Zeglin inquiring about tarps on the trucks, Wallin stated they are all equipped with tarps. Zeglin asked if there was the need for a road agreement with the town or is there anything in place. Lien stated the town didn't ask for that and the existing road is gravel right now and Lien wasn't aware that was a town road. Wallin commented the actual town road part of it ends at the edge of the driveway for Midwest Fuels. Brandt reminded the Committee that conditions can be applied to this permit if there is something that is needed to be in the permit, whether it is tarping the trucks or watering the road, etc. and stated obviously our Ordinance requires certain hours of operation. Zeglin asked if the township indicated any conditions that they would want to see on this permit. Budish replied there was not, there was just a letter saying that they were in favor of it. When the new construction starts at the mill site, Zeglin stated she assumed that they will be going down the driveway to the town road and up State Highway 53. Wallin explained that actually they would come straight off of the corner and across Thompson's property, right where the road makes a bend, where the two properties adjoin. Upon Zeglin inquiring if they would be building a temporary road for just that use, Wallin responded it is field right now and it will basically be field when they are done, they will just drive across it. Britzius asked if Wallin had an idea as to how much of the six acres will be used for the Hegg Mill project? Wallin replied that if everything worked, there was talk of about 5,000 yards of sand there and about ½ of the acreage or better would be used. Britzius was concerned if there was enough validation for doing this in the first place and inquired if Wallin knew of any other construction projects which this pit might be used for. Wallin responded this is the only big one other than they do haul a fair amount of sand around the Ettrick area – a few loads a week for other construction companies. Brandt explained that this is what trucking company's and the quarry company's do, define and then get permits and leases on property close to where jobs might be. Then when something comes up, it is there and that is why we don't have that one year activity clause in the quarry part of the ordinance, so that it is convenient and obviously the cost of trucking is significant when it comes to bidding and it positions them better in the bidding process. Zeglin asked Budish to expand the overhead aerial photo in order to show Mr. Hulett's property. Zeglin asked Hulett if he had a home on his property now. Hulett responded no as he bought it with the idea of having perhaps six houses to be built in the future as there are some nice building sites on it and it is close to town and fairly quiet. Hulett's concern is the sand mine and questioned who would want to build next to a sand mine when there is no end to the mine once permit is there. Hulett stated if it was a five year permit for the Hegg Mill project, he wouldn't have a problem with that but that isn't it; it is going on forever, from what Hulett understands. Lien interjected stating the permit is five years and then they could re-apply for an extension. Hulett questioned why they wouldn't apply for the extension as for them it makes sense to have it. Wallin stated one gets the picture of sand mine in their head that is big and huge and really it is no different than what one sees now other than the reclaiming coming right behind as it is being used. There is no more acreage being opened than what is opened now on that site. Hulett reiterated that if they re-apply it can go on forever. Lien noted it is limited to the six acres being exhausted. Upon Hulett inquiring if the mine is over after the six acres is mined, Lien responded yes unless they would find another avenue in which to go a different direction but Lien explained some of the limiting factors around there and he didn't think there was another direction they could go. Budish added that if the mine were ever to be expanded beyond the six acres, they would have to come back for another public hearing for an expansion and they would need town approval, etc. Budish presented the Committee with some preliminary conditions that he had prepared. 1) That the DNR will issue a storm water permit for the owners operator upon clearance of the archaeological concerns, the DLM will then issue the CUP. For clarification, Lien stated an archaeological hit for the site would stop the project, so the preliminary condition is contingent upon that. 2) the permit is for five years and extensions may be allowed pursuant to our zoning

ordinance. 3) If blasting is desired, they would have to come back before the Committee. Also, all the standard conditions would apply. Budish stated the standard conditions are within the application and the applicant and operator are fully aware of the permit conditions. These conditions are standard throughout any site within the County, big or small, that are always going to apply. Brandt stated all the concerns that Hulett raised are things that the Committee has dealt with in the past in terms of the dust, noise, lights, aesthetics related to the site as well as the length of the operation, etc. The Committee tries to ameliorate those concerns either by adding conditions or as seen, they exist within the Ordinance itself. Bawek verified that the neighboring property is zoned agricultural. Brandt called for motion to add the preliminary staff conditions, noting that conditions could also be added. Zeglin requested adding a condition for tarping, if trucks were to go anywhere other than the Hegg site they should be tarped. If they are to travel on the little road to the Hegg site she didn't see a need for that but if the sand is being trucked elsewhere, Zeglin would like to see those tarped. Britzius seconded the motion. Brandt repeated the motion as requiring tarping of trucks if the sand products goes anywhere other than the Hegg Mill site. Motion carried with no opposition. Britzius made a motion to add the preliminary conditions that staff recommended, Bawek seconded the motion. Budish was typing the condition and for clarification purposes read it aloud, "If the owner/operator decides to haul material from the Reincke mine site, all trucks leaving must be tarped/covered, with the exception of the adjacent Hegg Mill site". Brandt explained for the new Committee members that we are preliminarily approving the CUP. The CUP will not be signed by the Chairman and not become official until these conditions are met, that is to say in this case, it is the clearance regarding the archaeological concerns from the DNR, so we are approving it, waiting for the information from DNR. Bawek stated there is talk about "if blasting is desired at this pit they must complete a blasting plan", but it has been stated that there will be no blasting at this site. Bawek questioned why that was in there as it gives them the option then. Lien responded they would have to come back before the Committee if they were going to blast because then there is a full set of criteria such as foundation and well inspections. Bawek thought it would alleviate some of the neighbors' concerns if they do not have the ability to do blasting if he wants to build houses down the road. The permit application says they will not do blasting. Discussion followed. Brandt stated what is currently on the floor is a motion to add the preliminary condition related to the possible archaeological site. Motion to approve the archaeological investigation condition passed with no opposition. Brandt continued saying an issue has been raised about the language that staff has, "if blasting is desired at the Reincke pit, the owner/operator of the site must complete a blasting plan and submit the plan prior to any blasting. Upon successful approval of the blasting plan by the DLM, the applicant may begin blasting". Brandt felt was Bawek was suggesting is that it makes it sound as if the Department head or staff has the ability to approve a blasting plan and then allow the applicant to do blasting and that is a concern. Lien explained that in the past it was brought back before the Committee. It is not just as simple as blasting anymore as we require the foundation investigations and well investigations, typically within 2500 feet of the proposed mine boundary. Lien was actually out at the site when they did the excavation for the dog kennel and Lien believed that at the depth they are planning to dig and extract, it can be excavated. If they were going to do large quantities, it would probably be more timely and efficient to blast but for the small amount of acreage and material that is coming out of this site, Lien doubted if blasting is necessary. If it is, the applicant would have to come back before the Committee before they blast. Brandt suggested striking the second page related to blasting with the understanding that it would be in another part and would be addressed if it arises. Wallin expressed that he was ok with that as he didn't foresee any future blasting. After some discussion, Zeglin suggested, to soothe everyone's mind, placing a condition that there will be no blasting at this site. Therefore, to change the conditions they would definitely have to come back before the Committee. Brandt commented they will have to do that anyway. Bawek commented he was simply just thinking that if this gentleman wants to build houses on the land next to this, he would not be sitting in limbo wondering if there is going to be blasting, so that he can sell a piece of property and guarantee that the mine will not be blasting at this site. Britzius commented one can't guarantee everything because they can always come back and ask for it. Bawek agreed but added it was stated at this time there would be no blasting. Bawek thought it was a good compromise to simply state "no blasting". Lien elaborated a little bit on the Town of Ettrick zoning and land use planning pointing out that it has been mentioned several times today that mining doesn't necessarily promote residential growth and Hulett is worried about a making a residential development next to a mine. Hulett stated he is concerned that someone would not want to purchase and build a home next to a mine that has no end. Lien added that is at the heart of

what we deal with in zoning and planning. This is a small mine but it affects the future of how we plan and zone. Brandt stated we now have the main motion with the two conditions added to it. Brandt asked Bawek if he wanted to pursue the blasting issue. Bawek made a motion that there will be no blasting at this site and have it applied as a condition to this site, Zeglin seconded the motion. Motion to apply the condition passed with no opposition. Brandt stated we are back to the main motion with three conditions. Radtke stated that before a decision is made on any CUP, the Nonmetallic Mining CUP criteria lists everything in our Ordinance that has to be considered. At the last meeting, Radtke presented on what it is this Committee has to look at and consider. There are some things that the Committee “may” consider and then there are parts of our Ordinance that say you “shall” which means “must” consider and then evaluate to make a determination in regards to certain information in our Ordinance before the Committee can approve or deny a permit. As part of making a good and quality record, as this is a legal decision in a sense, an applicant is asking for a permit and we have to apply the facts to the application and the facts of that application to the standards in our Ordinance and make the decision only off of those standards. It is important to make a record so that if someone were to appeal or come back and look years from now and say “what did they do and why”, it is important that there is a discussion on the record as to determinations the Committee made with regards to applying the facts to the standards. As to making a record, Radtke stated there is an audio recording, a video recording and there are times when we have to make a written record so Radtke encouraged the Committee that anything that is to be part of the record or is being considered has to be verbalized as well as the decisions. The decisions should be limited to what is in our Ordinance. Radtke emphasized that it is important to only have one person speaking at a time as when we sit back and listen to these audio recordings and try to draft a record/transcript; it is very difficult if multiple people are speaking and trying to decipher what it is that they said. Radtke encouraged everyone to try to be cognizant of that and when someone else is speaking wait until they are done before you speak so that it gets into the record clearly. Radtke asked Committee members to make sure the microphones are on so that their voice is being heard. Radtke encouraged the Committee to go through the items on the criteria list one by one and perhaps have some discussion to make the record. Brandt stated he would read the criteria and if someone has an issue bring it up otherwise Committee silence will mean that we feel that, as in the case of number one, whether the proposed project will adversely affect property in the area, if Brandt doesn’t hear anything he will assume the Committee feels that it won’t. Radtke commented it is important to go through this but at the same time, i.e. For number one, there was a discussion about how this is going to affect the neighboring property so it could be that as you are going through these now, that we’ve already had an adequate discussion of that and also there are some of these items that just simply do not apply so just be aware of that. Brandt read aloud the criteria. Zeglin questioned if there were any trees or vegetation along the current property line or is it just pasture, between the mine area and Mr. Hulett’s property. Wallin stated there is pasture. Brandt then read that in analyzing CUP’s, the County must specifically analyze nonmetallic mineral mining proposals in light of the County’s interest in providing for wise use of natural resources in the County, aesthetic implications and the impacts of such a mining operation on the general health safety and welfare. Britzius commented we could spend a couple of days defining “wise use”. Brandt continued reading, ‘in approving CUP’s the Zoning Committee shall determine that the proposed use and proposed location will not be contrary to the public interest, detrimental or injurious. In order to grant a conditional use permit for non-metallic mineral mining, the County shall find that the proposed operation is an appropriate land use at the site in question, based upon consideration of such factors as: existence of non-metallic mineral deposits; proximity of site to transportation facilities and to markets; and the ability of the operator to avoid harm to the public health, safety and welfare and to the legitimate interests of properties in the vicinity of the proposed operation. When considering an application for a non-metallic mineral mine permit, the County shall consider, among other factors, the following: the effect or impact of the proposed operation upon; (1) public infrastructure, (2) present and proposed uses of land in the vicinity of the proposed operation; (Brandt stated Lien had given information on the proposed Hegg Milling expansion and there is the possibility of housing development near there in the future) (3) surface water drainage, water quality and supply; (4) soil erosion; (5) aesthetics, (6) market value (7) the physical practicality of reclamation (8) the public interest from the standpoints of smoke, dust, noxious or toxic gases and odors, noise, vibration, blasting and the operation of heavy machinery. Brandt assumed by the Committee silence that they feel the applicant is able to meet all of these concerns. Bawek stated dust control was talked about and there was no condition put on there. Bawek suggested and then made a motion for a condition to be added that once there is housing in the area, there will be a plan for dust control, Zeglin seconded the motion. Brandt clarified that the criteria be, “once there is housing in the area”, as

currently there is not except for Reincke's. Brandt restated the condition as requiring a dust plan on the haul road next to the housing when and if housing is built in the area on the adjacent property. Motion passed with no opposition. Brandt stated the Committee is back to the original motion to approve the Conditional Use Permit with the three conditions. Motion to approve the CUP passed with no opposition. Brandt stated the one preliminary condition requires a notice from the DNR that the archaeological investigation has shown no significant archaeological site. Upon Hulett inquiring who from the DNR was doing the study, Budish replied he is currently working with Roberta Walls who is handling the storm water issues and then she is working with the archaeological society. Some discussion took place on clarification of the wording of conditions.

### **Consideration and Discussion of Appointments to Board of Adjustment**

Brandt stated we have a sitting member and an alternative whose terms are expiring. Lien stated he had conversations with Gerald Hawkenson, the standing member and Robert Tenneson, the alternative and both would like to serve another term. Lien noted that at the last meeting Nelson had stated David Larson is interested. He would be from the same area as Gerald Hawkenson. Lien stated Charlotte Everson is also interested and she would be from the same area as Robert Tenneson. Lien explained that the County Board Chair makes the appointments and the members are required to be from different areas of the County. Statutorily, the Board of Adjustment is required to have up to five standing members with two alternates and each is a two year term. Lien suggested the Committee recommend all four persons to the Chair and he can select who he feels would be the best board members. Lien also asked the Committee if they had any other names. Nelson made a motion to forward all four names on to the County Board Chair, Skoyen seconded the motion. Motion carried with no opposition

### **Discussion and Possible Action on Public Hearing structure**

Lien stated that Zeglin had requested this item to be on the agenda. Zeglin stated that Lien had mentioned at some point in the last meeting that there are certain things this Committee may want to look at. Zeglin has several ideas and explained that over the course of time that she has been on this Committee several members from the public have come forward with suggestions/complaints. Zeglin added there is no way we can make a public hearing structure agreeable to everyone but it is a public hearing and any way we can make the process a little friendlier for the public would be beneficial to all of us. For the benefit of the new Committee members, Lien gave an overview of the current policies for public hearings. The previous Committee had decided that, in regard to industrial sand mine hearings, there would not be any more than two hearings at any given meeting. Anyone is allowed to speak at the hearings. They have to register and are limited to three minutes. Zeglin stated her ideas would mainly pertain to nonmetallic mining for industrial sand. Zeglin continued that as we have seen with just this hearing today, something small can go on for a length of time. Zeglin suggested limiting industrial sand applications to one per meeting and have a maximum of two meetings per month if need be. Some discussion took place as to the time frames of some of the previous mining meetings. Brandt commented we have been encouraged by the County Board Chair to think of alternatives to make it possible for the public as well as this Committee to be in such a state of mind to make an informed decision and questioned if a meeting goes on for 8-12 hours, where does our ability to make an informed decision stop or become impaired. In regard to time of day for public hearings, Zeglin stated it is often very difficult for the public to get off of work to come here. They do have the ability to e-mail, phone or write a letter, none of those things have as great an impact as a personal appearance to speak. Zeglin wasn't sure if we would like to move the meetings to later in the day on those particular public hearings, i.e. starting the regular meeting at 3:00 PM with the mine public hearing starting at 5:00 PM or later. Zeglin understood that all of our time is valuable but the public does have a right to weigh in. Brandt responded this particular issue is one that has been discussed many times. Before the merging of the departments and committees, the Zoning Committee met at night starting at 6:00 PM and Land Conservation met during the day starting at 9:00AM. There were much the same concerns. There were people who couldn't make it at night and who would have preferred public hearings during the day and we run up against staff issues and time of work, etc. Brandt wasn't saying these things to say "yay or nay" to Zeglin's suggestions, he is just saying this conversation has been had many times over the years. Lien explained some of the reasoning behind switching to day meetings but felt we actually get fewer complaints with our day meetings than we did when the meetings were at night. Regarding length of time per speaker, Zeglin didn't think three minutes was a long time especially if one is not used to public speaking. Zeglin knew

there had to be a limit but asked if perhaps that limit could be extended to at least five minutes and maybe have a graduated ability for people to speak. Zeglin felt adjoining landowners might deserve a little more time to voice their approval/disapproval of such things. Perhaps 10 minutes for someone actually adjoining the mine and then five minutes for anyone else. Zeglin would also like to see more participation by the town board at the meetings. Right now they are merely required to send a letter of either approval/disapproval along with any conditions that they might have. Zeglin thought it would be beneficial for all concerned if someone from the town board would also appear at the meeting to talk about the process that they had at the town level for public hearings/ input, etc. and if the Committee had any questions of them there would be a representative here to address those concerns. Brandt commented that is an issue that Radtke has dealt with on a number of occasions. Brandt explained that what we do now is require the applicant to go to the town meeting to get some sort of discussion going about their project – that is something we compel the applicant to do. Brandt stated we can't compel another governmental unit to do anything. We can't say, "You have to be at this meeting to talk about what you did". Brandt added we can certainly request that somebody be there, but we can't require them to be here. Lien stated he planned to be at the next Towns' Association meeting and this might be a good conversation to bring up at that meeting and encourage them to be more involved and attend the meetings. Lien added we have had some participation. Zeglin's next suggestion was a site visit. Zeglin has had the opportunity to observe two public hearings in Buffalo County. They do things a little differently than we do here. Buffalo County has the applicant do their presentation, then they break, and the entire Committee physically goes to see the site. Zeglin continued that even though we have the topographical maps it still doesn't give the Committee a firm idea of exactly what they are looking at. In the past Zeglin has personally gone to look at the sites and she has found that very valuable. Zeglin was suggesting a site visit, if not as a group, and then perhaps a smaller group can go at some point maybe prior to the meeting and report on the site or at the very least urge that all of us, individually, view that site at some point in time prior to the hearing. Brandt commented there was a sense in the past that when there was a CUP or a rezone that the Committee members would go individually to view the site and perhaps that is something that needs to be done – to encourage Committee members to get into the habit when there is a public hearing to drive out to the site. We always get a map and a description or that staff can certainly tell us how to get there. Brandt explained the issue we would have either in small groups or as a whole group is in regard to open meeting law requirements. Just going on a tour requires that we have maps to pass out to any public who want to follow us around or get on the bus and that we're not talking about something when we are all on the site. Anytime there is a quorum there is an issue. Zeglin agreed with that. Zeglin stated in Buffalo County it is printed on their agenda that they will break at such a time and visit the site and reconvene at such time back at the Courthouse and the public does have the ability to go with them and a great deal of them do. Lien explained how the Board of Adjustment visits the sites on their own and they are paid mileage. Lien mentioned that the E & LU Committee did visit the Winn Bay site as a group some years back. Lien thought perhaps the Chair could make a decision on any site visits. Brandt liked the idea of more than one meeting a month especially if we have a lot of issues. Brandt had been thinking about having the public hearing at one meeting and making a decision at the next meeting thus having time to think about issues that were brought up and coming in fresh to a meeting. Lien commented he thought that may be how Buffalo County does it. Zeglin explained it is a three step process, first at the township level, then they have a separate Zoning committee or Land Resource Committee as they call it and then the application goes before the Land Resource Committee first for their recommendation and then that recommendation goes on to the Board of Adjustment and the Board of Adjustment has the final say, so it is a longer process than what we have here, but the Board of Adjustment, as a general rule, will make its' decision the same day unless there is something preventing that, i.e. they need more information, etc. Zeglin's last suggestion also comes out of Buffalo County, as they allow for the public to bring in expert testimony, people from universities, anyone expert from any area or legal representation. Those people are approved in advance of the meeting. Names are submitted to the Committee Chair and the Department Head prior to the meeting and those people are approved two weeks ahead of time to speak at the meeting and they are given 15 minutes of time. This is something the public can put forward in defense of their case. The applicant has unlimited time to present their application. To Zeglin's knowledge, there has never been anyone here to give expert testimony. Gamroth commented that Dr. Crispin Pierce was present to talk about crystalline silica and to her knowledge he was given unlimited time. Bawek inquired why the Committee doesn't get their information (mine packets) a

month in advance. Bawek would like that so that he has more time to study it than just a weekend. Bawek feels that information would be beneficial to have when visiting the site or to visit with as many people as possible around the site. Discussion took place about procedures for and material received from applicants. An issue Bawek had is when they issue these mining plans, every page says “draft” on them and that is somewhat confusing. To Bawek it says that it is a plan that is not in place. Bawek thinks that is something that should be addressed at the staff level. Budish responded that each time he receives a packet from an applicant that is deemed a rough draft. Budish goes through the rough draft and makes sure that all the minimum requirements are met and that is why it is considered a “draft”. When that “draft” is given to Budish that is when the clock starts ticking – when that packet is considered reviewed and that starts the process of a third party review, if needed, and that is when the DLM will receipt money. DLM will not receipt money until Budish has reviewed that plan and makes sure that everything looks good. When a plan looks good in draft form is when conditions get applied to that plan. The additional information from the drafts comes from any other source that has input such as DNR, DOT, storm water plans, etc. Lien added that some things are out of our control because, i.e. we receipt a plan and it states they are complying with storm water or DOT requirements, but at the time we received the plan, we are unsure until we get something from DNR, etc., the actual application may be somewhat in draft form contingent upon things that are outside of our control. Budish added a lot of these outside organizations may not even have had contact with the applicant. Budish stated a lot of these issues are being addressed in the new application form and a lot of information will be received ahead of time and it will get the “wheels” turning asking the question such as is there wetlands or archaeological issues, etc. It will get the applicant working on that information and provided to us sooner. Budish and Lien also explained the Class II public hearing notifications, etc. More discussion took place on the timeliness of receiving plans. Bawek reiterated that the Committee getting their information one month in advance would be helpful. Budish stated he provides it to the Committee as soon as he possibly can. Lien commented that what we can do is make sure that we have 10 copies of the plan before it goes for publication in the paper. Budish explained how he had one plan of which he reviewed four bad drafts and thus he had 40 copies of plans sitting in his office. Lien added that when we are going to take their money and publicize it to the paper is when we need to make sure that we get the 10 copies. Budish stated when we get additional information from DOT, etc. is when the plans will be or need to be revised. Bawek felt it was very important for the Committee to get their information a month ahead of time so that they can do what their job is and that is to look at the material and the site – that is their obligation and we need to address that as it has not been done. Brandt commented to Zeglin that he thought the Committee could carry on this discussion later. Much of what Zeglin has talked about are things that we have been dealing with, trying to streamline the process and make it as friendly to the public and applicants as possible and trying to make it as easy for the Committee to try and do their job. Zeglin felt it would be beneficial for the Committee members to think about these things and bring it up at another meeting. Brandt reminded the Committee that the Chair has the ability to control the agenda and the number of meetings so that is something Brandt can do and the other thing is that the Committee can make a decision in terms of whom to allow to speak and for how long. We have a three minute rule and if it happens that there is an expert in the room, any one of the Committee members can make a motion to allow that person to speak for a longer period of time and then the Committee makes the decision on a case by case basis. Not that it would be our policy, but the power to change whatever rule we have exists within the Committee. More discussion took place on this issue. Bawek stated he thought Zeglin’s suggestions were “right on the mark”. Bawek added that perhaps if there were one mine public hearing per meeting, the meetings wouldn’t be so long and people would probably be able to stay.

### **Discussion on Youth Conservation Poster and Speaking Contest**

Lien and Brandt gave a brief history of the County’s past participation in the Youth Conservation Poster and Speaking Contest. Lien feels that we need to revitalize youth education in the County and it goes far beyond the youth. Lien stated that if one drives around the County, one can see waterways being plowed up, windbreaks being taken out, etc. Farming practices and agriculture in our County has changed a lot. At one time, the valley that Lien lives in had 50 dairy farms and now there are three. More acres are being cropped than ever before, but there are only three dairy farms. The issues are still out there, but Lien feels we have forgotten some of the conservation goals. Lien knows there are pictures in the DLM office that show gully’s

the size of the courthouse in the County. Because of conservation efforts and millions of dollars being poured into this County those types of things have been controlled. Lien fears the pendulum is swinging in the other direction and we are going to revert back to that if we don't start educating the youth. Lien would like to bring back the Conservation Poster and Speaking Contest. Lien wasn't sure there would be support in the school districts as many programs; including the Ag programs have changed drastically. Lien explained the flood plain model that the DLM has and added he would also like to utilize it more and visit more schools with it. Lien asked for Committee input. Brandt asked who on the staff would take responsibility for the program, contact the schools, distribute the information and how much time is this going to take. Lien mentioned the person who was involved the most with it in the past was Gamroth. Lien would have Carla Doelle reach out to the schools, distribute the packets and try to get the schools involved. Lien would like to get started with the new school year. Since it has been several years since the program has been offered, Lien thought it may take a couple of years to get it revitalized. Zeglin thought it would be beneficial. Britzius thought it was a wonderful idea and important to educate people and not just kids but adults. Britzius suggested taking one of the winning posters and perhaps having it put on a billboard in the County so that it crosses over to the adults. Britzius suggested putting the posters into videos and You-tube, thus bringing them into the digital age. Britzius thought there was a lot of interest in the general sense of ecology and environment in our world and this is a way to bring it down home to the local area. Britzius asked if there were any grants out there to use to put staff time into education such as educators grants, etc. Brandt commented that is something they do in the high school is use digital presentations in terms of website, video development, etc. Bawek thought it was a great idea because we live in an area, where conservation done in the right manner actually enhances the beauty of the area and that would also promote tourism and all the aspects that go with the conserving of our soil. Skoyen stated that Trempealeau County was probably the leading county in the State of Wisconsin back in the 1950's for conservation practices. Skoyen agreed it may take awhile to get it back. Years ago every school district had a 4-H club and it was at that time they got all the school forests and had a lot of things going after the 1930's and the flooding and dust bowls. Lien reiterated that he felt we are slipping away from the youth conservation education in our society. Lien felt we need to get back into it before it gets forgotten about. Britzius suggested the DLM have a Facebook page. Zeglin stated another benefit of this program to the youth would be to show them a different aspect of County government. Zeglin was sure there is a great deal of County government that they really don't know exists outside of the Sheriff's Department and court system. Brandt commented there was a Youth Government Day last week and Attorney Fred Berns and County Clerk Paul Syverson have been putting that on for 25 years and there were approximately 100 people here. Lien added that the DLM participates every year. Zeglin added that being able to go into the school for a certain amount of time is beneficial for everyone. At this time the Committee took a ten minute break.

### **Discussion on Western Area Association and Representative for Wisconsin Land and Water Conservation Association Board**

Lien stated we are a member of Western Area Land and Water Conservation Association. Historically, in the past, Brandt and Lien have attended those meetings, one of which will be coming up. We are a "merged" department; therefore Lien stated one of the roles of this Committee is oversight of land conservation, zoning, planning, surveying and now the Real Property Lister. This issue falls on the Land Conservation side. The staff organization was called WALCE (Wisconsin Association of Land Conservation Employees) and WLWCA (Wisconsin Land and Water Conservation Association was comprised of members of the Land Conservation Committees and these two entities merged into what is now the WLWCA. Staff and committee members are invited to the WLWCA fall conference. Lien noted that the current WLWCA Executive Director, Jim Vandenbrook, was employed in Trempealeau County in 1985 and 1986. Lien and Vandenbrook have kept in touch and usually when there are bills that come up regarding zoning and land conservation in Madison, Vandenbrook keeps Lien informed. Lien stated they are looking for a representative to sit on the state board both from staff and the historic Land Conservation Committee; therefore Lien is looking for recommendations of anyone from the Committee and also of any staff, who would like to sit on those boards. Lien is assuming that he and Brandt, as Chair, will be attending. At the meeting, they also want Trempealeau County to bring forward nominations of staff and committee members that would be willing to serve on the WLWCA Executive Board. Brandt commented that, in the past, those names usually came from people who had been involved in

the area association for a considerable amount of time and no one from this Committee, for quite a few years, has been actively involved in that. To give some history, Lien explained this Committee and County was always a very active member of WALCE and WLWCA. Brandt commented that a big part of the donations that Trempealeau County would take down to their fall auction was gathered by Gamroth and it funded the youth programs. Brandt added that about ten years ago, the Committee felt the organization was failing them and stopped paying dues to WLWCA. WALCE was losing credibility at the state level as well as far as lobbying and getting things done on the conservation side. In an effort to promote both agencies, they merged and depending upon who is leading the merger it could be very beneficial. Lien is seeing some very positive things from Vandenberg; most importantly Lien feels he has conservation at the forefront of his mission. The Committee has now begun paying dues to the organization once again, so this Committee and DLM staff are paid, active members of the association. Being an active member, we are allowed to forward some names for nomination for the election. The last four years Lien has served as president of the district of which there are seven counties in the district. Lien felt it was a great education because one gets involved in what happens in Madison and learns how to get involved not only for Trempealeau County but as a district and state. Lien thought that if one can be elected to the State board, it is a great opportunity and an eye opening experience as to what happens outside of Trempealeau County and to realize that everything we struggle with here day to day such as land use planning, zoning, conservation goals, other county's are also dealing with.

Brandt suggested that if anyone is interested in being on the Wisconsin Land and Water Conservation Association Board of Directors just let Lien know and he will provide assistance. Lien noted that the deadline for nominations is June 20<sup>th</sup>. The term is for two years. Discussion took place about when the meetings are and what kind of time is involved and who is currently serving on some of the area boards.

### **Update on status of LIDAR project**

Lien stated he received a note from Ann Hempel in Land Records which states LIDAR (Light Detection and Ranging) and aerial flights are complete. Lien explained that the topographical maps that Budish showed at the meeting were USGS quadrangle maps that were based upon 20 foot contour intervals, so if one was standing in a stream valley and looked out and there was not more than 20 feet of rise, it was a flat line. With LIDAR, there will be 2 foot contours countywide. LIDAR probably won't be available till fall or early next spring, but one would be able to click on the county map and see two foot contour changes countywide. This will be very advantageous for mining, and flood plain issues, etc. The LIDAR was flown in conjunction with new aerial photos.

### **Air Monitoring**

Budish stated there was a meeting held recently of the Moratorium Committee which is through the Health Department. Within that meeting there were three representatives from the University of Iowa present. They did a presentation on air monitoring equipment and how to set it up and start doing the collection of air data.

Lien added this is related to industrial sand mining and air quality. Brandt's understanding is that the original grant was for monitoring interior air. There was going to be a protocol developed by the University of Iowa, however there was a big cut in communication between the Moratorium Committee and the people at the U of I, so that was eliminated at some point and the people just drove up here and said we need to talk to you because we want to get going on this. Protocols were changed to a quarter of a mile within an active mine exterior. They figured if it is outside, it is going to be inside. They used Land Records technology and GIS to determine who might be available for the testing. They contacted the property owners. There will be surveys done as well as the monitors. To get a good result they are going to need one years' worth of monitoring. There is also going to be a control someplace where there is no mine at all. Brandt added the cool thing about it is that it is all free. The U of I has decided that as long as we use their protocol and give the rights of the information for publication to the professors down there that they will pay for it all and do all the analysis. All we have to do is figure out how to be trained and how to put the things together and where to put them and that is what Budish will be doing. Budish mentioned there are three other people and himself that are going to be doing the monitoring. There are some prerequisites before one can actually do the monitoring, so Budish is in the process of completing all of that. Upon Britzius asking if Budish will be monitoring one of those test devices, Budish explained what the monitoring unit looks like and how they work. Budish added the minimum is 48 hours for

collecting at one location, so the monitors will have to be checked quite often. Budish stated if he collects 48 hours of data and the filter from that location then the whole station gets pulled from that location and goes to the next location which is to be determined. Brandt thanked Budish and congratulated him on being a volunteer.

### **Surveying Update and Payment Approval**

County Surveyor Joe Nelsen referred the Committee to three reports in their packets. Nelsen had mentioned he would be happy to talk to the Committee about what he does for remonumentation. Nelsen stated Trempealeau County was initially monumented from 1845 to about 1853, in other words, all the section and quarter section corners were established at that time by a contract with the federal government and as a part of that they completed field notes (Nelsen passed around an example of these notes and let the Committee view them). There is an area which Nelsen highlighted where the government set a post for the corners of Section 10, 11, 14, 15 and they marked a white oak bearing tree that was 10 inches in diameter and bears south 5 west 239 links from the corner. Nelsen said that was very typical for virtually every post in Trempealeau County as well as most of the State of Wisconsin. Trempealeau County is unique that some of the original stakes were set as stones. Nelsen didn't know if it was the lack of availability of wood or they had a lot of rocks to work with. This particular corner was set in 1852. Nelsen provided a picture of the tree which is in the Town of Ettrick. Nelsen explained his excavations and provided pictures that he took of the corner stake which was set in 1852. Nelsen noted another previous marker nearby that had been used for surveys in the past. Nelsen stated what he does now is document what he did at that corner location. Nelsen makes a "quasi-diary" of that position from the original government survey up to this date and notes what he has found such as finding the stake marker, finding the bearing tree and other history of the corner. On the back side there is a sketch showing the monument being set. They also set four reference ties for each monument. Nelsen reminded the Committee this is one of about 2400 corners in the County that Nelsen has done this for. This has now provided a historical reference for that corner for all to use in the future. As a part of that, Nelsen has measured very accurately the location of that monument. Nelsen also provides a section data sheet that shows the bearings and distances between that corner as well as the adjoining corners in all four directions. Nelsen explained how they found the markings on the tree and displayed the actual portion of the tree with the markings on it. Nelsen stated the tree section he is showing today was 148 years old when he found it. Further discussion took place on the tree blazing. Nelsen showed the Committee a corner stake that he had found. Nelsen stated people often ask him how he knows that it is the stake as opposed to a root. Nelsen explained how they profile vertically down so that they see the whole side of it, then cut in on the top and skim the top down. If one notices, the stake is ax cut which creates basically a profile, as you look down, of a rectangle, and on top it is round. As they shave down around it they realize it is a stake mark. Nelsen stated sometimes they had set corner stones. Nelsen displayed a corner stone they had found and explained the markings on it which was marked by a surveyor after the original government survey. Nelsen read aloud from some of the Surveyor's notes, which are all kept in the Surveyor's office in the DLM, "set a stone 16 inches long, 12 inches broad, 3 inches thick for quarter section corner". Nelsen continued that in 1886 a surveyor actually identified that corner as a set stone. In 1904 they talk about finding that stone at the corner in the highway and then in 1989 all of a sudden a 7/8<sup>th</sup> inch rebar was set. Nelsen displayed a photo which showed the location of the stone he had found and the sign in the back which reflects the rebar which turned up 100 years later and there is about a 35 foot difference between the two. Nelsen emphasized the importance of finding the old markers. Some discussion took place on the old survey method of chains and links and compass. Nelsen shared more survey excavation photos and explained them. Nelsen stated these are the corners that are the base foundation for virtually every parcel of land in the County, for all the taxation, property ownership for conveyances and for zoning. Without these corners we would be virtually lost as far as our boundary's are concerned. Upon Skoyen inquiring about the use of GPS, Nelsen responded GPS is used for virtually everything that is done. Nelsen added that GPS is a fantastic measuring tool. It allows one to measure to where the corners are, helps determine locations to search, obviously it doesn't find the old bearing tree or the old stone or the wood stake as that is done with a shovel for the most part. More discussion took place. Nelsen presented three reports to the Committee, one for the maintenance project in T19, R8W, one for the remonumentation work in T20N, R9W and a third report for remonumentation work T20N, R10W. Skoyen made a motion to approve the reports and payment as presented, Nelson seconded, motion

carried with no opposition. Nelsen also read from the field notes from the work on the range line between T18 and T19 in Trempealeau County. Nelson read aloud, "This prairie is nearly a circle of about a mile with slight elevation from the periphery to the center, evidently the work of art. It is bound on the north and northwest by a creek with high hills rising in its rear in the form of an amphitheater. On the east, southern and southwestern sections of the circle rises gentle hills, on the west the bluff of Mountain River. This plain contains numerous remains of ancient works; greatly elevated in mounds of various tombs lay horses, deer, human forms, etc. These ancient remains are common in this region and I am told there are some devices that resemble an elephant". Nelsen commented apparently they came through, when they were doing the public land survey and they actually found these mounds as they were working. Nelsen added this would be on Highway 54/35 that runs from Centerville to Marshland and where Hwy G turns off. Some additional discussion took place about the burial mounds in the County and all viewed an aerial photo of the area Nelsen was reading about.

**Set Next Regular Meeting Date** – The next regular meeting date was set for June 11th, 2014 at 9:00 AM in the County Board room.

At 11:50 AM, Nelson made a motion to adjourn the meeting, Britzius seconded, motion carried with no opposition.

Respectfully submitted,  
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary