

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

**REGULAR MEETING MINUTES**  
**January 15th, 2015 9:00 AM**  
**COUNTY BOARD ROOM**

Chairman Brandt called the meeting to order at 9:02 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, Jon Schultz, Curt Skoyen, Kathy Zeglin, Jeff Bawek and Rick Geske.

Staff/Advisors present: Kevin Lien, Virg Gamroth and Jake Budish, Corporation Counsel Rian Radtke and Mark Kunz – NRCS (Natural Resource Conservation Service).

Others present: Kyle Slaby, Ken Leshner, Bob Wolf, Roger Osegard, Mark Sander, Adam Stevens, Larry Soppa, Amber Soppa, Bob Jewell, Ron Rubenzer, Jim Sadowski, Carol Howard, Aaron Scott, Phillip Bower, Dan Gelet, Mark Redlin, Ron Howard, Curtis Johnson, Mike Lightfoot, Dennis Karlstad, Cindy Slaby, Joe Slaby and Julie Dick.

**Adoption of Agenda** - Britzius made a motion to approve the agenda, Nelson seconded. Lien stated that agenda Item #13 is resolved so that can be removed from the agenda. Motion carried unopposed to approve the amended agenda.

**Adoption of Minutes** - Nelson made a motion to approve the December 10<sup>th</sup> meeting minutes, Schultz seconded. Zeglin made a couple of minor corrections. Motion to approve the corrected minutes passed unopposed.

**NRCS (Natural Resource Conservation Service) Update**

Brandt acknowledged Mark Kunz from NRCS who was in attendance. Kunz stated presently they are working on EQIP (Environmental Quality Incentive Program) applications. That is the cost share vehicle that the federal government uses to allocate funds towards conservation practices, plans, nutrient management plans (anything from Ag waste systems to comprehensive nutrient management planning on farms). They have been working on those since last fall. They received 83 applications in the County and according to Kunz that was a pretty high number which results in a high work load. Kunz has been working closely with DLM staff, Carla Doelle and Keith VerKuilen, to see where they could perhaps meld county money with federal money to make these projects that much easier for the landowner. They are at the point right now where they are approving applications. Kunz stated it is an exciting time with all the paperwork, surveys, design work, etc. Some of the designing is done by DLM staff and some of it is done by NRCS staff and it is coming to fruition. NRCS will start making commitments to landowners and probably get some nice projects in this year. Brandt stated that in reviewing the minutes from last month, Kunz had commented that the more practices on the land, especially those that are visible, i.e. riprap, grassed waterways, seems to have a multiplier effect. The more people that see those practices, the more curious they are and the more they understand that conservation practices are still going on and are available. Kunz responded these projects are installed with taxpayer dollars and NRCS ranks the projects based on environmental benefit. Kunz was assuming

he would have 30 of the applications approved. Beyond that NRCS is looking forward to a good spring construction season. Kunz has no information relative to a general CRP (Conservation Reserve Program) sign up possibly this spring. Brandt requested that Kunz bring some project pictures next time.

**Revisit Land Use Change/Rezone – Rural Residential (RR) to Exclusive Agriculture 2 (EA2) Ronald and Carol Howard, Landowner, Galesville, WI, Landowner, The Kraemer Company, Plain, WI, Petitioner for expansion of an existing quarry. (Sent back to Committee by County Board)** Brandt explained that last month this Committee approved a rezone for land in the Town of Gale. Some information came forward after the last E & LU Committee meeting about an agreement between the Kraemer Company and the Howard's related to what exactly will be mined, therefore, the County Board asked that this Committee revisit this rezone application. Lien stated there were conversations with the Howard's that they might not necessarily want to rezone the whole forty acre parcel. That information came in between the E & LU Committee meeting and the full County Board meeting. Lien talked to Roger Osegard from Kraemer Company and the Howard's about this and asked that the two of them get together and work out some type of agreement. Lien turned the meeting over to Bob Jewell from The Kraemer Company. Jewell stated they have met with Ron and Carol Howard and the original plan to rezone the original forty acres is still intact so there is no change. Carol Howard explained that when the representatives from The Kraemer Company came to the Howard's home last week, they were under the impression that the Committee had the impression that they had lied to the Howard's. C. Howard stated that is not true and they worked out a separate agreement where they are only going to mine a portion of the forty acres and that is intact for the duration of the lease. That agreement is with Carol and Ronald Howard. C. Howard continued saying they were up on top and have seen where the stakes are placed and they agreed to where the stakes were placed and for as long as Howard's own the land, that agreement is in place, nothing else will be touched. Ten years ago when they signed the original lease, Howard's had done so for financial reasons and after ten years nothing had been mined and so at this point in time The Kraemer Company was good enough that they will only mine a portion. When C. Howard had talked to Brandt she was under the impression that they could just get rezoned on the part that they were going to mine and she didn't believe that was a possibility because of the original agreement. C. Howard suggested that if anyone had any questions she would be happy to answer them as she was the one who had talked to Brandt about this matter. Lien commented that he has no knowledge of the lease and that is alright as it is between the two parties. Lien added that The Kraemer Company still has to come forward at some point in time to apply for a CUP for mining and at that time if the two parties want to work together on what is actually going to be mined that is again between the two parties. Lien explained that rezoning allows the option of mining, the CUP sets the stage for what conditions apply. Rezoning the property doesn't necessarily tie it to mining. Lien stated this rezone will be sent back to County Board for approval and DLM staff will send a letter to parties involved to let them know the date of the February County Board meeting. Brandt confirmed that this Committee will send the recommendation to rezone the 40 acres from Rural Residential to Exclusive Ag 2 back to the County Board in February for final approval. When Kraemer's are interested in mining, the agreement that was made with the Howard's as to how much will be mined, will be part of the discussion during the CUP permitting process. Brandt thanked all parties for coming to the meeting.

**Public Hearing – Land Use Change/Rezone – Transitional Agriculture 2 (TA) to Residential-20 (R-20) Eugene (Larry) Soppa, Landowner/Petitioner, Arcadia, WI, - Town of Arcadia**

Brandt opened the public hearing at 9:17 AM. Nelson read the public hearing notice aloud. Brandt reviewed the public hearing process for the benefit of the public present. Lien referred the Committees' attention to the overhead aerial map and pointed out the area to be rezoned. Lien explained that Soppa had come in and rezoned a parcel nearby for a subdivision so there are multiple lots off of Amber Lane

but because the Ordinance has a density requirement, Soppa is going to exercise a section in the Ordinance that allows for transferring of density. Soppa is asking to rezone a 32 acre piece, most of which is floodplain and not really buildable. Rezoning the parcel to Residential-20 (R-20) and then transferring the densities from that parcel will allow for about 16 lots maximum (Lien wasn't sure that many would fit) to this subdivision. The parcel from which the density is transferred would become deed restricted and can never be developed (which it is undevelopable anyway because a lot of it is floodplain). Lien added that the reason behind being able to transfer density is to keep services (school bus pickup, mail, snowplowing) more maintainable by having a higher density in a smaller area instead of sporadic houses everywhere. Lien hasn't received any calls from the public for or against this proposal. Soppa asked if in the property that he was rezoning where there wasn't any floodplain if he could still sell a lot there down the road. Lien responded it depends upon how many lots were transferred over. Upon Soppa asking how many he would have to transfer, Lien asked what the total acreage was of the land Soppa had rezoned previously. Amber Soppa responded it was 16 acres. Lien stated that left Soppa with only eight lots. Lien inquired as to how many lots Soppa wanted to put in that subdivision. Soppa responded twelve. Lien stated Soppa was transferring four more over, so Soppa would still have other lots he could develop. Lien reminded Soppa that he still needs to meet the 4 to 1 width/depth ratio, etc. but Soppa could still do some additional development. Soppa inquired how much was in the floodplain. Lien stated it is more like wetland next to the creek. Lien thought on the north side there might be an area (in the field and back to the east). Soppa asked what about off of State Hwy 95. Lien added or off of Cyril Sobotta Lane as Lien thought Soppa might have trouble getting approval for a driveway off the State highway. Lien suggested Soppa contact the Wisconsin DOT. Lien added that Soppa would have some additional lots and if Soppa was transferring density for four lots from the other parcel that would leave the potential for twelve lots as long as all the other zoning requirements can be met. Brandt called for any public testimony. Lien read a letter from the Town of Arcadia which stated the town passed a motion at their September 22<sup>nd</sup>, 2014 board meeting that they have no objection to the E & LU Committee issuing a rezone. Brandt again called for any public testimony. There being none, Brandt closed the public hearing at 9:23 AM. Bawek stated E. Soppa's concern was the number of houses and Lien had come up with 12. Bawek inquired where Lien came up with that number. Lien replied he came up with 16 because it is ratio of 20 houses per 40 acres. Soppa has 32 acres so it would basically be half so that would allow Soppa approximately 16 lots. Bawek noted that the creek was involved so that will be land taken out of use for Soppa. Lien replied that Soppa is rezoning the whole thing and if Soppa wants to transfer four of those densities to this subdivision that exists, that would leave him the possibility of 12 additional lots providing he meets all the other zoning requirements such as setback from the creek – not in the wetland, road frontage, etc. Lien stated he can work with Soppa's to suggest ways to meet the requirements, but that would be the maximum that Soppa would be able to build. Bawek stated E. Soppa's concern was how many he could actually build. Lien stated that is the number because he can't make the land grow. Bawek said there is a lot of unknowns there for E. Soppa so he can't bank on twelve. Lien replied no, not necessarily, because one has to have the right road frontage and that is why they extended Amber Lane, because it only went in a few feet and limited the lots. Lien stated if E. Soppa wants to go through the effort of extending the town road and meeting the 4 to 1 width/depth ration and the 100 feet of road frontage, he could have a maximum of twelve lots but no more than that, twelve additional on that other land providing E. Soppa transfers four to the existing subdivision. Bawek asked E. Soppa if he realized he wasn't going to get twelve lots because it doesn't look like it is conducive to have that done. Lien thought E. Soppa realized that there is area which is not buildable. Soppa said he understood that. Bawek stated he just wanted that clarified for E. Soppa and that it was explained to his satisfaction. Schultz made a motion to approve the rezone, Bawek seconded the motion, motion carried with no opposition. Brandt stated this rezone will be forwarded on to the County Board in February for final approval.

**Public Hearing – Conditional Use Permit – Amos K. and Clara A. Neuenschwander – Town**

**of Pigeon – Greenhouse/Retail Sales** Chairman Brandt opened the public hearing at 9:26 AM. Nelson read the public hearing notice aloud. Lien stated he has worked with Amos & Clara Neuenschwander on this site. If one is familiar with Coral City, then head south on County Road S and it would be on the north side of the road. Lien added they had applied for a permit and the greenhouse is already up. Lien had explained to them when they applied for the zoning permit that if the Conditional Use Permit doesn't get approved, they have a nice greenhouse for their own use but the CUP would allow them to do some retail sales out of the greenhouse and they could possibly expand it to some other things. Lien asked the Committee to consider parking, hours of operation (we aren't really restricting that because it is more of daylight business), etc. Lien introduced the Neuenschwanders who were present at the meeting and thought they could explain more of their business goals. A. Neuenschwander stated they want to sell hanging baskets and flowers throughout the growing season or normal time of year that people do that. Brandt suggested it would be sort of a May through October selling season. Neuenschwander replied probably April through October. Brandt called for any public testimony. Lien stated letters were sent to all adjoining property owners and Lien received no calls for or against the proposal. Brandt again called for any public testimony. Lien read a letter from the Town of Pigeon which stated the town supports the construction of the greenhouse as it would be a nice addition to the property and it fits well in the agriculture community. Brandt called one final time for any public testimony. Brandt closed the public hearing at 9:30AM. Upon Brandt inquiring about standard conditions, Lien responded there were none really. Lien stated it is along a straight stretch of road, but a concern of his was that there be enough parking area so there isn't any roadside parking along County Road S. Lien felt the greenhouse was set back far enough so it shouldn't be an issue. Brandt stated it appears that there is no need to add conditions to the permit. Brandt recapped that the Committee is voting on the approval of a CUP for a greenhouse business. Bawek questioned if the Committee needed to address the hours of operation. Brandt responded they seem to be self-limiting. Nelson made a motion to approve the CUP, Skoyen seconded, motion carried unopposed.

**Public Hearing – Conditional Use Permit - Verizon Wireless c/o Buell Consulting, St. Paul, MN. - Petitioner, Western Wisconsin Communications LLC. - Landowner - Cell Tower – Town of Arcadia** Chairman Brandt opened the public hearing at 9:32 AM. Nelson read the public hearing notice aloud. VerKuilen stated he has been working with Bob Wolf from Buell Consulting who is present. VerKuilen explained the CUP is for a 250 foot self-support telecommunication tower off of Carsten Road just south of Whitehall. VerKuilen added that all the adjacent landowners have been notified and he received no calls or comments. Over the last several months, VerKuilen and Wolf have been working to meet all the requirements of the Ordinance. VerKuilen stated everything is in place except for a performance bond on the tower. VerKuilen added that there is a 350 foot guy wire tower on the site presently. VerKuilen turned the meeting over to Bob Wolf. Wolf stated the reason this has all come about is because back in the spring of 2013, Verizon decided that they needed to upgrade their networks as all the cell companies are, all the time. The upgrade that they wanted to implement on the current guy wire tower is going to require some additional loading be put on the tower. After doing a structural assessment of the tower it was determined that with the new equipment on the tower, it would exceed capacity by 135%. Sometimes they will “fudge” around to 105%, but 135% is a lot to exceed. Even though just recently Wolf was advised by one of the other customers that Western Wisconsin Communication Cooperative (W.W.C.C.) has on the tower was leaving, they were taking relatively little off of the tower and certainly not enough to compensate for that great of a discrepancy. Mike Lightfoot, a representative from Tri-County Communications Cooperative/W.W.C.C. introduced himself and explained that the landowner is W. W. C. C. and the parent company is Tri-County Communications. Wolf usually refers to the entity as Tri-County in all his correspondence but when it was mentioned here as W.W.C.C. he just used that. Brandt clarified that the tower is owned by Tri-County and Verizon is renting space on the tower. Wolf continued that they talked about the situation and decided that it would be best to build another tower there, so they proceeded with that.

Wolf explained they are in the final stages of getting a lease signed for the new tower with them and that will probably be finished in the next couple of weeks. Wolf added that they didn't look anywhere else for a new tower location because that tower has been there since the late 1990's so the entire network around it is contingent upon this being in the same "jungle", close in vicinity. Because they had a willing landowner and they can do it right there is why they decided to put another new tower there. Brandt clarified that we are going from a 350 foot guy-wire supported tower to a 250 foot self-supporting tower. Brandt asked if there were other entities co-located on the tower. Lightfoot responded they still have other tenants on the tower that are going to stay. Lightfoot stated the two towers will stay there, as they are adding a new tower, not replacing the old one. Britzius questioned who was going to own the tower and who was leasing it. Lightfoot responded that is between themselves and the landowner. Lightfoot clarified that Verizon is leasing the land and Verizon will own the tower and they will compensate the landowner. Brandt called for any public testimony.

**Adam Stevens** – Registered in opposition. Adams stated he owns the land right next to the current tower and questioned exactly where the placement of the new tower is going to be. By looking at the map, Stevens thought it is going to be quite a ways from his property but with the contour of the land it is right out his window. VerKuilen provided an aerial site plan for all to view and pointed out the existing tower and where the new one will go. Lien commented it will go between the equipment housing and Carsten Road. Stevens stated his concern was whether it was going to be closer down the hill because when he bought his property, which was about four years ago, he knew there was a tower there and now they are putting up another tower. Stevens is concerned about the resale of his property and property value, etc. Upon Brandt inquiring if Stevens questions were answered, Stevens responded yes and that he was concerned that it was going to be a 600 foot tower. Wolf responded it is actually going to be smaller and shorter than the other one and it is not going to have cables as it will be self-supporting. Lightfoot added they did all they could to try to get one tower up there but it just didn't work. VerKuilen read a letter from the town which stated the Town of Arcadia Board of Supervisors passed a motion at their December 1st, 2014 board meeting stating that they have no objection to the County issuing a CUP and building permit on the above located property. Brandt again called for any public testimony. Dennis Karlstad stated he lived on Carsten Road just down from Stevens. Karlstad asked for clarification on the height of the tower as the letter from the town listed a 360 foot tower. VerKuilen responded there was a typo in the letter and that it is a 260 foot self-supporting tower. Karlstad wanted that clarified as he was concerned about it because when he looks out his picture window, that is what he is looking at. Brandt closed the public hearing at 9:45 AM. Britzius stated he was surprised to see the W.W. C. C. name as that was the old cooperative and Tri-County is the new entity that runs things. Britzius asked Lightfoot to explain how W.W.C. C. still exists. Lightfoot explained that the W. W. C. C. changed to Western Wisconsin Communications LLC and became a subsidiary of Tri-County Communications, so all of their property/real estate is stated as Western Wisconsin Communications and the employees are employed by Tri-County Communications. Lien stated that Lightfoot had mentioned that they had looked into putting one tower there and inquired if the issue was that the weight of all the co-location can't be supported on a single tower? Lightfoot responded that with a self-supporting tower it can't be built higher than 250 -300 feet with 300 feet being the maximum. Lightfoot explained that one of their tenants is up at 340 feet on the current tower and needs that height to clear all the bluffs between La Crosse and Eau Claire and they couldn't build another supported tower and do the setback issues with the guys as they would cross over from each other. They started planning in 2013 and tried to come up with a viable solution and this is what they came up with. Britzius asked if Verizon was likely to be releasing or renting space on this tower. Lightfoot replied that is an option that is there. Discussion took place as to what options are available to Verizon. Britzius made a motion to approve the Conditional Use Permit, Bawek seconded. Brandt mentioned that one of the standard conditions of cell towers is that there be three co-location sights on the tower. Lien responded that was correct and that the County requires that it be built to allow at least

three other co-locations as part of the application. Schultz asked how often in the County we are seeing two or three towers within one “footprint”. Lien responded not very often as typically they will tear one down and put one back up. Lien thought this was the first time he has seen two on one parcel. Zeglin asked how far apart, in feet, are the two towers from each other. Lightfoot guessed that from the base of the guy tower to the outside of the base of the self-support tower is probably between 50-75 feet. He has looked at the drawings, but he hasn’t ever measured them based on scale, but having been there and stood in both places that is what he is basing his guess on. Zeglin asked if being so close together, they won’t interfere with each others’ abilities. Lightfoot responded because the guy tower is much thinner, there are lot of things that can bypass it more easily. We’re also at a different elevation than other people are as well. One of the rules of thumb for cell tower antennae is that there needs to be about 10 foot of separation, vertically, and horizontally there really isn’t any rules. Upon Britzius inquiring as to how many cell towers there are in Trempealeau County, Lien responded he wasn’t sure but Land Records would have that information. Lien offered to get that information for the next meeting. Bawek asked, on a self-supporting tower, what the collapse footprint would be. Lightfoot responded this one is being designed to collapse within the property. Lightfoot believed the nearest property line is 187 feet. This one is designed to collapse at 185 and that is the nearest property line. That doesn’t necessarily mean that; 1) it is ever going to collapse and 2) that is the only direction where it is coming even close to the property line. It is being designed to collapse within the property. Brandt commented that Land Records has an incredible amount of data bases related to land use in the County, not just where the cell towers are so if anyone has any questions contact Ann Seymour. Brandt recapped that there is a motion and a second on the table to approve the CUP. There are some standard conditions which Brandt is sure the applicant has been made aware of. Motion to approve passed with Mike Nelson abstaining from the vote. Wolfe stated there is a performance bond required and asked if that is a condition of the CUP that the performance is provided before construction begins. Lien and Brandt responded that is a must and a standard condition. Lien added we have to receive the bond before we will issue the permit. Wolf confirmed that he would not get a copy of the permit until the bond is in place. Lien responded that was correct.

**Public Hearing – Rezone of Trempealeau County - Health Care Center Land from Exclusive Agriculture 2 (TA) to Institutional (I)** Chairman Brandt opened the public hearing at 9:55 AM Nelson read the public hearing notice aloud. Lien referred the Committee to a map in their packets which showed the area that is currently owned and operated by the Health Care Center but is zoned Exclusive Agriculture 2. This area was previously operated as a farm. To rezone fits into what is currently happening out there and Lien felt everyone was aware of the purpose for this, that being to build a new single story facility to operate with 146 beds. Lien noted this hearing was advertised in accordance with State Statutes which required the hearing notice to be placed in five public places. Lien stated that a letter was not required from the Town of Lincoln. Lien has received no correspondence for or against the request. Lien added that Virg Gamroth posted the notices and she has signed an affidavit declaring where she has posted them. Curt Johnson stated he did attend the Town of Lincoln meeting last night and he did present the hearing information out there just for informational purposes. Johnson gave out the same map that the Committee has and some information relative to the proposal. Johnson stated there were no questions/comments following that presentation. Johnson, referred to the map and explained the area where the current Health Care Center is located is zoned Institutional. The three houses on the east are zoned residential. The rezone encompasses an area basically north of the facility and north and east is where the new facility will go. To the east they are looking at putting a geothermal field for heating/cooling so that all needs to be rezoned to Institutional. Brandt called for any public testimony three times. Brandt noted that Johnson had stated he had informed the Town of Lincoln of the changes. Johnson replied that one of the notices was sent/posted at the Town of Lincoln, but by State Statute a letter was not required from them because the land is county owned. Brandt closed the public hearing at 10:02AM. Britzius made a motion to approve the rezone,

Nelson seconded. Some discussion took place about the geothermal part of the operation and whether or not that would be used for education purposes. Upon Britzius inquiring about the 440 foot piece on the east side and designated on the map, Johnson responded that is actually farm land that didn't need to be rezoned and so they left it as agriculture. Johnson explained it is drawn right up to the edge of the tree line and that farm land is actually rented out right now and did not need to be rezoned. Mary Gullicksrud commented that when they were looking at a new sight, one of their goals was to keep as much farm land as they could. Geske asked if all the other buildings were coming down. Johnson responded the old farm buildings to the left/west are coming down but the house to the left/west has already been torn down. The three houses on the right/east of the Center will stay there and then there is a house sort of in that circle to the north and east of the main building that will remain also. Gullicksrud added those homes are used for programs within their system. Brandt recapped there is a motion and a second to approve the rezone from Exclusive Agriculture to Institutional. Motion to approve carried with no opposition. Brandt stated this will be on the January County Board agenda for final approval.

Brandt reminded the Committee that #13 on the agenda has been eliminated because the applicant has met all the conditions.

**Review of progress on Conditional Use Permit for Fairmont Minerals, LLC (FML) and discuss possible extension of deadline to meet conditions.** Budish stated that back on January 27th or 28th, 2014 (letters were sent out two consecutive days due to the amount of letters), the DLM sent out letters to applicants stating that from that date forward they would have twelve months to satisfy the preliminary conditions of the CUP. In order to do that, each applicant was provided with a list of conditions specific to that particular site, i.e. well and foundation inspections, road use agreement, financial assurance, etc. These conditions need to be completed prior to getting a signed CUP. Brandt stated that after we revised the Nonmetallic Mining Ordinance, part of the Ordinance now requires that anyone who gets a CUP to show work being done within 12 months. That applied to all permit holders starting January of 2014. Brandt added that each month Lien assures him that we will be seeing more of these requests for extensions and showing effort in terms of meeting the conditions. Budish referred the Committee to Chapter 13, 13.03(5)(a)(1) and read aloud from it, "the applicant shall be allowed twelve months from the date of when the conditional use permit was preliminarily approved to satisfy all the preliminary conditions. The preliminarily approved conditional use permit shall lapse as a matter of law upon failure to satisfy all preliminary conditions prior to the expiration of the twelve month period". Budish stated that in accordance with the Ordinance, this is the due date for satisfying preliminary conditions for this particular permit. Budish then referenced Chapter 13, 13.03, "The County may allow one extension of time to the twelve (12) month period to satisfy the preliminary conditions, upon the applicant showing just cause". Budish stated that is why we are having this meeting because the applicant submitted in writing a request for an extension and the extension will be for whatever they feel will fit to satisfy all the conditions. Budish turned the meeting over to the petitioner, Fairmont Minerals. Brandt added that they have been working with Budish for a period too. The following persons were present on behalf of Fairmont Mineral; Phil Bauer, legal counsel for Fairmont Minerals introduced himself, Aaron Scott – Surface Mine Manager here in the northern region, Dan Gillette- Director of Mine Development, Mark Redlin – Plant Manager of the facility in Menomonie, WI. Bauer stated they did submit a letter in writing in December 2014 requesting this extension. Bauer wasn't sure if everyone got a chance to see that but in that letter they laid out why they think they are showing just cause for the extension. Bauer explained there are primarily two reasons; there were two permit approvals they were seeking before they can move forward with all the preliminary conditions, one being a height variance – they need a height variance for the principal structure in order to construct it as permitted and they also need an air permit/construction permit from the Department of Natural Resources (DNR) before they can begin to construct. Bauer gave a little bit of history saying that Fairmont was not the original applicant for the CUP here, it was another company FTSI. They started the process for the height

variance and the air permit before Fairmont acquired the project. FTSI applied and received an air permit in June 2013 but that permit was challenged by some citizen petitioners and the DNR ran into a contested case hearing on that permit which is basically an administrative litigation procedure. Fairmont acquired the project around September 2013 and immediately intervened in that litigation and then culminated in a four day hearing before an administrative law judge in April 2014 and the AOJ (Administration of Justice) just issued a decision on December 1<sup>st</sup>, 2014 and generally upheld the permit. There was a minor tweak to monitoring but otherwise upheld the permit. The appeal period just ran out beginning in January so that is now resolved. Fairmont has the air permit so that is finally done. The other process that is a little out of Fairmont's control is the height variance as they need that to build the principle structure. The County has a 35 foot limit and they need a higher limit. Bauer added that FTSI applied for a height variance, it was denied by the Board of Adjustment. FTSI followed with a law suit to preserve their right to get a height variance. When Fairmont acquired the project they took over that litigation. They reached an agreement with the County to get a new hearing before the Board of Adjustment. That hearing took place in July 2014. The Board of Adjustment again denied the height variance but on different grounds from the first time around. Fairmont has been working with DLM staff (Aaron Scott can talk about that) to try and come to an agreement to satisfy the Board's concerns. In regard to the height variance, Scott stated they are working with staff in DLM on a couple of engineered drawings as they want to have all the pieces together and ready before they request to get in front of that Board again and ask for the height variance. Scott added that is what is taking some time is engineered drawings and also the meetings just to make sure they have everything right and ready. Bauer commented they feel they have been working diligently in trying to get these things done, there has just been some legal processes where the time lines have been outside of their control. Brandt stated Budish had mentioned the preliminary conditions that need to be satisfied before construction can begin and the variance that Bauer described is obviously a legal issue, it is not part of the preliminary conditions other than having the permission to build to that height, but there is the identification of the landowners and the testing of foundations and wells, a road use agreement and determining the bond, etc. Lien interjected by saying that Budish has the conditions listed on the overhead screen and that no road use agreement is needed because they will be entering directly onto a State highway. Brandt continued by reading part of the conditions; financial assurance, driveways, installation of water quality monitoring well, installation of three air quality monitoring devices (Brandt assumed that some of that was dealt with during the air quality hearings). Brandt asked if Fairmont has made any progress on any of these conditions. Scott replied it is their intention to go forward with this project. They started when they acquired FTSI and went into this and had to deal with some of the air challenges that were made and also the height variance. When they do receive the height variance they will be working full time to get those conditions met right away. They fully intend to move forward with the project. Bauer voiced that the point is that without the height variance the project really isn't feasible so it doesn't necessarily make sense to move forward, when these are conditions which can be accomplished relatively quickly, without the height variance. Geske said he understood what they were saying and commented why go ahead if you can't get the stuff taken care of. Lien asked Scott if there was an expected time line as to when they would be filing for the variance request. Scott responded they are just finishing up the engineering drawings. Their last meeting here just before Christmas was very helpful to them and they needed some elevations and their actually going to show some 3-D modeling which takes time. Scott has some additional preliminary engineered drawings but they want to have a good case so they continue to work with the engineer to complete it. They are hoping, if they can receive the extension here, that they can move forward with the engineered drawings and if they need to set up another meeting with DLM just to go over those drawings one more time then they would move forward with taking it to the Board. Lien asked if we are looking at February or March or what the timeline is that DLM can expect to see the application for the variance since that is the major hurdle. Scott asked how long of time is needed to get on that agenda. Lien responded it is about a 30 day process because the Class II notifications have to be done. Scott stated they were hoping this spring, early summer that they can get

in front of that Board again. Brandt commented that Scott could see where Lien's questions are going as this Board has the ability to extend the CUP one time up to twelve months. Brandt added that if the concern is the ability to get a height variance and you won't be going forward or doing any of the other preliminary things until then, and the intention is to go before the Board of Adjustment in February or March, we could easily extend your CUP through June, so Brandt felt that is where Lien's questioning was going. Brandt stated we want to work with you and we want to be sure that you have the time for what you need. Scott responded that the request was for the twelve months and with the history and some of the uncertainty with the height variance we want to continue to make sure that we have it done right and then also give us some room to meet the other conditions so that was their reason for the twelve months. Brandt wanted to make a point and stated he believed that Bauer had said, "the right to a height variance" and actually you have a right to a hearing to request the height variance and it depends on the Board of Adjustment (Brandt didn't know what their issues are), and every six months one could continue to apply for a height variance. Bawek clarified that there was a lawsuit to deal with air quality finalized the first of December. Bauer responded yes, that was the contested case hearing. Some citizens challenged the air permit and DNR can grant contested case hearing which is essentially a hearing before an administrative law judge. There was a hearing in April 2014 and the administrative law judge issues a decision (he can revoke the permit and uphold it or a variety of things) and he upheld the permit and that decision was issued December 2014. Bawek clarified that they are not waiting for DNR regulations concerning the air monitoring. Bauer responded the air permit is now final and can no longer be challenged. Bauer explained that what the administrative law judge did was, under the industrial sand regulations that DNR has, they require air monitoring but there is the ability to request a variance from that monitoring. FTSI, the prior applicant, had requested the variance and DNR had granted that variance. The administrative law judge revoked that variance and said that DNR must require air monitoring until the operator can prove that there is no problem and they can come back and request a variance later. Bauer said that was outside of the permit, so the permit was upheld, but DNR Bauer was told, is going to issue Fairmont a letter stating that they have 30 days to submit an air monitoring plan. To Bauer's knowledge, Fairmont has not received that letter yet and so that was the outcome of that process. Upon Bauer asking if that answered Bawek's question, Bawek responded that he was just curious if there was anything related to DNR that Fairmont was waiting on. Bauer replied they can start construction, they don't need that letter to begin construction. They have the air permit. Schultz asked if their request was for a twelve month extension from January 27/28. Brandt said staff has been loathed to advise us, but Brandt was asking for staff advice as staff is responsible to advise the Committee and this is our first extension and staff knows better than the Committee what the process has been, what the requirements are. Lien responded this is not a conditional use which conditions can be applied, they are asking for a twelve month extension. Lien's obvious concern is that if we wait until April for the Board of Adjustment hearing and whether the variance is granted and questioned if May was going to give Fairmont enough time to meet all the rest of the conditions because it is a one time extension for twelve months. Scott responded that is why they asked for the full twelve months. Lien asked if Fairmont holds off until April with the Board of Adjustment meeting if they honestly feel they will be able to meet the rest of the conditions before this would lapse in January. Scott said he gave a time frame of April but if they feel they are ready and in having more conversations with DLM staff, staff feels they are ready then it could be sooner, however since there is some uncertainty is why they requested the full twelve months. Geske asked what Lien's reasoning was because if they want twelve months and we give them that and they don't get it done, it will lapse. Lien responded he didn't want to see them in a self-created hardship because we have been waiting several months for something to come back for the variance request. We have worked with Scott several times on it and we just want to make sure that we get things moving forward. If they procrastinate to long with the Board of Adjustment meeting, Lien felt it would put them in a hardship scenario where they won't be able to complete the rest of the conditions. Geske voiced that was their problem and not the Committee's problem, but he did agree with Lien about the hardship. Lien just wanted to make it clear so everyone

understands it. Schultz stated he was concerned too that they would have to complete the rest of the conditions if/when they get the Board of Adjustment approval. In regard to the extension, Brandt read aloud from the Ordinance, “an extension shall be for a fixed period of time at the discretion of the County”. Bauer stated as they understood it, because it is a “one time” extension, they wanted to ask for twelve months again because of the uncertainty of the height variance and to give Fairmont time to complete the other conditions. Zeglin requested that the timeline be cleared up for her. Bauer stated they took over FTSI in September 2013. Zeglin asked when the first Board of Adjustment meeting took place. Bauer responded they (FTSI) applied on February 4<sup>th</sup>, 2013, it was denied on April 17, 2013. Upon Zeglin asking when Fairmont’s Board of Adjustment hearing took place, Bauer responded July 16<sup>th</sup>, 2014. Zeglin stated you have already had five months (since July 16<sup>th</sup>, 2014) for your engineers to come up with a new plan to meet the objections of the BOA ruling and questioned why their engineers haven’t come up with something yet? Scott responded that they have and then Scott has been working with DLM staff to see if those new drawings would be appropriate and then they also “kicked around” some new ideas and also what the DLM staff would like to see also as far as details, so then they had to take those drawings and essentially start over. They are working on adding more elevations and also some 3-D modeling depictions of what it is going to look like with the construction of the berm, or somebody standing across the road. There was some concern at the last meeting about what it is going to look like from the viewpoint of some of the houses in the area so they are trying to add some of that in as well. Zeglin added that five months seems to be quite a bit of time already. Zeglin asked what height above the 35 feet they were looking at now. Scott explained that he believed within that five months there was also some discussion with legal counsel and the County was in on that as well. In answering Zeglin’s question as to how far above the 35 feet they would be, Scott replied they are trying to come up with some concessions. Their original request was for 85 feet on the building. Building placement or can they remove more material or shorten the building – those are all structural and are all drawings that also affect what goes into that building so we have had to kind of look at everything because we want to show the Board that we have made some concessions and adjustments to our plans, not just come back and show some 3-D modeling with elevation and the same building sitting in the same place, so it has been redesigned a bit. Zeglin asked when they anticipate finalizing those plans when they have already had five months. As Scott stated earlier, if they can just get back in and finalize the plans with DLM and feel confident then they will ask for that meeting. Geske reiterated it is all in their court to get this done. Geske wasn’t sure why we are worried about it as it is their problem not ours. If we grant them the extension and they don’t get it done, it is over. In reading the Ordinance, Bawek stated he didn’t understand it as the County allowing them only twelve months. It says, “An extension shall be for a fixed period of time at the discretion of the County”. Bawek didn’t see that there was a twelve month limit, so when Lien was saying that they may have a hardship, and if Lien feels that truthfully, this Committee can go beyond the twelve months. Lien responded that the language says, “ The County may allow one extension of time to the twelve months, so if you would bring it before them again that would be in conflict to the Ordinance language because it allows for a one time extension not a two time extension. Bawek responded the twelve month period is referring to number one where they were allowed twelve months from the date when the permit was preliminarily approved to meet the conditions. Brandt commented that Bawek’s point was that everyone is under the assumption that the only extension we can have is twelve months and Bawek is pointing out that the language is saying that it can be an extension for any period of time, so if Lien thinks they can’t do it in twelve months, we could give them fourteen months, etc. Bawek just wants it cleared up so he understands what the Committee has in front of them. Lien stated he was reading the paragraph prior (when we sent out the letter) because this permit was actually preliminarily approved in 2011 so because that was beyond the 12 month original Ordinance language we sent everyone a letter that was either dated January 27/28<sup>th</sup>, 2014 (they went out in a two day period) saying because you had prior preliminary approval, your twelve month “clock” starts today. Lien read the Ordinance as saying the County may allow one extension of time to the twelve months. Lien acknowledged that Bawek was

right and that it wouldn't have to necessarily be twelve months, but the prior paragraph pretty much states that you will have 12 months from the preliminary approval. Lien stated that letter of January 27/28<sup>th</sup> gave them that new timeline and any new one (permit) that we issue, they basically have twelve months and then could apply again. Bawek commented that is what we're talking about – we have the ability to put that time limit on it, whether it is one month or an infinitive amount of time. Lien responded that was correct and it is just maybe assumed because with the original applications we're saying you have twelve months to get them done, where the Committee could possibly extend that. Radtke stated Bawek is correct in that there is no maximum or minimum on the extension, the only limitation is that it is a one time extension of the time period. The County, which is part of this discussion here is questioning how much time is needed and how long it should be, the applicant is requesting for twelve months, so that might also lead everybody to be confused about that. Radtke added that the other limitation is that it needs to be for a fixed period of time. Radtke recalled when this section of the Ordinance was amended, what the Committee did not want to see was an extension of time, i.e. until the DNR permit was granted or until the variance was granted. Radtke stated it needs to be for a fixed period of time and not when some event happens. Bawek asked if that was still their request, as you have the ability to ask for more but that doesn't mean that you will get it. In talking about timelines, Scott was thinking that there was a concern that they couldn't get it done in twelve months. Scott added that twelve months is a short period and in lovely Wisconsin with the winter weather and everything else that happens, we will be pushed to that timeline. Geske commented we are acting on a request for twelve months and that is what Geske felt the Committee had to deal with right now. Upon Bawek asking if that was their request, Scott responded that was the original request. Geske inquired if the request was verbal or written. Scott responded it was written. Geske made a motion to extend the request for CUP permit for twelve months to allow the applicants to apply for a variance from the Board of Adjustment and to satisfy preliminary conditions, Schultz seconded. Budish stated it would be twelve months from January 27<sup>th</sup>, 2015, (which was the date of the letter) to January 27<sup>th</sup>, 2016. Motion to approve carried with no opposition. At this time the Committee took a short recess.

Chairman Brandt called the meeting to order.

**Review of progress on Conditional Use Permit for North Creek Sand, LLC and discuss possible extension of deadline to meet conditions.** Budish stated the applicant got a letter dated January 27<sup>th</sup>, 2014 which stated from that day forward the applicant has twelve months to satisfy the preliminary conditions (i.e. well and foundation inspections, financial assurance, road use agreements) and just show that they are actively working on the permit. Budish stated the road use agreement for this CUP actually applies to Paul Sonsalla Lane which is through the Town of Arcadia. Brandt asked Budish to display a map of the area being discussed especially since some of the Committee members were not on the Committee when the CUP was approved and thus they would better be able to see some of the reasons for the conditions. Kyle Slaby introduced himself and stated he is the president and owner of North Creek Sands. Ken Leshner introduced himself saying he is the product manager. Ron Rubenzer stated he is a project engineer with SEH Engineering. Slaby stated he is requesting an extension to his CUP because he is doing his best to satisfy conditions attached to the preliminarily approved CUP. The biggest condition/challenge that they need to overcome is redoing Paul Sonsalla Lane and re-aligning the intersection between Paul Sonsalla Lane and Soppa Road so that they are perpendicular to State Highway 95 so that the centerlines are directly across from each other. Brandt commented that the issue here is, it's on both sides of Highway 95, and there is already a structure, Newcomb Valley Bar, on the left corner. Slaby continued that there have been some improvements to Soppa Road, however the old mapping doesn't show that. What the State is requesting is that Slaby re-align the intersections so that the turn lanes are shared and common. In doing so, they would improve the visual looking to the east on State Highway 95. The visual would go from a projected 8 seconds clearance beyond that, and the State wants to see 13 seconds clearance, so when approaching traffic is coming towards you, one would have

time to respond to that traffic. On the opposite side of the highway, when Slaby started this, there was another operator that was over there and the States' original recommendation was to re-align both intersections at the same time. They were further along in their project, they were financially capable and they submitted plans to WISDOT which were preliminarily approved. The town came to the Committee here and said they were going to rule in the interest of the townships' safety. When Slaby went to the town, the town ruled in favor of the other operator, Alpine Sands, and their road design. Slaby inherited the problem of re-aligning the intersection and making the improvements. From that point on, North Creek Sand retained Ken Leshar as their project manager to help bring structure and order to this issue and SEH has been doing all the designing. Slaby turned the meeting over to Leshar and Rubenzer to describe the efforts that North Creek Sand has made thus far and to further reinforce why they are requesting the extension. Leshar wanted to give an overview, relative to the timing. One of the initial phases to the project is obviously, once you have the site that you want to mine, which is the Joe and Cindy Slaby property, is that you need an easement to that site, both for mining and construction. That easement of choice was Paul Sonsalla Lane which is a town road. On that road there are six property owners aligned along the road. What the design would do, initially, (and this road has been redesigned about 18 times total between the intersection alignment and the Paul Sonsalla Lane) is try to appease and mitigate the impact. The impact area is just that area that exceeds the existing right-of-way and so they have used SEH Engineering firm in doing their civil design. They have gone through multiple iterations working with the landowners and trying to use engineering solutions to solve the problem. The uncertainty associated with this process is the landowners. The engineering part of it they could pretty well estimate the timing required and they are on a fast track, even though their progress has been slow because of this uncontrollable issue of landowners. What they have done is try to design and appease everyone which they have not been able to do at this point in time, even though they continue to try. Brandt asked Budish to pull up an aerial photo of the site so as to get a view of State Highway 95 and the various landowners and wetlands, etc. Leshar continued saying there are extensive wetlands on the west side as Paul Sonsalla Lane goes north to the Slaby property, so we are kind of compressed between wetlands and landowners. Securing this easement right-of-way from the landowners is one of the initial stages in the schedule in project development because it impacts some of the permits and the wetlands, so from a regulatory standpoint and from an engineering standpoint, they need that easement tied down so that they can continue to the next sequence of steps in the project cycle. Leshar added they have been doing as much as they can in parallel, but they have run into a total road block on the easement so that is where they are focused today. Leshar wanted to walk through the status of the permit and go through the timeline and give details of where they are relative to progress. In regard to the well and structural inspections, which is part of the conditions, Leshar stated the field work for both the well and structural inspections have been completed by High Cliff Consulting and SEH. The well inspection graph report has been completed but they are waiting on the final lab report on the water analysis so that they have all that information which they'll incorporate into the report and then they will issue the report. The structural inspection graph report is completed and they are finalizing that currently and that should be available on February 1st. Upon Brandt asking if that was part of their preliminary conditions, Leshar responded it was. Rubenzer chimed in that he has the draft documents with him. Leshar thought the request was that we wait until we get the final documents and then transmit those. Upon Brandt inquiring if they had High Cliff Consulting out there doing the well and structural inspections, Slaby responded that was correct and that he hired SEH as the general engineer and then they subcontracted it out to High Cliff. Bawek asked if the field work was done taking in the fact of the 10 acre CUP or the 284 acres. Slaby responded that the 10 acre CUP encompasses a small piece of land on his Dad's parcel. Slaby extended out beyond that 10 acres and took it all the way out to the property boundaries and then they extended it out 2,500 feet. They picked up all the properties that were within that radius and any properties that were fairly close to it just as a courtesy to those property owners. Leshar added they are looking forward for the 284 acre permit being prepared. Britzius clarified that these are existing structures (anything over 100 square feet) around the property. Leshar explained that

basically what they are doing is inspecting the foundation structures to establish a baseline condition and then when mining operations take place there is potentially some seismic effect and that is a way of documenting the extent of damage so that you don't wait until someone comes to you and their house is falling down and you don't have a baseline. Britzius asked how many structures and how many wells are included. Leshner thought there were 17 wells and he wasn't sure on the total structures. Rubenzer stated he thought there were a couple of landowners that denied/waived their inspections, so Rubenzer thought there were 14 structure inspections and 16 wells because one was just a cattle watering well, it wasn't in a residence. In the same respect there was location where a trailer home was located but now there is just a well and no structure. Slaby provided the Committee with a map to view which showed the wells within a 2,500 foot mine site boundary taking into account the whole property. Leshner continued explaining the securing of the easement right-of-way. Leshner stated that relative to the Paul Sonsalla Lane and State Highway 95 (Leshner asked Budish to display the map of the intersection), that intersection is one part of the easement because of Highway 95 plus the Soppa Lane and the Paul Sonsalla Lane and the rest of the easement is along Paul Sonsalla Lane. They completed the intersection design. Leshner is sure they have gotten, at least, DOT's verbal approval on their most recent design, but they have to go back with the formal drawing. They are finalizing those drawings and going through that approval process. Leshner didn't expect any major issues there because they have been in constant contact with DOT in the process of evolution. Leshner continued by saying they have gone through these designs, as he mentioned, trying to mitigate the amount of property that is beyond the existing right-of-way and with respect to this intersection, because one is relocating Soppa Lane over to align with Paul Sonsalla Lane, that is a major easement procurement and it is about a half acre, so if you imagine Soppa Lane moving over to the east 150 feet or so, you're re-aligning that easement right-of-way so we're having to address that again as far as the condition but what that requires is dealing with the landowner and significantly changing that existing right-of-way and extending it to accommodate that realignment. They have that down to about a half-acre so they have what Leshner would call their final design and they are going to go with it to WISDOT. Relative to the intersection, the final design does comply with DOT as best they understand at this point and it does meet all the conditions on Soppa Lane at a 90 degree angle to State Highway 95 plus Paul Sonsalla Lane and then being aligned so it meets all the requirements. Leshner added that on Paul Sonsalla Lane, SEH has developed and they are finalizing the roadway. This is the upgrade on Paul Sonsalla Lane to be a 24 foot asphalt surface with 30 inch curb and gutter (urban design), and again this is to minimize this footprint of that road to keep it within the existing right-of-way and then mitigate the impact on wetlands because there are wetlands to the west. They are finishing up that design, they've already laid it all out so they're doing the drawing details to complete it, and again it is another revision. Paul Sonsalla Lane has been designed a number of times. Leshner had several meetings with the landowners. Leshner came on board in late September to try to take the project and give it that leadership and experience to get it moving in the right direction. The first hurdle was obviously this easement because it is the primary easement to the property. Leshner met with all six landowners and their families for the first time on October 8<sup>th</sup> at one of their homes. Leshner went through the design with them that they had at that point and solicited their input on any issues that they saw relative to that design. The landowners gave Leshner a number of issues. The issues that Leshner had to deal with was the tavern on the corner. In the landowners' mind, it impacted his potential business significantly so we had to redesign that intersection to minimize that. Because of that landowner they had to move the entire passing lane from the north side to the south side so that they weren't encroaching on the north side of his tavern. Leshner continued that they came back on October 29<sup>th</sup> and reviewed that with the group. During that meeting, after Leshner reviewed the design with them, they extended a compensation package offer, both for disruption by virtue of the fact that we would be having hire traffic on Paul Sonsalla Lane but also any acreage, whether it be permanently or temporarily impacted, (meaning that during construction they might have to put construction barriers on the property). Leshner pointed out that this is under two acres (1.4 acres was permanent and .5 acres was temporary). Leshner offered them \$25,000/acre plus \$25,000 disruption which was categorically rejected

by all landowners. At that point, Leshner was escorted out of the house. On November 22<sup>nd</sup>, because they have gotten no input from any of the landowners on what they actually wanted, they sent out a letter, individually, to each landowner requesting that they inform North Creek Sand of what they expect from a compensation standpoint. They got those letters back around December 9<sup>th</sup> and the bottom line is that those requests were significant – 20 times what North Creek Sand was offering. At that point, they went back and started looking hard at the road and saying we've got to do everything humanly possible, pulling out all the stops to try and minimize impact and that is where we are and the next step is obviously that we will have to go back to the township because it is a town road, get our design approved and then go back and try to work with the landowners. Leshner concluded by saying it has been a lengthy process for two acres. There is a reason they call things uncertain and one wouldn't think it would take this amount of time, but they don't control it. Basically they are at the point of last design, and will go to the town. They have secured the services of Attorney Charles "Buck" Sweeney to help navigate that process because they don't have the skill set, internally, to do that. That is the approach they are going to take on the easement. Relative to the reclamation and financial assistance, that bond application form has been completed and they will submit that (Slaby commented he gave copies to Budish today). To point out where they are headed next, Leshner stated he mentioned they have hired Buck Sweeney who is attorney out of Madison that represents sand company's and deals with these kinds of issues and has the expertise which Leshner said he does not have, so they will go and finalize the designs. They know they will get past WISDOT but one of their conditions is that the Town of Arcadia board has to approve their final plan and then their intent is to secure these right-of-ways and whatever they have to do relative to the landowners. Until they get that, they can't really do the road use agreement with the township. Brandt commented that it seems like the DNR and the Army Corp. are involved in the wetland issues. Leshner responded yes and once they get that design and then get it approved by the town, then they will be able to finish out the wetlands impact, so that is why the permit is held up. Leshner added that they will get all the regulatory permits once they get past the easement because it does impact, if not all, then some of them and all the engineering functions are proceeding as they would in any project development which is the project design to the point of getting designs but not executing anything. Rubenzer added that on the wetland application permit with the DNR and the Army Corp., they went and met with them out on site back in August to get conference on the wetlands that were previously delineated and make sure they were correct. At the time, they were over two acres in wetland impact (that was a very preliminary, initial look at it with a 24 foot wide shoulder, 4 to 1 slopes, full section of the roadway and the normal footprint one would expect). What they suggested is that they look at a 15 foot wide roadway and then have turnouts periodically. They are actually going to have three turnouts on one side and two on the other side so trucks would pull over and allow a truck to go through and then pull back out depending on which truck was coming from which direction. They redesigned it with that design and went before the Town of Arcadia board and they didn't like that design so they are back to the 24 foot wide roadway but that got them under 10,000 square feet of impact which puts them into the general permit category so the permit approval goes from a matter of maybe one to three months (the overall wetland permit which is a nongeneral takes 9 months to a year), with three months being the general time frame. Basically, Rubenzer's point was that DNR and the Army Corp. said that they wanted them to get the impact under 10,000 square feet and to do whatever they needed to. That is when they got into all different kinds of alternative options for design. Right now they are at approximately 8000 square feet – they are under 10,000 feet so from a DNR standpoint the wetland permit application which is done right now is ready to submit, but they don't want to submit it until they get a finalized design based on these landowner right-of-way acquisitions. Slaby added that one of the components is that one has to submit ownership and in all of these cases, whether it is in the town road right-of-way or the State highway, they would have to quit claim deed it back to the town or the State, they don't maintain possession. Rubenzer reiterated they have the wetland application ready to go so he thought it was going to be a smooth operation and they will receive a relatively quick approval from the DNR and the Army Corp. From a staff perspective, Lien stated they have had a

couple of meetings here with this group, perhaps at least once a month and Budish almost weekly. Like was stated in the last meeting, even though some of these things are out of our control, i.e. meeting town requirements, this Committee made them conditions so we have been trying to work with them. Lien felt the road has become the biggest impediment, but they did move forward anyway, even without overcoming that hurdle, and did the well and foundation inspections. Budish displayed the conditions on the overhead projector for this very small site. Lien added that a lot of the conditions that the Committee adopted did come from the town and the majority of them stemmed around that road because the road was a concern of the neighbors as there was a lot of safety issues related to it. Upon Brandt asking what the request was for time for extension, they responded it was 12 months. Geske stated he feels the same way as the last one, that it is their responsibility to get it done. If we give them the extension, that is fine and if they don't get it done that is not our problem. Slaby commented the County has a well written Ordinance and they are going to do their best to follow it and they are committed to getting it done. Zeglin asked when the original permit was preliminarily approved or when the hearing was. Slaby responded it was February 2012 so it has been a long process. Slaby added that upon advice from Lien, they focused on going through the conditions that were recommended by the E & LU Committee and also focused on the transition into the 284 acre site because the big concern is obviously the access road. Slaby stated most of the conditions will roll over so they have already taken the initiative to go out and start accomplishing conditions that would be for the 284 acre site. They could have kept their well inspections down but instead they chose to go out and perform all of them. Nelson stated that Paul Sonsalla Lane is a town road and questioned what the width was there right now. Slaby replied there are two right-of ways. Nelson asked what the width of the road bed was. Rubenzer thought it was about 15 feet. Nelson commented that the Town of Arcadia needs to step up here. Britzius questioned how many homes were up that road. Leshner responded that directly on Paul Sonsalla Lane there is just one. Slaby added that person also has a CUP for a nonmetallic mine for a separate operation (KAW Valley) and he is the most significantly impacted of all the property owners. Britzius commented so he would want the access. Slaby responded no, as for his project they are exiting out another way. Bawek stated Slaby was asking for an extension on the 10 acre site and questioned if when he possibly gets to the 284 site if he sees that as a tactic to once again extend the possibility or did Slaby feel he would have the issues solved when we get to that point. Slaby responded by no means is it a tactic. Slaby added they are already addressing the conditions for the 284 acre site. They started out with the 10 acre site because Slaby's Dad was opposed to mining and it took a bit of convincing. Slaby stated he should have started out with the whole site but that is the way he started and they intend to carry out and satisfy the conditions (the conditions for the 10 acres) and also go to the 284 acre CUP. In Slaby's business plan it just involved raw screening and that is not a sustainable business model as one has to have a processed product going off of the site to be sustainable and that would include wet and dry processing. Bawek commented that the road is pretty much something that Slaby has to have. Slaby responded it is an absolute requirement as that is their access. Slaby added they have a substandard road serving us but they have inherited the conditions from the Committee and they are doing everything in their power to satisfy them. Their biggest uncertainty is dealing with private property owners but they are determined. Zeglin stated this permit right now is only for 10 acres and questioned if they have to come back. Lien responded they have to come back at a later date for the expansion to the 284 acres. Zeglin commented it just seems like Slaby is throwing a lot of money at something that may not happen. Slaby stated he already has preliminary approval from the Town of Arcadia for the bigger site but he just wasn't financially competent to come back. He hired these gentlemen with him to promote the project and so he is in a better state today. Zeglin reminded Slaby that an approval from the Town of Arcadia is not an approval from the County so he does have another whole step. Britzius asked about the neighbors who are in various ways providing the road block on the easement, if they registered at a previous hearing their concerns about having a mine there in the first place. Britzius asked if they were just holding out for money or lifestyle. Slaby responded he can't tell exactly what their thinking as he is not in their mind but North Creek Sand hired a real estate agent to meet with them and apparently they told

the agent that if they benefit from the project they want to directly benefit significantly and that is where they all come to an impasse because their counter offer wasn't even within the scope of reason so that is where North Creek Sand goes back to the design and engineering. Upon Britzius asking about Buck Sweeney, Leshner responded that he provides legal experience in navigating the approval process relative to the township road – meaning what are their legal rights or what does he recommend relative to dealing with the town. Leshner stated they just don't have the expertise, in house, to really navigate that without tapping into some experience. The fact that he is a lawyer also helps but he is also an engineer and has an extensive background in this area. Leshner expressed that the bottom line is that they are exploring every avenue to try to resolve the issue in a timely fashion and the difficulty is that the landowners are essentially a cartel as they can only talk to one person who talks to the others. They can only meet all collectively, Leshner cannot meet with them individually. Leshner sympathizes with them but he can't sympathize to the point to meet their demand or basically give up on the only access to this site, so it is a difficult scenario to navigate. Schultz stated it was interesting as during the planning process when the townships were surveyed the highest priority of the Arcadia citizens was the rural lifestyle, the second highest was being close to family and friends. Schultz guessed you could organize a cartel around whatever values you want. Schultz didn't think cartel was probably the right term as he thought these people had a value set that they are standing upon and that is a problem as one persons' reasonable offer is not always reasonable to the person you're offering it to. Leshner commented the group dynamics are also different from individual dynamics. When Leshner wins one over, the others pull him back into the group/cartel. Leshner's only point is that they work as a functional group not individually. Schultz responded that as Geske stated these are things that are out of our control. Geske made a motion to extend the permit for one year from January 27<sup>th</sup>/28<sup>th</sup>, 2015 to 2016, Nelson seconded. Bawek stated, in order for it to be clear to the applicant and that they understand, that they can ask for more than twelve months. Geske commented the request was for twelve months so that is what we're acting on. Just to be clear, Slaby stated that Tim Marko, Project Manager from SEH had submitted something that said eight months and Slaby was upset because of unforeseen things they might run into, so Slaby told him to modify that request to twelve months because of the Ordinance being interpreted the way it was. Motion to approve the permit extension passed with Kathy Zeglin voting in opposition.

**Update to Trempealeau County Farmland Preservation Plan-Opportunity for public comment**

No one chose to speak to this subject so the Committee moved on.

**LWRM (Land & Water Resource Management) and TRM (Target Runoff Management)**

**Requests and Payment Approval** Lien stated there was only one pay request this month.

**LWRM**

<u>Name</u>	<u>Type</u>	<u>Amount</u>	<u>New CSA Total</u>	<u>Reason for Change</u>	<u>Town</u>
Robert Gierok	Contract	\$ 7,210.00	\$ 7,210.00	Riprap	Burnside
Robert Gierok	Pay Request	\$ 7,210.00		Certify Streambank Riprap	

Nelson made a motion to approve the payment, Bawek seconded, motion carried with no opposition.

**Resolution related to 2014 DLM Budget Excess for County Cost-Share Program**

Brandt read the resolution aloud. Part of the resolution stated that the request was to transfer \$47,000 from the Unassigned General Fund to a Cost Share account for the purpose of installing high impact, low cost conservation programs for conservation projects. Some discussion took place. Lien stated the funds could be used for the following conservation projects; grassed waterways, critical area stabilization, streambank stabilization, well decommissioning, waste storage abandonment, access roads, cattle crossings and nutrient management. These would be projects that have high impact on the land as far as conservation erosion but are fairly low cost. Lien elaborated on the Departments budget and

departmental funding. Lien noted that the RCPP (Regional Conservation Partnership Program (multi-state watershed) proposal did not get funded. Brandt added that Exec./Finance suggested waiting until after March, when all the final General Fund numbers will be available, to present this resolution. Discussion followed on this suggestion. Some comments were made as to how difficult it is to get money from the General Fund once it has been put there. Discussion took place about the time frame that staff needs to implement these projects therefore Geske suggested sending it to County Board now. Lien commented that the practices that would be implemented are relatively easy to design so they can be done relatively quickly. More discussion took place. Britzius made a motion to send the resolution back to the Exec. /Finance Committee right now with the desire to forward it to the March County Board, Schultz seconded the motion. Motion carried with Bawek and Zeglin voting in opposition.

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

Lien stated Nelsen has been continuing with the maintenance and tracking of the existing survey monuments to make sure everything is still in place. According to the bill he has worked on drafting tie sheets. Lien stated we have a Contract for Services for Nelson in regard to how he is paid. The contract was from 2008 to 2014 for various staff wages. Lien went over the wage scale. Nelsen asked that the Committee approve an inflation rate wage increase. Nelsen averaged the inflation rate from 2008 to 2014 which equaled 2.096 so that is what he based the wages on. The request is to approve the pay increase and also for the Surveyor's bill presented today. Nelsen made a motion to approve the payment of the Surveyor's bill for maintenance on the remonumentation project, Zeglin seconded the motion. Motion carried with no opposition. Upon Brandt asking whether or not the wage increase is in the budget, Lien responded it is because the County won't pay Nelsen any more than was budgeted. The budgeted amount stays the same, but basically Lien felt we would be getting less hours. Lien talked a little about the recent newspaper article about the completion of the remonumentation project. Brandt wondered if it was the Committee's responsibility to agree that Nelsen should give his staff a raise. Britzius responded that is Nelsen's responsibility however he is just asking the Committee to change the rate that the County pays Nelsen. Britzius made a motion to approve the wage change as presented, Schultz seconded the motion. Motion to approved carried with no opposition.

### **Confirm Next Regular Meeting Date**

The next special meeting date was set for Thursday, February 5<sup>th</sup>, 2015 at 6:00 PM. The meeting will run from 6-8:00 PM. Lien stated he and Budish will try and get Deb Dix from DNR to come to the meeting to talk about air monitoring. The next regular meeting date was set for Wednesday, February 11<sup>th</sup>, 2015.

Lien stated on Wednesday, January 28<sup>th</sup> the Conservation Poster and Speaking Contest will be held in the Courthouse. Lien requested a Committee member to come to the contest to hand out awards. Schultz agreed to hand out the awards on behalf of the Committee.

Lien referred the Committee to the Zoning Board Workshop brochure in their folders. The workshop is on February 12<sup>th</sup> in Neillsville. Lien thought it would be a good workshop for Committee members to attend and asked that anyone who would like to attend to let office staff know.

At 12:00 Noon Nelson made a motion to adjourn the meeting, Brandt seconded, motion carried unopposed.

Respectfully submitted,  
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary