

ENVIRONMENT AND LAND USE COMMITTEE
Department of Land Management

SPECIAL MEETING MINUTES
May 27th, 2015 6:00 PM
COUNTY BOARD ROOM

Chairman Brandt called the meeting to order at 6:10 PM.

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

Committee members present: George Brandt, Michael Nelson, Jeff Bawek, Curt Skoyen and Kathy Zeglin. Wade Britzius, Rick Geske and Jon Schultz were absent.

Staff/Advisors present: Kevin Lien, Jake Budish and Corporation Counsel Rian Radtke

Others present: Carl LaPrairie, Julie Dick, Jim Schwartz, Ken Schreiber and Tom Forrer.

Adoption of Agenda - Bawek made a motion to approve the agenda, Nelson seconded, motion carried unopposed.

Adoption of Minutes - Nelson made a motion to approve the April 16th, 2015 special meeting minutes, Zeglin seconded. Lien made a few minor amendments on Page 17. Motion to approve the amended minutes carried unopposed.

Discussion and possible action in regard to the Final Report on the Public Health Impacts of Nonmetallic Mining Brandt stated we have some new tools to use for considering these recommendations. Lien was asked to make copies and hand information out to the Committee for review of possible issues related to an overlay district. Brandt referenced Page 18 of the meeting minutes from last month which states "Counties must make a long term planning approach to minimize potential long term negative impacts". Brandt said that is one sentence taken out of context. He believed what the Advisory Committee was trying to get us to see is that the planning aspect of what we do is critical in the situation related to nonmetallic industrial sand mining and, in the course of the conversation, after that statement was read it was pointed out that the County has been doing long range planning, going on 20 years now if you count Farmland Preservation going back well into the mid 70's & 80's, so overlay districts are not something that is either new or strange and it important to remember that it has been one of the tools the County has used to minimize the land use conflicts and it is one of the tools we have offered to the townships as a way to control different kinds of activities in their townships. (There was some inaudible comments). Brandt asked Lien to go through the flow chart (overlay district template) for the Committee. Lien read aloud "County or township through discussion to establish a balance for;

1. Industry – a) Abundance of product in relationship to negative impacts.
b) Proximity of need – meaning use or transportation
c) Low to no density of residents

Lien commented that last month we were talking about looking at where it makes sense to mine, looking at rail to resource, looking at areas of environmental significance that would be ruled out and then one just starts narrowing the focus down to come up with what would be the area that it makes

sense to mine. Lien thought it would make good sense for the industry, to say where mining should take place and where mining would be welcomed in the County and to put that kind of investment.

2. Residents – a) Establish public awareness (survey, etc.)
b) Protection of quality of life

Lien commented that we hear that at every public meeting that we have. Lien thought all the surveys that have been done through UW-Extension keep coming back that quality of life, resources and aesthetic beauty of the County are important.

- c) Existing and future tax base

Lien said that is something we are still educating ourselves on, we're still doing research and we're not sure how all of that is going to "pan out" and we may not know for a few years down the road yet.

3. Environment – a) Give back environmentally more than you take.
b) Study of directional water flow and well vulnerability
c) Prior, current, post land uses through cooperative planning.

Lien stated that goes back to the Comprehensive Plan and just doing adequate planning whether we are talking about siting large ag CAFOS (Concentrated Animal Feeding Operations) or wind turbines or high residential developments. We have to do good planning and this industry and use is no different. Brandt commented a couple of phrases jump out at him. One is the concept of "cooperative planning" and "county or township through discussion to establish" which is to say the County doesn't say this is what it is but rather it comes through the townships discussion of its' land use plan and one of the options that is given in any township is an overlay district. Brandt was at the meeting where Steve Hogden described the success of the mining overlay district in the Town of Caledonia. It has worked and it is working. Sand is going out and people are building houses, folks know where things are and where they are going to be and can make their plans accordingly. Lien thought where the Committee had left off last time was that they talked about the overlay district as a recommendation. The Committee agreed that it was something that applies and that the County regulates it and that it would require an Ordinance revision. Lien stated one of the things that is taking place at the E & LU Committee monthly meeting is the discussion regarding the updating of the Farmland Preservation Plan. Lien, Meghan Wessel and Peter Fletcher, Mississippi River Regional Planning Commission (MRRPC) have met with the Towns' Association. They discussed that we are at a five year point from adopting the Comprehensive "Smart Growth" plan so we are looking at updating that at the same time and revising that along with the Farmland Preservation Plan. Those meetings will start in June with towns. Lien thought that, so far, towns have expressed interest in addressing some of those issues and possibly looking into the overlay district and where it would make sense by town (similar to what Caledonia did). Brandt asked why it would require an Ordinance change. Lien responded we would be adding a district this isn't currently there. It would require the public hearing to adopt the revised plan at the town level and then at this Committee and then full County Board. Brandt asked if the language in the Ordinance changes or just the zoning map. Lien responded that in this case some of the language in the Ordinance would expand because right now we have very minimal language with the overlay district being in Caledonia only. Lien added that because it is a comprehensive revision we waited because the Town of Arcadia has some amendments and the Town of Chimney but if we put their amendments into our countywide plan, which is pretty lengthy process, as we have to notify adjoining county's, cities and villages and that is why we haven't done individual ones. We are going to go through all of it at one time. Radtke referred to Chapter 2 of the Comprehensive Zoning Ordinance which lists the zoning districts and stated that would need to be amended to add in language about a new district and there would have to be a new map that would set forth where the district is. There would then need to be or the Committee may want to look at some changes to Chapter 13 if mining is going to be restricted to a district as to what is it going to look like – will it be a permitted use in a mining district and a conditional use in other places, etc. Radtke thought there are a lot of different ways the Committee

could structure this, so the Committee may want to have that discussion as to what they want it to look like and how it is going to fit once that plan is put together and then presented to the various towns and at the public hearings. Upon Brandt asking if the process starts at the township, Lien responded yes, but it wouldn't have to as the County could do it but to be in harmony with how we have always done business in the past, related to land uses/zoning, that is the smartest/best way to move forward. Radtke added that a town can object, basically, to change the Ordinance and obviously you're going to want to have as many people "onboard" as possible and that is part of the goal of this Committee that if you're going to make a change, that most people are agreeing with it. Radtke added it wouldn't necessarily need to start at the town level but just for an efficiency purpose it might be a good idea to sort of have some sort of rough proposal to send out to the various towns to consider otherwise, i.e. If eight different towns look at it you may have eight different requests or versions. Radtke added the Committee doesn't have to do it that way but it might be more efficient. Brandt recapped we are discussing the overlay districts, the process of how to get there and asked if there were any questions. At this time Budish displayed the County zoning layer on the overhead aerial map for all the view. Brandt noted, that in listening to the presentation made by Steve Hodgen from the Town of Caledonia, what he understood Hodgen to say was that they created an overlay district based on what already existed. They said ok this is the land that Mathy (mining company) owns and intends to mine so this is the mining district. Brandt recalled when this idea was "floated" at the intergovernmental meeting that Linda Mossman appeared to stand up and say, "I don't want to live in a mining district" so that Brandt's assumption was that one just draws a big circle around the map and says, "This is the mining district". Brandt asked Lien if an overlay district includes the possibility of saying this is where everything is, this is the mining district and nothing expands beyond this or is there possibly a bigger circle or square drawn, etc. Lien responded that if one looks at the existing map right now one can tell it was generated as part of each individual townships plan and each one can look a little different. Lien reminded the Committee that each one of the cities and villages typically had around them a gray area which is "transitional" area, so all of the historic city and village's uses that would take place, i.e. businesses, noise, lights, etc has a transitional buffer around them which transitions out into the predominantly rural agriculture area. Lien explained the blue color on the zoning map is Primary Agriculture so if we are talking industrial sand mining, first it has to be in an agricultural district and second they have to apply for a Conditional Use Permit. When one looks at the County as a whole the dark green area is Exclusive Ag 2 areas and the blue is Primary Ag. These are Ag districts where mining could potentially take place. The dark green areas are historically Farmland Preservation contracts that either are active or expired but still under that zoning. Lien explained the light green which encompasses Town of Preston and Town of Chimney Rock are Rural Residential zoning. In Rural Residential areas mining is not an option unless you happen to be one of the Exclusive Ag 2 contractual areas. Lien noted that the pink color in the Town of Hale is Residential-8 (R-8) and if you've driven through the Town of Hale you've noticed it is predominantly Ag. One can't get a non-metallic mining permit without a rezone. If one wants to do a large expansion for Ag or new Ag that is a CUP in Residential-8 because R-8 zoning is a higher density residential zoning. Lien added those are all in the Comprehensive Zoning Ordinance, Section 2.05 Table of Uses. Lien stated we would modify that Table of Uses probably and add that overlay district o and what would fit into that. Lien asked Budish to pull up the individual zoning map for the Town of Caledonia on the overhead aerial maps. Lien pointed out the footprint of the mining and the buffer area noting the residential development nearby. Lien explained that the mining activity is controlled or takes place there and they know they're welcome there. There is also the buffer and the residents understand that as well. Lien informed the Committee that Steve Hodgen appeared at the last joint meeting with the cities and towns. He talked about how the overlay district worked for the Town of Caledonia as they haven't had a lot of conflict and it is contained to the footprint. Lien noted that their mining is predominantly out washed river sand which is mostly used for the aggregate industry; blacktop, concrete and possibly foundry sand. Brandt stated when they created their mining district they said this is what is on the ground now and this is what it is going to be. Brandt questioned if that was the preferred way

to create a mining district or asked if one draws a much larger picture thus assuming expansion or looks at ownership or takes into consideration the desire of neighbors, etc. Brandt asked how the boundary gets drawn for the overlay district as this is just one example. Lien responded that is the difficult question because it depends on how you look at it, i.e. someone who has their “footprint” on the ground compared to someone who doesn’t. Lien thought that is where one has to take a more countywide look and determine what makes sense for the proximity to infrastructure and the number of residences around and resources. If we start removing/eliminating places like Decorah Peak, the Wildlife Refuge, Perrot Park and perhaps some scenic areas of Square Bluff and Chapultepec Peak, the scenic overlook on Highway 53 towards Osseo for the obvious reasons and then looks at where the R-20’s (high residential density areas) are or the area where the resource isn’t there (southern part of the County) then the focus becomes narrowed. Lien knows multiple people have come to the Committee and asked when is enough, enough and perhaps we should stop where we are at and see how the permitted mines pan out. Lien wasn’t sure how those will grow or expand in the future but in looking at a countywide approach to where resources and infrastructure that starts to narrow the focus. Radtke suggested the idea (Based off Town of Caledonia’s Comprehensive Plan where they drew in and designated where they wanted certain areas and that the nonmetallic mining feature and buffer is not in the County’s Ordinance but it is something that the town had said), that what the County could do is any change to the Ordinance and any change has to be consistent with the Comprehensive Plan so you have to start with that process first. Radtke continued by suggesting the creating of a corridor of wherever mining makes sense or is a balance of industry, residents and environment and have an area where that would be ok and areas that it would not be ok. To talk about what is currently on the ground, when we do the zoning map change, take whatever is on the ground and put that in the mining district and then leave everything else out. If some one wants to come with a rezone to a certain area, they would only be able to do a rezone in an area where the Comprehensive Plan said it is ok unless one goes back and changes the plan. That could be a way where you are not necessarily drawing borders and boundaries today, so much, as just saying the layer underneath the Comprehensive Plan would say this is an area where it is ok and this is an area where it is not. If someone is going to do a rezone, you’re not going to be able to rezone to a mining district an area that is not in the Comprehensive Plan, similar to whether it be Ag or residential use, one really can’t rezone something that is in Ag to residential unless the Comprehensive Plan is changed. The law says the County can’t adopt any ordinance that is not consistent with the County’s Comprehensive Plan. Radtke reiterated that the Committee wouldn’t have to draw that line/boundary map today and it leaves that “fight” for another day and it could be more site specific and work with whatever industry wants to come in and also work with the neighbors, etc. and if it is something that can be worked out, a rezone can happen, if it is not the neighbors have certain rights of protection in the zoning amendment process. In looking at the overhead aerial map, Lien voiced that predominantly mines are now following the rail and the major highways. Lien said there is a smaller one outside of Ettrick that is aggregate with the potential of being industrial sand. There are a couple of mines down in Dodge that are industrial. There is one on the edge of the towns of Lincoln/Hale. The majority of them are in the area that Radtke had discussed and tend to follow the rail, the resource, the major highways, etc and then there are a couple of others in the outlying areas, but the pieces of the puzzle are being filled in just by default and a lot of it might be by annexation default. Lien noted that one can see a definite circle on the map if you look at Hwy 53 North, State Highway 121, State Highway 93 South and then State Highway 95 west again, we definitely have a circle that is predominantly saturated with mines partly because the resource is good, there are major, newer highways and rail access runs through there. Brandt thought Radtke and Lien have outlined approaches to this and now we are back to where we started. It is an option that is given to the townships and we can certainly “weigh-in” on what we consider to be important resources that could be excluded but also advised areas that would make sense for mining to happen related to existing corridors, etc. Brandt referred to the overlay template the Committee has in front of them and said it is related to part of the Health Impact Study Stable Communities section that talks about striking a balance between industry, residents and environment. It

is an interesting approach because it gives environment a place at the table. Brandt stated we are the voice of the environment where the conservation applies and it is our role to preserve the resource for future generations. It is in the Statutes and the Comprehensive Plan. We need to take that charge seriously. Zeglin asked Lien if, when the talks start about the Comprehensive Plans at the township level and Meghan Wessel will be going out, if Lien will be going with her. Lien responded he, Wessel and Peter Fletcher from the Mississippi River Regional Planning Commission (MRRPC) will be meeting with the towns. Zeglin assumed, at that point in time, that at each townships meeting they will be introducing the possibility of an overlay district. Lien responded they had brought that up at the Towns' Association meeting as a possibility if they are interested and want to look at that. Lien added that the Town of Caledonia already has theirs in place and the other towns' seemed to express interest in doing something along those lines. Lien thought now, with updating the Farmland Preservation plan and that we're five years into the adopted, revised plan that it would be a good time to take a look at it. Lien stated there have been a lot of changes in the County in five years. Zeglin asked if surveys will once again be mailed out like they were originally. Lien didn't know. There are some survey's being done right now through the County's strategic planning process. Yesterday, Lien, Pat Malone and Dick Miller did a half hour presentation in the TV studio (not to confuse the public with the Comprehensive Plan that we're doing) about the strategic plan that we're doing at the County level for all the departments and services that we provide here. The two mirror each other a little bit and then through our Department we are doing the Comprehensive Plan revision and that was talked about a little yesterday. Malone is sending some surveys to the public. One survey has been sent to the towns already. Two years ago, Lien believed Malone sent out an entire survey to the Unity area and ironically it was almost identical to the survey that was sent out ten years ago. Lien said the surveys that have been sent out to the public, regardless of the time line, seem to come back with the same things; preserve the natural aesthetic beauty of the area, protect our water, protect our resources and provide good jobs. According to Lien, County Board Chair Dick Miller sort of put this on the County to look at starting to do strategic planning for those purposes. Just because we have always done things a certain way in the past doesn't mean it has always been the right way. The strategic plan will guide the Committee members and guide the Departments, the Comprehensive Plan will guide the County Board, Committees and the Town Boards and the citizens in a better way. Lien thought another of Malone's mailings will go out in the next couple of weeks and it will be a pretty aggressive approach as we definitely would like to have the Comprehensive Plan done by the end of the year. Lien noted that when they had done the Comprehensive revisions in the past they were at three year intervals and there weren't many changes, but in the last five years in the County, there have been some major changes. Zeglin commented she did see the survey that went out to the townships, at her last town board meeting, so she knows what was in that. Zeglin asked if the survey, that Malone is mailing out, was going to a select group in the County or a sampling in the County or is it going to every landowner/household. Lien didn't know if it was going to every landowner or if it is a process that goes out to a random group but Lien knew it was a mass mailing. Brandt commented if Malone is doing it she will work with the people in Madison. They will approve the language and they have a way to randomly select the households, etc. Schreiber asked who in the town has the surveys. Zeglin responded the town board. Lien commented that one was specifically sent to the town to respond back and give their input on the strategic planning not the comprehensive plan. It was handed out at the Towns Association meeting and it was delivered to the towns that weren't there. Appearing in the minutes from last month, Brandt said the Committee hasn't addressed any of the Stable Communities recommendations. As Brandt reviewed those recommendations their key findings talk a lot about quality of life, the cohesiveness of family's, churches, incorporated villages, the problems that annexation causes within the townships and the corporate communities, yet their recommendations tend to focus on the need for more information that policy makers could use to make choices/decisions; i.e. everything from number of deer licenses to the number of bicyclists in the County to the affect that industrial sand mining has on the tax base, etc. A lot of it has to do with educating policymakers. Brandt referred everyone to the plan summary,

specifically the Stable Community recommendations. Brandt stated the strategic planning process and the revisions to the Comprehensive plan is happening now. Brandt read aloud from the recommendations, “specifically the plan should address the changes the county and its’ communities are facing and develop strategies to manage the cyclical nature of nonmetallic industrial sand mining and to mitigate the negative impacts that will result when mining operations cease”. Brandt added that is a big order and thought what they are trying to do with the next recommendations is to spell out what those strategies might be. Brandt read aloud the first sentence of the second recommendation, “Monitor key socio-economic indicators on a regular basis; number of mines, countywide labor trends, migration patterns (in-migration and out-migration), per capita income, unemployment rates, financial and public health services, value of owner-occupied houses, number and location of dwellings. At the last meeting, Lien commented we had talked about what was “stable communities” and whether it was something that was applicable and we agreed yes and that is wasn’t regulated by the DNR nor the County. For an Ordinance revision, Lien had wrote in “no”. Lien stated Human Resources Director Deb Suchla had given a presentation to the County Board on County demographics and Lien found great value, when talking about stable communities, in what she had talked about/touched on. Suchla had said she is willing at any time to give that presentation to this Committee or possibly giving it at the Joint Committee meeting with the towns and cities, etc. Lien added she goes over every one of these bullets points that Brandt just mentioned under SC-2. Brandt stated the point is that we do have resources to help us make these kinds of decisions. We have people within the Courthouse and folks in the UW-Extension office who study these items specifically and write about it. It is important for us to see that. The fact is our County has changed and relationships have changed within the County. It wasn’t part of the plan, so to speak, and we need to know how it has changed and what we have now and what we can do going forward in the future to make the quality of life here has good as it has been and better than it is now which is always the goal. As Lien as described, Brandt noted there is also the need for scenic beauty or basically draw a circle around areas of aesthetic importance that we want to preserve. Bawek stated that might be the easiest way to establish the district – by taking that approach. Upon Brandt asked which direction to head next, Lien commented he thought a lot of this stuff would come together in the next few months in meeting with the towns but to him it seemed like this has been a slow process. There is a lot of information and to Lien it seems that there are still a lot of unknowns. Lien added a lot of this will come together when we learn what each individual town wants their plan to look like or perhaps want no changes at all. Budish had handed out a letter which was a follow-up to the air quality monitoring that Budish and the Health Department were doing last summer. Lien wasn’t sure why there were only 17 samples collected with only 13 analyzed. Lien stated the letter/study states “Calls were received from 33 residents living within one-half mile of an active frac sand mine expressing interest in participating in a summer/fall sampling, we completed PM-4 sampling at 17 home sites prior to suspending sampling for the winter. Of the 17 collected samples, 13 have been analyzed revealing low respirable mass concentrations as follows: mean =10 micrograms per cubic meter; standard deviation = 2.8 micrograms per cubic meter; range = 6-15 micrograms per cubic meter. Crystalline silica (a quartz) was detectable in six of the 13 samples but represented only 2-4% of the mass, indicating very low concentrations. All values were well below the value of concern established by California and adopted by Minnesota of three micrograms per cubic meter for crystalline silica-in respirable dust. Analysis of wind data is ongoing and will be used to determine whether and for how long the home site being sampled was downwind of the frac sand mine. Because these initial results have indicated exposure to respirable silica dust at homes within a half-mile of an active frac sand mine are below the levels of concern, we will not be conducting further sampling at homes in Trempealeau County for this study. We consider this to be good news. The low levels of respirable silica dust detected suggests a low risk of adverse respiratory health effects to the people whose homes are situated near mining operations in Trempealeau County (based on silica exposures related to proximity of the residence)”. Lien stated those are part of the things in the study that we’re trying to look at. Lien added the ironic thing is there was a very low percentage of mines operating last summer so it was representative of what was taking

place in the County but not representative of the potential that might be there. When we looked at the map that Budish had up before, Lien's concern has always been, when you have multiple mines in close proximity, it doesn't really matter which way the wind is blowing, and some people may be affected. If you have a mine in an exclusive area, you can pretty much locate things or do a little better sampling, but it is when you have multiple mines operating in a close proximity that gets difficult. Lien noted a lot of these mines which are operating are annexed to the city. Lien thought the testing was good and a step in the right direction of putting some of the fears aside about some of the unknowns, but he didn't necessarily think it was something that should stop because of that. Lien thought if things change and all the mines become active (the ones that have been permitted but just sort of sitting yet), that maybe some ongoing studying should still be done. We all kept asking, "What is the safe distance, what are the setbacks" and we all sort of shrugged our shoulders because no one knows. People working the mines have MSHA and OSHA requirements they have to follow. It is when it falls outside and in that gray area that we are unsure so this is a step in the right direction in saying that may not be a concern. Brandt asked Budish if we had any information related to wells or groundwater quality in the area of sand mines. Budish responded not that he is aware of. Lien stated we get calls periodically that people have additional sand in their wells and it wasn't there before and perhaps we should do a better job of documenting those calls. Lien has heard that, a lot of the time, sand mines are working with landowners to replace wells. Brandt heard on the radio about California going dry, and stated that the specter of a well going dry for whatever reason is absolutely frightening. Everything he does in the house is related to water or the well and if it were to disappear he would be "up a creek with no paddle" because there would be no creek. It is coming home to Brandt more and more each day what it is this means to live with the possibility of losing the thing that one has always counted on and that is what we deal with every day or every time we have a meeting is deal with people who are faced with the possibility of losing everything they've always counted on and it is intangible. It comes under quality of life yet it needs to be addressed. Lien is trying to address it today with the air quality study, the talk about the groundwater, the implication of losing the aesthetics in the County. We have addressed many of the recommendations through our process in the last three meetings. Brandt is starting to wonder if the Committee is coming to the end of the decisions that the Committee can make here. Brandt isn't hearing any motions to change the Ordinance or change our permitting. We have had an excellent opportunity to review what we already do and what the staff does. In regard to the University of Iowa study, Zeglin asked if Budish was taking the air samples. Budish responded some of them, yes. Zeglin inquired as to how long the monitors were at each location. Budish thought it was between 48 to 64 hours approximately and that was the methodology that they presented for their study. Zeglin questioned the sentence that says, "The analysis of wind data is ongoing" and asked if anyone had any idea what that means because in the next paragraph they said, "they will not be conducting any further sampling". Lien wasn't sure what that meant and he also didn't know why the other four samples weren't tested either. Zeglin personally thought if this test had been done in summer, 2013, which was extremely hot and very dry, the results would be different. Zeglin noted that last summer was very wet and very cold with a lot of rain. Zeglin has heard from two folks that were in the study; one person in particular is very unhappy with it because she says she has to dust her house every day and they can't even eat off their table until she cleans it off every day, so she was very dissatisfied with the study. Lien thinks studies should be done 24/7, 365 days to get a representation. Lien explained that today he was out doing some inspections in the County and there wasn't any dust anywhere as we have had a lot of rain. Last week Lien was out on different sites and there was dust blowing everywhere so it really depends on the wind currents, the moisture in the air and all those things are variable, so short term samples (whether they are 48 hours or whatever, it isn't always representative of what could be there, but Lien thought this is still a step in the right direction. It doesn't put Lien at ease to the point that he feels it is something that we can check off our list and it is no longer a concern anymore, it is just saying that it is perhaps less of a concern than what people were worried about. Lien talked about an e-mail he got one afternoon saying the whole skyline is orange/yellow from sand blowing. Lien stated he would have a

hard time believing that if one had a monitor out there, you're not picking up a lot in that one particular instance. Lien thought one wouldn't pick up anything today, so again random sampling over random periods, however short or long they may be, is just that – random information. Zeglin commented this study hasn't eased her mind at all. In talking about groundwater, Lien read in the newspaper that Arcadia Mayor Kimmel hired a third party engineering firm to come in and look at the study and they're saying our groundwater supply is fairly abundant. Lien agreed with that statement. Lien continued that if one looks at every drawdown analysis for high capacity wells, if you are anywhere near the river basin, the cone of depression is pretty minimal today. Those things aren't a big concern. We don't have endless supplies of water but every study we've ever done the quality of our drinking water is near the top so it is on Lien's list of high priorities to protect that resource. At this point Brandt questioned the Committee as to where to go from here. Brandt noted the Committee has had an opportunity to look through these recommendations a number of times. Brandt added it was one of the recommendations to increase permit application fees in order to pay for the possibility of hiring outside consultants to collect data. We are currently using staff, in house, to do that. Someone from the public present questioned if the mines are required to do air monitoring. Brandt responded yes. Someone asked if any of the results from them have been sent on. Budish stated certain mines, which have full blown processing with the dry plants, etc., have to do air monitoring. The person from the audience stated one of the recommendations was that they monitor every day for three years and questioned if that is being done or if it will be done. Lien stated he didn't think that was the sampling pattern currently. Brandt stated there are a number of conditions that we put on mines similar to that, however the mines aren't operating yet, so that won't be going on until the mines start operating. The person from the audience questioned if the existing mines are "grandfathered" in and aren't required to do that kind of monitoring? Brandt responded they are required to abide by the conditions that were placed on them at the time of the permit. If the Committee felt it was important to call them back in and change the conditions, we could do that. Budish displayed the information of the three mines on the overhead screen; Taylor Frac, Preferred Sands and Hi-Crush-Whitehall which have their air monitoring (particulate data) on-line through DNR. Lien clarified this was at PM-10. Budish agreed and added that to result in a violation of the air permit it would have to exceed 150 micrograms per cubic meter and from May 16th, 2013 to December 16th, 2014, the highest reading was 40 micrograms per cubic meter which is well below the threshold of 150 which is the DNR standard. Lien clarified that wasn't from ongoing monitoring they are from random sampling. Budish responded it runs 24 hours per day but the sample is only collected on an interval, i.e. It is collected this week on a Monday, the next one would be on perhaps Thursday and then perhaps on a Sunday, etc. There isn't one particular day that is picked and it doesn't matter what the weather is, it just takes a sample and then they report it. Lien clarified it isn't a cumulative effect, it just gives a random sample at a given point. Budish thought it was 24 hours of that day and then it is averaged out. Budish stated he couldn't speak on behalf of DNR but that is the way he interprets it. Someone from the audience inquired about the letter the Committee was reading. Brandt replied we were approached by the University of Iowa to participate in a grant funded study of air quality around existing sand mines within a half mile of existing sand mines. DLM staff assisted, but they were responsible for identifying and communicating with potential property owners who wanted their air sampled. They trained a number of people in the County. Brandt added not enough because Budish was put upon to chase around after these monitors. They collected the samples, took them back to Iowa, analyzed them and then made a report. Budish stated there was supposed to be five other individuals collecting from these monitors and Budish thought two of them collected approximately 1 or 2 samples and Budish collected all the rest when he had time. The person from the audience commented that his reaction is the same as Zeglin's in that it doesn't give him any comfort whatsoever as it sounds like it is really inadequate. The gentleman stated it was great that they didn't find any exceedances but, on the other hand, he thought what the company is doing in terms of monitoring is more in line as to what should be done. He asked if there was any chance perhaps the County could ever come up with money to do that kind of monitoring on a few sites. Brandt stated he has instructed the Health Dept. to

hold onto their monitor. Lien commented the County has made it a condition on permits that if a mine is doing complete processing on a site that they have an air quality monitor on site there and then the sampling be done. Nelson commented it is at their cost too. Lien agreed and added the County doesn't pay for it and that it ensures the mines' compliance as well. Schwartz inquired as to what was decided on #22 of the Healthy Study recommendation under Stable Communities, "Cease permitting additional mines until the County is able to monitor actual costs and impacts" and questioned if there were any recommendations from the Committee. Zeglin stated that would basically require another moratorium. Brandt added that unless there were a moratorium, we can't just announce that we are not going to permit any more mines, that is not how the permitting process works so that would require another moratorium. Upon Schwartz asking if that wasn't possible, Brandt replied we would need to have another reason to have a moratorium. Brandt continued by saying the County Board had an opportunity to extend the moratorium by six months, in fact, that was the recommendation of the Study Committee and the reason for that recommendation was just this, "monitor actual costs and impacts", and to give this Committee the opportunity to digest the recommendations and take action on them. The County Board chose not to extend the moratorium, feeling, through the discussion as Brandt recalled, that we could do all of this simultaneously. We could absorb the recommendations, do the monitoring, etc., so there already has been a decision on the part of the County Board not to extend the moratorium. To answer the second part of that, Lien stated the Committee does have the ability, if they wish, to ask UW-Extension to do an analysis on the economics of mining in general. Lien thought, at one time, Malone had done an analysis on Winn Bay Sand Mine, prior to Preferred Sands, on that one particular site. Lien thought if the Committee were to ask UW-Extension to do a countywide analysis, based upon the recommendations from the Health Impact Study that it was something they could provide, but they would have to be asked. Brandt agreed. Forrer said it was stated that the County Board voted not to extend the moratorium. Forrer stated the County Board is not a permanent entity and it has shifted. The purpose of it shifting is to reflect more accurately the will of the people, so Forrer couldn't accept that as a reason for just dismissing the possibility of another moratorium. Zeglin commented the County Board had shifted at that point. Brandt added this is not to say it isn't a possibility, but that is what has happened so far. The action that has been taken by this Committee has been related to encouraging the staff to continue to do what they are doing, to focus more energy in certain places, to pursue the possibility of changes to the Comprehensive plan – basically offering the townships the option of an overlay district. Brandt thought there was also some clarification on the lines of communication of other regulating agencies. Since then, staff has changed and there seems to have been even more of a backing away by DNR from the regulating of the industry. Zeglin asked Lien what the UW-Extension study would encompass with SC#22 as far as costs and impacts. Lien replied he and Malone have actually discussed this a little bit and it would look at the whole industry, countywide, and the impact because there are short term impacts that we all recognize during infrastructure, but the long term impacts really haven't been looked at. Malone did a little study on Winn Bay Sand Mine because it was the first one in the County and the operator actually came to UW-Extension and asked for that. Lien didn't know if the operator paid for it or if Malone just did it, but there was a small economic impact study just on that one particular site. Now we have many in the County and Lien thought it was something worth looking into because, again, there have been changes over five years and we have a lot of things going on, but if one looks at the map that Budish had up there, less than half are in operation mostly because of the economic times right now. Lien questioned if now was the time to do that analysis or if it would be better at a time when they might all be in operation. Lien reiterated that the Committee has the ability to ask UW-Extension if that could be done and it is part of the Health Impact Study recommendations. Zeglin asked if a study would be able to include those mines that are currently annexed to the cities. Lien replied that he thought so and he thought they should be because that affects the County as a whole. Zeglin added they are the largest in size. Zeglin asked how many active mines we have in the County right now. Upon Lien asking if Zeglin meant in the County or just in the towns, Zeglin responded just in the towns, excluding annexations, which are open right now. Zeglin knew

there were a lot that were permitted that are working towards getting up and running. Lien answered there are two or three doing full blown sand processing; Rossa Mine, Whistler's Pass and Twesme Mine and then there is the Taylor Frac load out which is in the County but the sand comes out of Jackson County. Lien stated the Guza Mine is open but not active right now. Mines operating in the city limits are Arcadia Sands, Hi-Crush, Preferred Sands and Hwy 53 Mine and Hi-Crush-Blair are gearing up to produce sand. Zeglin clarified there are actually very few producing at this point. Zeglin thought having UW-Extension do an economic study would be beneficial but it is doesn't sound like now is the time. Budish added this map could possibly change too because back in January and February is when the Committee granted the extensions and those were the individuals/mines that are trying to satisfy their preliminary conditions so there is the potential of several others becoming operational. Budish pointed out those mines with extensions which could potentially become active for the Committee; Vernon Bue Sand Mine, FTS/Fairmount Minerals Mine, Hoesley Mine, Ray Weltzien Mine, Bork/Bragger Mine, Hunts Valley/Prokop Mine, and Segerstrom Mine. Budish added it will be interesting to see how this all turns out. Brandt wanted to acknowledge Highway Commissioner Dave Lyga and the Highway Committee for their work on the Road Use Agreements but also taking the concept of historical road and creating Road Use Agreements with different entities, i.e. the mapping corporation in the Town of Caledonia and also trying to be as fair as possible when dealing with different industries who are maybe using the road in different ways that they haven't been historically or the usage is higher than it was historically. Brandt noted it isn't just this Committee or Department that are dealing with the issues related to the changes in infrastructure and land use in the County. Zeglin wanted to keep the thought of an economic study "on the back burner" for the time being, but perhaps look at it from time to time during the regular E & LU Committee meetings. Brandt is looking forward to Human Services Director Deb Suchla's updated presentation which she gave to the County Board and he thought the next intergovernmental meeting would be a good place to do that. The more information that comes to us the better. LaPrairie stated that he knew Winn Bay did pursue their own economic impact study. LaPrairie has also done so and he wouldn't be surprised if a couple of the others haven't done that too. LaPrairie didn't have a problem providing the Committee with a copy of the impact study that he had done. Upon LaPrairie asking if the Committee wanted it, Brandt responded yes, the more we have to look at, the more informed decisions we can make. Bawek stated a lot of these mines when they annexed to the city's, they do so through financial guarantees to adjoining property owners and some of them even go up to a mile and half guarantee and yet the County, in our situation, questioned if we can't address those issues at all. Radtke stated that at the last meeting that question came up and Radtke's recommendation has been in the past that the County just leave those issues to the industry and the neighboring property owners to sort that out. If there are people coming to the hearing concerned about property values then perhaps it is something to look at and maybe it is not a good site to permit. When we first looked at this three years ago, there were so many questions regarding getting an appraisal done on the property and then if the house is for sale and it doesn't sell in so many days, that the applicant purchase it. It started looking like, in order to get a mine, you would have to buy everyone's property which would be kind of extreme. Also there were some suggestions of having each party getting their own appraisal and having a third party appoint an appraiser and that is the dollar figure that would be used. There were questions as to who was going to pay for them and who would monitor such conditions as someone would have to go out and monitor these agreements which are basically real estate agreements as part of a condition. Radtke isn't saying the Committee can't do it as the Ordinance permits/allows it. The question Radtke has is how do you do it in a way that is not burdensome on staff to oversee and basically where does one draw that line as to who is in and who is out and that is why Radtke's recommendation has been to have the parties work that out as a private agreement otherwise it becomes a public record as well. Some parties prefer to have those things kept private. Radtke reiterated it isn't that the County can't do those things, it is just how you draw it up without those issues. Bawek stated he thought that was just about as important as an overlay district in most cases because individuals come here with the aspect of financial loss and we're not addressing that. Some of the town conditions address that and Bawek was wondering

if those town conditions shouldn't be reviewed by staff with the applicant to see where they are at before they come to a public hearing in order to save the County "having egg thrown on their face" as the bad guy as maybe that would help alleviate some of the issues that are taking place at our meetings. It might give the applicant an understanding of where these people are coming from instead of just coming in here and trying to play Poker and railroad over people. There is also that aspect too that now they know the County is not going to do anything about it so let's just take our chances. This is how Bawek sees some of these proceedings playing out. Bawek wondered if we can't do more than we are doing. Lien responded that typically what happens is that the conditions that come in from the town are only recommended so staff doesn't add or delete from them. Staff might add or recommend additional conditions or when we get to the public hearing process staff may recommend not supporting a town recommendation because it is outside of our realm. As Radtke had stated, where things are outside of our authority or unrealistic to enforce, if it still comes up to the Committee, the Committee picks and chooses the set of conditions to adopt for that site. The town makes recommendations. Lien knew what Bawek was saying as in the past we may have had some applicants come before us where the town has recommended that a property guarantee be given to an individual or a group of individuals. Bawek noted the difference was an agreement from the applicant. Lien agreed and stated it comes here and we may not necessarily support it. Brandt commented twice now Radtke has given us the majority of the answer because that is the question people are asking as to whether or not we can make that a condition and how it is that we enforce it or if it is burdensome or not. One part of his answer that doesn't get a lot of discussion is, if there are property owners who are concerned about a significant loss in the value of their property that might be a considerable reason to deny their permit. In a sense, if that is the issue and it is within the realm of our ordinance that one of the elements we consider is the value of the adjacent properties as well as the potential impact on the value of adjacent properties and the consistency of land use within an area, then we already have the ability to do that. Brandt thought what Radtke is doing is not saying we can't do it, but rather it becomes burdensome and unyielding if we start doing it. Bawek thought there was a proposal made that would give us a basis and referred the question to Zeglin. Zeglin answered that at our last meeting the Attorney that presented had a template for property value guarantee. Zeglin personally thought it was very important that we look at this and she did think it was doable. Zeglin has actually been trying to do some research with other counties and unfortunately she hasn't gotten a lot of cooperation so far but she will dig a little deeper. Zeglin reiterated she thought it was something that was doable. As far as conditions Zeglin asked if there was a contract in place or not and stated that is all the policing one would have to do. It would be the same as the question as to whether they have a Road Use Agreement with the town or not. Zeglin really didn't think it was as difficult or as complicated as Radtke might think it would be. Zeglin would like the Committee to consider it. In addressing Radtke, Zeglin commented that if the Committee were to consider denying a mine permit simply because several landowners come forward and they are unhappy about their property values, we wouldn't be permitting any of them. Zeglin added there might have been a couple of mines that came forward in the past five years where there haven't been a lot of concerns being raised like that but since Zeglin has been on the Committee every mine has had some neighbors coming forward very concerned about their property. Bawek added that if we don't come up with some sort of template for this area of concern, the applicants are going to be crying "foul" every time for a denial. Bawek thought it was in the County's best interest to, at least, explore the possibility of coming up with a structured template as to how to deal with it and a set distance also. We have to at least try to do this. Bawek stated we are not trying. Lien stated he has been in this way longer than he cares to remember, but we tried this right away about five years ago and the arguments that came before us that were indisputable were that they can produce sales of people that lived right next to the mine that are higher than any of us would ever pay for that property. It may have been the mine that bought it but nonetheless they were increased property values. The industry have been their own worst enemy because when they come into an area and then buyout several adjacent property owners because they know there are adverse impacts. When they do that people pay attention and when people pay attention

then they want the same type of service or they are expecting the value for their property as well. Lien stated we have had assessors and real estate brokers here in the last five years and Lien has yet to hear anyone put a dot with a ring around which says if you are a quarter mile away you have decreased your property by, i.e. 30%, etc, or haul routes or direction of where the mine activity is compared to the residence, if you are on the back side of a hill within a quarter mile perhaps there is no adverse effect. If you're a mile and a half away but you're right on the haul route there is an effect. Lien and Budish are aware of property's that are for sale right now that mining companies have bought and he looks at them and questions why they bought that. Lien has heard different explanations and he thinks it is sporadic. Lien explained that when a feedlot was permitting it had to be "x" number of feet from non-owned residential occupancy. Once it was permitted you got a greater ring around you. We just assumed that odors spread and it had rings of setback. Lien tried to have this discussion with this industry five years ago and said they should be "x" number of feet away from people to actively operate, then anyone that comes into your little ring, "x" number of feet from that, would have to come to the Committee to get a CUP that says there is going to be lights, dust and that way it protects the mining company for future expansion and growth. Lien stated that idea didn't gain any traction. Lien added we have had these discussions but there wasn't good science behind it because it is a difficult subject. Brandt wanted to recognize Bawek's point, which is we need to try to do something, and noted that Brandt heard it. Radtke wanted to respond to what Zeglin had said. Radtke stated he is open to looking at other property value agreements and give his opinion on them. Radtke just hasn't seen any yet that he could say that is going to work really well. They all seem to have some sort of issue whether it be how we prove that or where do we draw the line here or there or what staff is going to end up having to do if you have a particular site or if every one of these sites have it. If every one of these sites have them you're potentially following hundreds of these types of agreements. One thing in particular that was proposed said that if the appraisal was done and then the property put up for sale for a year and it didn't sell, then the applicant would purchase the property for that appraised price. The other language was that if it sold below the appraised price that the mining company would make up the difference and in that scenario it sounds nice but this is public record so what buyer would ever pay more than a dollar for a property knowing that the rest of the purchase price is going to be paid for by another party. When one starts looking at these details, Radtke has heard about some of the agreements, but he would like to see how some of them work in a sense of what sort of time and effort is the staff going to have to do and ultimately that is a decision that this Committee makes. Originally three or four years ago, those were the concerns that Radtke raised as there just didn't seem to be a property value agreement that seemed to work and do what it was supposed to do other than requiring the property's in a certain vicinity be purchased by the applicant. At the last meeting, Radtke had made some notes which he was going to bring up, had it gotten to that point but he didn't have that in front of him right now to state what those are. Radtke stated he is glad to look at other ones he just hasn't seen any that seem to really work cleanly and not have these items that Radtke sees as issues. Radtke explained Budish is going to have to go out to find out what the date was of the purchase agreement that was offered and was it an "arm's length" transaction, was the purchase price paid and all of these things will have to be monitored because when it comes down to the details of these things someone is going to try to follow one party or the other and we're going to be in the middle of it trying to decide whether the condition is met or is it not. Lien and Budish are going to be sorting this out and when they can't figure it out it will come back to this Committee for the clarification on this particular condition and so those are the things that were talked about back then and those are the things Radtke has said in the past. So from an efficiency standpoint it is easier from the County's standpoint to have the parties just work it out on their own. If that system is not working, as Bawek is making the point that it simply isn't working and that we need to do something different, Radtke isn't saying we can't do something, he is just saying it is going to be an incredibly difficult condition that needs a lot of thought to go into it to make sure that they are actually doing what we intend them to do. Bawek disagreed a little bit with that the County is going to be in the middle of everything. Bawek sees it as if there is knowledge that a permit has a good chance of denial because of

neighbor concerns, that these company's on their own are going to go out and get this done before it gets to that point. Lien commented that some of them have. Some of them have worked those agreements out and that is why we either don't see them at the table or they just said we have an agreement. Lien thought those cases are perfect because we don't need to know the details of the agreement. As long as they have an agreement, they can battle that out in court and not put us in the middle and that has happened in several instances where they have given neighbors guarantees. We are not privy to them but Lien has talked to people who have said that they have an agreement with the mine. Lien stated that every month that we have a public hearing we have people coming forward with that same point. Bawek wanted to bring it up because one sees in the paper these mines guaranteeing values within a mile and a half of mine site, and perhaps that is just to get annexed, Bawek didn't know. Bawek added that if one can do that he thought another one can at least approach the issue. Financial loss is a huge thing for everybody out here, everything runs on the dollar and in our stable communities we can address a lot of this for the sake of our citizens. Bawek saw it as basically a good neighbor policy. Radtke stated it has been awhile since he has checked in with other County's. He could do that and see if anybody has put together something that has been workable and usable and does what it is actually intended to do and bring those back to this Committee. Radtke and Lien could then give their thoughts on that type of condition. Radtke once again mentioned that he isn't saying we shouldn't do them or that we can't but generally if we can get it done without having to have the County involved in that complicated real estate transaction type of condition that would be the best but if it is not working out Radtke was sure there was something that we can do. Brandt suggested Radtke look into that and report back. We're hearing from the public constantly and the Town of Arcadia pushed hard for the reclamation of inactive mines if they have been inactive for twelve months that reclamation be required. The town and the citizens also pushed in saying if you have a permit we want to see you operating so we know for our future. Budish and Lien had a meeting last week with an applicant that has a permit in the County and unfortunately there was a neighbor next to them that, once the permit was issued, sold their property for a huge loss, moved out of the area, and there is the potential that the site may not get started for a long time, so that person would have probably lived there another five or ten years. The cries that we were hearing from the public is that we want to know our future, is there going to be an active mine or isn't there. That was part of why the Committee amended the Ordinance and required the reclamation if a site is not active for twelve months. If you do have a permit it requires the applicant to complete all their conditions and actively be mining. We now have a scenario where the applicant maybe doesn't have plans to operate that mine until sometime way down the road unless we force them to and we have a known property owner that sold his property for a loss and bailed because he was certain a mine was going in there. Lien thought that was irony that we don't want to put on our citizens. Those are economic hardships and those are things this Committee can prevent. Lien thought that was the intent of the Ordinance amendment saying that if you have a permit you are going to be actively mining so your neighbors know you're going to be actively mining or you're not. Lien thought that issue would be coming before the Committee sometime in the future to address. Zeglin would like to know how the water sampling through UW-Extension is going. The Committee voted on cost-share for the water sampling and she would like an update (participation rates and exactly how that is going and are they finding anything) on that at some point. Zeglin wants to know what is in the water right now. Bawek commented that is for protection of the mine also. It is a mutually beneficial policy to have in place. Lien noted that Zeglin had made a couple comments about items in Stable Communities that we need to "put on the back burner". Lien thought if one reads through the Stable Communities recommendations they are ongoing things that we need to keep tracking and monitoring. Lien mentioned he is on the Deer Advisory Council and they have some new ways of tracking things. We have lot of fishing and hunting activity in our County that is not done by our residents, and to track that used to be more difficult. Now on the new licenses one has to designate the County, the zone and whether the land is public or private. Lien thought in the future we would be able to get a little more of this information that Stable Communities is asking us to track. When Lien goes to the town to start talks about the Comprehensive

Plan, Bawek asked if he was going to go armed with information on the rails, the topography from 820-920 feet that is conducive to mining, the highway system, etc. Bawek asked if Lien was going to give them a template to start with. Lien replied that they will sit down with each town and look at and try to gauge it in. Lien has learned that to force something upon towns has never worked. The first meeting one just knows is going to be fairly nonproductive because it gets to be a lot of the “throwing the dartboard at the map” and people expressing what they want without a lot of practical thinking. The next meeting will probably be a discussion of where mining makes sense and then focusing in. It will take a few meetings but Lien plans to come with that approach but we want the town and the citizens to “buy in”. When they started the land use planning in the late 1980’s our County was predominantly Ag and every half acre in our county could have a house on it. We came into a town, from a planning perspective, saying hey let’s look at where perhaps a higher density should go and how we preserve Ag, etc. and it was pretty hostile. Lien has some entertaining letters if the Committee wants to read them sometime. It was really perceived as big brother coming in and stepping on the towns. Now that the zoning has been around and they see it is a good working tool, Lien thinks the process will work much better. Lien wants the towns to “buy in” and say what they want their town to look like and then what they want their County to look like. Lien stated we are going to go in with good data and we want them to make some decisions. Bawek stated Lien had talked about an overlay district. Bawek added you can still put a mine any place it is just that in the Town of Caledonia plan they chose to make it more restrictive if you were outside of the district so that one could do it but do you really want to and that has to also be put out there that just because you have an overlay district doesn’t mean that someone who wants to mine can’t mine. If they meet the other more strict conditions it still happens. Brandt commented he is down in the Town of Caledonia quite regularly and since they put in that overlay district there has been enough houses built, irrigation systems put in and enough pig barns put in that Brandt isn’t sure they could find another forty acres to divide to mine, but their plan has worked. Brandt complimented Budish on his representation at the County Board meeting while standing in for Lien.

Confirm Next Regular Meeting Date – Brandt reminded Committee members of the next regular E & LU Committee meeting on Wednesday June 10th, 2015 at 9:00 AM in the County Board Room.

At 7:46 PM, Nelson made a motion to adjourn the meeting, Skoyen seconded, motion carried unopposed.

Respectfully submitted,
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary