

ENVIRONMENT AND LAND USE COMMITTEE
Department of Land Management

SPECIAL MEETING MINUTES
October 28th, 2015 6:00 PM
COUNTY BOARD ROOM

Chairman Brandt called the meeting to order at 6:03 PM.

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

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

Staff/Advisors present: Kevin Lien, Jake Budish, Virg Gamroth, Corporation Counsel Rian Radtke and UW-Extension Community Development Educator Pat Malone.

Others present: Joan Fetting, Ellie & Lorna Klonecki, Beth Killian, Mark & Linda Backer, Ed & Delaine Patzner, Mitch Thomas, Jeff Halvorsen, Darrell Haines, Julie Dick-Blair Press, Jerrod, Matthews, Quinn Brockel, Roger Klein, Mary Meyer Nelson, Kathy Lockington, Karen Geske, John Jasin, Tim Zeglin, Chuck Johnson.

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

Adoption of Minutes - Zeglin made a motion to approve the September 23rd, 2015 special meeting minutes, Schultz seconded. Bawek had several minor changes to the minutes. 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 Pat Malone introduced herself as the UW-Extension Community Development Coordinator in Trempealeau County. She stated she is an educator, facilitator, researcher and her office does a lot of different types of work. Malone was going to talk about a major project that the County is undergoing that is a direct result of the recommendations made in the Health Impact Report. Malone began by saying in the report the first “Stable Communities” recommendation is to enact a countywide, long range strategic planning process that includes the development of a vision to help guide county policy makers. Malone added that was part of the impetus for the strategic planning process. When Malone sat down with the key players and we talked about implementing the process, one of the things we really wanted to do was something called “public engagement” and basically that is just a kind of problem solving approach that brings people together and you try and invite as many people as you can (given money, time, etc.) to join the dialogue around a problem and try to do it productively. The people that Malone was working with said that was important, so we started at the beginning which was to identify the stakeholders. Malone said there are a lot of them. Some of the results that Malone is going to talk about are from the work they did with the towns. They also designed multiple methodologies to reach out and include the public in the decision making process and the results from those efforts currently are being used in the issue identification and we actually do include them in the problem solving action planning. Malone asked the Committee to keep in mind that we are at the action planning stage so we should have a draft of the plan at the end of November and the County Board will

be having a special session to go over the plan and do more brainstorming. Malone added it has been a major project. Malone explained that when they did the town survey they came up with a number of questions and they mailed it out. It was actually hand delivered and talked about at a Towns' Association meeting so we know that every town got a copy of the survey. Seven towns returned the survey. It is a small sample size but it would have been a small sample size to begin with. Brandt commented so it is 7 out of 15 townships. Malone said the first thing the survey asked is how familiar they were with County services. The public was also asked this question. The majority of the people surveyed are familiar or very familiar with County services. They also asked them about what kind of experience they had with the County (This is sort of the customer service thing). They were asked if they felt respected, if the County responded to their needs, if they were accessible and how easy it was to access assistance, i.e. were they easy to work with, etc. According to Malone, most of them agreed or strongly agreed with all four of those statements, so if you're doing your evaluation of staff that is a plus for our County. They were then asked about the frequency with which they had contact with a number of key departments; Sherriff's Dept., Dept. of Land Management, Highway Dept, County Clerk, Public Health and the Treasurer. They could also fill in the blank, so additional departments that were identified by at least one town were Veteran Services, Register of Deeds and Emergency Management. Malone stated it shouldn't be a surprised (taking out Veteran Services, Register of Deeds and Emergency Management because just one town identified them) and if one looks at the rest of the results, you will see that the Highway Dept, Treasurer's office and Department of Land Management are the most frequently used and actually the Highway Dept. and the Treasurer are the most used. Malone asked the Committee to think about what they do as towns which are largely about roads and they have an ongoing connection with the Highway Dept. They (towns) also need to collect property taxes and they work with the County Treasurer to do that. They were also asked not just how frequently they used them but how important they felt that they were because you might not use a department very often but you might feel that it is important. Malone continued with the survey results saying that after Highway and Treasurer followed by the County Clerk (Malone reminded the Committee to think again about the County Clerk's relationship with the towns as they do collections) and then Department of Land Management and Sherriff's Dept. Malone said towns were viewed as a very important stakeholder as they work very closely with the County and we need to think about them. A couple other things that were done is a citizens' survey which was followed up by an online survey that was open ended with open ended answers and Malone just finished up a series of community conversations where they literally went out and had small meetings and they talked with a variety of citizens about some very specific issues and questions. Malone wanted to focus on the citizen's survey because this has the most specific data related to the work of the Dept. of Land Management. Malone explained this citizen's survey was a totally random sample. Malone said, in regard to the questions she's going to go over, that they literally asked the same questions about a whole range of categories and county services but what Malone is focusing on are simply the natural resource and environmental services. The first question was, "How familiar are you with these services that are offered". Malone reported that sadly they are somewhat familiar or not at all familiar. They actually had about 45% which are somewhat familiar and that is actually higher than a lot of the other departments, so people do know what you are doing, but not everybody knows what you are doing. They were then asked about a variety of functions that the department does for the County. The first question was, "Is it important for the County to enforce soil and water protection rules and regulations". Malone reported this ran about 87% with 37% strongly agreeing with that, so there is a lot of support out there in the public for the "policing" job of the Dept. of Land Management. That isn't how they approach it but the public says that is important. The reason they say it is important because it is important for the County to protect ground and surface water quality (94% return on the survey with over half strongly in agreement). Over half of the respondents strongly agreed with that statement. They view that as an essential function of this Department. A very similar question showed up when being asked about the Public Health function because the Public Health Dept. also has to deal with water and again 56% surveyed strongly agreed (96% return) that part of the

County's job is to ensure that people have safe drinking water. For the purposes of discussion that means rural drinking water supplies, as the cities and villages are responsible for the water supply for their citizens, so groundwater and water quality is a critical resource. According to Malone the public thinks putting in dams and grassed waterways, etc. are an important function. The results of this next question surprised Malone as she had peers who have done very similar surveys and this one specifically asks about the County enforcing county level land use planning and zoning. Malone stated that 86% agree or strongly agree that it is an important job for the County. If one asks this question in some of the other county's this is not the response you are going to get. Malone would speculate that a lot of people understand the link between protecting the resource and having rules, zoning and planning, to protect that resource. Malone would argue that they probably see the connection better than some other places. Another question that was specifically asked is if they thought it was important for the County to permit and regulate industrial sand mines. Over half (31) strongly agreed with that so there is a strong majority saying this is the County's job. In reading through the comments from the surveys and also from the community meetings, that was a message that was reiterated over and over again. Another thing that was mentioned as being of importance was the feeling that it is important for the County to maintain its' aesthetic beauty (89% agree or strongly agree with that statement). Malone stated people then had a chance to rank different programs. Malone noted two things about this; 1) This is consistent with virtually every other survey she has ever conducted in Trempealeau County that asked a question somewhat similar to this, 2) It is a little different than other places. It shouldn't be a surprise that maintaining the transportation infrastructure and providing public safety is overwhelming program priorities. In many ways one could argue that is what County's were created to do is to take care of roads and make sure people are safe. The surprise is to protect natural resources and the environment. Comparable surveys, that Malone has seen her peers do, don't place that priority that high. It is usually the next one which is "provide quality services for taxes or economic development". Malone added that one of the things directly out of the Health Study was the desire to do more water testing to establish base line results which Malone is doing. Malone will do a report either at the end of the year or the beginning of the year depending on how we schedule it to the full County Board and she will go over some of those results just to share the data that Malone has acquired. The good news is that we don't have any bad news and the better news is now we have a baseline for the water testing that we can use to move forward from here. Brandt observed that there was perhaps three times where Malone said the answers related to protecting the environment and aesthetics were unusual. Brandt asked Malone if she talked to her peers and if she knows why that is. Malone responded the person she spent the most time talking to about this and similar types of activities is from Jefferson County (as they do many of the same types of programming). Malone explained that Jefferson County is one of the urbanizing county's between Dane County and Milwaukee County with a high level of income and a high level of industrial development which also still has a strong Ag base. It is in the Kettle Moraine area, so its landscape is very different. The hills that are there are fairly gently rolling. It is generally a more conservative area. Zeglin asked if a 33% response rate was excellent as she understood anything over 20% is considered pretty good. Malone responded she would have liked more but it isn't bad – it is actually pretty good. At this time Brandt asked the Committee if they would feel comfortable opening up the discussion to the other public in the room if anyone had any questions for Malone or the Committee. Committee consensus was that would be alright. No other questions were forthcoming from the public present. Brandt asked Malone to send a copy of her presentation to the media. Brandt stated we have heard (and also reviewed our minutes from the last meeting) from an assessor and a real estate agent in regard to property values and as you recall the issue is property value guarantees. According to Brandt the presentations last month just made the issue more complex. We were made to understand that there is assessed value, fair market value and market value. There is also the issue of distance from, specifically, a sand mine. Mr. Irwin also raised the issue of other obnoxious activities within a rural landscape that may or may not result in property value increase/decreases as well as the age of the property and the ability of the property to be updated so that a bank will allow a loan to be done. There were all sorts of

factors related to this and to keep in mind what our Corporation Counsel has advised us in the past that this is something this Committee and this Department is willing and able to be involved in, in terms of refereeing. Brandt stated the floor is open to the Committee as to how they want this discussion to go. Lien stated that after the last meeting, in which there was an assessor and a Realtor®, he thought that perhaps we should have one or two appraisers come and talk to the Committee about their role in this. Lien has received calls from some of them as they themselves have gotten calls in relation to property value guarantees. Lien thought if we could get them in front of the Committee to answer some of their questions that would be a good next step. Zeglin thought that would be beneficial to have an appraiser here at least to educate us as to the process that they go through when they are looking at a property to list for a real estate transaction. Brandt commented that in all of the property value guarantees that we've seen, appraisers seem to play a key role. The parties have to agree on an appraiser, who it is that is going to pay for them and then they have to agree to abide by the results of that appraisal so that would be a valuable element to have more insight into. Brandt advised Lien to try to find someone to speak to the Committee. Lien mentioned there was also discussion at the last meeting about a lending institution giving a loan for a property in proximity to a potential mine site. Lien asked if it was the Committee's wish to have someone from the lending institution come in as well. Brandt responded that Schultz and Rob Reichwein had brought this up last time in regard to information they had heard that a bank had changed some of the financing related to a real estate transaction. Jeff Halvorsen had informed Brandt that the person related to that real estate transaction is present. Brandt acknowledged Mitch Thomas. Thomas stated he is formerly of Parkview Lane, Arcadia, WI, south of Arcadia which is a very beautiful spot. Thomas recently sold his home. The transaction was supposed to go through at the end of September but the deal got held up until the first part of October. Thomas wanted to read his "story" which he and his wife had put together and noted he was speaking only about the financial aspect of the property values. Thomas wanted to tell the Committee how the "proposed" mine affected the value of Thomas' former property. Thomas stated they owned a home on Parkview Lane, as he had stated, a home that is approximately a half mile from a "proposed" mine. Thomas's sold their home to a young couple who chose to make Arcadia their new home and were set to close on Thursday, September 24th. The closing for the house Thomas' were purchasing was set for Friday, September 25th. On Tuesday, 2 days before the closing, Thomas' got a call from the buyer that was purchasing their house that the transaction was being put on hold as the financial institution had to do more investigation because they had heard there was a "proposed" sand mine going nearby on County Road J. At this point, four other family's were involved in this whole transaction; Thomas's, the house that Thomas's were buying, our buyer's house and the person buying his house, so it was a conglomerate of a pretty big deal going down all at once within a couple of days and timing was of the essence. The majority of Thomas's household was packed in a semi-truck and they were ready to go. They were living with two chairs and a bed as they had been packing for weeks. As far as Thomas's knew everything was on line to go through, so for the next few days they waited in limbo while the lender did their investigation. Thomas's were informed that if the sand mine was approved their home would lose 30% of its' value. On Thursday afternoon, the day of the closing, Thomas's were informed that the lender would not give Thomas's buyers the loan – the financing that they had previously been approved for due solely to the "proposed" sand mine on County Road J. The closing did not happen which also meant that the closing on the house Thomas's were purchasing could not go forward that following Friday morning. On Friday, some phone calls were apparently made and a lender agreed to go forward with the financing as long as the buyers would sign a waiver regarding that sand mine. Thomas had no idea what was in the waiver but Thomas stated they had to sign some kind of waiver. Thomas said his property value was significantly affected simply by a "proposed" sand mine. Imagine how much property values are diminished by an actual operating mine. In most cases, a family's home is their biggest investment and losing 30% of its value, possibly more or perhaps not being able to sell it at all would be devastating to most people. Thomas asked the Committee to please protect these home values in Trempealeau County. Zeglin stated she was confused about the 30% drop and questioned if that was in payment to Thomas or that the

lender refused to give the buyer that additional money. Thomas answered that the initial loan application was denied because they were saying if that sand mine did come in that they (lender) could lose up to 30% of that home value. Upon Zeglin asking if the purchase price to Thomas remained the same or if that was lowered also, Thomas responded that it remained the same but the loan was potentially denied. Upon Brandt's consent, audience member Kyle Slaby asked Thomas if that was conventional financing or a cash transaction. Thomas responded it was conventional. Slaby clarified/questioned that the buyer's lender wanted a reduction in the amount that they would extend to the buyer based on the "potential" mine. Thomas's response was that it was the underwriters of the potential loan. Slaby clarified/questioned that the underwriters perceived a drop in value. Thomas responded "yes". Brandt thanked Thomas for his comments. In regard to the property values, Darrel Haines stated he lives in Thompson Valley, next to a sand mine on Gary Waldera's farm, which was previously owned by Haines' aunt. Haines said that the City of Arcadia wanted to annex the Kreibich, Klink and Waldera properties in and it was united with the town but Haines doesn't know where we are sitting actually. Haines said he did talk to a Realtor® in Arcadia and asked him about selling Haines' house. According to Haines, the Realtor® basically told Haines that he may as well talk to the sand mine. The Realtor® was willing to list the property for Haines but said Haines was not going to get the value of his house it is going to be a lot less. Haines questioned what do you do? Haines added that if they annex to the City basically he would have a berm around his house and a sand mine in back of it and if Klink's do theirs there would be sand mining across the road. The only view Haines said he would have is to look out his back window. Haines asked what one does with a situation like that? Does one sell it for less and pull out or do you just walk away or give it back to the town and say, "Here it is you guys deal with it" and go somewhere else. According to Haines that is what some people have done in Eau Claire, etc. Haines stated he doesn't owe any money on his house but people who had homes that were two or three years old just walked out and gave it back to the bank. Brandt questioned if those were homes next to sand mines? Haines answered yes – houses connected to the sand mines where they have pulled in. Haines added he has nothing against the sand mines or people selling their land as they can do whatever they want as it is their land. Haines hauls fuel and said that he hauls a lot of fuel to the sand mines and they do a lot of business with the company's so Haines didn't want to say anything bad about them. Haines said you have to help the people deal with it. Haines stated he has no problem selling his house. Haines went and talked to the sand guy and he said if it goes through we will have to sit down and talk and make some arrangements. Haines has no problem with that if that is what they want to do, just give him fair value or something for his house that he isn't going to lose money on it. Karen Geske asked Brandt to clarify with Haines if the sand mine would purchase his home if an annexation goes through but when Haines talked to a Realtor® about just generally selling his home outright, regardless if there was an annexation (which Geske was assuming was an expansion) that the Realtor® would not be able to sell it or list it or he would have to take a significant loss. Haines responded that the Realtor® basically told him to talk to the sand mine as when you are right in the middle of it, it would probably be in their best interest to buy it because it is surrounded. The Realtor® said he would list it if Haines wanted to but Haines would not get the money that it is worth, you're going to lose money on it. Haines added he didn't put a percentage on it. Brandt thanked Haines for his input. Brandt stated what it is we're hearing is how it is that property values and the way people sell their homes and the way people perceive their property is changing. Obviously, this is an example of two, but this represents a shift in how it is that people approach ownership of property in Trempealeau County and one of the concerns that we need to take into consideration when dealing with Conditional Use Permits (CUP) are property values and that is why we are here today. Brandt said that Mr. Haines' situation is different in a sense because he already has a sand mine nearby where Mr. Thomas's is a "potential" sand mine. Brandt asked the Committee what they were thinking about. In regard to the information that has been presented to the Committee on property value guarantees, Bawek asked Corporation Counsel Rian Radtke if he had any updates for the Committee on that subject, which the Committee is pursuing, or do we need to explore the option of any overlay district with the potential of a

“no permit” or no extensions to existing mines in an area unless they meet certain criteria of a property value in that district? To further that discussion, Bawek would also like to talk about (when they talk about property values such as 125% of current value which some mines do or existing mines have offered that but not on ag land) if we offer a fair market value on ag land and it is in the \$3-4,000 range which is the going rate for farm land and the neighbor down the road waits and sells his for \$7-8,000, the fair market value has done that person no good so what we’re pursuing is not of any value. Bawek thought about this and we need to then educate our constituents when they go into these property value guarantees as to mineral rights, water rights, timber rights and other right of first refusals and buy back options. Bawek wondered if Radtke threw any of this together as to what the Committee can pursue. Bawek stated we’ve discussed all of this at length and he is wondering if Radtke has anything new for the Committee. Radtke responded he doesn’t have anything new to present or any new ideas. Radtke just reiterated what he has said the last several times regarding property value guarantees and the issues and concerns with it. Bawek clarified that we have the right as a Committee, when we have constituents with concerns, to simply deny a permit based on that fact? Radtke answered that each application is taken on a case by case basis but the Committee can, in a situation, look at if property values are a problem as our Ordinance talks about property values being something to consider in granting or denying a permit. As Radtke as said in the past, if the site is not a good site the Committee can deny a permit as long as it is for reasons based in the Ordinance. Radtke has suggested in the past that the Committee direct or work with the applicant to work with any neighbors who have property value issues and have them work them out on their own and if that is satisfied then it is no longer an issue to the Committee. If it is not satisfied then it is an issue that the Committee would look at. Radtke added there is a variety of issues; legal issues, workload issues, logistic issues as to how do you enforce a property value guarantee. What is fair market value? Brandt chimed in what is market value and what is assessed value? Radtke continued who hires the appraiser? What criteria are they using? Who is paying for that person? What happens if it isn’t followed through? What happens if the property owner does not like the terms that the County is imposing on the property as to a future sale related to fair market value? Radtke said there are a lot of issues related to that and Radtke’s recommendation is to stay out of all of those issues and allow the parties to work it out on their own. If they cannot work it out on their own then it is something that this Committee would need to address on a case by case basis and there is not a right line rule as to how that would go but that has been Radtke’s recommendation. Radtke hasn’t seen anything that would make this issue any clearer or any less of any issue. In fact, it seems to Radtke that the more we peel back the layers, the more potential issues there are to consider or think about. Radtke stated he knew that last time Brandt or Schultz had asked him to come up with a perfect plan to address all issues and Radtke wished it was that easy but he doesn’t have that answer or that power to come up with something like that. Bawek stated that, clearly, the Committee options are whittled down here to one of two: as the Health Impact Study recommended, simply not allow any more sand mining in the County or 2) an overlay district. Bawek didn’t see where else we’re going with this other than education of our constituents to the best our ability; make something available so that when they go into potential negotiations that they have the best education that we can provide them as to values. Brandt clarified and Bawek agreed that he was talking about an overlay district with boundaries. Brandt commented that based on what it is that Malone was saying related to her survey, the results of the survey may be a result of the survey questions but what Brandt is hearing from her is that the public sees us as the protector of the resource; the water, the aesthetics, the hills and soil. Maybe it was because the question wasn’t asked but they are not asking us to protect them. There is a subtle different there. The call is to protect what we have and if anyone disagrees with Brandt on that he would be glad to start the conversation but that is just what Brandt is hearing. Brandt raises that point because part of what you’re talking about is sort of throwing each individual (because we deal with this on a case by case basis) property owner into an arena where they’re to act on their own. Brandt didn’t know how we can get in there, into that arena where they’re to act on their own, other than by educating. Our power is to protect the environment and Brandt didn’t know how we could protect individuals within that arena of

negotiation. Brandt wanted to throw that out there as something that was going through his mind during Bawek's comments. To address Bawek's question, Lien stated that past precedence has been that a lot of applicants come in here that have worked out issues in advance. They have come in with property value guarantees or purchase agreements with neighbors. In cases where they haven't, the Committee has tabled any decision in order to let people try to work it out and Lien thought each one of them has worked out (at the final hour during the meeting) some type of agreement. Lien stated the Committee hasn't ignored the issue of property value guarantees they have just addressed them on an individual basis. Lien thought the industry has realized it more because the later applicants that we saw come forward seemed to have made agreements before they ever got here, so Lien thought the industry and the public are both learning how to work together. Even though we don't have a clear defined resolution today, this Committee has always addressed it. On many sites there has been mitigation or agreements that have taken place where people have either sold their property or have a property value guarantee to sell later. Zeglin voiced that she thought there are still a lot of people that don't come forward and that she was thinking particularly about the Segerstrom mine. That property is lined by approximately eight different landowners. Zeglin knew there was concern there but not one of them came forward. Zeglin wasn't on the Committee at that point in time. Zeglin said that a lot of people just feel that they don't have a say in what is going to happen. As far as Brandt saying that the survey results that Malone presented to us doesn't indicate that the people want protection, Zeglin didn't know that any questions was asked in that particular direction. Zeglin still thought and would like to see this Committee do something. Zeglin has a couple of ideas that she is going to present. (Zeglin gave a handout to all Committee members). Lien agreed with Zeglin and added that perhaps it has been a slow learning curve. Tonight was the first time Lien had heard that a lending institution put a number/face value on something proximity related, i.e. a 30% value reduction. That is something this Committee has been struggling with, perhaps a fee by distance, because we are not a flat county. The first thought Zeglin had, (Since we have not been able to come up with a property value guarantee that Radtke finds workable and prefers that we leave it up to the various parties) was that a permanent condition be placed that states, "Property value agreements must be in place for all property adjacent to the sand mine. The agreement must include all tax parcels within that property; the agreement must include all tax parcels within that property. The agreement will be valid for a period of five years after the mine begins operation. The agreement must be in place for any subsequent owners of said property for five years after their initial purchase". Zeglin stated this would leave any agreement up to the parties involved within certain standards required by the Committee. In reference to "all tax parcels in that property", Brandt asked if Zeglin meant all the tax parcels owned by that person. Zeglin responded, for example with Hi-Crush, they will only buy the house and an acre or the house and ten acres, well that still leaves some people bound to that property because they perhaps own 100 acres more and they still can't leave, i.e. With Zeglin's farm they have 90 acres which is four tax parcels, so they can't just cut it off. Brandt clarified this first part suggests a change/addition to the standard conditions and the second part would be an addition/change to the Ordinance. Zeglin continued with her suggestions to the Ordinance; "no mining will take place within one half mile from any residence, livestock facility, school, hospital or senior living facility. No mining will take place within one half mile from any pond, lake, stream or river" and we might add well to that. In regard to Zeglin's proposal on property value agreements, Schultz read aloud "must include all tax parcels within that property". Schultz asked if that was stating that the property value agreement applies to each parcel individually, if that was Zeglin's intent? Brandt commented that was also his question. Zeglin answered yes. Upon Bawek questioning if "adjacent" meant "bordering the sand mine perimeter", Zeglin said yes. Bawek asked if that would also extend to any expansions. Zeglin responded yes, but for any expansion they would still have to come back to the Committee to ask for the expansion and any standard conditions would still apply to that. Brandt commented that one of the new "wrinkles" that came out of the last meeting where some of the property value guarantees had been extended to people along the haul route. Lien stated he supported Zeglin's thinking but he knows from drafting Ordinances that one has to have some science behind numbers.

Lien questioned where the “half mile” comes from and how does DLM staff enforce that. Lien knew there were a lot of studies and work that went into the original drafting of the Ordinance in regard to setbacks so Lien was wondering where the half mile came from. Zeglin responded that she knew there were wells that were having problems within a half mile of Hi-Crush if not further out than a half mile right now. Zeglin continued that we’ve had problems with streams, as far as storm water runoff. Zeglin stated she knew there was a problem at the Guza mine and a definite problem at Preferred Sands a few years back. Brandt called on Radtke to respond. In looking at Zeglin’s handout, Radtke noted it says “a property value agreement” and asked if that means “a” “property value agreement”. Zeglin clarified she meant just something. Radtke clarified that the parties have worked it out amongst themselves and said, “Here we have this agreement”. Zeglin responded yes, as Radtke has stated numerous times that we cannot oversee how an agreement is created but as long as it is agreeable to both parties. Radtke stated he hasn’t said that we can’t oversee it, but it is just that there are a lot of complications that result in it. Radtke commented that he wished he had all his notes from all the previous meetings we’ve had on this issue, but the issues that come up from having the County involved are a variety, but this wouldn’t be a property value guarantee that the County says here is the agreement you guys go ahead and sign it? Radtke clarified this would be one where the parties come up with it on their own. Zeglin responded that was correct. Radtke had a question in regard to the wording “adjacent to the industrial sand mine” and asked if that was the mine border? Zeglin answered it would be along the border of the mine or the permitted site. The other question Radtke had was in regard to the statement, “Five years after the mine begins operation”. Radtke said that seems like it should be pretty easy to figure out but Jake Budish and Kevin Lien will tell you that is not always real easy to determine a start date of when a mine begins operation; does that include construction on the site, does that include excavating, does it include processing or when there is actually product leaving the site? Radtke understood Zeglin was just presenting a rough draft here today, but stated the reason he is looking at the details is because Budish and Lien are going to come to Radtke when enforcing this Ordinance and say, “Ok, What does this mean, how do we enforce that, or when can we enforce this or that, so that is Radtke’s interest in looking at some of these details. Zeglin responded this is definitely a rough draft – thoughts that she has had. Zeglin stated she had put five years in there because some people would not be interested in an agreement. They think they’re fine living next to a sand mine. Some people would like to try it to see if they could live there because, frankly, some people don’t want to move. Most people don’t want to move. We are here for a reason. Five years would give them the opportunity to find out if they can live with a mine or if it is driving them crazy. Zeglin didn’t want to limit them to, i.e. within six months they have to make a decision one way or the other. We have had people sell right away (two folks that she could think of) who were next to a mine, that received a preliminary CUP, and as of today’s date nothing has happened on that site, so they left the County, right now, for nothing and they may have wanted to stay, so that is why Zeglin put the time period in there. As to the property value agreement language, Radtke asked if that was something Zeglin envisioned as the Committee just looking at and signing off on or just hearing from the parties “thumbs up, we have one”. Zeglin answered she envisioned just hearing from parties surrounding the mine border that, “Yes, I’ve got something in place, I’m happy with it”. Radtke said the reason he asked is because some of the issues that he has raised in the past is with the County dictating terms of the agreement or saying yes this is a good agreement for both parties or one party as we are really in a position of giving legal advice or saying yes this is good for you. What if we are wrong or what if we overlook something in the terms of the agreement, so that is one concern that Radtke would have as the attorney for the County. Radtke represents the County and the County is his client. Radtke can’t do legal work for other entities so signing off on an agreement is a concern of Radtke’s and that is why he thinks it is good that the parties work out an agreement on their own as opposed to the County dictating terms or saying, “Yes, this will protect you, you are safe now”, because it would be very difficult for the County to actually do that and guarantee that. This kind of ties into what Bawek was talking about earlier, so let’s say this is a reality and we have parties/landowners negotiating these types of agreements, from the education side how it is that they’re going to know how

to do this without hiring their own attorney and going through that process? Radtke thought Bawek was talking about something that would be available as a resource to citizens in the County as to how do we do this or what are the basic terms and what should we know when we go into these types of things. From a County standpoint, Radtke would have a real concern giving some sort of tutorial in that regard because it would come across as legal advice, most likely and again that is something that Radtke can't and won't do. After the meeting last month, Radtke knows we talked about seeing if that is something that, i.e. UW-Extension would do because they provide education type resources on a variety of topics and Radtke thought maybe that is what Bawek was asking for regarding if Radtke had any updates. Radtke thought perhaps it wouldn't be something they would want to get into because how does one give some resource education on negotiating a property value agreement without giving legal advice because the property owner who is entering into this agreement wants to feel assured that they are protected, their rights are protected and from tomorrow through year five (if it is a five year agreement) that all those years everything is going to be cut and dried and protected. Often times one needs an expert to help craft and reach that agreement. Radtke thought the two are kind of related in that regard and Radtke didn't have an answer for Bawek as to what that education would look like or if it is even something that is possible as a resource to help people reach this agreement. Radtke would certainly caution the County from saying, "Yes, we've looked at your agreement and that looks good, that will protect you", because we would essentially be giving legal advice and people would be relying on that and if you're wrong that could result in some exposure for the County as well. Zeglin didn't see any need to review anything and that was not intended in this document at all, you simply have an agreement in place which is excellent and that is it. Brandt stated he had some audience members that he wanted to get into the discussion. Brandt called on Karen Geske, Jeff Halvorsen and Kyle Slaby to come to the microphone. Kyle Slaby introduced himself. Slaby stated, as an operator, he would like to see the Committee draft a property value guarantee and a water well guarantee. His reason being that when you are dealing with landowners you may come into a situation which you cannot control. One man has already spoken that he is reliant on Mississippi Sands to give him a property value guarantee and another man has also stated that a loan did not go through for his property purchase. Slaby clarified that Thomas ultimately closed on the deal and received the funds. As an operator, Slaby would like to see a path that we could follow and he thought it would be wise if the County could appoint a sub-committee made up of three people from the industry, three residents who are affected by a situation like this and come up with a draft that represents the property value guarantee and a water well guarantee. One suggestion that Slaby would have that he thought would be wise is, as you are issuing out well inspections within 2,500 feet of the mine site boundary, you could extend that out for the water well guarantees or the property value guarantees. Slaby did see sense in having property value guarantees on places that would be directly impacted by a; i.e. a haul road. Slaby reiterated that he would like to see the Committee draft this language because when you are stating that you want to see it worked out between the operator, you may run into a landowner who is completely unreasonable. Personally, Slaby stated he has dealt with this, with one landowner, where the value of their property is \$126,000 but their perceived value is half a million. Slaby asked how one deals with that? Does the one landowner's property right control the operator's rights? Slaby thought the Committee should be the enforcer. Slaby knew Radtke didn't want to do it but he joked about Radtke being salaried or hourly and making him work for it. To rebut what Slaby stated about the value of that property and a person wanting more than what someone feels it is worth, Bawek was reviewing the minutes of the September 23rd meeting and Kevin Irwin had gone through a lot of the property's that were sold and in one of the instances he talked about that there was a one acre parcel in the Town of Preston that sold for \$550,000 with an estimated fair market value of \$100,000, so in that scenario it is a matter of does a mine need that property bad enough that they are willing to go above the fair market value. For us as a Committee to be able to say, "Hey, you can't charge more for your land; Bawek didn't know how we would ever get there. Slaby responded he thought that could be a balance of working with an appraiser. Slaby clarified that Bawek was referencing Kevin Irwin, the assessor for a number of townships and municipalities in the County.

Slaby would like to see a mix of appraisers, i.e. an operator comes in and they want to determine fair market value or highest and best use (Slaby is not a specialist in this) and that you may take a mix of one, two or three of them. When we were going to acquire a property, Slaby contacted the State Bank of Arcadia and they referenced that Slaby use Northern Investment Company. Maybe a certain appraiser is going to give a higher valuation but Slaby thought a random polling of three of them and then taking the average may help to determine its' value but Slaby doesn't deny that certain operators are willing to go above and beyond. For instance, Slaby did an appraisal on the Arcadia property at the intersection and the valuation was \$3,500. We are offering \$50,000 but the landowner perceived value is \$500,000. There has to be some give there. Slaby asked what does an operator do. Bawek responded there again, the operator owns the land and Bawek thought he has the right to ask whatever he wishes. If the mining company wants it bad enough they will pay what he wants or they will just walk away and find another alternative. Bawek didn't want to take away the right from someone to ask whatever they want for their property because they own that property. Slaby understood that. Bawek had a question on "highest and best use" and asked what Slaby was referencing. Slaby asked Bawek if he understood the concept. Bawek said he has heard the concept a number of times of "highest and best use" and he has heard operators tell him (Bawek) that removing the sand in the Wonnewoc layer (which most of our well water sits in) is the highest and best use and yet Bawek thought our water was the highest and best use or where our wells sit. Bawek stated he has a "beef" with that. Slaby responded that he is not an assessor and there should be an assessor up here to answer those questions but Slaby's comment on "highest and best use" would be the highest and best use proposed for that property whether it be development, i.e. you have 160 acres next to a 320 lot development so the highest and best use would be development. Bawek clarified Slaby was speaking monetarily. Slaby responded that is correct and that is how an assessor works, but again there should be a certified person answering these questions. Halvorsen stated he is from the Town of Arcadia. Halvorsen wanted to address a question to Zeglin. Halvorsen stated Zeglin referenced a five year agreement and asked what happens when the sand mine gets permitted and the next day they sell. Halvorsen asked where does the property value guarantee sit then with a new operator or owner. Zeglin responded that new operators assume all the conditions originally placed forward in the CUP, so they would have to assume all those liabilities. Lien added if it is a condition that a property value agreement be established for that site and people have come forward and said, "Yes, we have a property value guarantee and if in the private individual agreement it said that it is no longer honored if it is transferred then Lien thought that is what Radtke was stating as to that he didn't want the Committee to review those. It is up to the individual to ensure that the language in there is what one wants. Lien thought what has more commonly happened is that the land has been annexed and then all conditions are gone. At the County level, if a new operator comes in, the conditions do transfer to them and we ask them to come before the Committee before the transfer is made so that the Committee can go over the conditions with them to make sure they understand. It was clarified at this time that it is proposed that property value guarantees would be part of the standard conditions. Karen Geske commented that after what she heard tonight and as she listened to what Lockington presented, she believes that it behooves this group of people here to extend the boundary for wells. Geske said she was at a meeting at the Town of Lincoln. According to Geske, Dave Blaschko was on vacation, as he likes to go hunting, and he is a friend of Geske's and he came back from his hunting trip only to find sand in his toilets and coming out of his drinking water. He is outside of that half mile boundary from Hi-Crush but yet he is affected. Geske thinks we have "beat around this bush" long enough. There is a lot of years of experience going on here now of examples of people coming forward to talk, that it may be time to revise some of the County's rules. Geske questioned how far the boundary agreement is for wells? Brandt answered that the testing is required up to 2,500 feet but there is no well guarantee, not unless they have had one individually. Geske thought it would behoove her once again to say that we just watched Pat Malone show all of us what we all hold the dearest in this County and it appears to Geske that it is our water. Geske thought there is something that the County can do to protect its' residents and the County is here to work for the residents that live in this County. Geske stated she

believed that you should extend well water protection out a mile off of any mine. Brandt clarified that she meant a well water guarantee. Geske responded at least, if you're not going to do a property value guarantee because a well is an expensive item to replace. If you don't want to do a property value guarantee, then Geske thought, with what Mr. Slaby said about putting together a citizen group to look at this, it should include everyone's parcel of land. Geske stated she was affected by Badger Mining and not being able to sell all of our property or any of it unless it all went to Badger Mining and it is ridiculous. Geske suggested the Committee do something like, i.e. after you give out a conditional use permit, you have all parties sign that all agreements have been met or just something to have on file. Brandt responded that is something we do. They are not able to begin operation until all the conditions have been met and they go through the conditions with staff. Geske liked what Slaby had to say about the group working together but she did have to agree that Geske's land, to her, might be priceless so when we look at these guarantees (she had spoken to Lien earlier this week about the City of Arcadia), for people to have to leave because they did not put in to be next to an open pit mine, she would feel no less than 125% is what should be mandated. Geske didn't understand how or why, Mr. Radtke, we can't do that as it is just a number.

Tim Zeglin, the District 12 County Board Supervisor, had two clarifications. Zeglin clarified the term "highest and best use". Zeglin stated he is a licensed assessor. Highest and best use is a basic assessment concept and Zeglin thought the best way to explain it would be by example so if you have, i.e. a ten acre parcel which is capable of producing 180 bushels of corn per acre but it is also capable of being wet fallow and growing a few sprigs of grass and if the owner of the parcel decides all they are going to do is graze sheep on that ten acre parcel and the owner says I'm just grazing sheep and it is pasture and it should be assessed at \$60 per acre, the concept of "highest and best use" says you may choose to just graze sheep on that parcel but it is actually capable of growing 180 bushels of corn per acre and that is how we are going to assess it, so that is what the concept of "highest and best use" means. It is an assessment protocol, it is not a moral judgment, and it is not a value judgment. Frankly, Zeglin wasn't sure that the whole concept of "highest and best use" really applies to the situation of groundwater. Schultz thought that was interesting and that "highest and best use" is used to basically dictate to someone what their land should be taxed at. Zeglin responded the assessor doesn't dictate, the assessor is the person who says this is the value of the piece of property. Zeglin continued that the assessor decides and if the landowner disagrees with that valuation then the landowner has several routes of appeal. Zeglin added the concept is very old and it never dealt with something like groundwater – it just deals with what the owner is doing with the land, it doesn't involve aesthetic value nor the value of the groundwater or the mineral rights underneath. Brandt commented the example Slaby used had to do with a piece of property adjacent to a townhouse development. Zeglin responded the assessor in that situation would say that it has a much higher value as developmental and that would be the assessed value. Tim Zeglin's second point had to do with Kathy Zeglin's proposal. T. Zeglin stated it was a surprise to him too but he thought the Committee should see it as an attempt to move the Committee forward. The Committee has kind of been picking at it from different angles but T. Zeglin really thinks that she is proposing it in order to say that we should either come up with a decision on the property values or drop the subject and move on. T. Zeglin added that the Committee can discuss as to how far it should be but the basic concept is, does this Committee have the responsibility to include property values or not. If they don't, move onto something else.

Kyle Slaby stated he is a big supporter of the property value guarantees and the well water guarantees. Slaby commented that if you wanted someone to appraise your property for highest and best use regarding water you would need to have a tangible, something that is physical, like a conditional use permit for a water bottling factory and you, as a customer, can ask the appraiser to assess it anyway you want but it needs to be tangible. Slaby suggested getting an appraiser or assessor in here. Brandt

commented that K. Zeglin's point is that there are intangibles as well and that is something that we've struggled with.

Kathy Lockington stated her property is adjacent to Mississippi Sands which is under the direction of the City of Arcadia. Lockington's property sits on a hill. Trempealeau County has a lot of hills, so it does overlook the sand mine. Lockington has no property value guarantee. Lockington likes the idea of "adjacent" properties. Lockington would like a water guarantee as Lockington has nothing there and Lockington has had sand in her water. She did put her own filters on. Lockington is looking at retiring in the future and selling her property. She asked the Committee to think in terms of people that do not have property value guarantees that are adjacent to a sand mine that was supposed to be a wonderful development in ten years and she is out there hanging. Lockington agreed that you have to have some guidelines for people that are adjacent to a sand mine or perhaps have a view of a sand mine. She didn't know where we go from here but she said please go forward with that. Schultz asked Lockington to comment further on what some of the insurance company's have done. Lockington stated that if she is going to sell this property she is going to need to have something in writing that her water is fine, etc, but she didn't have the article with her that Schultz was referencing. Schultz had a question about the City of Arcadia's Ordinance and asked if that applied to Lockington's home. Lockington responded "no".

Radtke stated, as to that comment, if they site a mine in any municipality like a city, even if the County were to adopt a standard condition that neighbors or adjacent property owners have a property value guarantee, it would not apply. It only applies if the mining site is in the County, in the town, not in a municipality because the County can only regulate the areas in the towns. The city's regulate what is in a city so the buffer zones or any kind of site distance limitations, etc. would only apply to mine sites that the County is permitting not ones that are in a city, so Radtke said there are those situations where he doesn't have an answer as to even if the County does this it isn't going to apply. Schultz asked Radtke for clarification as to if the Committee were to permit a sand mine on the edge of a city and it said a property value agreement must be in place for all property owners adjacent to the industrial sand mine and the sand mine permitted by the County was bordering neighboring city residences would that potential ordinance not be enforced and would we not be considering the city residences. Radtke responded that if they were "adjacent" he thought that would be something that would apply even though they are in the city, but generally these are conditions that attach to a permit, so since the County is not holding the permit for a mine site that is in the city, we can't just create conditions out of the air and say, "Well there is a mine site over there let's attach conditions to it". We can't do it. These setbacks wouldn't apply because they only follow any mine site that is in the County.

Linda Backer from the Town of Arcadia stated they have the exact scenario that Radtke was talking about. We are in the town but a mine that they are proposing would be annexed to the city and there are a number of homes very close. Backer lives on Park View Lane in Arcadia, right next to Thomas, who just had quite an ordeal to sell his home. There are quite a number of homes on Park View Lane, Woychik Lane, Orion Lane, Locomotive Lane which is very close to the City and that sand mine would be right in the middle. If we have a sand mine there, annexed to the City, we have all of these town properties that are in limbo. Lockington has town property right next to the city. It is the same deal. It doesn't work. Backer really appreciates the Committee looking into this and how this might help to standardize this. One suggestion Backer had would be not just "adjacent" properties because all the residents that Backer just talked about aren't all adjacent. We are very close but we don't all abut the mine property line but we would all be very much affected. It muddys the waters but it is very, very important to a whole lot of people whose homes are right there. Backer appreciated being able to speak.

Brandt stated what you have both raised at this point is the thing that we don't always keep in mind which is that there are places in rural areas where there is a development whether it is American Heights or something else. K. Zeglin commented that was one of the reasons behind her talk about the addition to the Ordinance that no mining will take place within a half mile from any residence, etc. for those residents or facilities that are not exactly adjacent to the mine. You still can't mine within a half mile of any residence so it is essentially a buffer.

Julie Dick from rural Whitehall said there is a lot of talk about mines annexed to cities. Dick didn't think anyone here was from a city. Dick asked exactly what the permitting process was for a city because she didn't know if she ever heard how that works. If a new business is going to open in the city, Dick is very confused on how that works and wondered if there was a standard in the cities. Radtke responded each city has or could have its' own ordinance and that dictates how that permitting process would go, whether it is conditional use or a permitted use, so you would have to look to each city's ordinance on the topic to find out what the criteria is or the fees are to get a permit, so each city would be a little different. Brandt found Dick's comparison interesting as to what it takes to open a grocery store in Whitehall and what does it take to open up a sand mine and load up the sand as they are both businesses in the City limits.

Roger Klein from American Heights Lane stated he keeps hearing the "half mile" parameter. Klein asked what is magic about a half mile. Klein said Mitch Thomas was affected a mile away by a "potential" sand mine so he didn't think we should get locked into a half a mile as a part of this process because it goes a lot farther than that. Brandt commented this is also the message from the Realtor® from the last meeting as he had said a number of times, "location, location, location". Sometimes a half mile maintains a level of desirability that allows a property to sell right away and sometimes something a mile away has a view or sound or a light that makes it impossible to sell. K. Zeglin stated there has to be a line somewhere. Previously we had 100 feet for well setbacks and well inspections up to 2500 feet because of the science up to this point saying that wells are not being affected beyond that point (2500 feet). K. Zeglin is sure that isn't the case anymore but she wasn't on the Committee when that was established and she believed Lien had said there was some science behind that. Lien stated, if you recall, we have had several specialists come in over the years and talk to this Committee and groundwater is a very, very complex issue. Depending upon what aquifer you are drawing from and your specific location, wells dry up where there isn't mining activity too. Realistically, Lien said you can place a number and try to enforce it but a lot of things can get challenged in court and if you don't have science behind it you don't have a very valid ordinance. Lien thought the problem that comes with that is we issue well permits in our Department and we issue permits almost weekly that are replacement wells where no mining activity has taken place. Our environment is changing. Groundwater fluctuates which is part of the reason this Committee put money into a groundwater study in the County as we are trying to have better documentation. We have fairly good documentation near mines that were permitted to the County because we require testing. In other parts of the County, we have no documentation of the influx of groundwater and that was part of the purpose that this Committee is putting the effort and money related to that because if we pick an arbitrary number, whether it be a half mile or mile and one doesn't have science behind it, they are just not going to hold up. We've heard rumors of several places in the County where mining companies have replaced wells on their own. Never once have we been involved in the middle, they just did it. Lien thought they probably do it in good faith so as not to get into court battles. Lien knows personally that there are other reasons that wells go dry. It is difficult to put numbers on those things just like property values. When we did the noise study in our County, we realized very quickly that one could be 100 yards from a mine and have no decibel impact or you could be a mile and half away and have a great decibel impact depending upon the topography or where you are located. The same goes with site distance in the County. If something is not aesthetically pleasing and it is a hundred yards behind you, it doesn't affect you. If it is two miles

away and it is a bright strobe light, it may adversely affect you, so those are the things that Lien knows are hard to juggle and he and Radtke struggle with. It can be real simple to put it on paper, but then how do you enforce it to the point where it is a benefit to the public. Lien thought that is what this Committee is struggling with; trying to find those nominal distances and things that benefit the public in an Ordinance but yet are enforceable. Brandt stated a number of people have said already let's just move on. Brandt asked Kathy Zeglin if that is part of what she was saying is that we should do something or drop it. K. Zeglin responded that we need to further this conversation. We need to find a solution. So far any property value guarantees that have been put forth or given to us, Radtke isn't finding satisfactory. We can't come up with anything solid. K. Zeglin stated we need to protect the people in this County. If someone wants to do business here there are certain parameters that they have to observe. You can't destroy someone's life by putting a business right next to them when they have lived here or moved here to be in the country, to enjoy what the country gives to them. We need to protect our people. That is what County government is for first and foremost. Lien commented that is a great plug for planning and that is why the County started doing planning in the late '90's because of these. It isn't just sand mines, it is the adverse impact from whatever we do in society and there are a lot more things than sand mines out there, and that is where it goes back to the planning. There has to be comprehensive plans that work in harmony with each other or zoning districts that only allow certain things. That is why we have rezones come before us for incompatible uses – spot zoning – all those things go back to good planning. With land use planning, perhaps some of these industrial uses out in agriculture settings don't belong there.

Radtke stated he gets a lot of criticism for the position that he has taken here but he wants to clarify that it isn't that he isn't finding an agreement satisfactory. What he is pointing out is that when one looks at the details of these things there are questions/issues related to enforceability, who is going to pay for what, how are things going to happen. He is simply pointing these out to the Committee as to whether or not they want to go down this road because you're going to be taking on a whole lot of extra issues and we're going to need to look into this with more detail. Radtke knows there has been a couple of comments that the County should just draft one of these agreements or sit down together collectively and come up with one, but as people are seeing here there are issues. When you impose a property value guarantee against an applicant that seems to make sense –ok they're coming in, they're new and going to affect what's here but when you are doing that you're also imposing a limitation or restriction on that landowner as well, whatever the agreement says they're going to be bound to and it may be a cap on how much – 125% of their value. Radtke said Bawek made a fine point. Why would I want my own property limited because somebody moved in next to me and now the County has an ordinance that says now I can't sell my property for any more - by this cap or I'm now going to be bound to hire an appraiser and have that person come in and compete against another appraiser to set a value. When we have these proposed conditions where we are going to have a property value guarantee that we're going to create and impose, we are imposing it on both parties. On top of that, there are really important things involved in a property value guarantee, it is a contract. A couple great points were brought up tonight. What happens if there is an annexation and what if the agreement didn't deal with that, now what? What if there is a sale or a transfer of the owner? What happens if there is intermittent mining or activity or there are terms as to when mining begins, operates or is active and there are periods of inactivity. What happens then? Radtke stated there are so many of these little details/questions that you really need legal advice to sit down and have a quality property value guarantee, if you are a landowner and if you are an operator/applicant as well. You are going to want to make sure your rights are protected, so putting the County in a position where the County would be giving this sort of legal advice and assuring that both sides are going to be protected and ok and moving forward is extremely difficult to do. As a legal counsel for the County, to put himself in a position where I have to ask myself from a legal standpoint who is my client, well the County is my client. That is where a duty of loyalty is, that is who I am advising and that is who I am trying to protect to not get into some legal entanglement.

When you broaden that and say, “Now Rian I now also want you to start thinking about the property rights of this party and also that party, it starts to get very complicated, so it is not as simple as just saying that I am not finding anything satisfactory or that I don’t want to do it, it is just that there are real complex issues when you start to peel back the layers and get into the details of this. That was Radtke’s stance on the position that he has taken. There is really a lot of complexity and tangling. Like Radtke has said before, if there is a property value issue, let the party’s work it out themselves. If there is still an issue the day of the permit, then it is something the Committee can deal with. There is going to be a winner and a loser, as Lien as put it in the past and it is a tough decision and really that should drive the parties into reaching an accord and not leaving it to the Committee to decide whether permits can be granted or not granted. That is how we’ve done it in the past. That is probably not the 100% best situation for both sides but you did not get yourself entangled in all these legal concerns. That seems to be the best way to handle this. Radtke thought the proposal to have a condition that just says “a property value agreement” is really saying that. You’re really saying, as a condition, you’re going to want to have that but you figure it out on your own. Radtke continued by saying even then we look at some of the issues that have been brought up about distance and Lien talked briefly about that. The proposal here says “adjacent” property. What if I’m one property over and up the valley and I’ve got a great view but I’m not “adjacent”, so I’m outside of this so I don’t get any sort of protection here so I have to work out what I need to work out on my own. What if I’m on the back side of the hill and it doesn’t matter one way or the other. I’m an adjacent property owner but I’m never going to see or hear any of it so it doesn’t matter. Because of our topography in our County, like Lien said, we can’t just lay down rings at 50 or 100 or 125 feet and so it is complex. It is not that simple and that is Radtke’s point is that it is complex and there isn’t a simple fix to address this which is why Radtke suggests dealing with these on a case by case basis, dealing with site specific issues (that is what our Ordinance and the law says) to look at what is unique about that property . There could be 10 -15 properties that are affected over here but there is a bunch over there that won’t be. Are they adjacent; yes or no or are they a half mile or a mile. Are they going to be affected is really the question, so that is something that this Committee looks at on a case by case basis. Radtke stated what he was trying to do is explain or justify the position that he has taken. Radtke thinks the best course is to deal with these on a case by case basis. You’re not ignoring property value rights or property value guarantees. You’re not ignoring the fact that mining has an impact on property values as Radtke thought that was really clear, but it is just not simply saying here is our “cookie cutter” and you go ahead and use that in all situations because it just isn’t going to fit in all situations. At least, that has been Radtke’s experience here and in seeing all the different issues that are unique to each site. Radtke just isn’t seeing that we can create that. Radtke appreciates Slaby’s faith in him, that Radtke and others can just create something and deal with this but it is very complicated. It is part of Radtke’s job to look at or sort of be pessimistic in what can all go wrong and part of being a lawyer is trying to protect against things when it all goes wrong and foresee those things. That is also why Radtke takes a critical eye to a lot of these things as that is his job. Zeglin commented that the Committee does appreciate what Radtke does. Bawek, directing his question toward Radtke, asked if we stop permitting sand mines in the County what are we up against or what are we looking for or what kind of problems would we run into until we either; a) come up with an overlay district such as Town of Caledonia has (Bawek didn’t see any issues with what their doing and clarified with Lien that there weren’t any issues). Bawek asked if we take time to go and do an overlay district we would avoid this issue correct? What is out there is out there and if the property value guarantee is for up and coming. Bawek didn’t mean to “rain on Zeglin’s parade”, he was just throwing things out here for discussion. Lien answered that because we have an active ordinance in place, we don’t have a moratorium in place, we can’t refuse someone from applying, but Lien thought the Committee can weigh the application on their own individual merits with everything we learned in the past five years and make individual decisions. Lien didn’t think it would be fair to say we just stop permitting because there probably are some sights out there where we don’t have adverse impacts to people. There are sites that definitely have some but that perhaps don’t fit well into our Ordinance or the issues that we are

dealing with. Bawek asked if Lien was recommending not to research the overlay district? Lien responded no, not at all, as we are already actively researching that as Lien has met with all 15 townships. At the initial meeting it was discussed with each one of them. We are working ahead with our planner and with Mississippi River Regional Planning Commission to try to get input from the towns over the next several months and by spring hopefully have a map together. Right now, we just completed the Farmland Preservation districts of the map and that is very similar to what we would see with a mining overlay district. Lien noted this was mentioned in the Health Impact Study and it has been in the DLM's plan for a long time. Lien thought it is the Committee's wishes and the public wishes that we follow through with an overlay district to see what it would look like for Trempealeau County. Lien knows we have also heard from several members of the public that they don't want to be in the district and they want to debate it, but we need to get something on a map and see where it makes sense. We know where the mines exist today. We know potential sites in the future that perhaps make good sense. We know areas that should be protected and preserved and where no mining activity should take place. Bawek asked what we can do to protect the people that would be in this potential overlay district. What steps can we take to head in that direction? Lien said to continue to hold open public meetings as nothing is going to be adopted behind closed doors. There will be a series of public hearing comments once we get some kind of map together. There will be meetings at the town level, at this Committee level and at full County Board, so it won't be a quick process but it is a steadily moving process that is going forward. Lien hoped that public would be aware to come to the town meetings because that is a great place to express individual input. As Malone's study showed we have been very strong supporters of town government. The town plans are the same as the County's plan. We are unique because our County has been entirely zoned since 1972 and Lien thought it was because of our great working relationship with the towns. Lien thought people should be involved at the town level when we start developing these maps/plans. Upon Bawek asking how long of time we are talking about, Lien responded our goal is for the spring of 2016. Our goal for Farmland Preservation completion is December, 2015 and the next phase is going into the Comprehensive Plan revisions (zoning update and a mining overlay district). Bawek asked if there was a way to expedite the process? Lien responded that right now we have a deadline for Farmland Preservation so that took precedence. We really needed to get that moving forward and a lot of progress has been made on that. Along with that, we tied in the overlay district, so after December when we get the Farmland Preservation adopted then we can put more emphasis on having more of those meetings with the towns. Brandt expressed appreciation to Ms. Foss from the Trempealeau County Times for covering a Town of Lincoln meeting in which a component of this issue was raised. One of the Supervisors from the Town of Lincoln not only suggested to an applicant for annexation to the City of Whitehall that the applicant go to the County but also defended the County's process. Brandt not only appreciated the Supervisors comments but that they printed everything in the article because what we got to read was the mining company's argument for annexation which is that this Committee would never consider permitting another mine anywhere in the County and that there is a "secret letter" that no one apply because no permit will ever be granted. Brandt stated this discussion right here describes the process that not only has been happening for almost 20 years now but the information that has been gathered and the decisions that have been made and the commitment to the process that has been happening since this land use has come to the County.

At this point, Brandt recommended to the staff and Radtke that, at the very least, at our next regular meeting that we have language related to a well water protection ordinance or a well water guarantee ordinance. We have testing and we have voluntary action on the part of the mining company's to replace wells but if it is possible to create a well water protection ordinance in which an entity would take responsibility for the quality of the water or if it isn't, tell us at the next meeting. Radtke stated he would just say the same principal as it applies to a property value guarantee would apply to a well water guarantee. Radtke's understanding is that the reason for the well and foundation inspections within the 2,500 feet is to help us establish a baseline so that if there are problems in the future (primarily for

blasting purposes) that there is baseline data out there to assist a property owner to pursue his or her own civil claim. Brandt agreed with that and added that may be limited by a person's financial ability to pursue that. Brandt asked Radtke to look into that. Zeglin proposed we think about everything we have heard this evening and suggested the Committee move on to agenda item #6- DLM staff presentation – aerial photos.

Chuck Johnson from the Town of Arcadia had one more comment. Johnson said the Committee stated they have been dealing with this on a case by case basis on the property value guarantee. Brandt stated they have been dealing with everything on a case by case basis. Johnson inquired if when the permit/applicant comes in and then people have comments/conditions, does the Committee listen to them. Johnson said he had brought up a property value guarantee and never got it. Lien responded we have, but reminded Johnson that we have a different committee now and we've had several different committees since this started. Lien said there was a period of time where permits were handed out with less scrutiny than with this Committee today. Brandt commented it has been a learning curve. Johnson thought we should keep learning and stated there should be property value guarantees. Johnson said the valuations are pretty simple as one just has a licensed appraiser do it. Johnson emphasized they are licensed so who are we to judge. Brandt stated the Committee would wait to see what an appraiser has to say next time.

Budish stated on September 20th, 2015 he had an opportunity to go flying in an airplane and they flew over Trempealeau County and part of Jackson County. Budish has many aerial photos to show. The route they flew was from Independence to Whitehall, Blair, part of Taylor and up to Hixton came back to Blair and went over the Square Bluff area and then around Arcadia and into Buffalo County a little. Budish showed pictures and gave a narration of the following sites; Hi-Crush-Whitehall/Independence, Hwy 53 Mine-Whitehall, Preferred Sands-Blair, Badger Mining-Taylor- Jackson County, Taylor Frac-Jackson County, South River Transload, Hi-Crush-Blair, Wisconsin Proppants, LLC- Jackson County, Cameron Rail/Guza Mine Site – Arcadia, Suchla Mine Site – Arcadia, Patzner Mine Site – Arcadia, and the Croell Ready Mix/Olson Site - Town of Caledonia.

Beth Killian stated she didn't see CSI Rossa mine site or Mississippi Sands in the presentation and asked if Budish would be presenting those in the future. Budish responded that if he gets the opportunity to go up flying again he would.

Confirm Next Regular Meeting Date – Brandt reminded Committee members of the next regular E & LU Committee meeting on Wednesday, November 11th, 2015 at 9:00 AM in the County Board Room.

At 8:45 PM, with the consensus of the Committee, Brandt adjourned the meeting.

Respectfully submitted,
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary