

ENVIRONMENT AND LAND USE COMMITTEE
Department of Land Management

SPECIAL MEETING MINUTES
February 24th, 2016 9:00 AM
PACKER ROOM

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

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

Committee members present: George Brandt, Michael Nelson, Wade Britzius, Curt Skoyen, Jon Schultz, Kathy Zeglin and Jeff Bawek. Schultz arrived at 9:20 AM.

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

Others present: Nancy Horton, Linda Mossman, Debbie Foss, Tom Forrer, Gary Giese – Representing the Town of Lincoln, Charlotte Everson

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

Adoption of Meeting Minutes – Zeglin made a motion to approve the January 27th special meeting minutes, Nelson seconded. Bawek had a couple of small corrections. Motion to approve the corrected minutes carried with no opposition.

Discussion and possible action in regard to the Final Report on the Public Health Impacts of Nonmetallic Mining Brandt stated the forum of this day, as suggested by Zeglin, was to turn to the front of the Final Report of the Public Health Impacts on Nonmetallic Industrial Sand Mining in Trempealeau County and go through the recommendations of each of the sub-committees one by one and say how/whether each one of these recommendations have been addressed to basically make the determination that this Committee has looked and discussed each recommendation. Brandt noted a couple of handouts; one being a map from staff member Jake Budish, and a handout from Midwest Environmental Advocates. Zeglin stated the two pieces from Midwest Environmental Advocates are a response to the Wisconsin Institute of Health Impact Study Report (according to Zeglin they disagree with it). One handout is their technical support assessment and one is a basic letter in response to that health impact study. Zeglin added that the second piece is Dr. Crispin Pierce's report on PM2 levels that was released that November and was published in the Journal of Environmental Health. Brandt noted the Committee also had before them the Table of Uses and Chapter 13 from the Comprehensive Zoning Ordinance with some draft changes. To begin, the Committee took Zeglin's suggestion and started addressing the recommendation from the "Stable Communities" portion of the Report.

SC1- Enact a county-wide long-range strategic planning process that includes the development of a vision to help guide county policymakers. The plan should address the changes the county and 8 its communities are facing and develop strategies to manage the cyclical nature of NMISM and to mitigate the negative impacts that will result when mining operations cease. Britzius stated obviously we have done the countywide strategic planning process in some fashion, but when it comes down to the idea of

developing strategies to managing the cyclical nature, developing strategies was something that Britzius thought was everything that this Committee has tried to do the last two years.

SC2. Monitor key socioeconomic indicators on a regular basis. The review of the indicators can serve as the basis for a discussion of how community stability is being impacted and if further action needs to be taken. The committee worked with the Applied Population Lab at UW-Madison to identify the following indicators:
 The number and income of county residents working in county-based mines, County-wide labor trends, County migration patterns, Per capita income, Unemployment rates, The demands for public health services and their related costs, The value of owner-occupied housing, The number and location of new dwellings. Brandt pointed to Linda Mossman at this point as she did a presentation at the last meeting related to the last item; number and location of new dwellings. Bawek inquired if Human Services Director Deb Suchla hadn't also given a presentation related to a lot of these issues. Nelson agreed. Britzius stated a lot of these things are being done but not in a real organized fashion. Bits have been done here and there and Britzius thought that is probably as good as it will get. Lien stated the Department has been tracking the number and location of all the new dwellings as well. Brandt stated it is the responsibility of local government to do the monitoring of socio-economic indicators as a way of helping us to make decisions about lots of things that go on in the County. Committee consensus was that the recommendation has been addressed and is something the Committee continues to do. Brandt acknowledge Mossman's work again as it was eye-opening but it also raised many questions about how we use that information and why things are the way they are and that it is something local municipalities need to look at as well.

SC3. Track all fishing and hunting licenses sold in the county to determine if mining is causing changes in licenses sold. Brandt questioned if that was something the Committee is even able to do. Lien thought the County Clerk's office sold fishing licenses. Lien thought the information was out there. Lien sits on the Citizen Deer Advisory Council so he knows that the number of licenses and herd harvests related to deer are tracked. Brandt noted there are other issues related to fishing that is to say the amount of energy that the Elk Rod & Gun Club has put into improving trout habitat and now other property owners and other clubs are doing that, so in a sense there are a lot of things that affect the quality of fishing. Mossman asked Brandt if that was something that could be forwarded as a recommendation to the new Parks Committee; that they in their overview, of this new Committee which is going to be established, might be something they could look into. Brandt and Lien thought it could be. Brandt added it is also in our rules that we can pass on some responsibility to some other Committee if we feel it is appropriate (not to say that this isn't appropriate) but that we have that ability.

SC4. Modify ordinances to limit the number, expansion and locations of mines. This would allow for the protection of the natural beauty, drinking water and environment that is identified in the current comprehensive plan. Brandt commented this is the big one that we were struggling with last time. Brandt asked if the maps that were passed out relate to this item in any way. Lien explained that the maps relate to the Comprehensive Plan revision that we are working on with the towns. We are in that process. When Lien and staff sat down with the Chairman of each town, part of that process was to identify a lot of the scenic beauty areas and change some of the zoning designations on them to "environmentally significant" because they aren't necessarily that way now. Brandt noted the big map before him says "mining overlay" and asked what that meant. Britzius asked how the process worked to designate something as a "scenic beauty" area. Lien replied that there were areas that are public hunting or public recreation areas that weren't zoned that way so we are identifying them on the map as "environmentally significant" areas and amended the maps accordingly. Lien explained that places like Chapultapec Peak, Decorah Peak, Chimney Rock, etc. are places we know that exist but they are privately owned areas and are not a public entity, so we aren't acknowledging those areas at this time. Brandt commented that the State can designate natural areas as they did Observatory Hill in Marquette County which had incredibly rich flora including seven kinds of cactus. At some point within the last ten years the property owners had the State designate it as a State natural area which opened it up to the entire public, which was somewhat harmful to the environment there, but that is a possibility as well. Britzius clarified that we could try to increase the State natural areas.

SC5. *When the comprehensive plan is updated, land use patterns of NMISMs and related information of interest to the public should be included.* Lien thought the patterns that they are referring to is part of our overlay district. Lien stated that Bawek had mentioned several times that, as a starting point, we could do the footprint of the mines that we have permitted now which is what the map represents. This map could be a starting point and Lien stated we will get into that later when we discuss an overlay district. Lien added that it was Bawek's recommendation that we start with that (similar to what the Town of Caledonia has).

SC6. *Track bicyclist numbers and organized rides to determine if mining has a negative effect on the number of bicyclists and related tourism that occur in the county.* Brandt said that Mossman has thrown out the suggestion that other Committees' might be more responsible for this sort of stuff. Brandt made the point that there are forces other than nonmetallic industrial sand mines that work within the County so even as the bicycling club organizations are pushing to make this a more attractive place to bicycle so that there will be an increase in that, and that might not be related directly to nonmetallic industrial sand mines. In other words, we're not just sitting here, things are happening all around us that are encouraging tourism and economic development, etc. Upon Zeglin mentioning the new Committee coming in, Brand commented that new Committee would be a wonderful place to make responsibility for the tourist activities. Lien commented he has met with Travis Mossman several times and Mossman is a great resource when talking about the bicycle industry in the County.

SC7. *Designate "Scenic Beauty" highways and other areas where mining cannot commence. This should be done to protect the natural landscape that is highly valued by residents and visitors.* Brandt asked Corporation Counsel Rian Radtke if it was possible for the Committee to do this, much like Buffalo County did with the Highway 35 corridor. Is it within our ability as a County to designate certain scenic byways? Radtke responded he wasn't sure if there was such authority. Radtke knew that other counties have done it. Radtke knew that those have not been challenged so we don't whether or not they would withstand judicial scrutiny as to whether they have that authority to do so. Radtke knew the State, itself, has authority to designate certain roadways but Radtke didn't believe that even those designations can limit land use within certain areas. Brandt thought that was something the Committee needed to look more closely at. Brandt's understanding of something like the Great River Road was that there are limits; perhaps setbacks are greater or within a certain view shed you can or cannot do certain kinds of activities. Lien commented it does depend upon what the scenic easement says. Zeglin commented both Pepin and Buffalo County have instituted what she thought was an ordinance on the Great River Road and it seems to be ok so far. It seemed to Britzius that we can easily designate scenic beauty highways but the other part is whether we can enforce where mining cannot commence. We can designate a lot of scenic beauty places but the beneficial effect might just be that people start thinking about that more and then when proposed activities come in we can't enforce it as a matter of law but we can put this idea forward by designating the roads. Britzius would like to see the Committee do this. Discussion took place as to how this could/would be done which included the suggestion of a subcommittee. Britzius thought this could add to our tourism potential as a county to say "Hey there are designated scenic routes". Britzius added that Olin Fimreite has some of those routes designated for the bus tours. Zeglin commented the map is an excellent start to designating scenic beauty routes. Bawek thought the bicyclists that take some of these routes could be surveyed. Radtke asked if the Committee was talking about creating a new zoning district. Britzius stated he was not. Radtke continued by saying, if one looks at the map, a lot of those roads are town roads and Radtke questioned if the County has an authority to declare a town road a county scenic roadway as opposed to generally we have authority only to our county highways. Radtke wasn't sure if we would have such authority. Britzius thought we could go to each town and just ask them if they have any problem with it. Other than for tourism, Radtke asked why the Committee would call it a "scenic beauty" highway. Britzius thought that scenic beauty alone was enough reason in his mind but also for local people to appreciate what they've got would be another reason. In referring to the recommendation, Radtke stated it says "to designate scenic beauty highways and other areas where mining cannot commence". Radtke added that is where we start turning into creating a zoning district or a zoning sort of label that would apply to that area of land and would limit the uses, so just calling something a "scenic beauty" highway has perhaps great tourism value but it is not going to limit what one can or cannot do. That is why Radtke was trying to clarify exactly what we are talking about; whether

we were creating a zoning layer or just labeling something a scenic highway. Radtke thought if the Committee was just going to look at scenic beauty highways and talk about towns, he thought that probably is something good for the new Committee, who is going to be charged with tourism, to talk about. If it is going to limit land use based on a designation, then it needs to stay here at this Committee because that is a zoning issue. Lien expanded on the statement that says, "Scenic beauty highways and other areas where mining cannot commence". With Britzius' thought and what Radtke had said, if there were a zoning designation similar to, i.e. in our setback areas we have a given setback from a State road, County road, or town road, scenic roads in the county, one could tie that to zoning and have a setback of a 1000 feet for no mining. Lien was just throwing that out there. One could designate a different roadway setback for a different type of use, i.e. scenic roadway. Radtke agreed and added that it has a wider impact than just on mining. Lien agreed and said there would have to be a list of uses or other things associated with that. Lien was just referring to the statement that says "scenic beauty highways and other areas of mining cannot commence". Lien added they're singling out mining but there could be a list of things that could not commence; industrial, commercial and other things on that scenic highway. In Britzius's mind, he thought it would be good to include those as one wouldn't want other industrial uses to come into an area of scenic beauty either. Radtke said every road is going to be different and every view is going to be different. Radtke noted that Lien had mentioned a 1000-foot setback and some of the views go on for miles, so limiting what can be built or done in a mile or two setback from a scenic beauty highway is going to have a lot of issues to achieve that and how is it that you are going to create a regulation that is going to fit all of the scenarios and address all of the issues as it gets pretty complicated pretty quickly. Brandt suggested investigating scenic easement setbacks as one investigates what the regulations are related to the Great River Road. Lien commented it is typically 350 feet. Brandt inquired if it is possible to create a setback that is greater than the usual setbacks. Lien recapped the setbacks as 63 feet from the centerline of a town road, 75 feet from the centerline of a County road and a State road is 110. What the DOT (Department of Transportation) has typically adopted for a scenic easement is 350 feet. Zeglin commented a setback would be a good start along those roads and then any entity that would come in would have to be judged on its' own merits. Radtke explained our ordinance already allows the consideration of an aesthetic impact for any conditional use permits which does not just apply to mining, it applies to any conditional use permit so there is a way to address the scenic value or beauty or aesthetics on a case by case. What were are talking about is sort of a fixed rule of, "automatically you cannot" in this fixed area. Radtke just wanted to point out that the Committee can already consider that factor. When Lien and Budish had gone through this the other day, they kind of came to the conclusion that a lot of these are conditional use recommendations on a site basis versus ordinance amendments. They are great things but think of perhaps applying them to a conditional use versus an ordinance amendment. Budish stated that SC7 had been brought up during the Sand Products/Highway 53 project, when staff (Lien and Budish) had made the recommendation to deny the permit based on the fact that it was going to be right there on the Highway and because of aesthetics. Britzius still thought it would be a good idea for the Committee to take this step and do some designations to bring this kind of thinking forward to the public's viewpoint and to make this part of the thinking that people have. In the future we want to be valuing what we have and applying that value to the kinds of decisions that we are making. Nelson asked if, because a lot of the scenic roads are town roads, the Committee would be putting a big burden on the towns. Nelson questioned how many people the towns want driving on their roads as it is a big expense to keep the roads up. Brandt responded that Britzius made a suggestion to start small and Brandt thought that going down County roads would probably be the best way to do that. In the last meeting we talked about encouraging towns to designate "rustic" roads. Brandt commented we only have one in the County right now and Schultz had mentioned that the Town of Arcadia was looking at some roads for that designation. Schultz stated a few people have brought that up and it requires State approval with the DOT so Schultz didn't think, i.e. they were going to send in ten roads and get ten approved. Upon Lien inquiring what changes after it is designated, Schultz said it wasn't a lot but it is the significance. Mossman commented that on the Wisconsin Department of Tourism it is designated as a "rustic" road so one can click on "rustic" roads and get a listing and a map pops up. They also used to print a brochure that was handed out at trade shows so it really is a tourism type activity that hopefully drives people to come into the County to

spend money. According to Mossman, the State does sponsor these designations. Zeglin wondered if there was additional funding for rustic roads. Mossman believed the State pays for the signage.

At this time, Gary Giese, Town of Lincoln board member was introduced. Giese wanted to address the Committee regarding concerns the Town of Lincoln has related to water quality. Giese informed the Committee that Chairman Jack Speerstra wasn't able to be present today as he had some other things going on. Giese stated his goal is to be officially on the record to document that Town of Lincoln does have some water quality issues. There have been both homeowners and some business owners that are experiencing well water degradation and turbidity issues. Giese said it appears right now that the well water degradation issues are following the patterns of operation of the nearby nonmetallic industrial sand mine which is located on the former township land that is now annexed to the City of Whitehall. According to Giese this is occurring both in and outside of the half mile buffer zone or the well water guarantee zone that the township and the mine have in their agreement. As far as Giese knew right now the Town of Lincoln Chairman and the township attorney had spent a big part of last year working on some of those issues. Also, our District 12 representative, Mr. Zeglin has also been helping to try to resolve those issues. Giese thought both the attorney and Mr. Zeglin have made contacts all the way to Madison to try and get some help from DNR, etc. Giese commented that when these ordinances are put together the default is always the DNR and when one now has to call the DNR it is not necessarily quite as easy as they make it sound. Giese stated that, in a nutshell, as a town board the Town of Lincoln wanted to go on record saying we do have issues, there are County residents having issues. We are trying to work to resolve some of them. Again, that is on the townships dollar and it is our township taxpayers who are paying those attorney fees. There have been a wide variety of issues. Brandt stated Giese has talked about turbidity and Brandt guessed there is a well water guarantee but there is no way to require or force the mining company to repair the problems in the well. Giese's understanding is that there have been three things that have happened; one homeowner had a filter system put in and it kind of fixed the problem. Brandt interjected saying, "at the expense of the mining company". Giese said that was correct. Giese continued saying there are some that have experienced trouble that have sold out or been bought out. Upon Zeglin asking if that was by Hi-Crush, Giese responded that was correct – by Hi-Crush Whitehall. Giese added there may be people who are experiencing problems but haven't come forward. Giese stated the one business that deals with chicken barns within that half mile has been the ongoing issue for probably a year or more. They have had lots of issues and that is the one where the Chairman and the town attorney have been working with the company trying to resolve that issue. Giese didn't think that they have been able to resolve that as of the last town meeting. Giese said the other issue, since he has been on the Board (since April) we have people outside that half mile coming to us with jugs of water that Giese wouldn't let his cat drink it, much less come out of your kitchen tap. Those people are outside of that half mile though but they have started to come forward. Giese stated there was also one farmer in the area whose well went dry last fall and he drilled a new well at that time. These were the things that Giese could speak to. The comments from some of the homeowners at the last township meeting was that since the operations had ceased (approximately last November or later last fall) the water has started to settle down a little bit, it's not perfect. Giese wasn't sure what the solution was or if there is one but the town at least wanted this Committee to be aware of the fact that County residents are having problems. Upon Skoyen asking if Giese himself was having problems, Giese responded he is not. Giese stated he and his wife actually own a house north of Whitehall. His wife was a Sygulla so they are living next to their (Sygulla's) farm. Giese said it was his brother-in-law that actually drilled the new well. Giese said he (his home) is on the Town of Lincoln Sanitary District there so he is tied to the City of Whitehall's water system. Giese said when that is brought up that brings up a whole different issue. Giese stated he and his brother own and operate what he thought was the last dairy farm between Whitehall and Blair on Highway 53 and we're sitting between two sand mines. Giese spent 45 minutes with a consulting firm on those issues. Right now, Giese stated they have not had problems but he is leery sitting between two mines. Giese is a little upset being a mile

from Whitehall, but having the City of Blair which is 8 miles away bordering their farm – to that extent they come right up to Giese’s land. Giese stated he is very nervous and especially nervous about when the Highway 53 mine comes “online”. Giese added that when you have 200 head of cattle you get nervous. If something would happen to their wells it could be a big deal. Giese had been watching it and they did participate in the County water quality testing last summer so they have a baseline as of early June/ July. Giese stated it is a concern and they are trying to watch it as close as they can. Schultz asked if Giese would be aware of what aquifer these wells that are having issues are tied into. Giese was not. Giese could speak to this, as it was mentioned in the open part of the town’s last meeting, that their attorney has tried to get independent hydrologists, thinking that it was going to be a really easy thing to do, but without spending a great deal of the township money, it wasn’t going to be easy to do. Apparently the attorney went pretty high up in the chain at Madison trying to find independent hydrologists that would help. Again, Giese couldn’t speak to aquifer or where those wells are located as that is beyond his expertise. Schultz asked if the hydrologists weren’t available. Giese responded he understood that the attorney did find a couple of names and they were available but at a fairly significant price. Giese wasn’t sure of what would have all been involved for them to come in and go through that area and come to some type of conclusion. Brandt stated he appreciated Giese being here and he understood Giese’s concern to be, that this Committee understands that residents in the Town of Lincoln both within a half mile of the mine and outside the half mile well protection zone have been experiencing water quality issues which the town board and they consider to be a result of the mining activity. Giese stated it appears that the issues have come since the mines are “online”. Giese said he isn’t a scientist nor a hydrologist but when they come and plop a jug of water and you can’t see through it. Schultz asked if Giese was recording this information, as far as on a map, or logging who has complaints and issues. Giese responded they have started that, so it is an initial process. Upon Schultz asking if it was pretty concentrated or down gradient of the water table? As far as Giese knew now, speaking off the top of his head, everything is to the north of the mine. As one gets into the Town of Arcadia, Giese believed it gets to the south of the Hi-Crush mine pretty quick, but those people wouldn’t come to the Town of Lincoln and the Town of Lincoln is kind of cut off anyway because we surround the City of Whitehall and go all the way to the Town of Pigeon. Giese’s land butts up to the Town of Preston and they (Giese’s) actually have a little land in the Town of Preston and that is only a mile to the south of Whitehall, past the radio station. Brandt thought another part of Giese’s presentation that is significant is the strategies that have been used to deal with the issues. One person’s system was upgraded to include filters, another person sold to the mining company and other people (especially the chicken barn) have had no solution to the issue so there is this kind of spectrum of responses. Giese thought that when you get into that half mile you get into their nondisclosure. Brandt added that some people also aren’t coming forward because of the nondisclosure issues. Giese added they may have gotten it fixed and we won’t know about it and that is a whole different issue. Zeglin asked how far away from the mine is the furthest complaint that Giese has had so far? Giese responded he thought it was somewhere in that mile range. Giese thought some of the issue is also the mine boundary. Giese knew his farm on Highway 53 was less than a mile from the City of Blair and part of Giese’s farm is in the buffer of Sand Products on Highway 53. It is all crop land. They finally sent a letter to Giese wanting him to decline any water testing, so it is either accepting or go without a well. Giese did ask a lot of questions, i.e. if he puts a house there are they going to guarantee a new house/well if he drills one there. According to Giese, their response was they thought they would but they really didn’t know. Giese clarified it was a consulting firm he was talking to and not the sand company. That made Giese nervous as to whether the value of that property went down as he couldn’t sell a house lot now or whatever because he wouldn’t have a well water guarantee there. Giese is concerned about their farm well because they are within that mile and now there are other parts of Lincoln that are having well issues outside the half mile. Lien stated Jack Speerstra had brought that to his attention a while ago. Lien had worked with Pat Malone from UW-Extension and there is a lot of well water testing that she has done in that area and as Giese had alluded, depending upon the time of the year, test results were

different. Lien thought it was a wise use of cost-share dollars related to the well program that we continue to test some of those wells at elevated levels during mid-summer when processing is taking place and during the winter months when they are not to try to establish perhaps a pattern. Also, Lien said Speerstra is supposed to be working on that list of complaints that the Town of Lincoln had, in the form of a map, and provide that to the DLM so Budish can do a little bit of a “ring” as to where the complaints are coming from. We wanted to provide that to the Town of Preston also. Lien has already talked to Malone about doing a focus on well water testing in that area before things get “online” in that area in the Town of Preston so we establish a base line there as well. Lien explained there would be a letter going out to landowners that would say we encourage them to take advantage of the well water testing program. They don’t have to participate but Lien would like Malone to focus on that area. Brandt commented it is a cautionary tale and questioned how do we remediate or how do we make whole these people whose water quality has degraded. It sounded like, at least in the Town of Lincoln, the town is footing the bill for trying to make that happen through legal means. Giese agreed and said for the most part the township is footing the bill. Alluding to what Lien had said, Giese thought they have tried to encourage people at the township meetings, that if things are settling down now, to get the tests taken to try to create a base line, if it wasn’t created before, so that when these operations do get back up to full speed again you have something to compare it to. Giese wasn’t sure how much, if any, base line testing was done in that area. Giese didn’t know if any was required. Brandt noted that it was something that is required for any permits that the County gives. Zeglin knew that the District 12 Supervisor has determined that neither the City of Whitehall or the City of Independence have any records on well testing, so if there is anything Hi-Crush has those records and they have not shared them with either city. Giese stated that Sand Products on Highway 53 is looking to create base lines, so some do and some don’t. In terms of intergovernmental process, Britzius stated this is something that is of concern to townships, cities, villages and the County, and it would behoove us at some point to share any information that was gathered with the municipalities. To go into their governmental meetings and make sure they know this information. It is almost like we need an intergovernmental water quality panel or something. We all need to work together and the cities need to know what is happening if they don’t. More discussion took place on what information municipalities have and about getting information to them. Giese stated the issue with the annexations is that you get County residents living close to a mine with perhaps no say. In regard to the County water testing, Bawek asked Lien if we are addressing the water levels and the well depths. Lien stated he didn’t believe so but he would have to confirm that with Malone. Bawek thought that should be included in this testing pattern to give us a clearer picture of where we are going. Lien knew there was discussion as to which aquifer they are in as there are two in the County and whether they were having problems at the shallower aquifer or the deeper aquifer or is it both. Those are things that Lien and Malone have discussed but don’t have the answer to at this time. Bawek added that we should have individual samples of water levels as they fluctuate. As Lien mentioned they are going to do more testing in this one area and Bawek thought that may be a starting point, to test the levels in the wells individually. Bawek thought that was easily done. The Committee thanked Giese for coming to the meeting. Discussion took place about water testing the County has done in the past for nitrate levels. Lien noted that nitrates is one of the things that is being tested for now in the County water testing program.

At this time the Committee returned to addressing the recommendations of the Health Study starting with SC8 and SC9 – tracking and analysis of deer hunting, etc. Brandt suggesting passing on those two as that information is available and we do get a report from USDA-APHIS Wildlife Specialist DeWayne Snobl and he had some interesting information. He didn’t feel staff or another Committee needed to be assigned to do that kind of work.

SC10. Tighten reclamation plans to have fewer acres open at one time, as well as shorten the amount of time these mined areas can be open. Brandt stated we discussed this at the last meeting, the difference between aggregate mines and nonmetallic industrial sand mines and about the open acre/non-active

sites. Upon Brandt asking if Budish had any comments, Budish stated it is something that can be addressed before it even gets to the permitted stage. There could be a preliminary meeting with the applicant to ask, i.e. do you really need 30 acres open at one time or suggest they just maybe do three 10 acre parcels open at one time. Budish suggested just working with the applicant a little more as that would be the easiest way to do it. Brandt commented that we've learned that no matter what they're plan looks like on paper and what they say, they just go for it. Lien noted this is really an NR-135 issue because we do not have the ability to regulate more restrictive. If they are noncompliant we can encourage to have less acres open but if they are in compliance with NR-135, have property bonding, etc. then we can't be more restrictive.

SC11. Compare the intended post-reclamation land uses to the total acres lost and the pre-mining land uses. The area reclaimed should at least equal the number of acres mined. Post-reclamation land uses should be compatible with pre-mining uses and municipal comprehensive plans. Budish suggested just paying more attention, especially at the town level, to the Land Use Plans and what the intent was. Budish added if the town is ok then fine, but the focus should really be on what was there at the time and hopefully it can be re-established to get back to that same thing. Brandt recalled that this was one of the things we consider when granting a conditional use permit is how it relates to the other land uses around it. Brandt thought this was already within our purview. Radtke stated that basically the Committee has the authority, when granting the reclamation permit, not the conditional use permit, as to what the post reclamation land use is going to be and what is acceptable to prove that you have achieved it. That is what the Committee can decide at the time of granting the permit. Radtke thought that is what this is saying; it is giving some directive that there should be at least equal number of acres, it should be compatible with pre-mining uses and the municipal comprehensive plans. This recommendation is giving guidance to the Committee saying when you look at these reclamation permits, we want you to make it more like pre-mining use and be consistent with these plans which is completely within the authority and discretion of this Committee. Brandt asked if the Committee thought this is something they should consider more closely when considering reclamation plans. Lien stated the Committee has taken this step because initially when we had public hearings and issued reclamation permits, we said their reclamation is to return the land to crop land. As we dove into this deeper, we stated if the land use is going to be crop land it is such when you meet 70% of the yield of what today is, so we set a standard at that point. Budish commented that in one of the earlier plans that was approved all it said for reclamation was "agriculture", so four or five years later we are requiring they be more specific. Discussion took place on the reclamation requirements. Bawek stated, and yet during all of this, we've learned that to go back to row cropping and expect them to get 70% of prior yields may not be advantageous for us because of the issues of contamination of water when they mine within 10 feet of the water table. Bawek added that is another consideration, and that we have learned in this process, that maybe that is something that we don't want to do. Maybe we want to let it be not such of a productive type of a use but yet still meets the 70% criteria of something. Committee consensus was to agree. Bawek said that Town of Caledonia actually experienced that. As Bawek understood it, they actually encouraged the people not to go to row cropping because of the proximity of the water table and the nature of the soil. Lien added it is all very unconsolidated sand so things tend to wick through there much quicker than in other areas.

Brandt stated that SC12 is similar to SC11 except that it seems to require a guaranteed assurance of surface and groundwater quantity and quality. Brandt questioned if that was possible? Brandt added that perhaps the Committee just answered it by saying, if it is unconsolidated soils and close to the water table, don't encourage the use of pesticides, herbicides, fertilizers and row cropping in order to avoid contamination of the groundwater. Lien added he had made a note about NR-135 as a lot of that depends on what we can regulate through them. Zeglin asked if any of SC11 and SC12 is written into NR-135 or our ability to make any changes at the County level. Bawek stated his understanding was that for reclamation the individual landowner has the right to choose what they want to do with the land.

Zeglin inquired if the Committee can say, what you choose is not appropriate. Lien said we can review it with other compatible land uses, post reclamation (how practical it is) but it can be, "the sky's the limit". Lien and Budish had asked, as a hypothetical, if we wanted for a tourism attraction in the future, (as an example to what this County witnessed from 2010 to 2015 and beyond) that we would not reclaim a site and just leave the infrastructure there, if that would be a post reclamation plan? The DNR said yes. They also said if it was done consistently they might review it differently but if it was done on a site specific basis, for a reason, that yes DNR would accept that. Lien said he was being very hypothetical and he thought it was a crazy idea. Bawek commented it is an aspect of tourism. Some Committee members agreed. Radtke stated NR135-19 (3)-Post Mining Land Use says the reclamation plan shall specify a proposed post mining land use for the mine site. It goes on to say that proposed post mining land use shall be consistent with the local land use plans and local zoning at the time the plan is submitted but it then give some language that if there was a change to the land use or zoning that would maybe change. Radtke thought this, especially SC11 is consistent with what NR-135 already says.

SC13. Conduct research on reclamation in Trempealeau County similar to the one currently being conducted by UW-River Falls in Chippewa County. Funding for the study should come from permit holders. Brandt questioned if it was necessary if other studies have been done as Budish already has all the information and he gave the Committee a presentation on reclamation in the County just a couple of months ago. Brandt thought we are doing it as a matter of course and there aren't any surprises.

In regard to reclamation Britzius made the comment that we really have to watch the quality of the bonding that is being done. Britzius knew that Lien and Radtke worked on that quite allot. Britzius stated there have been bonds in some areas that were as it turns out no good. Upon Schultz commenting we might want to set aside funds to hire a hydrogeologist if issues come up, Brandt thought Britzius was speaking specifically to the instruments of bonding; who is it that is going to front the money and how permanent is that fund. Britzius inquired if we were on solid ground as far as handling that. Lien stated that NR-135 is pretty specific and Radtke had reviewed that. Radtke commented it is specific but then it is wishy-washy at the same time. Radtke stated that NR-135(40) talks about financial assurance. It requires the permit holder to put up financial assurance to assure that it is going to reclaim the property pursuant to the proposed plan and we get those in here at the County. We get a variety of Letters of Credit and bonds. NR-135 actually gives a variety of choices. Schultz asked if the government entity has the say of those choices. Lien responded no, not a lot. They can submit any or a series. Radtke read aloud, "Financial assurance shall be provided by a bond or alternate financial assurance. Alternate financial assurance may include but not limited to cash, certificate of deposits, irrevocable Letters of Credit, irrevocable trusts, escrow account, demonstration of financial responsibility by meeting net worth requirements or governmental securities. Radtke stated that some County's read that as that they can decide (Radtke thought Door County says they will only accept bonds) but other counties have run into that and it seems pretty clear that the financial assurance shall be by a bond or alternate financial assurance and then it gives a list of what those are. Radtke viewed that as it can be any of those on that list. Radtke said we typically see bonds or irrevocable Letters of Credit. A couple of times we've had cash. We have those in place. There were a handful of issues at first with the language of when they can revoke or when they can expire, so a Letter of Credit will expire after a certain period of time and if it gives no expiration date, Radtke thought actually by law it is four or five years that it automatically expires. The issue that Radtke saw early on was, what happens if the mining operation is coming near its' end and decides to just let that financial assurance expire and then walk away without doing a reclamation and then there is no bond in the end. According to Radtke, what we've done is created language to be put in those Letters of Credit or bonds that would expire or could be terminated which basically says they need to give us 90 days' notice (that is what NR-135 says regarding cancellation/financial assurance; "Shall provide that it may not be cancelled by the surety or other holder or issue accept after not less than 90 days' notice to the regulatory authority (the County) in

writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90 day notice of cancellation the operator shall deliver to the County a replacement proof of financial assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect". Radtke said that makes sense if you're continuing to operate and it works really well but in the scenario where you would decide you're going to stop mining and walk away from the project, you're only remedy, under NR-135, is to say "You're out of compliance". Radtke added that doesn't help get the reclamation done nor does it pay for it. The language that Radtke has created and has required be put in each one of these is that they need to give 90 days' notice if they're cancelling and they need to get us replacement of financial assurance 30 days prior to the expiration, however if they do not within that 30 days, get us that replacement of financial assurance which also needs to be acceptable to us, then that is one of the triggers where we can actually draw on that Letter of Credit. Radtke explained it basically says in there that if you don't get us that replacement financial assurance, we will draw on that Letter of Credit. That is grounds for us to go to the bank and say we want the sum of money in cash and we will then hold that as cash financial assurance until the reclamation has been completed. The same with the bonds as well. If they decided they want to cancel it and they don't provide us with a replacement that is ground to draw funds off that bond. Radtke stated that addresses that issue of trying to weasel out or let these expire without having a replacement financial assurance and we've had that in place for at least four years already. Even before Eau Claire County sort of raised that issue a couple of years ago, we had that in place ahead of time. Radtke reviews every single one of them and we have them in a spreadsheet that lists when they expire. We give ourselves a six month notice. They let me know at 90 days. We had one scare where we addressed that. Things didn't go how we should have made them go but we got it worked out. It was a mine that was continuing to operate so it wasn't that huge of a deal but we did get that taken care of. If the time expires and we don't ask the bank for the money then we lose out so it is really important to keep an eye on that. Radtke stated he feels that all the language in the financial assurance documents is strong and in favor of the County and he thought we have a good system here to keep monitoring it and keep our eyes on it. Radtke didn't have any concerns with the bonding at this junction. Some discussion took place about the net worth option of bonding and how "wishy washy" that could be. Zeglin asked if those contracts hole in the event of bankruptcy. Radtke explained that a bond or Letter of Credit is really a contractual agreement with a third party, i.e. financial institution/lending institution, so our agreement is with them. If that bank goes under then we're in trouble but if the operator who has purchased the bond or Letter of Credit goes under, we still have a contractual relationship with the financial institution so even though they were to file bankruptcy we would still be able to access the funds under the bond or Letter of Credit. It is only when the bonding company goes under that we run into trouble and most of these are underwritten by very large companies that in the past have been deemed "to large to fail". Donna Brogan read an article about mines in Wyoming that are not being reclaimed because in some cases instead of bonding with a bonding company, they are self-bonding. Brogan asked if Radtke was saying that under no circumstances in Trempealeau County do we allow self-bonding. Radtke responded that we haven't even been presented, as far as Radtke knew, with anyone who would want to do that and we would view that with a lot of skepticism for a variety of reasons.

Brandt thought the Committee had addressed the following three:

SC14. Pass a resolution condemning the use of "balloon on a string" annexations.

SC15. Encourage towns to attempt cooperative boundary planning (authorized under s. 66.0307) with their urban neighbors to minimize the impact annexations are having on towns and cities in Trempealeau County. The Town of Lincoln is currently participating in this process with the City of Whitehall.

SC16. Encourage town officials to apply for a DOA public interest opinion when an annexation is proposed cooperative boundary planning has not worked.

The Committee agreed that we did pass a resolution. Lien stated the SC15 is ongoing. Kirstie Heidenreich is actually drafting a letter right now because we are revising the County Comprehensive Plan this summer so, as a courtesy, we are offering out to the cities that we would meet with the cities and villages to make sure that their plans would be consistent with the County's planning so we don't

have incompatible land use planning. Brandt commented anytime there is anything related to another unit of government, encouraging is the most we could do. In regard to pursuing a DOA public interest opinion, Schultz asked who the first municipality in the County to pursue that. The Committee agreed that it was the Towns of Burnside and Lincoln. Schultz commented that obviously people are aware of the annexation issue and know that it is relatively unique to our County within the State and the concern from the towns has been the cost of doing that. Schultz stated if we truly want to support the towns in advocating themselves in this way and if annexations are a concern for the County, is there any interest for the County to help with that cost. Britzius commented as individuals we have advocated for this kind of review but not as a County. Zeglin commented a certain supervisor has. Schultz continued that the impact is beyond one city or one town and the concern is really countywide. Britzius commented as a County we have sort of stepped away from that but perhaps we could step in and be more active in advocating or financially participating. Schultz acknowledged that he wears two hats when he says that. Charlotte Everson commented that perhaps the Committee could get the Towns' Association involved in this because they were kind of the scapegoat in all of this where the attorneys were called and supposedly said there is nothing you can do for an annexation. Everson said that attorney actually retired and then came back onboard. When this was brought to him, according to Everson, he said absolutely in no way do we represent that we are telling you that you shouldn't be going to the Department of Administration and he actually gave Everson something to read at her own town board meeting saying that they did not legally say there was nothing that the town should have done about it. Everson stated that making sure that the Towns Association is onboard telling the rest of the townships that they need to make sure that they have their legal representation correctly set up because that is where the scapegoat was. Everybody said we are being represented but Everson said it was not true. Zeglin stated she didn't know that the County can ask the Towns Association to do that. As the Towns Representative, Zeglin thought it was up to township government, themselves, to make sure that the Wisconsin Towns Association is onboard with these things. As a citizen, when Everson's town representative told her that they consulted a legal organization to get the representation, she believed that and now as a Board Member she consulted that representation and they clearly stated that was false information and they wanted the correct information to even be stated. Brandt stated he understood our intergovernmental conundrum but if we were to come up with money, either as a Committee or a County Board, to encourage the town board to take an action that may seem to be in conflict with an action by another municipality, it seemed to Brandt that we would be taking sides. We have tried to avoid taking sides in these issues and to encourage dialogue. Schultz thought it was pursuing finding of fact. Schultz saw it as a relatively neutral act to pursue the opinion of the DOA and their finding of fact and Schultz was really coming from the perspective of being on a town board. One thing Schultz was not that aware of all that well prior to getting involved with town politics is how big the Town of Arcadia is. For a rural township we have resources and the Town of Arcadia could unflinchingly pursue the DOA opinion. The Committee agreed that was a barrier for some of the smaller townships. Schultz was just expressing some empathy towards that situation for some of the smaller townships. Lien commented that so the town asks for a DOA opinion, you get the opinion, then it falls back on the town and Lien questioned what one is going to do with that opinion. Lien added then one has to make the difficult choice. Schultz added it is definitely the towns' legal ballgame. Everson stated at least it would be information to the general public. Everson added if any of our annexations has gone to the DOA as the DOA is saying why did the town not, for all three of those, go through DOA. Zeglin said that unfortunately with State Statutes, any County that has a population over 50,000, the DOA is automatically mandated to make a ruling on any annexations of lands, so smaller county's like ours have to foot the bill. Brandt and Zeglin agreed that is very strange. Zeglin honestly forgot the cutoff of acreage but these particular challenges cost each township around \$4,700 to even ask the Department of Administration for a ruling. Zeglin knew that in her township, their budget for legal fees is \$500 per year and most townships are funded that way because in the past there were no legal fees. Zeglin added it is a problem for small township who are extremely limited in their funding. As far as taking sides,

Zeglin didn't view it that way because the municipalities benefit from that also. They can say this is really going to be considered an illegal annexation, do we really want to get into this, so Zeglin actually viewed that as a possible win-win for municipalities and townships. Britzius says we, as a Committee, have stayed away from taking any stance at all and being completely neutral but we could take a policy stance at any time if we wanted to. Britzius assumed we could pass a resolution or something supporting the idea of a review for annexation. Brandt says that addresses the next recommendation: *SC17. Adopt a resolution supporting state legislation that would prohibit annexations in which more than 50% of the annexed area extends farther than 1/4 mile away from existing city limits at the time of annexation.*

Britzius continued so we can take a policy stance at any time and the second question is can we take a financial stance. Is there anything that legally prohibits us from saying "Yes, we will participate in that revue". Radtke stated the question is public purpose. Is there a County public purpose? Radtke continued saying there is a limitation that comes from the Wisconsin Constitution that the County can use taxpayer money for public purpose. There has to be a public purpose behind it. Upon Brandt inquiring what an example of public purpose is, Radtke responded a road, a truck or a snowplow as there is a public purpose for that. In relation to mining, Radtke was asked for an opinion a number of years ago as to whether the County could operate its' own wash plant and put it in place and then people in the community could come and bring their sand to this wash plant and the County could make money out of this. When Radtke analyzed it, his conclusion was that it would violate the public purpose doctrine. The County would be spending money for the purpose to really make money. To engage in commerce and for commercial enterprise that would really have no public benefit. What was thrown out there is that the public would finally have a place to take all of this sand that they have. Britzius understood that nonprofit corporations can run a for-profit business if it supports the nonprofit purposes, so maybe a governmental agency could run it for profit in order to support governmental public service. Radtke stated it is not permitted under the law and you don't see any other county's engaging into activities just to make money. There needs to be some sort of tie to the public benefit. That was just an example of what is not public purpose. Radtke didn't know if there was a real tie to what Britzius was talking about, of using county funds to pay to a town for the town to pay the DOA for a review of an annexation. Radtke thought that was a closer call and whether that is a public purpose that is somehow tied to the County's public purpose but Radtke would have other questions of: is this all annexations or only annexations that involve mining because there are a lot of annexations that happen and towns would love to have that resource to challenge for a residential or any type of annexation, so where does one draw the line and how do you justify where you draw the line. Also, there was talk about other fees. The majority of the fees, in the Statutory Structure on annexations is if the town wants to challenge it, and the town loses, the town has to pay the attorney fees of the city, so there is a lot of cost in that. Radtke thought it was probably even less likely that would be a County public purpose to pay the legal fees of the town on pursuing the challenge. Radtke would even go further to say that when you hire an attorney, typically whoever is paying the bill is the client. The lawyer has to answer to the one who is paying the bill and not to the one getting the benefit. Radtke would caution getting into that realm as well because the County is then taking a side. You are becoming the client to the attorney who is trying the case on behalf of the town and that is where things can probably get real murky real fast. Brandt said the Statute was written in a sense to favor the incorporated municipality because the assumption was that their planning would require some sort of expansion. It would keep the town from closing them in and keeping them from expanding. It was not taking into consideration what we are dealing with here. Brandt didn't know that any number of resolutions from our County to the capital right now would get them to change the law. Everson's recommendation of making sure that the Towns Association is familiar with what is really happening and what their ability is to pursue remedies would be a continuation of the good start.

SC18. Monitor property sales close to NMISMs to determine if there are any changes in sales and property values over the next 10 to 20 years. Brandt stated we are doing that in a sense or we're trying to and

discovering it is more complicated than one can imagine. How houses get built and where they get built is considerably more complicated than where the mines are. This is something that Brandt has come to realize over the last six years. There are so many moving parts to our economy and this is just one of them now.

SC19. Monitor public resources (i.e., tax revenues) being used to maintain sufficient infrastructure. Brandt noted we have two member of the Highway Committee here. Right now there are more town board members here than there are County Board members. As far as the mines are concern, Nelson said that Radtke has done a good job developing road agreements. The mine are paying for any damage that they do so basically we are covered. Nancy Horton commented that towns can assess a certain amount for the town roads on their own ordinances, but she didn't think it could be done as a County. Everson said they are going to try and do that. Brandt clarified that Everson didn't just mean a road use agreement but so much per ton going over the road. Zeglin wasn't sure the towns could do so much or a fee like that. Upon Radtke being questioned, he responded he couldn't give any advice as to what towns can or can't do. Zeglin stated this had been brought up in their own township in regard to the Segerstrom mine because they will be coming out of Hale through Chimney Rock. Zeglin said they investigated many legal facets and the only thing they could do is a road agreement. Actually the County used what we had in place as part of their basis. We (the town) can require that road be brought up to specs, for the DOT traffic analysis, etc., before they are allowed to bring any product out. We (the town) can also have a nonlapsing fund for repair of that road. They need to have \$250,000 in this nonlapsing fund and when it gets down to \$100,000 they have to build it back up. We cannot take so much per ton. Horton commented that is where their "so much per ton" is going into is the nonlapsing account. Zeglin responded however they put it in but we can't require "so much per ton" so whatever they decide or however they want to put it in is their business but the road has to be up to specifications and there has to be a nonlapsing fund for repair. Everson stated none of the city roads that were annexed from the Town of Preston are actually connected to a County road they all go through township roads. According to Everson, they (the town) have no agreements on any of those township roads and look what they did with Hi-Crush. They built that huge thing and they are going over my road. Everson questioned what she should do. Zeglin responded that Everson can put weight restrictions on your roads. Brandt commented right now we're doing *SC20. Conduct on-going research looking at the following issues: Town strategies to increase public resources (i.e., tax revenues) to offset property value loss of annexed land parcels; Impact on the tax base of the reclaimed land, Land value of the reclaimed land, Tax impacts on residents of cities/villages who have annexed NMISMs, NMISM tax contributions to local units of government including total revenue and share of total revenue.* Brandt thought they were going to talk about roads but it has more to do with property values. Brandt stated we are seeing that the townships are faced with a multitude of issues and it sounds like the lesson is to stay on top of it and find out where the resources are. Everson elaborated more on some of her town issues and asked that anything the County can do would be needed. Schultz commented on the water quality issues and that our government participation is very important. More discussion took place on the annexation issues and sharing costs. Brandt suggested going with Britzius suggestion and that the discussion has been started. *In addressing SC21. & SC22,* Brandt stated these are the last two recommendations and we've talked about increasing permit application fees. Lien has mentioned any number of times that they have to be commiserate with the actual amount of work and DLM has been tracking that and applying that appropriately. The last one is the big one: *Cease permitting additional mines until the county is able to monitor the actual costs and impacts of NMISMs as outlined in these recommendations.* Brandt stated some of the impacts won't be known for many years. It is obvious, especially from Giese's presentation that there are impacts that exist but the answer to how to mitigate those isn't known yet. Zeglin stated that would essentially mean another moratorium but right now the market place seems to have created its own. AT this time the Committee took a short break.

Brandt called the meeting back to order. Brandt understood that a number of people in attendance are interested in the mining overlay district. Brandt referred the Committee to the map that was handed out.

Brandt stated one could infer that there was a request in the “Stable Communities” section of the report that there was a request for something like an overlay district. Lien stated we have been discussing a mining overlay district in the County for some time. This was mentioned to the town chairmen when we met with them and they were to take it back to their individual boards and discuss interests and possibilities of where a mining overlay district would make sense in their individual towns based on infrastructure, distance to rail, quality of roads, etc. Lien hasn’t received any feedback from them yet but as a starting point Bawek had suggested taking the footprint of the existing permitted mine areas, place them on a map. If one looks at where the mines are and connected that corridor it would include larger areas of land so this map basically represents the permitted mines right now – annexed ones as well as what is under County regulation. According to Lien this is consistent with what Town of Caledonia did. Brandt asked if we were to follow Caledonia’s precedent and just drop an overlay district over the existing permitted mines, this is what the mine would look like. Brandt noted there is a group of them along State Highway 95 and County Road T corridor in American Valley and Newcomb Valley. If this is defined as where mining will happen, Brandt asked if there is an implication that, if someone wants to apply for a permit, that permit would look more favorably if it were along State Highway 95 or County Road T. Lien responded the way this draft map has started, it would be more favorable if it is in the area where mines already exist, so depending upon the outcome of today, someone would have to possibly rezone the property adjacent and then have it under the proper zoning district (Comprehensive Zoning Ordinance Table 2.05) plus apply for a conditional use and that would amend the overlay district (if approved). Brandt clarified this would be defined as an overlay district, it would not be exclusive because, of course, a rezone would be possible but a rezone would be more likely that (not predicting) if it were in close proximity to existing mines, the Committee might say this makes more sense to do it here. Lien thought what Brandt was eluding to, in theory if they were larger areas, designating where mining hadn’t already taken place, then the Committee as well as town boards would look at that as this is a favorable area possibly for future mining versus nothing now. Bawek commented that he thought it was the Town of Stockton that had a mine come before them and they had a proposal for putting in a sand mine because of environmental significant benefit to the area for flood control by the changing of the water patterns coming off of the hillsides into this flood prone area. Along the lines of an overlay district or a cap as to the number of acres, Bawek sort of threw the thought process together and he thought if we would put a 500 acre cap on an overlay district or permitted mines at one time (whatever one wants to call it) and to get back into that it would encourage two things; smaller footprint on the County and encourage the mines to do the mining and reclaim it and then move out of the area to another more environmentally, county beneficial area type of a thing. Bawek read aloud what he wrote “The arguments for an overlay district or a cap on the number of wells of the potential for impaired or inadequate water (which we just had a person talk about today). We also have the potential for an extended period of low to no sustainable forestry or agricultural production. We also have a loss of scenic beauty, residual unknown side effects and we have a loss of residential development or an interest in”. So, the overlay district would start with our existing permits but we would not necessarily be committed to them if we felt another area had a better chance to benefit the County when it was mined for an environmentally significant contributing factor to our county. We would put it at a 500 acre max. Bawek got that number based on the DNR review from our financial summary on Page 9. We had like 488 acres and with our current staff and budgeting and fee schedules we came out almost right on what they expect this to look like. Bawek thought that was somewhat of a significant point because if we go beyond this 500 acre cap and allow 1500 or 2000 acres, we have to hire additional staff. We have seen it before that staff gets bought and sold in this industry, so if we have one person and we have a 500 acre site, he leaves, our current staff could hump through this time period and keep everything flowing. If we had a larger site and two people left the DLM, it would create utter chaos in our department again. Bawek proposed that we allow a 500 acre cap. We can choose one site or multiple sites depending on the environmental significance. Once this land gets mined and totally reclaimed then we allow again, up to the 500 acre cap and this would create an environment of

competitiveness in the industry to pick areas that are conducive to mining and environmentally significant contributions/benefits to our County and during the process we would have a way to address the neighboring property concerns and the haul routes also. To Bawek, he thought it was a combination of the two, personally he thought it was the way to handle this. It would give industry a right to mine in this County and yet be a contributing, welcome factor. Something on the scenario of the county putting up a wash plant and everybody hauling in a gravity box of sand to supplement the income on the farm to keep the farmers on the farms. This might be a way to get the best of both worlds.” These were just some thought Bawek had to open up the discussion. Brandt summarized; Step 1 – Adopt an overlay district of existing sand mines. Bawek stated not necessarily so, pick the ones that look to be, in the end when they’re done, to have a benefit to us as a whole County. Brandt stated these are already permitted. Bawek said correct but if there is more than 500 acres we don’t necessarily have to pick these. We could pick an area, such as near a State Road that would have a better transportation system rather than being injurious to all of our county and town roads. Bawek didn’t know where the 500 acres is going to be. These mines that are here right now are here now. Bawek clarified it would up to 500 acres total within the County and criteria would be developed for what is suitable and, i.e. what would benefit our County to have the area has a mine site versus a residential or is it an area that sometime down the road could be a residential housing area. Bawek suggested starting with a cap on the number of acres because when there is a limit in the number of acres they are going to want to mine it and reclaim it and there will be an opening for additional acres up to that 500 acres and it is going to create a competitive environment because they know what we are looking for and what the residents are looking for. We want to create some kind of surety in all of this. With the Realtors® and assessors that have come in, the number one thing that is a cause for property value depreciation is the unknown so if we will create an environment of knowing we will have solved one big problem. Nelson asked if one could have more than one site. Bawek stated, like Dr. Sarah Slaby suggested last time, she thought smaller sites may be more beneficial than having one big site. Nelson agreed. Bawek stated he wasn’t against having one big site versus multiple sites but up to that amount. Britzius asked if one would go through the County and locate and designate these sites ahead of time or wait for people to come and propose them. Bawek responded the people themselves could come and propose and say, “Hey this area has been flooded a number of times and if we would do this, this would create this and it would benefit us, the industry and the County”. Schultz said it reminded him of an interesting point that Paul Winey made at a City of Arcadia meeting where we were trying to discuss health concerns. According to Schultz, Winey’s question was can we be asking mining applicants how their project is benefiting. We are asking how you might be impairing our health, how are you benefiting our health by coming to our County. What is the benefit to the health and welfare of the County? Schultz thought that was a good reminder to our Committee to consider those factors. Bawek said look at the price fluctuations that we have seen in the last two or three years. Smaller acres have the potential of being mined quicker and faster. Employment will probably stay at a steadier pace rather than having all kinds of activity at once and then nothing. It may be a way to stabilize our employment rate in the area associated with mining. Zeglin commented it is still going to be based on the market place. Bawek agreed but stated even at the prices today the potential per acre on a 50 acre sand site is well over 1 million dollars and that is incentive. Zeglin said you would need a County wash plant because smaller sites are not profitable if they can’t process. Bawek added that wasn’t for him to decide, that is for the person who is coming forward with the plan. Lien said one of the things he has been talking to DNR about for years,(which he didn’t understand why it couldn’t be implemented other than costs), is all the flooding issues that Arcadia and Dodge has, if there were a mining project in that area that had retention area/flood storage that would take pressure off Arcadia or if it were between Arcadia and Dodge and did the same thing where part of reclamation or even part of the processing is where you have created infiltration basins, storm water retention ponds, temporary flood storage. Again, it should be viewed as a conditional use process where this Committee reviews, that if a mining application came in, that it would be a public benefit to the area, and those would be considered favorable sites because there is a better benefit. The end product could potentially

be a better result. From a planning perspective, Lien understood what Bawek was saying about smaller and more sites versus larger, bigger sites. From the industry side, they want assurance for product and investors so a larger site is more favorable to them. From the public side, people want to know what is in their neighborhood. Badger Mining has been there for forty some years. People don't live around it but they know that and they don't move there because of it. If Badger Mining hopped all over to their other sites, Lien assumed you would start to see lack of residential growth in those areas as well. If it is in one area, (like Gold n' Plump who is adding second barns where there are already barns) whatever adverse impacts they have on the neighborhood are already there. When building new, individual barns you are affecting whole new groups of people. Lien understood what Bawek was saying but there are two sides; the planning side of it that makes sense, but on the residential side you are affecting a lot more people by having several sporadic mines versus one larger mine where people have the certainty that it is there and they choose to live or not live by it. The infrastructure that it takes to process the material is over 50 million dollars and they are not going to "leapfrog" that around our County, so if you "leapfrog" the mining activity you have more trucking. Lien said there are pros and cons to both sides. On a conditional use basis, when those applicants come forward, and Lien had discussed this with All Energy because they had proposed adverse impacts to the flood plain that if they had proposed beneficial impacts, in Lien's opinion the Committee might have looked at things differently. Lien stated these conversations have taken place and the industry needs to pick that ball up and show that public benefit. Radtke questioned what the basis for the 500 acre limit was? Bawek responded the financial data summary from the NR-135 audit that we just went through. Lien commented this changes every year. Bawek said he understood that but when he saw a correlation between the two, he thought this is kind of an easy sell to him as this works for this amount of acres and then he got back to the point that if we lose one staff members or two staff members, depending on work load, it is a lot easier to hire one guy and have the rest of the staff pick up the slack rather than trying to get two guys in place when you have an overwhelming work load. That was Bawek's basis for choosing the 500 acres and the multiple sites came down to a thought process that everyone wants to have property rights. We don't want to take away the property rights and yet we still want to make it so that people have surety, so by the limiting to 500 acres you can assure the residents that these sites are this size and they are going to want to be mined and reclaimed so that they can, once again, move on to put in a bid for another amount of acreage to be mined – it is a process. Lien reminded the Committee that some of the first mining permits came through with 20 year terms and a lot of the public came forward and stated that 20 years was the rest of their lives and if it were a five year term they could weather it for that time period when there is an end in sight, so that is another argument in favor of what Bawek was saying. More discussion took place on the length of a mine site in regard to public acceptance. Brandt had a concern in regard to decision making. Brandt asked if there are 500 acres open for new mines in the County and someone comes with a plan because there is that opening within our limit, are they guaranteed a permit or is there still a yes/no process. Bawek said they would still go through the process. To Brandt it almost seemed like we are promising that, up to 500 acres, we will approve anything that comes through. Bawek replied he didn't think anything was being promised but he understood what Brandt was saying and it was a good argument to bring forward. Brandt wanted to be clear that there was still a decision related to what benefit it was, what the location was, etc. Brandt reiterated that the 500 acres would give a form of surety to the people because right now we really don't have that. Radtke clarified that we have 500 acres right now, so we would cap where we are at right now. Bawek stated he would leave it as a decision as to whether we want to pick an area or do we want to designate what we have. Radtke questioned that it was tied to the amount of staff we have. Bawek said the recommendation came from our current staff and the acres in the NR-135 financial report. Radtke clarified that staff can't handle more than 500 acres with the current staffing levels? If Bawek's understanding of it was right, that is what this plays out to be. Radtke said we've had a lot of acreage drop off so under that theory there should be staff cuts. Lien stated that number changes annually and we utilize the amount of staff that we need to regulate NR-135, so the acres, dollar amounts and the staff hours all fluctuate

based on meeting those requirements. Brandt questioned if we designate what we have right now plus 500 acres or we're at 500 acres now and when any of this opens up, we add that many more acres? Bawek wasn't able to answer that and added this is just an idea being presented for discussion. Bawek stated he wasn't going to be the one to day this is what we should do. Radtke stated the reason why he is asking how Bawek go to the 500 acres is because if the County were to put a cap on acreage (which he didn't think any other County has done) that limit is going to be highly scrutinized as to what is the justification, the reasonable basis for the County to do that. What is it based upon and what is the need? Bawek responded he just drew the conclusion from what he read on this page and the 448 acres and the surplus of default at the end of all this exercise was in the review, touted as an excellent program. Bawek assumed that this 500 acres is something that we can easily do, we don't need to hire more staff and if we lose multiple personnel how we handle it at that point. Radtke commented that is just a personnel issue and bringing on more staff happens all the time. Radtke was keyed into what the basis was for it because right now our Ordinance reads that if you are in the right zoning district and you meet the criteria, you can get a permit, so we would have to modify our zoning districts to say, "only if there is available acreage in the "cue" so to speak, then you would be able to pursue a permit. Lien said this isn't the first time this conversation has come up and Lien gave an example regarding liquor licenses which are issued by population. Zeglin said a limit on acres and a "cue up" sounds interesting to her but as far as designating 500 acres in a certain township, to her mind you couldn't do that without township approval which gets back to their comprehensive plans and it is up to each township to figure out if they want mining in their township and where they want it. As far as designating a certain spot, Zeglin didn't think it was doable, perhaps a countywide maximum of 500 or 1000 acres and when something opens up you would say, "Ok, we'll take an application for a 100 acre mine or something like that". Zeglin didn't think specifying a mining zone was doable without the township doing it. Brandt stated it has been suggested the mining overlay be the boundary of the existing mines. This does not preclude someone coming and requesting a rezone and a conditional use permit and a reclamation permit for nonmetallic industrial sand mining. What it does do is put us in the frame of mind of saying are you adjacent to an existing mine? Are you close to infrastructure? Do you have the resources? With all the other recommendations that we've approved or supported or talked about, do you meet the requirements of it being away from an aesthetically significant area or this far from the population or with what we know about groundwater we want this kind of thing. Bawek is suggesting that we take into consideration potential environmental benefit to the development of a sand mine. Brandt suggested that the Committee would look favorably at any application which is close to existing mines in order to keep the footprint of the mining district confined. To do that Brandt thought we would have to adopt the concept of an overlay district. Bawek thought the point he is trying to put the most emphasis on is, to come in and do your mining and be done and then it is reclaimed and we move on to another site. That is one of the bigger reasons for the 500 acres. Bawek thought it gives everyone involved an opportunity; the residents and also miner, whereas there is so much flack that comes from the public at these meetings when there is no number as to the amount of mining that can go on in the County. We've seen it over and over and the property value argument that we keep going back to. As Lien said and we all know that when you have an end date to a project, you have that in your mind that it is possible that one can get through it. Britzius asked if we say mining overlay is that a new zoning district? Lien answered that in an overlay district, when there is a rezone or other things proposed and they are in that district, it should or would be looked at more favorably, but there is no guarantee and all other zoning items would apply too. It would put that piece of the puzzle into place that when someone comes into our office (which happens multiple times in a year) and asks, "Where can I build that a sand mine won't be?", if we had an overlay district, and you were not in the overlay district, Lien believed chances would be significantly less that one would be allowed to mine there. Again, there are no guarantees as there is a process that people can go through to change the map but it would be extra piece of mind or surety for a company that might want to locate here to locate in the mining overlay district. This map would be a starting point and hopefully towns would look at this map and question where in the town would be a good place to

perhaps allow mining activity (and we're pretty much talking about industrial sand mining not aggregate). It would force people to do planning at the town and even in the city to consider where the residential growth is going to be. Discussion took place on different ways the overlay district map might be created with the data we have. Schultz commented he thought the best, successful sites have been constructed in our County and he didn't see a lot of competition coming up. Schultz has talked about this at several town meetings, that if you look at the distance from the operation in terms of the rail, wash/dry plant, of the operation to the rail, the length of the conveyor system literally decreases as you go up river to Blair and then beyond. Radtke stated he wasn't completely convinced that Lien's answer is quite accurate of what an overlay district is going to do; just to say it would be viewed more favorably. Radtke stated it is going to be an overlaying zoning district which will be in our Ordinance, which will have specific characteristics or specific rules in place or the impact of what that means. It's not going to say that mining will be viewed more favorably in this district because that is too vague as to what that means. Radtke questioned if Eau Claire County didn't have a mining overlay district? Lien responded they do and added it really comes down to that it is no different than our land use layer and zoning layer. Lien said people come in all the time and propose a rezone change from the zoning layer and we are supposed to be looking at the land use layer which is an underlying layer and if it is the same as what is proposed, that is viewed more favorably, but if it is not, we still have rezones that go through all the time. Radtke agreed but said let's look at the comprehensive plan versus the zoning side of it as the point of it is that you follow the plan. Radtke stated if the point of the overlay is really just to highlight what the plan is than does one even need to do an overlay district. The plan is already there. Lien responded that is why we haven't done an overlay district. Radtke commented the overlay district generally means something other than it is just the plan in that area. Lien stated no matter if we "connect the dots" or we do what Bawek suggested, you would have a really hard time selling that this is etched in stone and that it is etched in stone and nondebtable for perpetuity. Lien added you're not going to sell a plan like that to the towns nor the public, there needs to be a mechanism for amendment and to Lien it has to be viewed a little more like the land use layer versus the zoning layer. Lien explained the zoning layer is what is on the ground now and what one is restrict to and regulating today. The land use is a guiding tool. It is meant to be an ongoing, evolving process that changes with economics, land use and has to be reviewed on occasion. Upon Britzius asking how this played out in the Town of Caledonia, Lien responded that at the time, Caledonia limited (they have a footprint that is actually mined with an expansion around it) the permitted area (this isn't what is being mined as that area is much smaller than what shows on the map). Lien is guessing that in 20 years when Caledonia mines all that area and they reclaim it to something else, they're going to expand that district is some way or they're going to say mining is no longer allowed in Caledonia (which Lien doubted they would do). Either way, Radtke said Lien was talking about a towns land use plan and it is not zoning. Even though there are areas in their plan that they say can be used for mining, it doesn't mean that somebody can get a mining permit there. This Committee still grants or denies and also if an area is not in that land use plan as mining, somebody could be granted a mining permit and generally the land use plan and the area is generally not looked at or considered. Radtke stated he was clarifying the difference between a land use plan and an overlay zoning district which are two different things. One is just a plan as to this is something we want for guidance and what we want to do in the next twenty years. The other one is this is what is happening on the ground and there is specific rules one has to follow if you want to conduct certain uses on that land so when Lien described it that way, Radtke wanted to clarify, at least for the Committee here, what that means. When Britzius questioned what an overlay district means, Radtke thought it was going to be a zoning district that is going to lay over another zoning district with compatible uses and have special rules and what Lien was telling it as is that it was just more or less highlighting the land use plan. Radtke thought it was a fair question as to what this is intending to be. Lien thought if towns "buy in" to this and color code large areas and then it is adopted as a regulatory zoning layer, where the underlying zoning matches the overlay that could be an option. Right now, with Bawek's proposal, we're saying there is going to be no more mining in the County other than what is there and if we make what is there

right now a mining overlay district, if you're not in the overlay district, you're not going to mine. Radtke responded one would have to do a rezone which is amending the map. Lien agreed and added there has to be that process to amend the map. Radtke added that with the proposal to change the Table of Uses would be to allow mining as a Conditional Use in industrial zoning. Radtke said if one looks at the map today, there are no places where mining could occur without a zoning map amendment change to create the right zoning district, so again it is the same concept, you're going to have to do a rezone no matter what if that were to go through. Radtke was viewing the overlay district as an area that, on the map, this is an area that it is going to fit or it is going to be ok and it is maybe going to have different rules if you're in the mining district compared to if you are outside the district. To Radtke that is where they're differing because Lien is saying there is really no different rules other than that the Committee would feel good about that fact that they're doing something that is consistent with the plan. But also, if the plan is only what is existing, how does that help for any future permit applications. Lien said that is where this is still a talking point and there has to be town "buy in". Lien doesn't feel good about this Committee drawing things on a map and saying this is where it should be without town "buy in" and that is why we're not at that point today. As far as "buy in", Everson asked where the Town of Preston stands when all the sand mines by them are city run. If one has 500 acres, they don't care about that, they're going to want to annex. Everson said Preferred Sands has all of the valley back of Blair behind the lake all the way to Skunk Hollow under their possession already – they own it, so they don't necessarily have to have town "buy in". Schultz commented when you're on the board that is something that you are going to have to consider. Discussion took place on whether the County was considering the lands that are owned by sand mines but not annexed etc. and whether or not that would, in fact again push annexation. It was clarified that the Committee was considering the lands that are currently under County jurisdiction in discussing the overlay district. The towns should consider also where mines make sense or where their likely to be and incorporate that into their planning. Bawek stated we can't do anything about the lands that were annexed already but what we're trying to do is protect the rest of the County and to guide the growth. Bawek referenced the Town of Unity survey which Zeglin gave them last time and said that when he looks at the town residents and nonresidents as to "frac sand mines should be permitted in the Town of Unity or would I support a frac sand mine within a half mile of property", they are both pretty much the same. It is ok as long as it's not in my backyard. Bawek questioned how one addresses that? Bawek stated you address that by the length of time that a mine can be open and operational before it gets reclaimed. We have to address reality in some form. Bawek saw the time factor as one of the biggest hurdles to overcome and trying to protect the rest of the County. Zeglin commented then we need to limit the amount of years a mine can be open. Discussion took place on what the length of time was for currently permitted mines. Radtke commented the reclamation permit last until reclamation is completed however long that takes. Radtke knows we've dealt with this issue before, we've asked for opinions from the DNR, and basically their (TJ Magglio and Tom Portle) conclusion was that we can't put a limit on how long they have to reclaim. As long as they're complying, their ok. The only thing we can do is what we talked about before and that is when the reclamation plan comes through, you can talk about shorter phasing, phasing in smaller groups and requiring reclamation before you move onto the next, but you can't say this one phase can only be open for nine months, this one can only be open for a year. The DNR said that we can't do that, so our hands are kind of tied in that regard. There are, no doubt, financial incentives for them to reclaim; they don't have to maintain their annual fee, they don't have to maintain their bond and Letter of Credit, but ultimately the DNR said we can't tell them when they have to reclaim by- a certain end date. Brandt said that strategy to bring more surety to the neighbors is not within the realm of our power at this point. Britzius proposed making a motion to make a proposal or something like that to the townships that the County create an overlay district based on present mine footprints in order to direct the townships attention to this and ask what they think about it. Lien said that was already done. Radtke questioned how does making a mining overlay district where the current mines are (successful or not) address any of the issues as it is just putting on the map what is already known and if the mining overlay district is

just a tool or a guide that would apply at the time of seeking a permit, what value does it have being put on mines that already exist? Schultz thought the value is the response to the chaos that happened in Arcadia in the last three years. Radtke reiterated it is just putting on the map what is already known. Schultz add it is in response to State Statutes on planning and success and health of industry is one of the things to be considered. Radtke said the in order for the County to change zoning or have a zoning map change, the law requires it to be consistent with the County's comprehensive plan, not necessarily the towns. But if the towns not agreeable to that and there is a change that could be grounds for (depending on the type of amendment) the town to opt out of County zoning. So in order to keep all the puzzle pieces together, that is where the towns need to be agreeable as to what areas they would agree to have a zoning district related to mining in their town so that the County can change their plan and we can move forward with making a mining overlay district. What Radtke is hearing from Lien is that the results is that no one wants it in their backyard. No one is saying its ok here or there so it is almost impossible to do anything other than perhaps make a mining overlay district where it already exists but that doesn't really have any impact on future permitting at all. Britzius commented it slows it down a little. Radtke added but if the mining district only applies to where there is already a permit, it wouldn't have impact on those sites. Lien gave more detail on the purpose of land use planning. Upon Bawek asking what happens if we drew a circle around an area and then it was annexed, Radtke responded it is outside the County's zoning authority as they only have authority in the unincorporated areas. Bawek asked if there would be no more mining in the County since we had established a mining overlay district. Radtke explained that if it is a County overlay district applied to the land and the land is in an unincorporated area, then it does apply to that land. If that land gets annexed into a city, even though it may show on our map as an overlay district, it is an unincorporated area of the County but the zoning does not apply. Whatever city annexed it, their zoning would apply. More discussion took place on an overlay district and what that might mean. Brandt recapped the whole discussion. Brandt's opinion on Bawek's suggestion was that he didn't think we could legally do it because eventually someone is going to come and want to rezone, i.e.1000 acres and put up a mine, rail load out, etc. Schultz added that the reality is that a \$50 million dollar investment is going to need three times as much land to pay for their investment so we're going to have to help cities and town's to deal with that. From the towns' perspective, Schultz stated in the Town of Arcadia he didn't see why they would permit a new operation that doesn't match those characteristics, secondly he didn't think they had a site that was going to match those characteristics. Brandt clarified that Schultz meant in terms of nearness to rail, distance from wetland, etc. Upon Bawek stating that really wasn't Schultz's decision to say yes or not to but that he could make a recommendation, Schultz responded he thought that was the whole concept of an overlay district which includes the range of site characteristics that we would permit an operation in. Mossman referred to Map #2 and the land dispute between the Town of Lincoln and the City of Whitehall regarding the annexation of land to the north and west of town. In example, Mossman said let's say that the Town of Lincoln is victorious over the City and the land is given back to the Town of Lincoln which could take any length of time, but in the meantime the Town of Lincoln has done their comprehensive plan which does not include that land. We know that their goal, that if they get that land back, they want to mine there. They have been very forward with that information. Mossman didn't think anyone would dispute that. Mossman asked if the Town of Lincoln would just draw a big circle around that blank area so that if the land comes back into their township, they are already set up to put a mine in. Lien answered that if that is their wish and it is compatible with their zoning and land use plan and that is something they want to see in their plan or they could leave it out but it would be up to the Town. There would be a public hearing to receive public input and if that is a good, consistent, use of that land. Mossman confirmed that they would draw a circle around that land so the minute that land comes back to the Town of Lincoln it is zoned correctly for a mining overlay district. Radtke thought Mossman was confusing zoning and land use planning. Radtke explained that a town puts together a comprehensive plan that says in the future we want this and this for this type of use. That does not affect zoning only to the extent where, if the zoning ordinance get changed, it has to be consistent with the land use plan.

Budish thought what Mossman was asking is, since it is in the City now, if it comes back to the town would the land revert back to the original zoning. Lien answered yes. Lien gave some examples of zoning and land use planning in the Town of Ettrick. Lien gave more information on how zoning and land use plans work. Mossman clarified that in doing the land use planning the Town of Lincoln should look at the City of Whitehall's plan and vice versa. Lien noted that neither municipality is required to look at the others plan, but Lien thought it was a wise decision to do so as it benefits both parties. When Lien was talking about land use plans, it is more than a suggestion that something is going to be, i.e. R-20 zoning. If you want to do a zoning change in that R-20 district and you want to change it to commercial, technically, you can't make that zoning change if the plan says something else. Radtke stated the law says any zoning change to the zoning ordinance has to be consistent with the comprehensive plan, so it's not just a suggestion, it is actually required that you have to follow that plan. If no one objects and everyone is ok with it, then it is going to happen but what it can do is, if I'm a neighbor, and I see someone wants to change to commercial, I can show up and say, "Hey this is not consistent with the plan that is here today. Either change the plan or don't do this zoning, follow the plan." Basically you can have some voice in that regard. Lien said, on the reverse side, if someone came with a request for industrial zoning in R-20 and this Committee denied it because it is inconsistent with that plan, an appeal process would look much more favorable to the County. Radtke agreed and said the law doesn't allow a zoning change that is inconsistent with the land use plan if there is somebody there objecting. Radtke added we have talked about town and city plans but there is also the County plan which for the most part mirrors the town plan. It is the County zoning that is in effect in this County, not town zoning, so when there is a zoning change to the County Zoning Ordinance, it has to be consistent with the County's plan. The County doesn't look at the city's plan or the town's plan even though our County and town plans are very similar. Radtke explained more of the land use planning which included clarifying that the County's plan takes precedence over the town's plan in our County. At this time the Committee took a lunch break.

Chairman Brandt called the meeting back to order. Brandt asked that the land use map be brought up on the overhead map. Personally, Zeglin commented she thought the overlay was a huge topic and perhaps it should have a whole day discussion. Brandt stated he wanted to share something Gamroth had mentioned, that being that in a sense we're going about this in a negative way by trying to restrict something to some place. Brandt suggested going about it in a positive way. In those areas that are designated residential; RR, R-4, R-8 and R-20 or where it is indicated by the communities that this is where they plan to expand, make that our residential zone and put a buffer around it. In this way you have the areas where the townships and municipalities have said they want to grow or where they want the population to be. Gamroth had suggested a different overlay district where basically anything that is in the land use plan that is zoned "residential" would be excluding mining activity. If the town boards are unwilling to draw a circle around an area that they want to be mining, they've already considered where they want "residential" to be in the future, as well as the city's with their R-20's. Brandt said this would be a way of "selling" it to the towns and that anything that is designated residential would not allow mining. Britzius stated the townships have done that. Brandt stated the way we would interpret that then is to look at the land use plan and if we see it "residential", we would say it is not appropriate with the land use. Lien reminded Brandt that we're not going to see those because it is not a conditional use in any of those districts, so that will never come before this Committee. It would only come before this Committee after a rezone of the land to "agriculture". Brandt said we wouldn't be looking at the zoning map, we would be looking at the land use map. Brandt noted nothing would need to change. It would be a way of getting the town boards to say, ok, you don't want to create an industrial district and you've already created a place where you don't want it to be. Gamroth's stated her thought was that the towns' don't seem to be receptive to designating where people cannot mine. Let's put a positive spin and ask them to tell us where your residential is going to be, even outside of the town of Arcadia, like south of town on County Road J and we could then put a buffer around that. That way it would be more of a positive way to approach the towns and then we could also go to the cities. We could have Kirstie

Heidenreich, who is doing the planning, go to the city's and say, "We really need to know where your designated "residential" is for your sake and ours. Gamroth thought that would be a more positive way to approach it as opposed to going in there with a negative towards them. Gamroth thought Heidenreich might be able to get some response from the cities. Upon Gamroth asking Schultz if thought that would be a way to approach the City of Arcadia, Schultz responded yes, that they would communicate. Gamroth questioned if they have really designated which way there town is going with residential development? Schultz said they did finish updating their comprehensive plan this past fall but to answer Gamroth's question Schultz said "no – nothing too specific". Gamroth thought it would be a positive way to approach them by saying, "We really want to know where people can build so would you please give us some kind of direction here". Radtke questioned if the towns don't already have that in their plan. More discussion took place on this subject. It was noted that there are multiple houses in areas where the zoning is not "residential". Brandt appreciated the new prospective. Radtke stated that there is nothing on the map that is industrial so if that change to the Table of Uses gets made, whether the underlying plan is residential or not, you're still going to need to get a rezone. Radtke questioned if industrial was consistent with Ag? Probably not, it is probably more consistent with residential but one would still need to have a rezone hearing. More discussion took place.

Brandt stated Lien had come up with some language related to the lighting recommendations. Lien referred the Committee to his handout of Chapter 13-Nonmetallic Mining of the Comprehensive Zoning Ordinance and noted this handout reflects what has been discussed regarding amendments to Table 2.05 to require nonmetallic mining to be a permitted use in industrial zoning. Lien explained that historically construction aggregate has been a conditional use in Exclusive Ag, Exclusive Ag 2, Primary Ag, and Transitional Ag but Lien added it under industrial because we have to sites (Whistle Pass and the Twesme Quarry) in the County where both industrial and aggregate sand mining take place. Lien didn't foresee that as being a problem unless the Committee feels otherwise. Zeglin stated it makes sense to her. Upon Budish mentioning that a construction aggregate site could then operate whenever they want, Lien said not necessarily because it still requires a conditional use in an industrial setting. Upon Budish saying they could still apply for that, Lien responded yes, anyone can but it doesn't give them a blank slate because it is not a permit use, it is a conditional use so there would still be a public hearing in an industrial zone. Lien went through the changes he made to Chapter 13 as requested by the Committee particularly the lighting recommendations. Lien said they (Budish, Lien and Radtke) tried to address the lighting concerns of the study but tried not make it so difficult and in-depth that engineers would need to be involved. Lien read through the changes. Lien thought it would be difficult to regulate the ordinance if it just pertained to mining sites so this is for all areas of the County. Lien saw this as a starting point. Radtke noted he hadn't looked at this until this morning. Radtke referred to section 13.01 where it says what the applicant needs to put with the application. Radtke thought basically we're asking the applicant for a lighting plan so that when it comes time to review the permit, the Committee can look at it and take some recommendations from staff, etc. of conditions that could be put on related to light and you're not going to know what to condition until you have that in hand, so Radtke saw this as simply requiring the applicant to submit a proposed lighting plan along with the application. Radtke didn't think there had to be language in there that it is reviewed and approved by the Committee or that any future modifications or revisions are reviewed by staff. That is something that can be done at the time of permitting and even if the Committee wanted to have language like that, Radtke suggested it go later in the Ordinance where the question would be what is the basis for approval, what does not get approved. Radtke stated that is the crux of the issue on every one of these regulations as to where does one draw that line and how do you justify that. What criteria applies as to whether a plan gets approve or not. Radtke suggested leaving it at just submitting a lighting plan and you get to review it. You don't need to have special criteria. Each site is going to be unique as is each lighting plan so staff can look at it and make some recommendations. The Committee can then approve the proposed plan as part of the permit with modifications. If they want to change their plan then they need to amend their conditional use permit.

Come back before the Committee and address it that way. That way you don't have issues of staff trying to make judgment calls on things that the Committee may or may not approve of and it would just make things more consistent. Radtke was suggesting to just state, "A lighting plan for the proposed site including" and the Committee could add suggestions as to what they want or you could just put, "A lighting plan for the proposed site". You are just telling the applicant what they need to attach to the application. Bawek thought we could refine it a little bit further down by requesting that it addresses the issue and our Health Study recommendations specifically the L5 recommendation as that would give them something more specific as to what we're looking for rather than just the general plan. Brandt commented that instead of a lighting plan a photometric plan for the proposed site would then be required. Brandt inquired if this would be more towards that lighting ordinance that Lien was talking about. Bawek didn't think so. Radtke recommended not specifically referencing that document. Radtke suggested just taking the language in it, preferably the first two bullet points and then the last bullet point. Discussion took place on the wording of those points and where an engineer needs to become involved. At this time Schultz left the meeting. Lien commented it is sort of a slippery slope because if you don't put enough information in it, it is not enforceable and if you put too much information in it falls outside of the level where staff can effectively enforce it. Zeglin thought the more guidance the better therefore at least directing toward the minimum that we need. Lien said the other changes he had were just numbering etc. Lien then referred the Committee to Chapter 13.03 (5) (b) – After the conditional use permit has been issued - which Lien still had great concerns about. Lien read aloud, "After a conditional use permit has been issued and if no activity has taken place at an Industrial Sand mining site, or rail load out facility under the permit whatsoever or, alternatively, where activity was originally commenced but then has been terminated". Lien stated we are learning that is not as clear as we once thought it was. Brandt said are we learning that or are we learning that the lawyerly class can find holes in anything. Radtke thought we have to carefully tread on this current issue and maybe there would be a better time in the future to look at this than now as there is potentially a pending appeal that may be brought before this body relating to this section so Radtke thought it might be best not to talk about it. Radtke had a few more suggestions to clarify some things back on the first page and he went through them with the Committee. Radtke said he could work with Budish on them. Radtke clarified that what we are doing is saying industrial sand mining you are in industrial zoning and construction aggregate you can continue on in the current zoning which has been in an Ag type district. We divided them a couple of years ago and there hasn't been any controversy at all related to what is which. But if it is going to turn out that to get a zoning classification of industrial is going to be a lot more difficult than the pre-existing agriculture, Radtke questioned if you're going to have mines trying to call themselves "construction aggregate" and saying "We don't fit in the definition of industrial sand and we might not fit into the construction aggregate either so we're going to call ourselves "construction aggregate" perhaps leading to problems down the road. Radtke questioned if we need to "beef up" our definitions of what is "industrial sand" versus "construction aggregate" so that we are not leaving any sort of stone uncovered. The two definitions were briefly examined. Radtke stressed that if we are going to make changes to these definitions in order to make them stronger then now is the time. More discussion took place on the difference between the two types of mines. Radtke guaranteed that these definitions will be challenged if it is more difficult to get to an industrial zoning. Also, Radtke questioned at what point do we give staff the enforcement tools to say you are no longer construction aggregate and you need to rezone, etc., in the event that would happen. Brandt noted that had happened in the past with the Kramer quarry and they came in to get a conditional use permit. More discussion took place. Brandt recapped the definitions are going to be important and the premise is that just having had this discussion about the need to be consistent with the land use plan in determining rezone requests and what we're actually just talking about now which is changing the Table of Uses to require industrial sand mining to be in an industrial district, Radtke's suggestion is that we could see more scrutiny of the definitions so that it becomes intentionally easier to get a permit. Britzius suggested perhaps Radtke in conjunction with staff could suggest some possible changes and then bring those to the Committee. Radtke agreed. The

Committee discussed an additional change to Chapter 13. Brandt requested that we incorporate the language from L5 (lighting recommendation) and add that to Radtke's language and incorporate any other changes and bring this back to our next regular meeting and the Committee will act on it then. Discussion took place as to when this might be ready for public hearing.

Confirm Next Regular Meeting Date – Brandt reminded Committee members of the next regular E & LU Committee meeting on Wednesday, March 16th, 2016 at 9:00 AM in the County Board Room. Brandt stated the Committee would take up the groundwater and surface water recommendations at the next meeting. At 2:00 PM, Nelson made a motion to adjourn the meeting, Britzius seconded, motion carried with no opposition.

Respectfully submitted,
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary