

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

**SPECIAL MEETING MINUTES**  
**March 29th, 2016 9:00 AM**  
**COUNTY BOARD ROOM**

Chairman Brandt called the meeting to order at 9:09 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, Jeff Bawek and Aaron Kidd. Schultz arrived at 9:20 AM.

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

Others present: Linda Mossman, Tom Forrer

**Adoption of Agenda** - Britzius made a motion to approve the agenda, Skoyen seconded, motion carried with no opposition.

**Adoption of Meeting Minutes** – Nelson made a motion to approve the February 24<sup>th</sup>, 2016 special meeting minutes, Zeglin seconded. Motion to approve the minutes carried with no opposition.

**Approval of Permit Fee Schedule/Worksheet**

Lien stated this Committee establishes the permit fee schedule for the Department. The last time this fee schedule was changed was when the new, on staff, UDC inspector was hired. Britzius made a motion to approve the Permit Fee Schedule/Worksheet as presented, Nelson seconded. Britzius asked if the \$200 was the same for all the public hearings. Lien explained it is because of the newspaper publication requirement. After some discussion it was decided that Lien would look into the public hearing fee to see if costs are being covered or whether there needs to be an adjustment to that fee. Bawek had questions about a County versus State Sanitary permit. Upon Nelson asking about well permits and who fills out those forms, Lien responded it can be either the landowner, the home contractor or the well driller. Lien added DLM has nothing to do with high capacity well applications. Motion carried with no opposition. Schultz abstained from the vote due to not being present for the discussion.

**Discussion and possible action in regard to the Final Report on the Public Health Impacts of Nonmetallic Mining**

Brandt stated at the last special meeting the Committee was able to get through all twenty of the Stable Community recommendations with significant discussion going towards property values and lighting districts. We called this meeting to see if we could attempt to address the issues in Groundwater, Surface Water and Noise. Brandt referred the Committee to the Groundwater recommendations in the report. Brandt read the key findings aloud: Groundwater in Trempealeau County is susceptible to contamination, Groundwater quality varies throughout Trempealeau County, Groundwater is expensive to clean, Trempealeau County has sufficient groundwater to meet current demands, but demand is increasing, Non-metallic Industrial Sand Mining (NMISM) can impact groundwater quality, Blasting is impacting wells in Trempealeau County. Brandt read the first recommendation aloud.

*GWI. Permit holders will develop and provide to DLM a groundwater monitoring and mitigation plan. The plan (adapted from the MEQB, 2014) shall include the following components:*

*a. A review of all available hydrogeological data. It shall include an assessment of groundwater vulnerability throughout the lifespan of mining operations and reclamation.*

*b. Identification of all chemicals that will be used at the site. This information shall include all known residual contaminants and known breakdown products.*

*c. Identification of all groundwater users within a one mile radius of the site.*

*d. Identification of potential contaminant sources within a one mile radius of the site. A review of any known groundwater contamination within a one mile radius of the site should be included.*

*e. Identification of nearby surface waters that may encroach on the site during flooding.*

Brandt asked Budish and Lien what we are already requiring or what is different about these recommendations, i.e. identification and storage regime of the chemicals. Lien responded if they apply, by site, we usually condition them that the chemicals need to be housed in a location which then requires them to work with the local fire department to have a “hazard” plan. Brandt stated the review of hydrogeological data could be a map of the groundwater or it could be something considerably more. Lien stated we have had multiple people/hydro geologists give presentations and it has always been confusing to Lien because one will say we are in one aquifer and not in the other and they don’t intermingle and then the next one will say, “Look at this cone of depression, we’re pulling out of the lower, deeper aquifer but it has an adverse effect of wells within close proximity and the cone of depression goes away”. Lien thought anytime we are talking about things underground it is an opinion. There is modeling but no one really knows what is going on so Lien thought we should always proceed with caution. Other than doing it through the conditional use process because every one is different, Lien thought it might be done through a set standard that applies to all. Zeglin thought it would be good to have a standard condition regarding ground water. She thought we were including all of these points. Lien said typically annual testing was required, 2,500 feet from the mine border, of groundwater depth and minimum water tests. Lien wasn’t sure where any of that testing was at, because the ones of concern have annexed. Lien reiterated it really pertained to people outside the mine perimeter. Lien thought the Department had contacted the City’s of Whitehall and Independence and they didn’t require any testing in their CUP nor did the City of Blair. The County has since made the 2,500 feet a standard condition. Lien explained at the Winn Bay hearing, that was the first one and because it brought them (Winn Bay) to the edge of the City, everyone agreed at that meeting it should be 4,000 feet (no science behind it) and that was adopted and put into place. After that staff did some research and it seemed groundwater, vibrations from blasting, etc. all fell off the radar at roughly 2,500 feet so, and at that point, and it became the standard. Today, with the testing going on and some issues going on, there is concern as to whether 2,500 feet is enough. We don’t have those answers, but staff along with Pat Malone continue to work on groundwater monitoring and testing and hopefully we can establish something in the future to support it. Bawek stated Lien had talked about depth of water at 2,500 feet and asked if that was on an annual basis. Lien responded that it was supposed to be an annual test. Upon Bawek asking if it is supposed to be or it is, Lien responded it is and that is what we adopted as conditions on a lot of the sites was annual testing. Bawek clarified that was for anything within 2,500 feet not just on the mine site. Lien responded this is outside of the mine boundary – 2,500 feet for an annual water test. Lien added that we are learning through Malone that maybe things that were being tested weren’t being tested to the level that they should be. Brandt clarified that Lien meant in terms of the chemicals being tested for and the type of tests that are being taken. Lien stated the County has a Well Ordinance that gives us the ability to issue well permits. Lien is working with Radtke (as he is researching this for another meeting) and when somebody builds a new well now the State requires one do a bacteria test, which basically says whether or not your water is drinkable in that regard. Lien would like to see (if the County can require it) that the testing this is done be the “Homeowner pack”

(heavy metals, phosphorus, nitrogen and all these other things) which is in the water test kit that UW-Extension gives out now, so that we could establish that County baseline. Right now, Lien didn't think a bacteria tells anyone much. Bawek inquired, i.e. if someone doesn't want to go under the mine jurisdiction as far as testing their water, can they do it through the County on their own and use that as a base line then also. Lien said sure, absolutely. Lien added the problem is that we don't have a real good baseline. We're trying to pool all the data. There has been a lot of groundwater testing in our County through different grants, etc. and some surface water testing. We are working right now to get all that information put together into one data base that can grow and be expanded upon. That is one of our goals. Lien stated the County has one of the highest phosphorus levels in a river in the State of Wisconsin and it would be nice to figure out why. Bawek asked if the County was going to back, on an annual basis, the person that chooses to do this on his own versus having the mine do it. Lien responded No, the County is not going to do that. Bawek asked if the person could do that on a yearly basis and consider that as verification. Lien responded they can but they need to test to the right standard. Lien added the tests have to be conducted in the right manner and the mining company has to require it as it is part of their CUP. They are supposed to do the testing. Lien thought we need to review what they are all testing. With what we know today, we need to test beyond but we can't go back and amend that so we just need to learn from that. Lien's suggestion, in the future, is going to be that they test to the levels of the UW-Extension Homeowner Pak water test requirement. Bawek stated his question was in regard to the landowner that doesn't trust the mining company doing the testing. Lien explained the landowner can do it but they are on their own. They can still come through the County water testing program and right now we are still cost-sharing those through UW Extension at a 70/30 rate. The entire screening costs about \$100, so a landowner pays \$30 and the County picks up \$70 of that cost. Discussion took place on how the samples need to be taken correctly or there will be a flawed result to begin with. Bawek asked whether or not the Committee can give a landowner the ability to get this done on a yearly basis so that they are protected in that aspect that they have the peace of mind knowing that they, themselves, did the test and that it is a true test. Brandt commented it is recommended by UW-Extension to have your water tested once per year. The water testing started as a one year pilot program and it has been suggested that the County make it permanent. Brandt said the short answer to Bawek's inquiry was yes, if they use the resources available at the County. Bawek asked if the County will keep the records and make that available to the individual. Lien and Brandt said yes. Lien added that is going to all be part of our database that will be open to the public. Britzius asked if the individual is doing the testing how the County would get the information from them. Brandt responded that if it is part of the cost share, they have to give us that information. Lien thought that UW-Extension gets a copy of the results of any test done through the well testing program. Bawek clarified that he was saying that people should have the option to choose one or the other – why should they be forced to trust the mining company when they may feel that they might not do it correctly, so why not have this option for them but it needs to somehow be verifiable. Bawek asked how we obtain that for our citizens. Lien explained that the required well and foundation inspections are done by a third party engineering company. The inspections are paid for by the mining company but it is a third party company that the mining company contracts with. Lien clarified that the results go to the County as well as the mining company. Lien stated we have all that documentation. Discussion took place on this issue. Kidd stated if he was going to have his water tested to create a baseline, he would not want to throw in his human error into the process, he would want a professional to do it. Lien commented that the test kits they are handing out now are done by the landowner. Bawek asked again if the Committee could give them a choice on who they could choose for a third party and if there could be at least two third party choices or there is just one person that the company picks and that is the person that does it. Lien stated they can always have their own water sample done and then compare the two. Brandt commented in terms of third party, the most likely candidate for that would be your plumber. Bawek agreed and asked if one could choose their own plumber. Bawek noted the company would be picking that up and not the landowner. Bawek inquired again if the Committee could give them the right to pick

their own plumber or third party consultant. Kidd questioned if Bawek still wanted the sand mine to pay for it. Bawek responded yes. Lien suggested that the Committee could make that a condition, that a licensed plumber do the testing, when it is a concern or if it is always a concern. Discussion followed as to whether licensed plumbers do that sort of testing. Brandt stated he understood what Bawek's concern is but added that the pieces already exist. We have a handful of good plumbers in the County, we have a water testing program that is run out of UW-Extension, we are, as Lien pointed out, unable to require mining company's (because many of them are out of our jurisdiction) to do this as a condition on an annual basis but it is the responsibility of the homeowners to have their water tested annually anyway. Some people won't but perhaps at some point there will have been a notice sent out by our staff that testing is going to happen and it will happen every year, these are your options. Even though he thought that would add work load to the staff, Brandt said that is the best we can do as a County, is to notify the landowners within a certain distance that a test should be or will be taken once a year. Bawek stated he simply brought it up because he has heard this argument at our meetings and he wanted it out there so that they know that what we have in place is the best option. Lien noted the recommendations from the Health Impact Study and said that GW4 set parameters in A thru H on what to test for and Lien has a note to talk to Pat Malone in UW-Extension as to how that matches up with the Homeowner Pack. Lien thought there should be some consistent water testing across the County. Lien had proposed to Corporation Counsel Rian Radtke to amend our Well Water Ordinance so that when a plumber or well driller takes that test, it meets that same standard – not just the bacteria. That will start establishing that baseline across the County that we are trying to gather. Britzius commented that would be really valuable information long term. Lien suggested that the testing “mirror” the Homeowner Pack as far as what is being tested for. It was Bawek's understanding that when one gets a storm water permit from DNR that this company has to go and present to DNR what chemicals they are going to use so that the DNR knows how to design the storm water ponds. Bawek asked Budish if that was correct or incorrect. Budish responded he thought that was incorrect for storm water, but that if it is processing water then that water generally has the chemicals in it. Budish clarified that storm water is everything that comes off of rain events, etc. Upon Bawek asking if the processing part of it was the County's responsibility or DNR's. Budish answered that everything is DNR's as they design the storm water permits. All the chemicals are regulated by MSHA (Mining Safety and Health Administration and OSHA (Occupational Safety and Health Administration) which requires having a material data sheet onsite for worker safety and that they know how to handle the chemicals in the event of a spill. Lien added this Committee has always taken the step that if polyacrylamides were being used, regardless of food grade or not, that they be concrete lined ponds to get down into them and remove the acrylamides. Bawek addressed “B - identification of all chemicals” if that is wording that goes along with using concrete in the lining of the processing pond. Budish responded that when we had sites operating and using chemicals onsite, Budish saw that they all had the chemicals in something like a steel locker and everything was labeled. However, now since everything has idled down there is very little to no chemicals on site other than perhaps some fuel oil, grease, etc. that is used to maintain the equipment that they are using. Bawek questioned what wording we have to address chemicals and if we need to incorporate any wording, in regard to what the Health Impact Study is recommending, or have we addressed that. Budish thought it was just a standard regulation from MSHA and OSHA when they go out there and look at the site for worker safety. In talking about the pond lining, Lien stated we've addressed that by requiring to meet the manure storage standards so it is a water tight, concrete structure. Lien added that DLM staff actually goes out there and views it prior to pouring to make sure it meets the 313 Standards for water tight storage. It was clarified for Bawek that we have addressed the issue in GW-4-B. Budish commented the large mines would probably be the biggest concern and they have annexed and we can't address them. Brandt commented the concern gets brought up in the Stable Community recommendations which is, how is it that we communicate with those people holding permits in a different municipality or how do we communicate with that municipality. Lien said that is where the well water testing comes in. Right now we are having a lot of issues outside of the city limits with

groundwater related to activities that are happening in city limits and we're trying to gather more and more information related to that. Brandt said Gary Giese had a wonderful presentation at the last meeting about the concerns that the Town of Lincoln has in that area. Based on that, Britzius commented these recommendations throughout the Groundwater section talk about a one mile radius for measuring all these different things and our current structure is half a mile/2,500 feet, so we could consider that given recent experience in the Town of Lincoln we know that there could be issues within the 2,500 feet. Britzius suggested making it greater, perhaps  $\frac{3}{4}$  of a mile. Budish thought we could use the Health Study Impact report and all the other knowledge that we have to increase the distance. Lien commented that GW3 and GW5 both recommend a mile for water. Mossman commented that we are seeing problems in the Town of Lincoln outside the one mile for sure. Zeglin added that there have probably been some reports up to two miles of problems in the Town of Lincoln. Zeglin didn't know if we perhaps needed a County hydrology study to find out exactly where the water is coming from or going to, but she thought one mile should probably be our minimum right now based on experience. Schultz added we can't see our subsurface impacts so it is probably easier to underestimate and he, personally, worries about accountability. That is our burden to public health and welfare, and accountability and in talking about testing for documentation in some ways we are diffusing that accountability. Schultz stated there was a mine application next door to his property and he had real concerns about air and water. Schultz just wanted to know, if someone damages his water, he wants them to drink it too. Schultz suggested bring Sylla's water to the County Board meetings as he thought people need to see and he himself would like to see the water. He thought people need to start bringing their tap water to our meetings so we can see and decide whether or not we would like to drink that water. Britzius and Schultz agreed that would be some qualitative data. Zeglin stated she has seen some pitchers of brown water brought into the Town of Lincoln meetings and there too it depends on the time of year and whether there is blasting going on. According to Zeglin, right now with the problem wells in the Town of Lincoln, everything seems to be settling down because Hi Crush isn't operating, so Zeglin didn't know that even our yearly testing is enough. It almost needs to be seasonal according to what activity is going on out there. Lien stated that if one remembers back, there were a few engineers here that said they aren't going to debate or argue that during blasting there will be increased turbidity in peoples' private wells. The conversation needs to shift to what is acceptable levels. Lien stated, to him as a homeowner, anything would be unacceptable. Why should someone's actions adversely affect you, regardless of distance and location and we've had them say that without question, there will be increased levels of turbidity depending upon proximity of blasting. In reading through the Health Impact Study, it is this Committee's charge as to what's acceptable, adverse impacts to neighbors because it is far reaching on mining. Lien added it is a good conversation related to drinking water because no matter how many surveys we have done in this County, protecting our drinking water and resources comes back as the number one public concern. Along those lines, Bawek asked if we have to allow blasting at those sites as it is simply done as a convenience or a factor to keep the machines from wearing out too fast as a definite necessity, so if blasting is causing all of the turbidity problems of the water, do we have to allow blasting. Lien said there are state standards and state requirements that they have to meet. Budish and Lien receive seismograph readings and we have blasting logs. They always call DLM 24 hours prior to a blast and we keep track of all the blasts in the County on land under our jurisdiction. There is a curve that they have to be under. When we get complaints, Lien stated the seismograph readings are up near the curve but still in the allowable range and never over it. We don't get complaints when they are at the very bottom of the curve, so we've tried to encourage blasters to either blast more often with smaller blasts or be mindful of that curve. Lien explained DLM has had calls from people who stated stuff fell off the walls or things were rattling and to Lien that is absolutely unacceptable and that still falls within the curve. That tells Lien that the curve, by State standards, is relaxed too much. When stuff is falling over that is a pretty significant blast and Lien has been out on sites taking pictures, etc. and the problem is how one proves any of it. How does one regulate these things – especially ground water? Bawek stated you're not talking about water, you're talking about

shaking. Lien said Bawek was relating it to the physical test rather than turbidity complaints but again the problem is, i.e. a physical test shows an elevation and how does one prove or link it back. Mossman stated there is actually three components to the water problems in the Town of Lincoln. One is the metals or the actual quality of the water coming into the home or the business. The second one is the sand due to blasting and the third one is water pressure. So when you start talking about water, there is not one specific issue that is more critical than the other. If you don't have any pressure and you have no water, who cares what the quality is. And if you're trying to run a business and your water is full of sand due to blasting, you can't run your business so there are really three components and the testing of it is only one part of that. Mossman said she, Lien and Malone have had the conversation that the tests should also include the depth of the water in the well because two miles away I might not have a problem with heavy metals but I don't have any water because of pressure. Brandt stated the County Board just approved the purchase of software that we can use with our LIDAR (Light Detection and Ranging) information. Staff will be able to take the information related to wells and then model it in three dimensions and then to indicate where the well are and perhaps where the problems are and then perhaps draw some conclusions. Brandt said there is language in a number of the groundwater recommendations which suggests that the mining company's do the analysis of the data and then share that with us. Schultz raised the question of who pays and Bawek raised the trust issue. Brandt added we are coming closer to the distance where testing is required and that was the original issue raised. Britzius made a motion to increase, as one of the standard conditions for testing of wells, the distance where the mining company is required to do testing from ½ mile to one mile, Zeglin seconded. Some discussion took place on the area that should be included. Lien referenced GW-8 that talks about end results that show potential contamination shall be subject to additional monitoring. Lien thought when we start annual testing, if we have some high test results in the area that is where one would focus or expand that to do more testing in that area. Kidd stated he wasn't sure that testing is necessary every year but before any operations start, there should be a baseline and that way when someone comes in with a glass of murky water and one thinks it looks terrible, if that was caused by the mining company they wholeheartedly have every right to complain, but Kidd said he grew up in Curran Valley and he had a half dozen friends that lived there as well as his grandparents and half of them had terrible water and that was thirty years ago. Nelson also noted an area east in the Town of Hale and there is terrible water up there and it isn't near any mining site and it has been that way for years. Lien stated that is why that base line is essential. Related to Britzius's motion, Lien asked if Britzius would consider amending his motion to include the levels of the Homeowner Pack which would be an expansion on GW-4 which was recommended by the Health Impact Study that they test to that level. Some discussion took place about requiring that well depth or turbidity/depth of water be measured in order to track things that are already there. Lien stated the database that is being developed has the following information: size of casing, whether is drilled/driven, current depth of water and any follow-up testing will be added. Upon Mossman being asked about how wells are measured, Mossman replied she has been asking that question and one of the responses was that we would require monitoring wells on the property of the mining site, which would translate to any one site, so that we could monitor there as opposed to monitoring on a private well. Lien commented there have been multiple monitoring wells put in at a given site but that doesn't expand beyond the site. More discussion occurred on the types of testing and costs involved. Budish commented we have sort of used this condition previously but we didn't solely focus on one industry it was both on construction aggregate and industrial sand. Budish stated this would be a condition that isn't going to pick one side or the other, it would be a standard condition. Budish added this condition was usually applied if the site was going to do any type of blasting. Schultz thanked Budish for the information as they had a site down on Whistle Pass that went from aggregate to sand mining and at some point a few people had issues with their wells which, according to Schultz was related to when they were blasting. Schultz noted that they did make things right with the neighbors. Lien questioned, i.e. Peacock Quarry (no longer in use) where they blasted there perhaps every year or less, if we would require this condition on an annual basis for that site.

Some discussion took place with Zeglin pointing out that it depends on how much material/volume they need to take out of a particular site as to how much blasting will be done. Budish reiterated this condition would apply to any site, any size. Budish noted there are a few aggregate sites that are roughly five acres and even some less than an acre that also do some type of blasting. Discussion took place about a farm site that has done some blasting for personal use. Schultz inquired if, the County were to cover something like that, there would have to be a separate ordinance on blasting in general. Britzius said we aren't talking about a separate ordinance but changing the standard to a different distance and different requirements. Budish suggested just saying "blasting" in general which would cover everything regardless of the use of material or size of pits, etc. Upon Kidd asking Lien how he thought it should read, Lien responded he is just a little concerned about having it far reaching to all of the aggregate mines because as Budish had mentioned we have a lot of little aggregate mines that do an annual blast versus industrial sand where it can be sometimes be weekly. Lien thought the Committee had discussed language about continual blasting. Bawek clarified the Committee had "proximity" blasting discussions. Schultz clarified that the current discussion was to amend the motion. Budish said he has brought this all up because the Committee is talking about this being a "standard" condition and lately the Committee has used this as a "particular use" or used it where it seemed like it would fit for certain sized mines or certain sites, i.e. Neil and Denise Schank construction aggregate sand pit. Technically, they could blast at that site if they submitted a blasting plan. Budish added if this was a standard condition that would apply to everyone. Bawek suggested putting a size limit with the condition. Budish suggested applying the condition on an "as needed" basis when an applicant would come in. Brandt asked if Britzius and Zeglin were willing to change their motion from making that one mile radius a standard condition to an "as needed" condition. Lien read aloud from 13.03(2)-Permit modifications, "In the event that during the life of a permit, the operator seeks to have the permit conditions modified or in the event that the County recommends further additional permit conditions as being required to meet the concerns of the County, under this section or under the ordinance in general, upon request of either the operator or the Zoning Administrator, the County shall hold a public hearing in the matter of altering the original permit conditions for the remaining life of the permit. Upon the basis of public hearing, information received to review, the County shall have the discretion to either impose additional or further permit conditions to remove permit conditions or to allow the original permit conditions to stand". Lien stated we have always had that as it has been in there since (Lien thought) 1997, so the situation we are all trying to rectify today is beyond our control because we have a mine being operated within a jurisdiction that we have no control and, we have people adversely affected that are under County control. Lien continued saying had this site been in the County, we would have brought them back by saying, "Because of all these potential complaints and issues, we want to do additional testing parameters". Lien stated there was a company, Enviro Solutions (Lien was not promoting them) that did give a presentation and they have live documentation that one can pull up at any given time and view live groundwater levels. Lien would immediately require that for a site that the Committee is discussing because, according to Lien there have been so many complaints there with groundwater levels and contamination. Lien emphasized that the Committee has that ability to bring the applicant in and say, "Because of all these complaints, we're going to add these conditions". That would take care of everything the Committee is discussing right now. Lien added the issue comes back to when we don't have control/jurisdiction and we're trying to recommend ordinance amendments to aid those people. It is hard to do that when we don't have the ability to do that. Bawek asked if the Committee couldn't also do that in reverse where the Committee has the standard condition and, i.e. it is only going to be a personal, five acre site, at that point one could also say since this is what the site is going to be we're going to take this condition off? Lien responded absolutely. Bawek stated "standard" is fail safe and along those lines what one is talking about isn't just one, you're talking about GW-3, GW-4, GW-5 and GW-8 as they all are interconnected with your recommendations. Brandt commented to some extent he thought Britzius was going there and the other testing that is required is for foundations within a mile as well. Britzius stated he was saying that wherever the regulations say

2,500 feet, let's increase that to 1 mile and then adding the requirements of changing what we're going to test for. At this time, Budish pulled up the nonmetallic mining application because there actually is a list of "standard" conditions that were applied to every single mine site. These "standard" conditions are listed in Chapter 13. Zeglin's thought was that a standard condition would be appropriate and any standard condition could be waived. Zeglin stated she would like a standard condition. Zeglin questioned whether we have standard conditions other than what are written in Chapter 13.02. Lien commented those are usually staff or town recommended. Zeglin clarified that anything the Committee decides that is a standard condition here today will go under Chapter 13.02. Budish stated Chapter 13.02 is Standard Conditional Use Permit requirements. Upon Zeglin stating she doesn't see anything in 13.02 right now referring to water, Lien referred to #6 on Page 94 and read aloud, "In addition the applicant must demonstrate that the operation does not pose a legitimate risk as determined by the County to water table level or groundwater quality of the area". Lien added that is also where it limits the applicant to within 10 feet of groundwater. Brandt stated between Budish's concerns and Lien's clarification, it appears that we continue to have the flexibility to determine where our standard conditions are appropriate to apply so the concern related to the size of the operation is legitimate in terms of posing an undue burden, yet we do have the flexibility to eliminate that standard condition. Brandt asked for a vote on the issue. Brandt restated the motion as to apply a one mile limit to those conditions related to mining that currently have the 2,500 foot limit and Britzius added and Zeglin agreed that what the water would be tested for would correspond to the Homeowner Packet that UW-Extension is currently using to test groundwater. Zeglin added we also need to include depth of water/height of water within the well. Discussion took place on how one checks the depth of a well and whether it was feasible for the applicant to do. Motion to approve the change passed with no opposition. In regard to the high capacity wells kicking on and getting complaints, Kidd asked if Lien saw that down in the Trempealeau Ag area with all the irrigation. Lien referenced Roland Thompson, Town of Gale Chairman who also works for Carhart's and they also have several high capacity wells and when they turn those on the water level drops about six inches and maintains. If they shut it down the level comes back up. Lien said that part of the County has the most abundant water source because the Trempealeau, Black and the Mississippi are all down there so there is a big abundance of groundwater. Lien said in that area we haven't seen a lot of adverse effects other than there is a documented contamination source down there so those high capacity wells are pulling that contamination in adverse directions rather than the normal groundwater flow. The hits, coming from the old Caledonia prairie land fill, are being documented. As far as quantity or quality it hasn't been an adverse effect. Brandt stated we have talked about the second groundwater recommendation, "permit holder shall be responsible for installing, maintaining and analyzing the data from the groundwater monitoring well network, providing data up gradient and down gradient. Permit holder shall be responsible for collecting groundwater samples from monitoring wells and drinking wells within a one mile radius of the site prior to mining operations. This will establish background ground water quality". Brandt stated one can see what their concerns are here. There is a list of things to test for which we have dealt with. Brandt continued reading "Drinking water wells within one mile of the site will be tested annually by the permit holder for the parameters listed above". The Committee has also discussed these significantly. Budish has told us about flocculants and other chemicals that are used on site and how they are monitored, stored and kept track of. Brandt said GW-7 relates to that as well. Whatever information that is required to be developed by the mines would be shared with the DLM, which they do. Brandt said the next question goes a little bit further having to do with following reclamation. Brandt read GW-9, Monitoring shall continue for a minimum period of at least five years following final site reclamation. Further monitoring may be required based upon a review of the mining data compiled". Brandt assumed that was related to the private wells as well as the monitoring wells. Lien explained the issue related to that is once Budish considers a site reclaimed we give back the bond so all testing, etc. would potentially stop. We don't have a mechanism where we retain a portion of the bond or anything. Lien said as sites get reclaimed the bond can be reduced but once a site meets NR-135 and Chapter 20 in

our Ordinance reclamation we have to release the bond, so if something like this was implemented one would almost have to retain something in order to hold the applicant accountable which would probably be in direct conflict with NR-135. Zeglin commented NR-135 doesn't have anything in it at all about groundwater, it is strictly reclamation of the land. Lien added there also is no separation of groundwater; one can potentially mine in groundwater. Britzius thought it seemed like a good idea. Budish stated we can encourage an applicant if they would like to do something like that. Budish understood that there has been cooperation in Chippewa County with the mining industry where they are monitoring infiltration rates. In reference to Pat Malone's presentation where she talked about soil type and depth to groundwater, everything has a percolation rate and the problem with that is that if you spill something on the ground today it might not show up in the ground until 50 or 100 years later. Lien thought we've learned some tough lessons from these landfills as there were no regulations of what went into them and now we've got wide spread contamination and it is unknown as to what depths. Bawek commented that if we do a good job upfront, we won't have to worry about this. Lien said that would be his hope. Britzius suggested requiring an exit fee (i.e. \$2,000) to cover perhaps any future testing/monitoring of the site. Radtke thought that might be a question for Corporation Counsel to address or perhaps DNR. Some discussion took place. Zeglin asked if the County would be able to require a separate water bond, for continued testing of the wells which would be linked to the number around that one mile radius, outside of the reclamation bond. Again, Budish thought that would be a question for Corporation Counsel. Lien stated this "piggybacks" what he has Corporation Counsel already looking for as far as being able to require the additional testing parameters outside of bacteria. In regard to GW-10, Brandt asked what authority the Committee has to require this; "All blasting shall follow best management practices. Any damage to livestock buildings, infrastructure and wells within one mile of the site shall be the responsibility of the permit holder to repair or replace. Damage beyond the one mile radius of the site shall be evaluated by an independent consultant at the expense of the permit to determine the impact blasting had on the damage". Brandt asked if the Committee has the ability to say, "Ok, something is damaged within a mile of where you are blasting and you have to pay for it". Lien gave an explanation of what happened with a particular basement in regard to blasting damage. Lien said we as staff couldn't prove that they caused it yet they sat down and negotiated a settlement with the landowner. Lien stated we were not involved in that negotiation nor the dollar figure. Lien thought there was a lot of regret on the part of the landowner as to what they agreed to and signed. Upon Lien stating that the blasts were below what is limited in COMM 7 for blasting, Kidd asked if the County could implement a lower range on that. Lien replied no because it is a state requirement and we don't have the expertise – hydrologist and blasting experts. Kidd stated Lien had just said it would be in the sand mines best interest to operate at a lower level- not have the compliance. Lien added that was the first blast. Every blast after that has been at an extremely low level. Lien thought it was the result of an error on the part of the blaster not realizing the proximity. If one looks in to blasting at all, it has a lot to do with elevation and what the ground is made up of. In Lien's mind if one has a blast here and it is solid bedrock and 1000 feet away you are in a swamp, prior to being educated Lien would have thought the bedrock would have resulted in more vibrations, however because the blast travels through saturated soil at a much higher rate, the structure in the swamp would receive more vibrations than the one in the bedrock. For DLM staff it has been a learning curve and the industry is who DLM relies on for their expertise. Every blaster has to be licensed and provide DLM with their seismograph readings and that is all we have to go by. Zeglin asked if DLM can require where they take their seismograph readings. Lien thought COMM 7 said, "At the closest nonparticipant structure so they have to do it outside of the blasting quarter at a nonparticipating structure". Zeglin clarified that blasting is completely under state jurisdiction. Brandt reminded the Committee that DLM staff encourages smaller blasting more often as opposed to one big blast. As Kidd had stated, it is in the best interest of the operator to not cause a lot of concerns with neighbors, etc. Lien commented the same thing applies to the water testing as there are areas where we know there is bad water. We encourage applicants to test as far reaching as they feel because this might be to their benefit if there

already was existing bad water, so they're not getting blamed for something they didn't cause either. Bawek asked if Britzius' motion addressed this. – aren't we going to take foundation inspections, etc. within a mile. Lien responded his motion was specifically for water testing. Brandt understood the motion to be wherever a half mile is mentioned in our Ordinance for testing that it is now going to be a mile. Gamroth read the motion aloud, "Britzius made the motion to add as a standard condition to increase the distance for the mining company's required to test wells from half mile to one mile radius", Zeglin seconded the motion. The motion was then amended to include the levels of the Homeowner Pack and well depth. Kidd asked if, to date, there have been any other homeowner issues other than groundwater. Lien said there have been a few complaints about vibrations from a couple of different sites. Kidd asked if that was outside the current 2,500 feet on the foundations, etc. Lien responded, in relation to vibrations, off the top of his head he couldn't think of one outside of the 2,500 feet, but they have all been after annexation. Lien has encouraged the people to get together with the company and discuss trying to blast at lower levels. Bawek stated what we are doing is asking for testing within the one mile. This is basically asking for some responsibility and response to that. They are two separate things. To expand on this, Bawek said it talks about wells. It should be wells or water quality as there has to be some responsibility, not just testing and this is related to blasting. Bawek stated blasting is the cause and it is quite clear and it does have consequences. Zeglin added that blasting is only one of the causes for these wells, but some of the others are high capacity wells. Lien thought Britzius's motion addressed more of the water issues so if you are talking about the physical structure as far as inspections and documentation, historically we've required those up to 2,500 feet. If that is something this Committee wanted to expand that should be a separate motion. Bawek clarified we are documenting Britzius's motion, we're not passing on any responsibility. Lien agreed that right now we would only document that up to 2,500 feet so if the Committee wants to document it farther that is something the Committee can either do through the individual or other things like structures. Lien added if you want to collect data outside of that then that should be something that is either done case by case thru the CUP (and expand the distance) or make it the standard like the Committee did with wells. Zeglin commented that she has heard (unfortunately these reports have not been confirmed) of homes beyond that half mile radius (out by Hi-Crush Whitehall) that have had significant damage from blasting but, as with a lot of the neighbors surrounding the Hi-Crush mine, they do not complain or talk about it publicly because they are hoping Hi-Crush will address that. Zeglin thinks there has been problems beyond that half mile for blasting but people are not coming forward. Lien added he has personally taken calls from people located near other sites where they have had complaints and questioned what they could do because of the severe vibrations during the blast. When annexation is involved there isn't a lot the DLM can do except encourage them to call the cities or call the mine operator. Zeglin commented they may be calling the operator but they are not complaining to the city. She doesn't know why that is. Nelson questioned the necessity of so much blasting for sand. Lien explained they actually call it "bumping" because it is just given a light blast and it turns to sugar, so it doesn't have to be a really hard blast. Lien added it is more cost effective to give it a little bump as opposed to working for days to scratch off a hillside if they do it right so the blast doesn't all go off at one time, it is more of a "chain" explosion and it sets down just right. Bawek thought we need to have some responsibility in that aspect of doing business in the County. Lien didn't believe there has ever been a case of documented damage to a well from blasting as far as anything that has been upheld and supported but one will get increased turbidity. According to Lien, through blasting it is never going to damage or make a well non-usable but you will get increased turbidity with it and even the scaling from the rust inside the casing can happen from a blast, but it won't damage the casing enough. Lien said both blasters and well drillers have come in here and told us that, but there is increased turbidity. Kathy's issue about usage and quality, Lien said those things are all concerns too. Lien thought we were all on the right track but what we've done so far is only address the water, not the structures. Lien thought if the Committee's intention was to expand the structure documentation beyond 2500 feet, a motion would be needed for that or it could be addressed through the individual CUP's when they come through the

process. The Committee has the right to amend those during the public hearing process. Brandt asked what the Committee's will was in regard to the structures, testing and documentation. Zeglin made a motion to have all buildings inspected within a one mile radius of the mine border, Britzius seconded. Brandt commented our current language refers to the buildings that are inspected within 2500 feet so we would just change that to one mile. Lien clarified that was from the mine border. Motion to approve the motion carried with no opposition.

Brandt stated we're dancing with this issue of what do the citizens of Trempealeau County expect in terms of quality of life. Brandt was struck by Zeglin's comment about neighbors who are not complaining to their municipalities or the CUP issuer because of a desire to settle at some point. Brandt was also struck with Lien's story about an out of court settlement related to structure damage. Brandt said Gamroth has mentioned it and also since the blasting has started in Hi-Crush Blair, Brandt heard from a neighbor whose experiencing for the first time that low rumble and things starting to shake and the sort of constant hum of machines throughout their day, every day. Schultz and Bawek keep asking, "How do we guarantee a quality of life, how do we guarantee responsibility" and we appear to be limited in our ability to do that through the CUP permitting process.

Mossman asked about the high capacity wells in particularly to GW-11. Brandt responded that Lien had stated that if the permit is for mining and they start putting it in trucks and sending it to another State, it would be addressed as a change in use and the permit would be pulled. At this time the Committee took a short break.

Brandt called the meeting back to order and stated the Committee is moving to the surface water. Zeglin commented it had occurred to her that we have instituted this mile radius for water and building inspections but we have nothing built in for what happens if a well goes bad, so we're doing all this testing, then what? Zeglin thought remediation needed to be addressed. Brandt added, or finding responsibility. Kidd thought it said in there that it was the responsibility of the permit holder. Brandt clarified that was just the testing. Brandt added these are the recommendations as opposed to what is in our Ordinance language which said, "Any damage to livestock, infrastructure and wells within one mile of the site shall be the responsibility of the permit holder to repair or replace damage beyond the one mile radius". Brandt said that is a recommendation and Zeglin is calling us back to that. Brandt asked for any ideas. Nelson inquired of Lien if the Committee didn't used to put that in as a condition. Radtke asked if you have this testing, what happens if the well is affected negatively, how is it addressed or fixed. Radtke didn't think there was a good answer for that and questioned how one knows the cause. That is the piece that is difficult. If you have baseline data and you have a test later on that shows there is a change, certainly you can tell there is a change from a baseline, but how is it that you know what caused that. For the County to put that into an Ordinance or a procedure as part of a permit, we would need to have some sort of fact finding mechanism to determine how it is that the County concluded that was the case and that would probably be very difficult to do. Radtke continued by saying historically what we've done in the past and his position when he has been asked this is that we are providing the baseline data so that the public can use that data in its' own civil action enforcement if it believes that a particular industry or neighbor or activity of a neighbor has caused harm but that proof lies with them to prove that causation. Radtke thought to get into that realm of trying to determine the causation piece would be very difficult. Bawek asked about changing the wording because Bawek believes that blasting is a big problem and if they don't want to blast, they don't have these issues so if we put, "upon the implementation of any blasting", if there is any damage they are responsible. That gives them the choice to blast or not to blast. Radtke responded there is just as much of a chance that the County could be wrong in requiring an applicant or permit holder to be financially responsible for some damage that they did not, in fact, cause just because they want to engage in a certain activity within their industry. Radtke thought that would cause issues at the causation piece. We're basically saying there is

a strict liability, if you will, that no matter what happens you're responsible for that and Radtke wasn't sure if we can go to that extent and say that the County will require that anyone who wants to engage in a certain industry that they will be financially responsible for things that they potentially did not cause, if that makes sense. Radtke said through this process the County is requiring that particular permit holder to get baseline data, require regular testing, keep blasting logs – basically the data that the public can look at and say, “when did they blast, well let's look at their blasting log”. Is the well affected by that well let's look at the baseline data. This information is there for the public to use to help them have that information readily. Whereas without that, then basically the neighbor who has an affected well is really without that data whatsoever unless they did it on their own. That is what Radtke understood the purpose of requiring this baseline data; to keep data from a County perspective but also to assist in the protection of wells, etc. within the County and particular landowners that have neighbors. Bawek questioned how the Committee would be limiting the industry when they don't have to blast to sand mine. They choose to blast. It's a convenience to them and so there are consequences when they do that to the neighbors. Radtke commented he isn't sure if blasting is an option. In some cases, Radtke thought it was a necessity. Radtke questioned whether it was an option or a luxury that they are choosing to do or is that how you need to get the material broke free from the harder rock. Bawek responded if they choose to do that and if there are consequences then why do the neighbors have to pay the price for them to do/conduct that business. Bawek added there has to be some responsibility some place and why do the people have to bear that burden. Zeglin commented that essentially what Radtke is alluding to is that we are requiring all this base line testing and the annual well inspections just to allow our citizens and residents to start a suit against the mining company so we're giving them tools but we're not establishing any responsibility. If you have a problem you are going to have to sue them. Zeglin said we shouldn't be doing that. Why should we even require testing if we aren't going to follow through on those tests or help these people in some way? Why bother testing? Radtke asked how is it that the County will establish causation or, in a strict liability case to say that it is going to happen and that if blasting happens, the damage will happen and it will be caused from that. Radtke asked how it is that we are going to reach that conclusion. Zeglin responded it is simply cause and effect. You would have five people that don't have well problems prior to any mining activity and then all of a sudden we have a problem. Zeglin reiterated it is simple cause and effect. Someone needs to be responsible for that without requiring a citizen to go to court him or herself. It is wrong. Radtke responded what you are talking about, in a court of law, is circumstantial evidence, not direct evidence so you can kind of piece it together that you have this over there, that over there, and all these facts kind of point in that direction but we don't have any direct evidence that it actually did happen and that is different than having a scientist come in and say, “We did testing beyond all reasonable doubt that this is caused from that”. You have an expert that can conclude that this is caused from that. Radtke added that what it sounds like is that you want to have a system where it is either strict liability, that if damage occurs, there is liability or to take into account the circumstances surrounding and making a conclusion that there is liability/causation there and then impose some liability. In a court case here, there is a lot of elements here; was there causation, was there damages, what were the damages and how do you value those damages. Once you go into this realm these are the questions you are going to have to start dealing with and likely you're going to also have concerns about whether we need to have a hearing process for this to allow evidence to be presented. Schultz commented what he thought Bawek and Zeglin were getting at is that we want to create a system that those concerns never even come into play. It is up to the applicant to choose a site to not impose a hardship upon themselves that can cause potential problems for the neighbors. We probably still need to look at what is frequent or infrequent blasting and perhaps we can find a way to define that, but if an applicant is going to be frequently blasting and there is a change in well water volume, an independent hydrologist is hired and paid for by the applicant but chose by that affected neighbor and their (hydrologists) finding is the decision. If it is deemed that it is likely that the blasting caused the well water or water quality issue then that is where the accountability is as the applicant understands that is part of their responsibility when they come before us as that is

what we will expect. Brandt said your suggestion is to avoid a civil liability suit, (Schultz interjected that is putting the burden on the citizen) but rather to create a system by which the applicant understands if there is a problem related to a well within a certain distance that they will be responsible to pay for an expert of the aggrieved persons choosing and then both parties would agree that whatever that expert arrives at will be the decision in terms of who is responsible. Radtke asked how one would prove the damage and what would the damage be. Schultz responded that is up to the independent hydrologist. We do have some baseline data. Radtke asked if there are monetary damages that are going to be imposed. Brandt commented what Schultz was talking about would be related to that but there is also the issues of livestock, buildings, infrastructure, wells, etc. Schultz added they would need to provide better quality water or use that water themselves for the rest of their lives – it is about accountability – the Erin Brokovich question – would you drink it? Radtke asked if this precludes the landowner from bringing their own civil suit because it is already been, essentially, tried and determined and liability assigned. Radtke said if one thinks of it, the other side of it, by doing this you’re putting in place a process that the neighbor would not be able to have freedom to decide whether they wanted to sue the case out in circuit court or pursue other types of damages or causes of action. One you get into this, these are the questions that are going to come up; how do we establish damages/causation? Brandt commented that as Radtke says that Brandt is tempted to put a value on that being able to sue for damages is a more desirable way and then you suggested that we are taking that right away from the neighbor. On the other hand, the solution that has existed now, at least in one case, is that the mining company has an aggrieved neighbor sign a waiver basically saying that once we fix your stuff, you’re not allowed to sue us ever again, so after making an agreement with the mining company, at that point their right to sue is already taken away. Brandt said that is happening now on the other side. Brandt thought what Schultz is saying is let’s create a sort of alternative system by which both sides come to the table and agree to the results of an independent expert. Radtke commented you would be requiring both parties to consent to it and what if they didn’t want to consent to it. Referencing a story that Lien had told him before, Radtke said it is unfortunate but Radtke thought really it is each landowner’s responsibility to deal with legal matters how they see fit. Radtke added that, i.e. I’m having problems and I have this large company who is pestering me about settling and signing things, I take risks if I sign that and say that is opposed to hiring an attorney to help me sort out the legal issues and see if potentially I have a case where I could get some better damage compensation. That is a decision that each landowner has to make on their own and if they don’t have resources or they make a decision they are not going to use their resources to obtain legal counsel to assist them then that is up to the land owner and there are consequences if you don’t pursue those things or you may have lost out on something. It is just as likely to say if there is an issue let’s pay for legal counsel for each of these neighbors so that they can have good representation to present their case. Schultz didn’t see the benefit in reduced water quality. Schultz didn’t think a benefit would be gained in a legal action. There is not benefit to possibly be gained. Schultz wants his children to drink the water that he drinks and I don’t want money for that. Once that is gone, money is not going to replace it anyway and to Schultz that is a physical threat. Our job, our legal authority of public health and welfare, is not a “kumbaya campfire” sentiment, our job is to assure that people do not feel physically threatened. If someone threatens my water that is a physical threat and our job is to make sure people don’t have to take defense into their own hands and that is where the legal apparatus comes into play too. Once my water is damaged you can’t replace that with money, it is gone. Brandt stated the words, “trust” and “responsibility”, “accountability” are coming up in the course of this conversation and these are reminiscent of our discussion about strategic planning. The trust and accountability words came up in relationship to how it is the citizens perceive their governmental unit. We as citizen representatives in a governmental system should be taking into account how it is that the rest of the citizens perceive us in our ability to provide the safety and the accountability both for ourselves and other factors within the system. Brandt didn’t think this was an either/or or me against you kind of an argument, it’s how is it that we provide services to our citizens that allow them to feel most secure and safe. Brandt felt Schultz was making a

very good point. Radtke said you're talking criminal charges and if he wants to get his well recouped back to clean water he is going to have to sue you for damages and likely the damages that would be in play would be, "what is the cost to drill a new well or to mediate the issue and you'll have an expert speak to that as well. How much is that going to cost? Schultz said there is no benefit to any of that – the word "benefit" was used. Once the water is damaged any action after that point will not be a benefit. Brandt said that was one of the findings in the Health Study "groundwater" group was "Groundwater is expensive". Britzius said this is complicated and he thought it was about the role of government and how much we can do to protect people. It is hard to prove the causation but it is hard to defend that causation too, it is a two way thing. They have to prove that they didn't cause that change. Britzius was thinking that the whole process that we've talked about so far in regard to monitoring is all based on the fact that we're going to determine some causation. We're applying accountability when we ask for monitoring. That is why we are doing it in the first place. We could say we have enough accountability just by bringing all these facts out and maybe that is our role just to do that and let people pursue it. Britzius didn't know how far we could take it or legislate that here. It is not a question of my proving, "you did that to me, it's you proving you did not do it to me". Bawek stated it is a Conditional Use Permit and you can sand mine without blasting. We permitted one mine that agreed to no blasting because of the potential for housing on his neighbors' property. He agreed to that so he admitted to the potential already. We know that he potential is there so if you want to mine and you agree to use blasting, you agree to the potential of damages to your neighbors. In pursuing that aspect, Bawek said you then assume responsibility and that responsibility comes in the form of what – so what do we require at that point? Do we require water filters for water turbidity? We are also going to have inspections that take place. We just passed that within a mile, foundations and wells will be inspected. We have that, so the individual has the right to say, i.e. my barn wall is cracked – do I care? Well probably or probably not but that is my choice as whether to pursue that with that company or not. You're not taking away that choice from me, it is still not my choice. What this is doing is putting the potential of liability to the person that wants to use this form of practice in his operation. He is aware that this could cause problems with the neighbors. It may be a benefit to him. Does that outweigh the cost of the potential damage it could cause and we're having a base line by these inspections. The individual still has a choice. Bawek sees this as, if you want to blast, you're assuming that there could potentially be damage and I will assume that responsibility as a permit holder. It is a conditional use permit. Brandt pointed out that in the two health analysis done by the University of Iowa and by Wisconsin Institute of Health, the danger that they were looking for in terms of health or damage to quality of water and air is most likely to occur closest to the mines being the sort of wider damages were more varied and psychological but the physical damage occurred in conjunction with the mining activity which, in a sense, is a no-brainer. There have been two recently published scientific studies to show that there is a cause and effect. Brandt thought was Bawek is challenging us to do is to commit to that vision that you just outlined which is that when people come seeking conditional use permits to mine sand in Trempealeau County that they understand that this is a potentially damaging activity and if you choose to blast you are likely to negatively affect your neighbors and that you take responsibility for that as part of your permission to mine. Britzius questioned how you actually implement that. Bawek responded that GW-10 is pretty close. Damage to livestock is going to be a tough one. Bawek didn't think you could prove anything there. Zeglin stated she wasn't sure about that because we do have a broiler owner who (they do keep track of the loss of the animals on a regular basis so they know pretty much what is going on) when they had a blast and within a day of that blast you have 30 dead chickens whereas your normal rate per day might be two, there is definitely a cause and effect there. Brandt thought what Bawek is talking about also is how it has already been defined. If this was a permitted use, it means that there is no concern this is perfectly appropriate in this area. A conditional use in the conditional use process is used for those activities in a given area which are not potentially offensive in that area and potentially dangerous. The theory behind the conditional use permit has to do with its' inappropriateness within a given area and then the conditions are our way of ameliorating the obnoxious

affects. Bawek commented GW-10 does, if that is an argument. Zeglin said she certainly wouldn't eliminate livestock because livestock also has the potential to be damaged or destroyed. Bawek added that buildings do have foundation inspections going on so that has already been voted on. Bawek questioned what infrastructure would consist of? Brandt responded that would be roads. Bawek wasn't sure what to say on that. Brandt commented we do have our road use agreements. In regard to wells and water quality, Bawek stated that Kidd had alluded to the fact that inspections should take place so that water quality is established so that someone isn't bringing in dirty water and blaming it on the permit holder. Bawek would like to see water quality in there because if you have turbidity and if the remedy of it is to put in a \$500 water filtration system and the person being affected agrees to that, it's the cost of doing business in Bawek's mind. It's an easy fix for the permit holder in that aspect, if it is agreeable to the person affected. It is a communication issue at that point and the one mile thing, Bawek thought the Committee has gone over that and the talk has been to extend that further but one mile is what was agreed upon. Bawek does believe that the permit holders should bear the responsibility to repair, replace or mitigate it. Damage beyond the one mile radius, Bawek didn't feel that is something that the Committee needs to tackle. Bawek thought if the Committee stays within that one mile radius we're doing quite well. Radtke questioned, in regard to damage to a well, are we talking about water quality or water quantity or both. Committee consensus was both. Radtke's first questioned that fact that each of them have unique ways of establishing causation and trying to determine that issue. Radtke said this may be unpopular to say but if we are going to apply this to one industry are we applying it to other industries that have been known to have a negative impact on groundwater quality at times - if one is going to do "x" you have to be responsible for any damages even if you didn't cause them. Radtke was just thinking about down the road as to what sort of issues we are going to have if someone wants to contest our Ordinance saying, "Hey, County you overstepped or County you isolated or unjustifiably looked at one industry when there are other industries that may potentially be doing the same thing. Bawek said he would argue back that they sand mine without blasting – they choose to do it. To Bawek it was that simple and he is applying this to blasting. To support Bawek's statement, Schultz said it seems like there is some confidence that blasting is enough to loosen the sand base so if the blasting contractor is competent, the company has a plan it would seem that the risk (in hearing they seem confident that the risk is minimal) is minimal so if they are able to tell us that the risk is minimal then the accountability should not be a problem. It goes back to that argument about property values as we want to back property values but there is a hurdle about actually guaranteeing them. Schultz felt Bawek's reasoning is really logical in sticking with the blasting as that is a choice. Schultz asked if that would include blasting for road construction. Schultz was getting back to Radtke's question about whether we are excluding one industry. Brandt commented we had a discussion related to blasting which had to do with the one requirement for testing. If you are going to blast, the hard rock miner's might blast once a year or three times a year or once every twenty years and even though we made the one mile radius a standard condition, we understand that we would apply it to everybody but would pull it where it seems to not be significant. In other words, we continue to take it on a case by case basis. Linda Mossman suggested leaving infrastructure in and asked what about cell phone towers, fiber optics, bridges and things (sewer, water and gas lines) that some other corporation or company has put in place prior to this operation coming in and now they are within your one mile radius. If you are going to protect the livestock, you should protect their infrastructure projects as well. Under this model, Radtke asked who would be making the decision that it is going to be the responsibility of the permit holders. In regard to cell towers, Radtke questioned if there is a foundation crack or there is an issue with that, you is going to make the decision that the permit holder now has to buy a brand new cell phone tower or is it just going to say that it falls within that area and it is automatic and what happens if the permit holder says, "No, I disagree with that". Zeglin commented then we shut them down. Radtke said the issue that will likely come forward is, because that permit holder will likely say, "You took away my permit for the cause" and we end up in court and the question is, did they violate the terms of the Ordinance, did they damage that. Now we are back to the causation issue again. Brandt said we have

also been discussing how it is to better cooperate with the permit holders. Brandt thought what Bawek was saying is that the cost of doing business in Trempealeau County is, if you're going to do sand mining and you're going to use blasting, you understand that you will be held accountable for damage within a mile of blasting and that encourages either a slower process (digging in with big backhoes) or smaller blasts more often. Anyway to keep any potential damage from happening. So, we are setting the terms of engagement or the terms of doing business in Trempealeau County. Radtke questioned what was meant by "any damage". Radtke asked if it was any damage within a bubble of one mile. Is it any damage that we have base line data for or is it any damage whatsoever because that is even harder to prove when you have no baseline and somebody comes forward and says, "Hey, I have this or that and it wasn't inspected because it isn't a well or a foundation but I can tell you that it was caused by the blasting and I want a new house or whatever". Brandt responded we have this regime of testing, we have these requirements and we have developed the base line data, we have four or five years of experience. Lien said this isn't the first time these topics have come up. Lien read from the Ordinance, "In order to grant a conditional use permit for non-metallic mineral mining, the County shall find that the proposed operation is an appropriate land use at the site in question, based upon consideration of such factors as: existence of non-metallic mineral deposits; proximity of site to transportation facilities and to markets; and the ability of the operator to avoid harm to the public health, safety and welfare and to the legitimate interests of properties in the vicinity of the proposed operation and County Empowered to Reject Permit Applications. Lien said again, when we have an application where the Committee believes that there are too many structures, adverse impacts that could potentially cause harm to health, safety and welfare issues to the public, maybe this isn't a good site. Lien added we've discussed half mile, mile radius and all these things where we've had complaints and well water issues. When applications come in that don't meet that criteria perhaps they aren't good sites. Brandt added it has been Radtke's advice in the past that we have the ability to say no as we have all the criteria that Lien just listed as reasons for saying that. And when we have said no, we then list that in writing and hand it to someone and go on. Zeglin said that ability to say no would depend on the sitting Committee as there have been mines approved in the past that have had a considerable population surrounding them that have been approved and these things have not been taken into consideration whatsoever. Brandt agreed. Zeglin said we would need to set some standards that would apply to all of these entities. Bawek commented that blasting is not a pleasant experience to have continually going on next door. If it isn't in your own back yard, it probably doesn't make a lot of difference but when it is, it is not pleasant, it affects things. Britzius was wondering about taking the ideas here and qualifying them a little bit better. Any damage to livestock, buildings, wells, when there is such damage, that an independent consultant, at the expense of the permit holder, be employed to determine if this impact is caused by blasting, so you put the responsibility of the determination on the third, independent, party. That may eliminate some of the potential conflict. Radtke thought what Britzius was suggesting would again be just more information and data, in this case, in the form of a professional opinion, as to was there some causation here. Radtke added that what Britzius was suggesting is not saying, "You pay this person "x" amount of dollars but again it is data that somebody could look at and say, "Ok, do I have a case here?" To go back to what was said just a moment ago, Radtke questioned if just having the base line data available was going to help resolve these issues ahead of time. Radtke thought it would just be having that data available to begin with because a lot of these cases where there is controversy, you don't have the base line data. You have damage but you don't know what it looked like beforehand. Radtke thought having that base line data, alone, will help resolve a lot of these cases before they even come to anything where the County would need to get involved or even a lawsuit. Britzius said we are taking the responsibility to provide that baseline data. We're not saying everybody should do their own, so we, as a County, are taking some responsibility. The question is how far our responsibility goes. At some point it is up to people themselves to say, "Hey, I'm going to do something about it". Radtke thought the laws in our country support that. In the State of Wisconsin we have a civil court system. If you wrong somebody in some way or you act in a negligent manner and it causes damages or one

suffers damages, there is a legal system and that is what is in place to resolve disputes/issues when people don't agree on things and there is a process. Part of that process has rules relating to whatever evidence can be presented and how it has to be presented and having a decision maker make the decision and so that is the process we have and part of what Radtke is saying is that there is nothing wrong with providing this base line data to help people have the information they need to make a determination as to whether they want to pursue something in our civil court system and that is being contrasted with, basically, let the Committee be the civil court system and make its' conclusions and assign dollar values. What Radtke is saying is with that process, if we were to go down that road, there is a lot of issues that we are going to have to tackle from causation to damages to are we going to need to require extra hearings, are we going to be making evidentiary decisions or hiring experts and who is paying for the experts, etc. Radtke suggested that instead of going down that road, which doesn't provide as much protection as a strict liability type situation, not doing a strict liability, you're not having to deal with all these extra issues, rather you just provide the base line data and it still provides an avenue for people to file their own legal action. Radtke thought the law/civil system in this State is fair and it is designed to give everyone their day in court and either prove or disprove their case and be responsible when the law says they should be responsible. That is the point Radtke was trying to make is that we can require to provide this data but when we go beyond that is when we are going to have to be dealing with a lot of special/unique issues that are going to be more than just the little meeting here to sort out. We're going to need to really look into the details of this so that we don't have the DLM being put right in the middle of something that we don't know how to sort out. Britzius commented we could be involved in long, costly lawsuits, perhaps. Britzius knew that just having the baseline data puts the mining industry on notice of the possibility of a lawsuit just by doing a lot of blasting. It may cause them to have second thoughts. Britzius asked Radtke his thoughts about the idea of adding that if somebody claims damage that an independent consultant be provided to help determine. We would require them to bring in a third party. Radtke responded that it sounds nice but a couple of quick questions that come to mind are: what kind of consultant? Are you going to be able to find an expert to answer the questions similar to the ones that were raised during the property value discussions? Are you able to find an expert that can give a fair/accurate, professional opinion on this issue and also who is paying for that? If the industry is paying, often times in the past, their opinions are consistent with the position of whoever is paying the bill which always leads to the next question, ok then we will bring in two. We know that two are going to disagree so then we'll bring in three to break the tie. Radtke thought those are the questions that we are dealing with for property values and the same things would come up here. Radtke questioned at what point it is fair and accurate and at what point is it doing what you really intended it to do which is really just provide some information. At what point do you want to get involved at that level versus just leaving the base line data out there and let people decide whether they want to engage in the civil/legal system and file a suit or not and that is the question before the Committee. Bawek asked how many here want to start a law suit against a major sand company on an individual basis – how many here want to do that or how many here have the ability to do that? Bawek added all they have to do is not settle and just keep putting it off and not settle because they have enough money to do it. We are trying to stop that from happening. Bawek said it is a conditional use, if you're going to blast you assume this responsibility. Why do we want to dump this on our citizens? Why? Bawek said he didn't want to start a lawsuit against some sand company. Do you know what that would cost an individual, for no reason of his own fault? The neighbor didn't do anything wrong. Why do we want to penalize them so someone else can do their business and assume no responsibility for the cost of doing that business. Zeglin agreed and added that is what we're experiencing around the Hi-Crush plant right now. People have no alternative. They can't afford to sue on their own. Bawek said that is why they're being quiet – out of fear so that maybe they will dribble some money their way. From the outside looking in, that is how Bawek sees it. Zeglin agreed. Bawek continued on by saying so we operate under a County of being fearful of this industry and not passing the responsibility where it belongs? Then what are we doing here. We're wasting our time if we don't do something. We've had a number of people come to

these meetings and asked for us to do something. We can sit and talk about it all day long. Zeglin stated there is no sense in doing the testing if we have no remediation for these folks. Schultz asked if we give neighbors the option of pursuing their individual suit or having an independent consultant hired at the applicant's expense. If we would include that, which is a good point to just drop out "beyond the one mile radius", it makes it complete and you never take away the individual right of wanting to pursue a lawsuit if you want to do that. Bawek questioned how we would take that away? Brandt said the Committee had talked about this earlier and if, at the time that someone comes with a complaint about a damaged well or a damaged foundation they are given the option. Brandt assumed that if the option is to the mining company and to the individual, the mining company hires the independent expert and then they both agree to abide by what that decision is then there would be no opportunity for a civil suit afterward because they have agreed to abide by whatever that decision was, so in a sense you lose your option for a civil suit if you decide to sign and say, I will abide by whatever decision comes out. Britzius clarified that to require them to abide by the decision is not included in this motion. Brandt said it is a subtle difference that is to say, as opposed to assuming that any damage is the fault of the mining company, you create a mechanism by which the mining company and aggrieved party agree to abide by the decision of the independent expert which is paid for by the mining company but chosen by the individual and therefore there is not this assumption that exists in GW-10 that any damage that happens to infrastructure, livestock, foundations and wells is the responsibility of the mining company and that moves a little bit away from Bawek's cost of doing business concept. Britzius commented that in one case the evaluation determines the amount of the settlement, in the other case it just determines if there was causation. Brandt stated the way GW-10 is written right now, whatever it costs to fix it is the responsibility of the mining company. What we're talking about now is that is determined by the third party after the damage is chronicled. Radtke asked about the appeal process if someone is not happy from either party. What about damages –we're allowing the third party to reach the conclusion of damages and requiring that the permit holder abide by whatever that figure may be. What if that amount is an exorbitant amount? Radtke thought it was a fair question since the Committee is going to tell someone that they are required to be bound by whatever this third party decides as to damages. Zeglin interjected saying we're just talking about repairing and replacing, we're not talking about emotional damages. It is just physical property. Radtke agreed but questioned what if there is a disagreement as to that dollar figure. You're entirely trusting that this third party is not going to make a mistake and is going to be fair and reasonable. Brandt responded this is a concept that has been used for lots of things in terms of negotiations which is a binding arbitration. There is mediation and there is binding arbitration and both parties go in knowing that they agreed that the result is going to be what it is and there is no appeal process, so when these parties go into binding arbitration, either they're forced into or aggrieved to it, they know that is the last step. Lien suggested the Committee think about how we came to the conclusion with the property value guarantee. We drafted a letter with Radtke's help, that is not in the Ordinance, that goes to the applicant at the time of applying and it also goes to all adjoining property owners about having them try to work together on these issues and when they come here if those things aren't worked out, perhaps this isn't a good site. Lien thought we are kind of at that same point with this issue that if it isn't in the Ordinance, maybe we can amend that document that we hand out when they come and apply and say it has been brought to our attention about property value guarantees (staff will identify people that may be adversely affected) and letters go out to those people and operators as well that we encourage you to work together on these issues. When they come to our table, if those things aren't worked out maybe it just isn't a good site. Lien said he thought maybe we're trying to solve all the world's problems instead of just saying no, which sometimes it is ok to do that. That is the point we came to in regard to property value guarantees after months of discussion and Lien seemed to think we are at that same point now with this issue. Upon Britzius asking if the Committee would look at infrastructure and buildings, etc. around the proposed site and try to anticipate this damage, Lien said the Committee has expanded that already with two motions to expand that to a mile and that is where we are going to require the foundation investigations and inspections thus giving

people those tools, recognizing that within a mile radius we've had complaints/problems and we've expanded that from a half mile. So as an applicant, when they read that, they had better take into account everyone that lives within a mile. Lien explained how Land Records can provide that information. When the applicant comes here, if they don't have those issues worked out, perhaps this isn't a good site and if they do have the issues worked out then why would this Committee care and why would we want to put extra regulations on it. Britzius liked Lien's thoughts but didn't see how it applied to blasting causing damage to a building. Lien responded it is all in proximity. Lien said we are going to have that base line for people within mile. Lien explained some of the documentation obtained from the third party inspector doing the foundation inspections. Lien said if there is damage there, those people have that as a tool. Lien reiterated that if the application comes in with a bunch of residences surrounding it perhaps it isn't a good site or perhaps blasting could be restricted on that side of the property. Lien reminded the Committee that it is a conditional use permit, so the Committee can say that they won't permit blasting within so many feet of these homes but only excavation. Lien clarified that based upon the individual application, the Committee has the right to pick and choose conditions. Lien noted that we currently prohibit activity within ten feet of groundwater. Lien said that we now have LIDAR information in the County so one can look at a map as to where the mining activity is taking place, what the elevations are for the residences around there so that the Committee could utilize that information as well. Zeglin asked what the purpose was of all of our testing if we're not going to do anything with it, if we're not going to say, "You are responsible, this is what you have to do". Brandt commented we're talking about our testing as if what we're doing is collecting evidence for the possibility of a civil law suit. That may, in fact, be one of the reasons that we are doing it. Zeglin stated if that's the only reason that we're doing it (inaudible text). Brandt added the other reason for this was to give the Committee data that we could look at when making a decision whether or not to grant a conditional use permit. Brandt is suggesting there are a number of reasons as to why we are collecting this data and part of it is so we know what we've got. That is to say, what is the nature of our resource and how fragile is it or how easy is it to recover if there is some damage done. It is also that resource that we use when we make decisions. That is the talk that goes around in government decision making. The more data you've got, the easier it is to make an informed decision or you have a reason for making that decision. Lien asked Radtke if he was aware of any past cases where a specific industry came into a County and created a zone or there was contamination discovered where a County took action. Lien added if we have a site and we have this baseline documentation and as we're doing ongoing testing all of a sudden you find things that were never there before and it's moving or expanding – Lien questioned if a County has ever stepped in and sued on behalf of its' public? Lien asked if a County could take on something like this because it would be damaging a resource. Radtke answered that he wasn't aware of any County doing something, but that doesn't mean that it doesn't exist. Radtke questioned what would be the basis to get an industry to comply with the County's Ordinance. There has to be some sort of standard that is not being met or some part of the law that says that the County is here to enforce that as opposed to the State. Lien used safe drinking water as an example, i.e. we're getting high levels of arsenic, phosphorus and nitrates or other things that are harmful to the public. Heavy metals that have never been there before that are exceeding drinking water standards. In multiple testing would the County be able or in a position where the County could take up such a case. Radtke said he is having difficulty coming up with an idea as to where the County would be able to do this, almost like a class action suit, on behalf of people. Radtke didn't know if we would have that authority - "an Erin Brokovich suit" – where a bunch of people come together and file for a similar cause. Brandt commented that is what was lacking in that particular case is that the individuals that were harmed had to get together to do it. The municipality, obviously, was harmed as well but they apparently didn't have any standing. Brandt said Lien is offering us a way around the issue that has been raised which is to say we create an informal, information based door that we open to the applicant and the neighbors whereby we encourage, but don't require, the parties to talk to each other and come to agreements or at least an understanding of the potential for damage to infrastructure, wells, livestock, foundations, etc.

We then take the results of those conversations into consideration when approving the permit. In other words, hypothetically, if 75% of the people who have had conversations with the mining company come in and say we understand what the potential damage is here and it is greater than we are willing to tolerate, we really don't want you to give a permit to this entity or on the other hand 75% of the people come in and say we're fine, we understand what the threat is, we can live with it, then we take that into consideration. Brandt stated it is part of what the Conditional Use Permit hearing process is about. We hear from the neighbors. Britzius asked what the practical form is that this would take. Would this mean that we would send a letter to people reminding them of the potential damage to all these things? Brandt replied that Lien was describing the letter that we currently attach related to property values, etc. Lien said it would be similar and we would just add language relating to blasting and wells. Right now it only addresses property values. Britzius noted that we would also let the applicant know that they are going to be responsible for these things. Brandt stated it would also be a way of saying that Trempealeau County, the Department of Land Management and the Environment and Land Use Committee are aware that there are dangers and that there are consequences to this kind of activity especially in a heavily populated area. Nelson asked if this wouldn't be more in line with addressing new permits rather than existing ones that are giving us problems. Britzius stated it doesn't affect what is already in existence. Brandt commented we are still in the learning stage. We've been doing this for almost six years now and we are still "tweaking" our process. To remind everyone, Brandt explained what we are doing is responding to recommendations of a committee that was tasked with recommending things to us, so we are responding to their recommendations. Bawek said he wrote down something that perhaps Lien could use as a condition, "The use of blasting shall pass the burden of responsibility for mitigation of conflicts upon the permit holder, to the satisfaction of a third party independent consultant used to determine the impact blasting had on affected property's within a one mile radius of the permit holders site, consistent with the GW-10 of the Health Impact Study". Brandt complimented Bawek on the language. Bawek read it aloud again. Brandt commented that you're making it clear that the choice to blast could have a consequence of making that party responsible for any damage. Bawek said it is so they would absolutely go into this knowing that we don't want to get into that problem, so then the blasts would be more carefully monitored. Bawek added it is a way of solving a problem before it gets there. Brandt responded that Lien just made a suggestion to sort of move around that. Bawek replied he knew that but Bawek didn't know if that was strong enough because Committee's change but the people contentions in this County have not, as a rule, it is still overwhelmingly, "we want to be protected". Bawek stated taking the easy route isn't always the way to go. Britzius said we can enact Lien's suggestion in any case and perhaps to make this meeting move along we could all take home or get sent a copy of Bawek's suggestion and consider it at the next meeting. Britzius said he liked the meaning of what Bawek said. Bawek thought it was a good start and that Radtke could help at making it better language. Schultz agreed with Bawek and Britzius. Brandt asked how one would put that in a motion. Lien suggested that he would modify what is prepared already, which is to include blasting and wells and bring it back to the next meeting. Brandt clarified that Britzius is referring to the letter that the DLM sends out related to property values. Brandt also suggested Lien get a copy of what Bawek just wrote down and get that to the Committee before their next meeting for consideration.

Brandt perceived the Committee going forward in the following manner. We already spent time and acted on recommendations related to light. The language that we ended up with was not as strong as the recommendation but it certainly indicated that the Committee wanted to see that the applicant has a plan for lighting and that it is not obnoxious or intrusive to the neighbors. As far as the noise pollution, we have language in our Ordinance related to noise, noise studies, etc. The language in the recommendations is to lower the limits that we already have. Brandt personally thought that would require a lot more public hearings. Unless the Committee wants to approach that, Brandt suggested leaving that alone for now and let the noise language we have in the Ordinance stand. It was hard

fought and came to over a long period of time. In terms of the air quality, Brandt stated if the Committee wants to handle this we have those two reports which just came out from the University of Iowa and the Wisconsin Institute of Health. Brandt wasn't saying they downplayed the potential effects of or the real effects of silicosis but rather suggested that it is very limited in terms of its effect on the population as a whole. There are other people who think otherwise. Brandt was just suggesting that for today or at least the rest of this meeting we recognize that there is a concern. Studies have shown that it is mostly psychological which a significant concern but that the actual physical possibilities are not as dangerous as people think they might be. Brandt wanted to approach the surface water recommendations with a bit more detailed discussion. Brandt suggested leaving "sound" the way it is and putting aside the air quality discussion until the experts agree. As far as the air quality goes, Zeglin stated the Midwest Environmental Advocates came out with a response to the Institute for Wisconsin Health Organization study. According to Zeglin, they disagree with it. Zeglin said the Ho Chunk Nation just released a response to that study also which Zeglin has with her and she will hand out to everybody that disagrees with the Health Study. Zeglin also suggested that the University of Iowa study, which in Zeglin's mind was not conclusive, did lean toward cautioning against the prevailing winds. We should have something monitoring air quality for prevailing winds (downwind of that). Zeglin didn't think the Committee should dismiss the air quality portion all together based on the studies that Brandt was talking about. In order to move this process along today, Brandt was suggesting that the air quality piece is a considerably longer discussion, probably at least as long as what the Committee had this morning. Zeglin agreed but said she said it seemed like Brandt was leaning towards, "Let's forget about it entirely" and Zeglin didn't want the Committee to do that.

In addressing Surface Water (SW) Brandt read aloud the first recommendation:

*SW1. The distance of NMISM from an exceptional water resource or a trout stream shall be increased.*

Lien explained that pretty much all activity setbacks are 75 feet but then shore land zoning applied out to 300 feet. Lien added that the structural setback is 75 feet and shore land zoning is 300 feet from the ordinary high water mark which is where the typical water elevation is. Upon Brandt asking about shore land zoning, Lien responded shore land zoning rules apply for any excavation, filling or grading that would take place. We, historically, have not allowed mining activity in shore land area – it is basically a 300 foot buffer. Brandt asked if we are limited to that 300 feet by Statute. Lien said he was unsure as there is a new revision to the Shore land Ordinance and he would learn more within the next week at a conference he is attending. Lien didn't believe the Committee could be more or less restrictive unless there was something pre-existing in an ordinance related to setback, so if we had something adopted previously in our Ordinance that said, i.e. no structures within 300 feet of a stream that we adopted prior, one could probably still enforce that today. But Lien said we didn't have that. Some discussion took place on that issue.

*SW2. The distance of NMISM from any other wetland or waterway shall be increased.*

Brandt inquired about the wetlands or the floodway/waterway. Lien responded that for wetland there is not a setback that he is aware of but one just needs to be out of it. Lien added we require that, if there is no wetland in the area, to delineate that. Brandt said the recommendation is to find a better way to protect those wetlands by expanding beyond the borders of the wetland. Lien reminded the Committee that shore land zoning is a state wide requirement, not related to mining, and it has to do with structural setbacks and a lot to do with development, so Lien wasn't sure how they would view stricter regulations for buffers. Lien said he would look into that.

*SW3. All process and settling ponds shall be lined.*

Upon Brandt's inquiry about this, Lien responded we require a concrete lining when polyacrylamides are being used but not in all ponds. If it is a settling pond that doesn't contain polyacrylamides then we

don't require a concrete liner or any liners at all. Lien said we learned with the first permits that came along that they had put in the engineering a certain amount of infiltration of waters to go into the settling ponds and when fines were introduced, the fines are typically clay fines, and they sealed those ponds remarkably well and almost every one of them overtopped and discharged because they weren't designed adequately. That is why when you read in here of a 75% increase in ponds, we had implemented that they must meet the 100 year storm criteria as they hadn't in the past. We also addressed that when polyacrylamides are introduced that they must be lined ponds in order to be able to remove the polyacrylamides back out at some point in time. When one thinks about it, Lien said a settling pond has various uses. Storm water settling ponds are to recharge the groundwater at a slower rate but the minute you mix the fines in with it, they are almost always clay fines (small sand particles) and they seal the bottom of that pond really well and we were experiencing zero infiltration. Typically we see plans that come in now or sites where they will have a series of ponds that allows for primary and secondary settling thus better infiltration by the third pond. They will then pump the clear water off from the old ponds back up to be circulated. Bawek commented storm water and sediment are two separate things. Lien replied that inadvertently you get storm water that comes into the site as well so you have to take that into account in your design criteria, because they are pumping water in to a settling pond and they do that if they are using a clarifier, typically. That is a way to reduce water too because the clarifier recycles the water and cleans it for reuse but then it almost always has polyacrylamides. Those are the lined ponds. Bawek clarified that those are separate from the storm water ponds. Brandt commented he sees SW-3 and SW-7 being what Lien is talking about. We do require a lining for processed material which might include the polyacrylamides and yet in SW-7 the issue of the sealing of the bottoms being dealt with by requiring a 100 year flood standard.

*SW4. Create closed-loop systems to maximize the recycling of water and to eliminate potential discharges to Trempealeau County groundwater or surface waters.*

In regard to the closed-loop system, Brandt said you are already talking about recycling water and this is pretty standard operation.

*SW5. Applicants shall test sediments accumulating in process and storm water ponds prior to reclamation for the parameters listed in GW4. If flocculants are in use on the site, the applicant shall additionally test for the parameters listed in GW6. These sediments/slurries shall not be discharged to the mine or used in reclamation until they meet federal and state health-based drinking water criteria for the contaminants in GW4.*

Brandt suggested this meant water flowing through them. To Lien's knowledge the testing of flocculants hasn't been done. Budish believed DNR was working on that which was part of the other handout the Committee received. It is part of the draft language of the storm water stuff. According to Budish they are talking about when storm water comes in contact with processed water it is considered processed water. Budish said DNR is already working on SW-5 or the testing for that, so it is in the works at the State level.

*SW6. Enclose all significant materials and processes to the extent possible to minimize contact with storm water.*

Brandt thought Budish had talked about the metal lockers for the chemicals and the enclosed processing areas that Brandt sees at all the sites.

*SW7. Storm water retention ponds need to be bigger by a minimum of 75% and use best practice management when constructing the retention ponds.*

Brandt stated Lien has already spoken to this subject.

*SW8. The sand/mud/flocculants sludge must be stored in a designated location with well-constructed berms or retention ponds to prevent run off of the material after a heavy rain.*

Brandt commented that we have had at least one experience with that and there have been experiences with failed berms with toxic sludge behind it in other places around the country so that is a serious concern. Brandt asked Budish what he has seen related to that or is that what it is that's being stored in the settling ponds. Budish responded that for processed material he has seen very little if any of that stuff within the County regulated ones since they haven't really been in operation that much. They usually keep them the furthest back from the site so that it reduces distance from traveling out. Budish said everything is put in a location and it is usually marked out on a map and they aren't going to store it right next to a creek or wetlands as they always move that further back because it is part of the storm water things too that DNR looks at. According to Budish, DNR reviews their storm water plan and if the storm water plan says they are going to have processed material here, etc., that is going to increase the risk of that. It would be part of the storm water plan and review. Budish has never seen any issue with storing it other than the one example on Preferred Sands when they put it up on top of a hill and it came down. The other one was in Thompson Valley where a storm water pond was constructed too close to a creek which was done without DNR's knowledge. That pond ruptured and discharged into the creek but that wasn't a part of sand, mud flocculant sludge that was just part of storm water. Brandt added we see it in the plan when it comes across our desks. Bawek asked, if when they build these berms for the storm water plans, have you also addressed the initial covering of that dirt. Bawek knew that at one time it was talked about that one of the reasons that the berm broke was because it wasn't covered correctly and big rains came and washed it out. Budish believed that was correct because there was a cover crop that was supposed to be on it within 48 hours of disturbance. That is part of Best Management Practices (BMP's). Budish said one sees in a lot of places where they put up a berm and hydro-seed it real quick, but you're kind of at the mercy of nature. Bawek commented they do have a netting type of material one can spread because BMP's aren't enforceable, they are just put out there. Bawek thought as a department, one of the things that could be addressed is to have some type of immediate covering that goes on these berms. Budish believed that a condition that was put on a site was for storage of flocculants sludge and it has to be on a concrete pad so it can dewater so that water gets out of the material so then the material is dry enough to be able to be land spread onto a site. Budish didn't believe they constructed berms really as it is more of a pad. Lien added they are creating an internally drained site. Brandt said the concern there was the chemicals within the stuff that would potentially be used for the reclamation process.

*SW9. Any natural waterways should be monitored (during mining and several years after mining) for water quality within a half mile of a mining site by county officials.*

Brandt commented we have hard time with that, in terms of staff, but there is a heightened awareness that water quality, especially in light of the last meetings' presentation by the DNR, so he suspected we will be hearing a lot more about what is in our rivers and streams. Some discussion took place on the netting that is used for erosion control.

Brandt asked Lien if the Committee was reviewing Non-metallic Mining – Chapter 13 of the Comprehensive Zoning Ordinance. Lien responded that the revisions that were talked about at the last meeting Radtke had amended and changed so they are in the Committee's folder. Lien stated Section 13.01 has some changes and at the end of 13.01 there are the changes to the lighting language. Lien thought there were a couple other small "clean-up" areas. In 13.03 there were some "adopting" conditions for Conditional Use Permits. Lien said he was trying to keep it up to date and highlighting where the changes are. Brandt asked how far out the Committee was from a public hearing and if there was more work to do. Lien responded yes there was more work because in the first part of this meeting the Committee made a couple of motions in regard to the water testing and foundation testing parameter under the Standard Conditions. More discussion took place on where the new language would go in the

Ordinance, thus resulting in thirteen standard conditions. Brandt reminded the Committee that we have one more meeting before the reorganization of the County Board.

Lien announced that Keith VerKuilen submitted his resignation and his last day will be April 8<sup>th</sup>, so Lien will be posting his position. Brandt noted that the Committee is all invited, tomorrow, to the Soil Field Day in Pleasantville which starts at 10:00 AM. Carla Doelle has been instrumental in putting this together and it does represent a really serious approach to soil health, the use of cover crops and it relates pretty directly to the push on the part of the State to minimize phosphorus run-off into surface waters.

**Confirm Next Regular Meeting Date** – Brandt reminded Committee members of the next regular E & LU Committee meeting on Wednesday, April 13th, 2016 at 9:00 AM in the County Board Room.

At 12:55 PM, Nelson made a motion to adjourn the meeting, Kidd seconded, motion carried with no opposition.

Respectfully submitted,  
Virginette Gamroth, Recording Secretary

Michael Nelson, Secretary