

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

**SPECIAL MEETING MINUTES**  
**October 26th, 2016 9:00 AM**  
**COUNTY BOARD ROOM**

Chairman Brandt called the meeting to order at 9:12 AM.

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

Committee members present: George Brandt, Michael Nelson (new appointment to the Committee in place of Wade Britzius), Curt Skoyen, Jon Schultz, Kathy Zeglin, Jeff Bawek. Schultz arrived at 9:21 AM. Beth Killian and Aaron Kidd were absent. Staff/Advisors present: Kevin Lien, Virg Gamroth, and Corporation Counsel Rian Radtke. Others present: Karen Geske, Gary Bixby, Mary Lee Hegenauer, Mary Ann Bixby, Tom Forrer, and Linda Mossman.

**Adoption of Agenda** - Nelson made a motion to approve the agenda, Skoyen seconded, motion carried with no opposition. Brandt noted that Nelson had mentioned that in the Wisconsin Counties Association magazine it had mentioned that agendas need not be approved but since this Committee has always made that a practice, this Committee will continue to officially adopt it.

**Discussion and possible action in regard to the Final Report on the Public Health Impacts of Nonmetallic Mining** Brandt mentioned it has been over two years since the Study has been released. Zeglin had asked Brandt that the Committee finalize their actions related to these recommendations and it was/is the responsibility of this Committee to act on the recommendations. We have worked through the recommendations. Staff has been taking our recommendations/decisions and putting them into something usable for us to act on. At this time, Brandt turned the meeting over to Lien. Lien had made some notes from the last meeting that we were talking about definitions as there were some questions related to definitions. Lien had e-mailed out information he had obtained from Winona County Planning Commission on some language they were looking at adopting regarding mining definitions, etc. Lien understood that Zeglin and Radtke had met recently and might have some draft language related to the definitions of industrial sand and construction aggregate along with the changes to Section 2.05-Table of Uses of the Comprehensive Zoning Ordinance. Lien explained that mining has always been under the category of industrial uses but in the past mining had always been a conditional use in Ag. districts only. The Committee had discussions on breaking it out into construction aggregate and industrial sand where construction aggregate would still be a conditional use in an Ag zoning but industrial sand would be a conditional use in an industrial zoning. Lien stated he and Kirstie Heidenreich have been meeting with each of the 15 towns. They have had multiple meetings with several of them. So far, according to Lien, they are all very interested in the county's pursuit of making this a conditional use in an industrial district. Some of the towns are onboard with the possibility of creating an overlay district. That would be a footprint of what is permitted currently. Others have drafted tentative letters saying they have looked at this and are not interested in having a mining overlay district in their township currently. Lien said there are other townships that are looking at changing the entire town zoning to rural residential if this Ordinance change doesn't happen because they want to have an opportunity to be "at the table" when an application comes in versus just a conditional use permit in an Ag district. So, there are some potential real changes to town plans if the Committee chooses not to act on this. We have been talking about this for approximately two years and we have the drafts so it

would be just to finalize a few things unless some new topics open up. Brandt asked Zeglin to talk about the revised definition of “industrial” sand versus “construction aggregate”. Zeglin stated she and Radtke had a very good discussion and most of the concerns were about the definitions for industrial sand and construction aggregate. Zeglin shared a handout of “draft” definitions. Zeglin said she did a good deal of research in coming up with these revised definitions. She looked at neighboring county’s definitions - Winona County’s new language that they might adopt at an upcoming public hearing and in regard to the other surrounding counties, she either couldn’t find their ordinance or their ordinance had no better definition than our original definitions. Zeglin also consulted Webster’s dictionary, Mathy Construction and the NAICS (North American Industry Classification System), the SIC system (Standard Industrial Classification), ISO (International Organization for Standardization) so Zeglin did look around and did basically incorporate some refined language into the new definition along with specific classification codes from NAICS and the SIC system. Zeglin read aloud the current definition for “industrial” sand; “Industrial Sand” is a high purity silica sand product sold for any of the following uses: glassmaking, metal casting, metal production, chemical production, paint and coatings, ceramics and refractories, and oil and gas recovery (i.e. “frac sand”). This sand is classified as 212322 Industrial Sand Mining according to the NAICS (North American Industry Classification System) (Standard Industrial Classification (SIC) System. Zeglin stated she took a little more of the definitions for the sand itself including more definition as to what it may be used for and depending upon its use for hydraulic fracturing as that is mainly what it is used for in our County. Zeglin stated she also included marketing to further differentiate industrial sand from aggregate. Zeglin read aloud what she and Radtke had come up with for a “draft” revised definition: “Industrial Sand” is a high purity silica sand or silicon dioxide (SiO<sub>2</sub>). It is nearly pure quartz, very well rounded, of uniform particle shape and size, having a high compressive strength, and meeting size gradation standards for its various uses. Industrial sand is sold for any of the following uses: glassmaking, metal casting, metal production, chemical production, paint and coatings, ceramics and refractories, molding, abrasives, and otherwise preparing sand for uses other than construction. It is most commonly used by the oil and gas industry as a proppant for the hydraulic fracturing of shale for the exploration, drilling, production, and recovery of oil and gas (i.e. “frac sand”). It is a product that is typically not used locally and is marketed generally out of state with transportation of more than 100 miles. This sand is classified as 212322 Industrial Sand Mining according to the NAICS (North American Industry Classification System), and as 1446 Industrial Sand, and 1481 Nonmetallic Minerals Services except fuels, according to the SIC (Standard Industrial Classification System). Brandt commented that the last sentence reflects a little bit of a change in the language up above and was the issue that Radtke had raised, when he was doing research as to what the SIC and NAICS systems were, in defining industrial sand. To further differentiate, Zeglin also found those quotes for construction aggregate that are included in that definition. Zeglin read aloud the current definition in the County Ordinance for construction aggregate reads; “Construction Aggregate” is either sand and gravel or crushed stone (stone crushed from bedrock) that is predominantly produced and used for local construction purposes (i.e., asphalt or concrete roads, concrete, asphalt, building or dimension stone, railroad ballast, decorative stone, retaining walls, revetment stone, roofing granules, and other similar uses) or used for agricultural uses such as ag lime and bedding sand for livestock operations. Small amounts of sand and gravel or crushed stone may be produced and used for other purposes such as salt and sand for icy roads, water filtration systems in septic systems, landfills, mortar sand, and sand for sand blasting. Zeglin stated she expanded upon that, all of the language is there except she did remove roofing granules as that is mostly a manufacturer’s product. Zeglin read aloud the “draft” revised definition; “Construction Aggregate” is sand, gravel, or crushed stone (stone crushed from bedrock) that is predominately produced and used for local construction purposes. Construction aggregate is sold for any of the following uses: asphalt or concrete roads, concrete, asphalt, building or dimension stone, railroad ballast, decorative stone, retaining walls, revetment stone, roofing granules, and other similar uses. It is also used in agriculture for fertilizers, Ag lime, and bedding sand for livestock operations. Small amounts of sand and gravel or crushed stone may be produced and used

for other purposes such as salt and sand for icy roads, water filtration systems in septic systems, landfills, mortar sand, and sand for sand blasting. It is historically viewed as for agricultural use on the farm and to construct the infrastructure needed to transport supplies to the farm and products from the farm to various markets. It is a product that is used locally and is marketed within the State with transportation less than 100 miles. This aggregate is classified as 212321 Construction Sand and Gravel Mining according to the NAICS (North American Industry Classification System), and as 1422 Crushed and Broken Limestone, 1429 Crushed and Broken Stone not elsewhere classified, and 1442 Construction Sand and Gravel, according to the SIC (Standard Industrial Classification System). Lien explained these definitions would go in Chapter 13, Nonmetallic Mineral Mining, and Page 101 in the definitions; “A” is industrial sand and “B” is construction aggregate so these would fit into those places. Upon Bixby asking if shale was a construction aggregate, Zeglin responded yes. Radtke retold of his original concern as to why these definitions were an issue to discuss. Radtke stated that in our current Chapter 13 Ordinance there is a provision on Page 97, 13.03(5)(b)(2) which he read aloud, “The legislative purpose of separating Construction Aggregate mining from Industrial Sand mining is based upon the type, volume of product and the scale of the mining operations. Construction Aggregate sites are primarily used for infrastructure projects in a given area to reduce hauling from sites that are not in the vicinity. The foot print of a Construction Aggregate mining site is historically much smaller in scale and correspondingly runoff and erosion concerns are significantly reduced. Industrial Sand mines sites are rarely if ever used for local infrastructure projects; footprints are very large in nature. The separated sand particles from an Industrial Sand mining site are prone to both wind and runoff erosion at a much higher rate than Construction Aggregate”. Radtke thought that was a fair and general statement about comparisons between the two and why the County would want to deal with each one in a separate manner. When we have that legislative purpose as to why we are separating the two, Radtke originally asked the question, “Ok, is this about the size, scope and volume of the site as to what is being regulated or is it the end user in these products” – which is our current definition. They don’t talk about the scale, scope and things of that nature but rather talk about the end use of the product or what is it, what’s it used for. The same thing applies to the definition of industrial sand. That is when Radtke originally asked the question if there is going to be changes to Chapter 13, that is going to change that if you want to have an industrial sand mine you’re going to need to get an area zoned for industrial and if you want a sand mine for construction aggregate you can pursue it in an agricultural zoning district of which there are numerous areas already zoned for that whereas there currently isn’t anything zoned industrial in the County therefore are you going to see pressure put on that definition because to get to construction aggregate it might be an easier route versus industrial sand. Radtke thought the definition that is being proposed for each one expands what that product is. It doesn’t get into footprint size or any of those things. In discussing with Zeglin, Radtke thought there may be really isn’t a concern to be worried about. Our legislative purpose section really just talks about the general characteristics and why it is that we separate the two. Radtke didn’t think the County necessarily has to say, “Ok, something of this size fits in this category or something of that size fits there”, because each mining site is so unique and different- from the products they produce to location, size, volume and the way they are going to transport products, etc. Radtke thought it would be really difficult to sort of put those types of parameters on. Brandt asked, within this legislative definition, what potentially was going to cause issues. Radtke stated a scenario that he would be concerned about was if you had something that was a construction aggregate site that walked and talked like an industrial site and vice versa, that wouldn’t be consistent with legislative purpose as to why we are treating those differently. In talking with Zeglin further on that, we were having a difficult time coming up with a scenario where that would in fact ever happen. Radtke isn’t as concerned as he was earlier because he doesn’t think it is as realistic that it could happen, that somebody could say, “Hey, wait a minute you’re treating us like a construction aggregate mine”, but they are actually an industrial sand mine in the way it looks and operates. If one looks at those products that are used to define construction aggregate, i.e. used for local road projects, local agricultural purposes, you are not going to likely have a 600 acre site that’s producing 24/7, all

year around for twenty years because that market isn't there and who is going to invest to create such a large facility for construction aggregate when it makes more sense that they are smaller and they are located in different areas depending on where projects are located and where the product is. Radtke's point was that originally he stated what his concern was, and through he and Zeglin's discussion Radtke didn't think it was as big of a concern to just have a definition that is just specific to what the product is, what it would be used for to identify which category you fall in if you want to take up a nonmetallic mine. Radtke had a comment on each of the definitions. Radtke questioned the line in the definition, "it is a product that's not used locally and is marketed generally out of State and transportation is more than 100 miles". Conversely the construction aggregate says the same, "The product that is used locally, it is marketed within the State with transportation less than 100 miles". Radtke stated the Committee had talked about that a little bit. Radtke was slightly concerned that the County is trying to regulate interstate commerce whereby if a product is going out of State therefore we are going to regulate differently than a product that doesn't go out of State. That is something that falls under the federal government purview under the commerce clause. Radtke wouldn't want to appear to be trying to regulate that in any way. Radtke backed away from that though when the discussion was about the 100 mile radius would be any direction state lines or not, but then after thinking about it again, just the use of the term "out of State" Radtke didn't think it was essential to the definition to have that sentence in there. Radtke recommended that the Committee remove that sentence from each of the proposed definitions so that it doesn't appear at all that the County is trying to regulate interstate commerce. Bawek stated he agreed with that as that was his question when we read through this because it is a product that can be used locally and the 100 miles kind of puts a border on things. If it doesn't go 100 miles where does it fall then? Bawek stated it should be taken out. Schultz expressed agreement with Radtke's concerns on that and whether that is needed within the definitions. We already have somewhat of the local versus export use mentioned in the legislative purpose. Schultz thought the scale of the operation is the largest concern among residents of our County. Zeglin said she put that sentence in to further differentiate the two from each other. It does say "generally" marketed out of State, it doesn't say it is "always" marketed out of State. Radtke expressed concern again about using the word "out of State". Discussion took place on the language. Radtke suggested the sentence could say, "It is a product that is generally/typically used locally and conversely it is a product that is typically/generally not used locally. That gives it a general characteristic but does not limit the distance, etc. Zeglin clarified that for industrial sand the sentence would read, "It is a product that is not typically used locally". For construction aggregate, Zeglin clarified the sentence would read, "It is a product that is typically used locally". Committee consensus was in agreement. Upon Brandt's inquiry, Lien stated the Committee can make recommendations/changes to this draft Ordinance and then it would have to go through the public hearing process to amend the Ordinance with all of the changes we have. This Committee could vote on these two particular amendments and add them into definitions. Lien noted it would be the bottom of Page 101 of the Ordinance under #10 Nonmetallic Mineral mining, this would be "A" and "B" that would be changed. "A" would be the industrial definition and "B" would be the construction aggregate. Schultz made a motion that we approve the edited definitions of industrial sand and construction aggregate under Section 13.05 as discussed, Skoyen seconded. Bawek said there was new language in the last line of the revised definition, "and as 1446 Industrial Sand, and 1481 Nonmetallic Mineral Services except fuels". Bawek asked Zeglin if she could enlighten the Committee about those references. Zeglin explained those were the titles for those codes that she got from the Standard Industrial Classification System. Zeglin said she got out of her reading that 1446 Industrial Sand means establishments primarily engaged in operating sand pits and dredges and in washing, screening and otherwise preparing sand for uses other than construction such as glassmaking, molding and abrasives. Zeglin stated that 1481 Nonmetallic Mineral Services except fuels (that is the title) means establishments primarily engaged in the removal of overburden, strip mining and other services for nonmetallic minerals except fuels for others on a contract or fee basis. Bawek asked if this is related to fuels. Zeglin responded it is a product used in the oil and gas industry but it is not a fuel itself. Brandt

thought the fuel they are referring to is coal or maybe some shale. Some discussion took place. Bawek commented that it seemed appropriate after what Zeglin had just read and it seems to fit. Motion to approve the replacement of the definitions under Section 13.05(10) (a) and (b) passed with no opposition.

Brandt stated Lien had spoken briefly about language related to light provisions in the Ordinance. Lien referred the Committee to Page 90 under (i) and read aloud, “A lighting plan for the proposed site, including a pre-construction analysis to establish baseline night sky conditions, an assessment of future light impacts from the proposed non-metallic mining and related activities, and a photometric diagram showing lighting levels and locations of proposed fixtures. Lien said that would be something that the applicant would now need to provide to us. The Committee has agreed on that and it has been added in. Some of the other changes are on Page 94. Lien read aloud, “All wells within 1 mile of the mine boundary shall be tested prior to any mine activity and annually thereafter. The well test shall at a minimum test for Coliform, Bacteria, Total Hardness, Alkalinity, Conductivity, pH, Saturation Index, Nitrogen-Nitrate, Chloride, Arsenic, Calcium, Copper, Iron, Lead Magnesium, Potassium, Sodium, Sulfate, and Zinc, and the test result shall also include the depth of water in the well on the day the test is performed. Brandt mentioned the second one has to do with structures. Brandt clarified the difference here is the distance and by being specific with what it is that is going to be tested for. Lien said we try to mirror the Homeowner Packet tests in the countywide Well Water Testing Program. Brandt noted these items have also been approved in the past by the Committee. Lien said there were changes to Section 13.01 related to the industrial zoning classifications and the sentence was added, “Including the impact of the market value of the lands in the vicinity of the proposed operation”. Lien said he struggles with the word “vicinity” because it means different things to different people. Brandt commented it does address one of the issues we are required to consider when siting which is the effect on property values. As he recalls, Radtke said when the Committee added this language “vicinity” was used because of the uniqueness and very attributes of proposed sites. For example, Radtke said a development up on a hill may not be immediately adjacent to this site but could have an impact on property value so that is why we used a word a little more open ended in that sentence. Radtke stated that sentence was really added just to clarify that this Committee can consider that information in making a decision whether to grant or deny a permit. Brandt added, as Lien had pointed out, we have agreed to add language creating a conditional use in an industrial area for industrial sand mining. Bawek asked if the Committee could add in “adjacent” or “affected” in that sentence along with “vicinity”. Bawek thought the case to add it was brought up over and over again by the number of people who come here and talk about the property values and/or lives that are affected. Bawek thought “vicinity” was pretty open ended and “adjacent” and/or “affected” gives some validity to vicinity. Radtke replied “adjacent” is certainly going to fit in the definition of “vicinity” and “vicinity” starts to get gray the further we get from that source. More discussion took place on whether to change the language here or in the noise study information. Bawek made a motion to include the word “adjacent” so that the language would read in this part of the Ordinance being discussed, “Including the impact on the market value of the lands adjacent or in the vicinity”, Zeglin seconded the motion. Motion passed with no opposition. Brandt stated the Table of Uses will also be changed to reflect what the Committee has approved. Brandt stated in looking at Chapter 13 – Nonmetallic Mining and this Table of Uses in preparation for a public hearing, if we have no other suggestions related to this Chapter we could potentially schedule a public hearing. In review, Brandt recapped what the Committee has already committed to, such as water testing and finding ways for the County to accomplish that and also the improvement of intergovernmental relations. Lien added that by having him and Heidenreich reach out to all the cities and villages this past year and continuing in the future, the effort has been well received/welcomed. Additionally, Lien said a side track to this is the Parks, Tourism and Economic Development (PTED) Committee of which Jon Schultz is the Chair. That position would also be a “reach out” from the County to the cities and villages to bring them together to look at economics and development throughout the County. Brandt said there was also a

desire to keep track of things, i.e. how many deer are taken in the County versus how many permits, what the sales taxes revenue amount is. There was no way for this Committee, specifically, to help fund the manpower that was needed to analyze data but there are departments within the County that are looking at that sort of stuff. We need to keep in mind that the data is available to us.

Zeglin had three different issues she wished to bring to the table. In working on the definitions for industrial and construction aggregate, she thought the Committee might also differentiate between the two different mining activities in other areas of the Ordinance. Zeglin and Radtke had talked about this previously and perhaps the only place that differentiation might occur would be in the setbacks which are on Page 94 of the Comprehensive Zoning Ordinance, Items 9 and 10. Zeglin knew that the Health Study indicated concern for setbacks to wind, noise, water, light, etc. Since industrial sand usually has a larger footprint than construction aggregate and since construction aggregate is more seasonal in nature (the different quarry's and pits are only open when that material is needed in various areas of the County) whereas industrial sand would like to go 24/7 year around, the nature of both of those activities might benefit from different setbacks. Zeglin suggested since industrial sand has a larger footprint that it have a larger setback with construction aggregate having a lesser setback. Zeglin suggested the current 50 foot setback (#9 on Page 94) from the mining site boundary and the 250 foot setback (#10 on Page 94) from any building or structure used for human habitation or the housing of farm animals and from any potable water source be used for the construction aggregate setback and a larger setback (minimum 100 foot setback (for #9 on Page 94) from the mining site boundary and 500 feet setback (for #10 on Page 94) from any building or structure, etc.) be used for industrial sand, using the same language. Upon Brandt asking if the waiver provision would stay the same, Zeglin said that language would stay the same. Zeglin clarified that #9 would read "50-foot setback from the construction aggregate mining site boundary shall be maintained where no mining activity shall be allowed". As Radtke has always pressed the Committee for their rationale, Brandt inquired about Zeglin's rationale in suggesting this change. Upon Brandt suggesting it might be because of the non-seasonal and the year around activity, Zeglin said that was part of the reason and also the nature of each of the activities – getting back to the legislative rationality that there is more noise, dust, night lighting, etc. associated with industrial sand mining where the quarry's and borrow pits, etc. very rarely will work at night except in an emergency situation. They (construction aggregate) typically run like any other business from 6:00 AM – 4:00 PM or during the same hours as any Highway Dept. would run. Radtke added in the legislative purpose section of the Ordinance it differentiates about road and runoff issues on a larger site versus a smaller site. Radtke thought there were actual circumstances where that happened in the County where homes were affected by erosion and runoff which would justify a larger setback to avoid those potential issues. Zeglin made a motion to differentiate the setbacks in #9 and #10 on Page 94 to increase the setback for industrial sand to 100 feet in #9 and 500 feet in #10 leaving construction aggregate in #9 at 50 feet and 250 feet in #10 (for construction aggregate, Bawek seconded the motion. Schultz thought Zeglin was raising a really import distinction. It would be interesting to look at data points and see exactly what the buffer/setback is from the existing construction aggregate mines to the nearest residence. Outside of the one on Hwy 93, most of them are tucked back on town roads. Schultz questioned if construction aggregate mines were being monitored for runoff. Schultz suggested asking Land Records for the nearest residence from each construction aggregate mine that is permitted in the County as he thought that would be interesting information to know. Lien added that by permit setback requirements a house can be no closer than 10 feet so there shouldn't be any closer than 60 feet. Radtke suggested taking the items that are in #9 and #10 and move them all into paragraph 9 and start with a heading "For all construction aggregate mines the following setbacks apply" and have all that information that applies in one paragraph and copy it for #10 with a heading "For all industrial sand mines the following setbacks apply". Committee consensus was in agreement. Motion to approve the increase in setbacks passed with no opposition.

At one point in time, Zeglin had passed out the bicycle loop maps to everyone. Zeglin had also passed out a survey of the Town of Unity Comprehensive Plan update along with selected items from the Trempealeau County Strategic Planning citizens survey results that UW-Extension County Development Agent Pat Malone directed for the County Board. Zeglin took out those pieces that were pertinent to the Health Study and provided it to the Committee. Along those lines, Zeglin said the Health Study is very interested in preserving what we have going already; Zeglin suggested something to protect the bicycle routes that have been very successful in the County as far as tourism and bringing people in. Zeglin thought it would be very detrimental to the County to have those bicycle trails eliminated or compromised by the trucking from industrial sand. Zeglin explained this would essentially go into any provisions for the roads. Zeglin read aloud, "When a proposed trucking route uses County and/or township roads that also have a designated or proposed bicycle route, the road use agreement with the County and/or township must include the widening of the roads to include one bicycle lane". Brandt commented this has always been one of Radtke's concerns in that we can't tell a township what to do. Brandt added this language would suggest that, as part of the Conditional Use Permit, we're instructing the township to make a road use agreement which would include a bike lane. Radtke stated that we can't through our permit tell the town to do anything. Brandt asked Lien how this has been dealt with in the past. Lien explained that we do the Transportation Impact Analysis (TIA) on the proposed haul routes and we send that into the Department of Transportation (DOT). The DOT makes recommendations to the quality of the road, intersections, etc. Lien added we have never looked at the bike trail/loop routes. When one looks at the bike loop map it encompasses a lot of the State highways. According to Lien the State hasn't typically required a lot of road use improvements on the State highway other than intersections where they abut with county and town roads. Zeglin commented that, typically, State highways have a decent road shoulder. Brandt said the mining companies have worked in the past with the bike trail/loop people to minimize the difficulty, i.e. not trucking when there is a big bike event going on or the bike loops themselves can be slightly adjusted to not include the hauls routes, etc. Brandt has heard Travis Mossman say that bicyclists really appreciate our low traffic roads, the quality of the roads and that the effect of a lot of trucking on these roads can be less welcoming. Brandt saw what the issue is. Schultz asked about striking the township aspect of the statement. Schultz thought the concern was legitimate but the scale of the concern could be argued by some one way or the other. More discussion took place. Zeglin suggested inserting language so that the statement would read "When a proposed trucking route uses County and/or township roads that also have a designated or proposed bicycle route it is suggested that the road use agreement that the County and/or township (strike "must") include the widening of the roads to include one bicycle lane. Schultz suggested replacing "must" with "may". Brandt suggesting leaving "must" or "may" out if at all possible. Radtke stated the term "proposed" bicycle route was used versus designated and while looking at the bicycle loop map asked if the colorful ones on this map were "designated". Brandt said the other thing that is happening with some of the bike routes is that they have become officially, State designated bicycle routes. According to Brandt, Travis Mossman had reported that the money that they had received from the CAP X2020 funds was going to be woefully short of what was needed in terms of the engineering requirements alone for State designation. If you see a sign with a bicycle loop number and logo on it, that is a designated route and not all of the routes have been designated at this point. Brandt added that "designated" has a meaning, however he thought "proposed" was a problem. Within the context of the Conditional Use Permit permitting process, Brandt suggested this Committee or whoever is on the Committee, be aware of where the routes are and encourage the mining companies to go someplace else with the haul route. More discussion took place on the routes. As a member of the Highway Committee, Nelson mentioned they will not put in a "bicycle" lane, because the County cannot afford it, but they have widened some of the roads to 26 feet. We can hardly afford a few miles every year because it is so costly but we've widened the roads so they have plenty of room anyway, but there are no lines. Zeglin said she just suggested this for consideration. Radtke commented this Committee with a permit application before it, can always add that as a condition, on a case by case basis. It doesn't

specifically need to be in the Ordinance especially if we're having trouble defining what a "route" is and what is "designated" and "considered" a route. We already have in other permits conditions that require certain road improvements, i.e. turn lanes, acceleration lanes, etc. and Radtke thought it would be along the nature of those types of conditions due to the fact that there is an established bike route on the roadway. Zeglin asked if it is something that could be put in the Standard Conditions. Zeglin mentioned that we don't have any conditions for a road use agreement. Lien thought the closest thing might be #5 on Page 93, "Public roadways must be scraped clean of materials at the end of the working day where non-metallic mining equipment leaves a non-metallic mining site and enters a public road". Schultz stated our Highway Commissioner feels that we have a good Road Use Agreement Policy and questioned if the Committee thought we should have some language in our Ordinance related to road use agreements. Brandt mentioned we have a list of other things we can consider that has to do with conditional use permits generally, not specific to nonmetallic mining. Brandt suggested this could be added to that list so if a haul route overlaps a bicycle loop that there is consideration of a bicycle lane. Some discussion took place about the road use agreement not being mentioned in the Ordinance. Brandt asked if it is understood that when a haul route is designated that there will be road use agreements. Radtke said that has been the practice of the Committee. Radtke stated in 13.03, Page 95 there are Factors to be considered for Conditional Use Permits and under (a) it reads, "Public infrastructure, including but not limited to streets and highways". Brandt suggested that would be the place to include language related to bike loops. Zeglin originally thought the bike loops would be added to any section dealing with road use agreements but we don't even have that indicated other than on Page 95 under Factors to be Considered. Zeglin expressed her opinion that something should be in the Ordinance that road use agreements must be established. More discussion took place. Radtke stated in the Road Use Agreement that the Highway Committee adopted, 1) It is not specific to any one industry, it talks about increased use, from historic use, of that road and from there an evaluation is done and so even if the Committee were to not require and/or overlook that issue, the Highway Commissioner would be looking at that issue regardless as to protect the integrity of the road especially if there is going to be 50 or 100 trucks per day. Schultz felt that potential applicants are going to review this Ordinance and by having it in there they are going to see that and we're making sure they don't miss that consideration as early as possible. The public will also know that is in force. Lien suggested the language go under Section 13.02 Standard Conditional Use Permit Requirements and it would read something like "A road use agreement with Trempealeau County needs to be reviewed and established". Zeglin said she really didn't want to leave townships out of the mix either. Lien added that in the past the Committee has made this a condition but it isn't in the Ordinance language as a standard condition. Some discussion took place. Schultz made a motion that Radtke and Lien work on some language related to road use agreements with the County to be included under Section 13.02, Zeglin seconded. Radtke was working on language as Committee discussion was taking place. Mary Ann Bixby stated she has concerns about this in particular because they have been having a lot of difficulty in the Town of Preston with one particular road – Carpenter Bridge Road. Bixby presented a map from Ann Hempel in Land Records and all the roads in the Town of Preston that butt up to the mine and there were five roads particularly, one being Carpenter Bridge Road and we still have not produced this road agreement which was supposedly worked up. Preferred Sands in the mining area around us is the only company that gives us and works with us on road agreements, so Bixby said they have a lot of difficulty with road agreements. Upon Zeglin's inquiry as to whether Bixby would like to see something permanent, Bixby replied "very definitely because the "old guards" said "you don't have to have agreements" and "it is something you can work out with them but you don't have to have an agreement." Our present supervisors say we can have current agreements. Zeglin reiterated that she preferred it be a condition with a waiver possibility for the County or town board, for whatever industry is using the road. Radtke proposed the following; in Section 13.02 as the 14<sup>th</sup> standard condition, "If a mine site will utilize a haul route on a County or town road, the permit shall have a condition that requires a road use agreement between the permit holder and the County/town unless the County or town waives a road use agreement". Motion to

approve the language as Radtke presented passed with no opposition. Brandt asked if the Committee could agree that the bicycle loops will be considered by the Committee as a condition. Schultz made a motion that under 13.03(3) (a) (1) after the word “schools” that “established bicycle routes” be added, Zeglin seconded. Motion carried with no opposition. At this time the Committee took a five minute break.

Brandt called the meeting back to order. Brandt inquired if the Committee had flexibility in terms of requiring the setbacks from a wetland and waterways. Lien stated you can't be in them but he didn't believe there were any statutory setbacks from a wetland other than you can't be in it or have activity that would contribute to the demise of wetlands. Lien added there is a newly revised County Shore land/Zoning Ordinance coming before the Committee next month and we are not allowed to be more restrictive or less restrictive than the State. Schultz commented so we have no way to give weight to whether mitigated acres are within the County or the watershed. Lien thought those would fall under factors to be considered; present and proposed uses of land in the vicinity of the proposed operation, surface water drainage, water quality and supply, soil erosion. Lien said those are all the things the Committee can take into account. Lien reminded the Committee there will still be a public hearing where amendments can be made as well as at the County Board level.

**Confirm Next Regular Meeting Date** – Brandt reminded Committee members of the next regular E & LU Committee meeting on Wednesday, November 9th, 2016 at 9:00 AM in the County Board Room. The Committee also set the regular monthly meeting in December for Wednesday, December 7<sup>th</sup>, 2016 at 9:00 AM in the County Board due to the D95 North and South mine “activity” special hearing scheduled for Wednesday, December 14<sup>th</sup>, 2016 from 9:00 AM – 4:00 PM and, if needed, Thursday, December 15<sup>th</sup>, 2016. Some discussion took place about the Ag Enterprise Areas in regard to the Farmland Preservation Program.

Lien mentioned he is the Wisconsin County Code Administrators appointed member to sit on the Nonmetallic Mining Advisory Board for the State of Wisconsin. Lien will be at that meeting next week. Lien added he would report back during the November meeting of any changes, etc. that may come out of that meeting.

Mary Ann Bixby read aloud from Chapter 13.01(1) (c), “The source, quality, quantity and means of disposition of surface or ground water encountered in the process of or extracted in and used in the course of operating the nonmetallic mine. If required by the County, information on impacts on surrounding wells shall be generated and supplied for review”. Bixby questioned if that was talking about the cumulative effect or what is it dealing with as we have talked in the past about problems in the area with cumulative wells. Lien replied we are not allowed to consider that because it is under DNR jurisdiction but Lien thought that was being reviewed right now. DNR does not take that (cumulative) into effect. Lien said this is more of a flag to them and the Committee that we will be looking at that; proximity of surface water, number and type of wells and quantity depending on the proposed operation. At 11:20 AM, Nelson made a motion to adjourn the meeting, Skoyen seconded, motion carried with no opposition.

Respectfully submitted,  
Virginette Gamroth, Recording Secretary

Beth Killian, Secretary