

**REGULAR SESSION
AUGUST 18, 2014**

The Trempealeau County Board of Supervisors met in Regular Session at the Government Center in the City of Whitehall, County of Trempealeau and State of Wisconsin on Monday, August 18, 2014 at 7:02 p.m. with Chair Richard Miller presiding. The Pledge of Allegiance to the Flag of the United States of America was recited.

CALL

Dear Supervisor,

Please be advised that the Trempealeau County Board of Supervisors will meet at 7:00 p.m. on August 18, 2014 in the County Board Room. All County Board Members' Claims are due in the County Clerk's Office by noon on August 5, 2014 so they can be prepared for Audit Committee approval.

Sincerely,
/s/ Paul L. Syverson
County Clerk

Clerk Syverson read the call.

Roll was called. A quorum was met with all 17 supervisors in attendance.

Chair Miller announced the open meeting law requirements have been complied with through postings and notifications to the members and media.

ADOPTION OF THE AMENDED AGENDA: Chair Miller asked that resolution 2014-08-01 Ordinance-Rezone for the Town of Trempealeau be moved up, after the Sheriff's monthly report. It was moved by Wayne Skroch and seconded by Olin Fimreite to adopt the 11 item amended agenda with the change of order. Motion carried unanimously by vote of acclamation to approve the amended agenda with the change.

APPROVAL OF JULY 2014 SESSION MINUTES: It was moved by John Aasen and seconded by Richard Frey to approve the July minutes. Motion carried unanimously by a vote of acclamation to approve.

APPEARANCES: SHERIFF DEPARTMENT MONTHLY REPORT: Sheriff Anderson gave the statistics for July. There were 87 bookings consisting of 70 males and 17 females. The average daily in county population was 21.94 and the out of county average was 15.65 and there were 9.81 people on electronic monitoring. The accident data reported was 35 car/deer crashes, 10 with property damage, 11 personal injuries and one fatality. The Sheriff mentioned again this month that there has been an influx in the out-of-county jail population however the number will be back to 0 tomorrow. Sheriff Anderson reported on a tragic accident that claimed three lives just that morning in the Town of Arcadia. He thanked all the area municipal departments and personnel who helped respond to that call.

**2014-08-01
RESOLUTION**

ORDINANCE FOR THE REZONE OF LAND IN TOWN OF TREMPEALEAU

WHEREAS UR Home Sweet Home LLC, Landowner, Kevin and Shari Wagner, Petitioner, in the Town of Trempealeau have requested the rezone of a parcel of land, and

WHEREAS the rezone is on approximately 1.78 acres, more or less

WHEREAS a public hearing was held pursuant to Section 59.69 (5) of Wisconsin Statutes, and

WHEREAS the Town of Trempealeau supports the rezone request, and

WHEREAS the Environment and Land Use Committee moved to rezone this parcel from Residential-8 (R-8) to Commercial (C) and it appears that the zoning change request is appropriate under the circumstances,

THEREFORE BE IT RESOLVED that the County adopt the attached Ordinance amending the zoning district boundaries as indicated.

Dated this 18th day of August, 2014, at Whitehall, Wisconsin

Respectfully submitted,
/s/ George Brandt
/s/ Michael Nelson
/s/ Wade Britzius
/s/ Kathy Zeglin
/s/ Curtis Skoyen
ENVIRONMENT AND LAND USE COMMITTEE

(Ordinance is on file in the County Clerk's office)

It was moved by Ernest Vold and seconded by Douglas Winters to adopt the resolution. Kevin Lien, Director of Land Management said the Town of Trempealeau sent a letter of support. Roll call taken; motion carried with 17 yes votes; resolution adopted.

**ORDINANCE
REZONE OF A PARCEL IN THE TOWN OF TREMPEALEAU**

*The County Board of Supervisors of the County of Trempealeau does ordain as follows:
The zoning districts for Trempealeau County and zoning map shall be amended to show that the following described real estate is rezoned from Residential – 8 (R-8) to Commercial (C). The property is anticipated to be used for mini-storage units.*

A parcel of land lying in the Southwest Quarter (SW ¼) of the Southeast Quarter (SE ¼) of Section 34, Township 19 North, Range 9 West, Town of Trempealeau, Trempealeau County, Wisconsin, and described as follows: Beginning at a point in the center of State Trunk Highway #35, 708 feet South 89 deg. 49' East from the Southwest corner of the Southwest Quarter of the Southeast Quarter; thence South 89 deg. 49' East a distance of 294 feet; thence North 0 deg. 11' East a distance of 263 feet; thence North 89 deg. 49' West a distance of 294 feet; thence South 0 deg. 11' West a distance of 263 feet to the place of beginning.

ALL ENERGY – PRESENTATION OF PROPOSED SETTLEMENT OFFER: Chair Miller left the chair and Vice Chair Winters took over the chair's duties. Winters announced that he requested the All Energy presentation be put on the agenda and asked whether it should remain on. Vold made a motion to have it remain on the agenda and Michael Nelson seconded it. Discussion was held and it was concluded that the motion and second were out of order because the agenda was already approved with the presentation on it. Vice Chair Winters announced he would give All Energy 15 minutes to present their case, even though a proposed settlement has been submitted in writing and then four questions will be asked by Corporation Counsel. Much discussion was held. Rian Radtke, Corporation Counsel, said the questions would be presented orally by our legal counsel, Ron Stadler, and suggested keeping other questions for closed session only. Vice Chair Winters then allowed All Energy to give their presentation. Gary Van Cleve, attorney for All Energy Corporation clarified that there is a lawsuit pending by All Energy with Trempealeau County since late last year after the Environment and Land Use Committee denied a conditional use permit application to them. In addition, Van Cleve said on August 4, 2013, All Energy served a motion to amend the lawsuit to add damage claims which is public record and filed with the Trempealeau County Circuit Court. He said there is a settlement proposal to dismiss the lawsuit and withdraw damage claims, which the court hasn't ruled yet but will be argued on September 22nd. Van Cleve said he is representing All Energy here tonight because they want to make another attempt to benefit the citizens of Trempealeau County and the property owners involved in this project. Van Cleve further stated that all litigation would go away if All Energy were able to secure that conditional use permit. He said All Energy is willing to accept all 37 conditions adopted by the committee and abide by all state laws. All Energy has already obtained DNR permits for this project. In exchange for that, All Energy is offering a royalty that would be paid to Trempealeau County's general fund of .583 per ton shipped, up to \$700,000 a year, based on a full production goal of 1.2 million ton in the first year of production. Also, audit documentation will be done annually and paid in the second month. All Energy is asking the board to take action and amend the ordinance on the way administrative appeals are handled in this county and allow for the appeal of a denial of a CUP non-metallic mining come directly to the full board instead and be effective back to October 2013. They are also asking that a height variance be granted for silos and stacks to be placed 40 feet below County Road J grade. In exchange for that, All Energy will agree to pay the royalty. All Energy's mining engineer, Don Vry said it will be an integrated mine/rail facility which will eliminate haul truck traffic and protect the county road system which also means less noise and dust. Vry also said they will have a water clarifying system at this facility which eliminates mud ponds, which have been a problem at other facilities. Their water recycling system will utilize only 6% of new water to make the system run. This ended the 15 minutes allotted. At this time, attorneys Stadler and Van Cleve took the floor to go over the settlement. Stadler questioned the Wisconsin Department of Administration's written opinion of the settlement. Van Cleve said his understanding was that the review resulted in them not commenting on it. Discussion was held. At 7:50 p.m. George Brandt made a motion to go into closed session and Sally Miller seconded it. Roll call vote taken; motion to go into closed session was approved with 12 yes votes and 4 no votes. The no votes were Frey, Aasen, Skroch and Fimreite. At 8:56 p.m. Michelle Haines made a motion to reconvene into open session and Richard Frey seconded it. Roll call vote taken; motion to reconvene in to open session was approved with 16 yes votes.

**2014-08-02
RESOLUTION**

**EXTENSION OF MORATORIUM ON PERMITTING OF INDUSTRIAL SAND
ACTIVITIES IN TREMPEALEAU COUNTY**

WHEREAS since 2010 a new kind of land use has begun in the county with the advent of Industrial sand mining, and

WHEREAS during the public hearing process many citizens expressed concern over the effects to air quality, water quality, quality of life, and to the ability of the county to maintain stable communities as more industrial sand mines and their processing and transportation systems are put in place, and

WHEREAS the mission of the Trempealeau County Health Department and Board of Health is to promote and improve the quality of life and health of all the people in Trempealeau County through community assessment and surveillance, disaster planning and disease prevention and health promotion, in the areas of nursing, environmental health, and nutrition, and

WHEREAS the Board of Health feels it is the responsibility of the government to consider and study the long-term effects of all of Trempealeau County's residents exposure to higher levels of diesel fumes, fugitive silica dust, and the impact on water quality, and

WHEREAS the Trempealeau County Board of Supervisors on August 19, 2013 unanimously passed Resolution 2013-08-01, a resolution putting into place a moratorium for no more than one (1) year, that would apply to all applications for conditional use permits not complete and filed with the Department of Land Management as of August 30, 2013, and

WHEREAS that moratorium was enacted for the purpose of allowing a committee to be appointed and charged with the responsibility to collect and analyze information related to industrial sand mining's impact on the health of Trempealeau County's residents and natural communities, and

WHEREAS that committee was directed to compile a report of its findings, and present that report back to the Trempealeau County Board of Health, the Trempealeau County Environment and Land Use Committee, and the Trempealeau County Board, and

WHEREAS that committee was also directed to present to the Environment and Land Use Committee and County Board any possible recommended changes to the county's ordinances, staffing and approach to industrial sand mining in Trempealeau County, and

WHEREAS such a committee was appointed and, with the assistance of UW-Extension staff in Trempealeau County, commenced immediately to collect and analyze data pertaining to the impact of industrial sand mining to the health and well being of people and communities, and

WHEREAS the committee organized into sub-committees tasked with gathering and analyzing data for specific areas of concern, including air quality, light pollution, water quality, radon, stable communities, and those sub-committees did meet several times a month to complete their tasks, and

WHEREAS the sub-committee's reports are being compiled into a report with information and recommendations for changes to Trempealeau County ordinances pertaining to the permitting of industrial sand mines within the county, and

WHEREAS it is anticipated that the final report will be completed by September 1, 2014, and

WHEREAS the report will contain recommendations for possible changes to the county's ordinances pertaining to industrial sand mining, and

WHEREAS, any proposed changes to the county's zoning ordinances would need to be reviewed and approved by the Environment and Land Use Committee and the County Board, and

WHEREAS the Environment Land Use Committee and the County Board will not be able to review or act upon any proposed changes before the moratorium is expired on August 31, 2014, and

WHEREAS any changes to the county's comprehensive zoning ordinances pertaining to the permitting of industrial sand mines within the county would need to follow statutory time-frames and public hearings, and

WHEREAS over the duration of the moratorium, the Trempealeau County Health Department was contacted by several organizations offering to conduct air sampling to assist in the fact finding purpose of the moratorium, and the University of Iowa School of Public Health received a grant to partner with Trempealeau County to conduct the air sampling, and

WHEREAS agreement of the terms and conditions of that partnership did take several months to finalize before sampling could begin, ultimately being delayed until mid-July 2014, and whereas even a little data from that air sampling will be valuable information to include in the report,

BE IT RESOLVED that the moratorium be extended for a period of three (3) months for the Board of Health, Environment & Land Use Committee, and the County Board to review the moratorium committee's report.

BE IT FURTHER RESOLVED that if within the above-stated three month extension period a petition is filed under Wis. Stat. § 59.69(5)(e)1. to amend the county's comprehensive zoning ordinance based upon the recommendations contained in the moratorium report, then the moratorium shall be extended beyond the three month extension for the period of time that it takes to consider and bring said petition to final conclusion, but in no case shall the extension of the moratorium exceed six (6) months.

Dated at Whitehall, Wisconsin this 18th day of August, 2014

Respectfully submitted,
/s/ George Brandt
/s/ Timothy Zeglin
/s/ Wade Britzius
/s/ Sally Miller
/s/ Wayne Skroch
BOARD OF HEALTH

It was moved by Brandt and seconded by Tim Zeglin to adopt the resolution. Brandt explained the Board of Health's stance on extending the moratorium. Vold stated that any changes or variances that come up in the findings from the Moratorium Committee, the Board of Health can act on them even after the moratorium ends. Frey said our bond rating was downgraded because of our main type of employment in the county being manufacturing. He also said if the EPA, CDC or the DNR found any health concerns they would have shut down the mining operations immediately. Frey said our ordinances are in place and we should open up Trempealeau County for business. Jeanne Nutter reminded everyone that the Standard and Poors rating dropped because our economy was not diversified enough. She also said that the DNR and the CDC classified silica sand as a carcinogen but the Wisconsin DNR has chosen not to do anything about it at this time. Sally Miller stated that multiple health issues were addressed like radon, indoor air quality, water quality, stable communities and light pollution. She said the moratorium committee formed work groups and they studied various health concerns/topics at length. They have spent the past 10 months gathering data and discerning credible data. Sally Miller said the report will be ready at the end of the moratorium but they won't have the opportunity to share the information with the people who make decisions. Wade Britzius said that the county is open for business because we have 28 sand mines permitted already. He is concerned that time is allowed to go through the study because the mines plan to be here 20 to 40 years from what he has read, so a few more months to study the information shouldn't be a problem. Frey said that only 10 of those mines are currently in operation and moratoriums prohibit business. Sally Miller wanted everyone to know that she was first contacted by a county citizen attending the meetings to extend the moratorium. Since then more requests have come in as well to extend it. When asked about the length of time for a mine to get a permit, Kevin Lien said it is possible for a mine to come in with all the paperwork filled out properly and get a permit within 30 days. Discussion was held on making additions to existing ordinances and which ordinance a mine would operate under if there are changes made. Radtke clarified that they would be subject to the ordinance that was in effect when they got their permit. They could choose to follow a changed ordinance but they wouldn't be required to. At 9:28 p.m. Jon Schultz made a motion and Nelson seconded it to go into closed session per Wis. Stat. 19.85 (1) (g) to Confer with Legal Counsel for the County Concerning Strategy to be Adopted with Respect to Litigation in Which the County is or is Likely to Become Involved. Roll call taken; motion failed with 3 yes votes and 13 no votes. The no votes were Haines, Aasen, Skroch, Zeglin, Fimreite, Nelson, Nutter, Skoyen, Vold, Frey, Britzius, Brandt and Reichwein. Lien said he has staff moving air monitors around and has yet to see the results of the study. His concern is to put an applicant in a hardship situation if they submit their application and a month or two later their application doesn't meet the criteria any longer. He doesn't want to put his department or his committee in a position where they don't know what the rules are. Radtke said whatever is in place when the applicant is seeking the first permit would be what the applicant would need to follow through with. Radtke then advised the board that with the unknowns of the study or possible recommendations to follow, that would be one reason to consider extending the moratorium. He said Attorney Stadler had provided a written opinion which the Board of Health benefited from including hearing potential ramifications of extending the moratorium. Nelson asked about the legal ramifications of extending the moratorium. Stadler said he'd be happy to discuss that in closed session. Schultz made a motion to suspend the rules regarding the number of times for speaking and Britzius seconded it. The motion failed with 7 yes votes and 8 no votes. The no votes were Nelson, Skoyen, Vold, Frey, Winters, Haines, Aasen and Skroch. Zeglin was not at the table for the vote. Roll call taken on the resolution; motion failed with 7 yes votes, 8 no votes and 1 abstained, resolution failed. The no votes were Reichwein, Haines, Aasen, Nelson, Skoyen, Vold, Frey and Winters. The abstained vote was Skroch.

At 9:45 p.m. Chair Miller resumed his chair duties.

**2014-08-03
RESOLUTION**

MUNICIPALITIES CONTINUING DISCLOSURE COOPERATION INITIATIVE

WHEREAS the Division of Enforcement of the U. S. Securities and Exchange Commission (the “Division”) has recently announced its Municipalities Continuing Disclosure Cooperation Initiative (the “MCDC Initiative”) which the Division has stated is intended to address potentially widespread non-compliance with federal securities laws by municipal issuers and underwriters, specifically, their failure to ensure the Official Statements properly describe any failures by issuers to comply with their prior Continuing Disclosure Agreements in the previous five years (from the date of the Official Statement), and

WHEREAS in its announcement describing the MCDC Initiative (the “SEC Announcement”), a copy of which is attached hereto as Exhibit A, the Division states that issuers whose Official Statements contain inaccurate statements regarding their prior Continuing Disclosure Agreement compliance, and underwriters that have underwritten bond offerings in which Official Statements contain inaccurate statements, should consider self-reporting to the Division to take advantage of standardized terms under the MCDC Initiative, and

WHEREAS the Executive and Finance Committee has recommended the County hire Quarles & Brady to assist the County with its review of its Official Statements to determine whether it is advisable to report any potentially inaccurate statements to the Division under the MCDC Initiative, and

WHEREAS Quarles & Brady’s initially quoted a \$12,500 fee for assisting Trempealeau County in the MCDC Initiative and has subsequently reduced the fee to \$7,500.

NOW THEREFORE BE IT RESOLVED that Trempealeau County enter into an agreement with Quarles & Brady to assist in the MCDC Initiative in the amount of \$7,500 to be taken from the 2014 County Board budget.

Respectfully submitted,
/s/ Douglas Winters
/s/ Timothy Zeglin
/s/ Sally Miller
/s/ John Aasen
/s/ Dick Miller
EXECUTIVE/FINANCE COMMITTEE

Chair Miller asked that this be sent back to the Executive/Finance Committee because it didn’t indicate where the money is coming from. Reichwein made a motion to send it back to committee and Nutter seconded it. Motion carried unanimously by vote of acclamation to send back to committee.

**2014-08-04
RESOLUTION**

CLAIMS OF MEMBERS

Your Audit Committee hereby respectfully reports that they have audited the following claims and recommend that they be allowed as follows:

NAME	PER DIEM	EXPENSES	TOTAL
John Aasen (2 mo)	\$280.00	\$43.68	\$323.68
George Brandt	\$210.00	\$152.32	\$362.32
Wade Britzius (2 mo)	\$210.00	\$112.00	\$322.00
Olin Fimreite (2 mo)	\$210.00	\$0.00	\$210.00
Richard Frey	\$105.00	\$104.16	\$209.16
Michelle Haines	\$105.00	\$42.00	\$147.00
Dick Miller	\$140.00	\$53.76	\$193.76
Sally Miller	\$70.00	\$58.24	\$128.24
Michael Nelson	\$245.00	\$66.08	\$311.08
Jeanne Nutter	\$105.00	\$52.64	\$157.64
Robert Reichwein	\$70.00	\$35.84	\$105.84
Jon Schultz	\$0.00	\$0.00	\$0.00
Curtis Skoyen	\$140.00	\$57.68	\$197.68
Wayne Skroch	\$105.00	\$23.52	\$128.52
Ernest Vold	\$35.00	\$24.08	\$59.08
Douglas Winters	\$140.00	\$104.16	\$244.16
Timothy Zeglin	<u>\$140.00</u>	<u>\$63.84</u>	<u>\$203.84</u>
TOTALS	\$2,310.00	\$994.00	\$3,304.00
YTD Totals	\$16,920.00	\$8,151.74	\$25,071.74

Dated at Whitehall, Wisconsin, this 18th day of August, 2014

Respectfully submitted,
/s/ Wayne Skroch
/s/ John Aasen
/s/ Dick Miller
AUDIT COMMITTEE

It was moved by Winters and seconded by Skroch to adopt the resolution. Roll call taken; motion carried with 17 yes votes; resolution adopted.

ANNOUNCEMENTS/APPOINTMENTS–WCA REGISTRATION ANNOUNCEMENT – COUNTY CLERK: Clerk Syverson reminded the supervisors to turn in their September WCA conference registrations tomorrow if they plan to go. Chair Miller announced that we have joined the Mississippi Valley Health Commission with LaCrosse County in order to continue to use their facility. As a result we are entitled to have an appointment and Chair Miller recommended Supervisor Frey. Vold made a motion to appoint Frey to the commission and Skoyen seconded it. Motion carried unanimously by vote of acclamation to appoint Frey. Clerk Syverson also reminded everyone that Governor Walker’s Senior Director of Legislative and Local Affairs, Cindy Polzin, will be here on August 29th to listen to everyone’s concerns and maybe tour some businesses. Supervisor Sally Miller took this opportunity to publicly compliment the Highway Department for their extra effort during all the rain and weather events and detours that took place this spring and summer. They responded extremely well in those situations, even while in transition with several retirements in the department.

COMMITTEE REPORTS: EXECUTIVE /FINANCE COMMITTEE – BUDGET/GENERAL FUND/SALES TAX UPDATE: Chair Miller said the reports were mailed out in the monthly packets.

CORRESPONDENCE: Clerk Syverson read a letter to the Ashley for the Arts Festival Committee, thanking them for their support of the TCCTV as a renewed Gold Tier Sponsor.

CLOSING: It was moved by Nutter and seconded by Skroch to instruct the Clerk to pay mileage and per diem; roll call vote; motion carried with 17 yes votes.

ADJOURNMENT: Chair Miller said the September meeting will be moved back a week due to the WCA Conference being held the usual week of County Board and declared the meeting adjourned at 9:56 p.m. until September 22, 2014 at 7:00 p.m.

Recording Secretary,
Mary Martin

Dist #	SUPERVISOR	PER DIEM	MILES	MILEAGE
1	RICHARD FREY	\$70.00	62	\$34.72
2	DOUGLAS WINTERS	\$70.00	60	\$33.60
3	SALLY MILLER	\$70.00	52	\$29.12
4	WADE BRITZIUS	\$70.00	50	\$28.00
5	JON SCHULTZ	\$70.00	48	\$26.88
6	GEORGE BRANDT	\$70.00	34	\$19.04
7	ROBERT REICHWEIN	\$70.00	32	\$17.92
8	DICK MILLER	\$70.00	24	\$13.44
9	MICHELLE HAINES	\$70.00	25	\$14.00
10	JOHN AASEN	\$70.00	10	\$5.60
11	WAYNE SKROCH	\$70.00	10	\$5.60
12	TIMOTHY ZEGLIN	\$70.00	32	\$17.92
13	OLIN FIMREITE	\$70.00	2	\$1.12
14	MICHAEL NELSON	\$70.00	22	\$12.32
15	JEANNE NUTTER	\$70.00	28	\$15.68
16	CURTIS SKOYEN	\$70.00	33	\$18.48
17	ERNEST VOLD	<u>\$70.00</u>	<u>38</u>	<u>\$21.28</u>
	TOTALS	\$1,190.00	562	\$314.72