

ENVIRONMENT AND LAND USE COMMITTEE
Department of Land Management
MEETING MINUTES
August 27, 2008 9:30 AM
COUNTY BOARD ROOM

Chairman Halderson called the meeting to order at 9:35 AM.

Committee members present: Paul Halderson, Richard Kiekhoefer, Gary Monson, Gerry Van Tassel, Michelle Haines, Chuck Zauner. Dave Quarne and Todd McRoberts were absent.

Staff/Advisors present: Kevin Lien, Virginette Gamroth, the following DLM staff were present for only part of the meeting, Andrea Sveen, Carla Doelle, Kimarie Estenson, Vickie Stalheim, Mark Carlson, Judy Betker.

Others present: Barb Semb, Dick Miller, Deloras Vind, Wally Geske, Sheree Nelson, John Bortle, Doug Winters, Personnel Director Jami Kabus, Union representatives Jayne Delforge and Tammie Coburn, Spencer Pederson, Tim Jones – Mathy Construction, Ronald and Carol Solberg and Anton Stawarz, Leo Leahy- Kramer Co.

Halderson stated that the Open Meeting Law had been complied with through notifications and posting.

Approval of Agenda – Van Tassel made a motion to approve the agenda as presented, Monson seconded. Motion carried unopposed.

Approval of Minutes – Van Tassel made a motion to approve the July 23rd, 2008 regular meeting minutes as presented, Monson seconded. Motion carried unopposed. The addition of Dick Miller, Sheree Nelson and Deloras Vind to others present was made to the August 14th, 2008 meeting minutes. Meeting minutes for August 14th, 2008 were approved, with the addition, with no opposition. Motion was made by Monson to approve the August 18th, 2008 meeting minutes, seconded by Kiekhoefer, motion carried unopposed.

Public Hearing – Rezone – Transition Agriculture (TA) to Residential-20 (R-20) – Spencer, Jr. and Mary Pederson Chairman Halderson called the public hearing to order at 9:38 AM. Haines read the public hearing notice aloud. An ArcView aerial photo was provided for all to view. Lien informed the Committee that Pederson is requesting a rezone of 21.49 acres north of Osseo from Transitional Ag to Residential 20. Lien stated Pederson has been working with a surveyor and the maximum number of lots would be 10, there is a town road approved and named (Maplewood Lane). Lien added that because Town of Sumner has been remonumented, each lot will have to meet the requirements for residential development which are the 100 feet of public road frontage, width/depth ratio and minimum lot size. Chairman Halderson called for public testimony. Sheree Nelson registered to testify. Nelson questioned whether Pederson had any intent to annex these lots to the City of Osseo. Pederson responded not unless he's forced to. Pederson added there is only one lot 160 X 160 along Alvestad Road that he may annex because the lot is too small to meet the town requirements. Nelson questioned whether the lots had well and septic. Pederson responded yes. Nelson questioned if the parcel get annexed to the City does the road get turned over to the City? Lien responded that was up to the Town. Van Tassel stated that Alvestad Road is four different sections and the Town works real well with the City on that road. Lien read a letter from the Town of Sumner dated July 9th, 2008 stating they approved the rezone for Pederson. Chairman Halderson closed the public hearing at 9:45 AM. Lien informed the Committee that the rezone to R20 would be consistent with Town of Sumner's Land Use Plan. Monson made a

motion to approve the rezone, Van Tassel seconded, motion carried with no opposition. Lien informed Pederson that the rezone has to be approved by the County Board and would be on the agenda at the next meeting.

Public Hearing – Conditional Use Permit - Portable Hot Mix Plant – Arcadia - Mathy Construction Co. Chairman Halderson called the public hearing to order at 9:47 AM. Haines read the public hearing notice aloud. An ArcView aerial photo was provided for all to view. Estenson informed the Committee that Mathy Construction had supplied the Department with a list of current adjoining landowners, and that as a courtesy all were notified by mail, along with notices being published. Estenson stated the portable hot mix plant will be located in the Wilbur Quarry west of State Hwy 93 and will be providing hot mix asphalt for the project which will start on the South side of the Arcadia hill and continue North to the city limits of Arcadia. Mathy project consists of milling 2 inches of existing asphalt and replacing it with two inches of new asphalt. Mathy anticipates using Plant #52 for this project. Normal operating hours are 5:00 AM to 9:00 PM, Monday through Saturday. Mathy has provided the County with a plant layout diagram, plat map, stormwater pollution prevention and reclamation plan and emission information for the plant. Mathy is requesting a 5 year Conditional Use Permit at this location for future road work construction in the Arcadia township. Estenson added that the site is currently internally drained so there should be no issues and all plants are tested bi-annually for air quality and meet all the requirements of WI DNR. Tim Jones was present to represent Mathy Construction. Jones stated that Mathy will start the project around October 1 and would be using the plant about three weeks. Mathy would like to leave the plant there for the winter and finish up some projects next spring. Jones stated they are asking for a 5 year conditional use permit because plans are to be in there every year or possible twice a year for the next few years. Jones stated they would be willing to pay the yearly fee, but it would save time if they didn't have to go through the public hearing each time. Lien stated he and Estenson had discussed the 5 year conditional use permit request and they felt that there should be at least an annual review of the permit, in case conditions change, if the five year permit is granted. Estenson added that one of the biggest concerns for a project can be haul routes. Estenson reiterated that the hours requested are Standard Hours of Operation. Chairman Halderson stated he did not have anyone register to testify for or against. Estenson informed the Committee that the Town of Arcadia had not provided a letter of approval prior to this meeting, but Estenson had spoke with Town of Arcadia Chairman, Ronald Tuschner and it was on the Town of Arcadia meeting agenda set for this evening. Estenson stated that Mathy had requested that the Committee approve the permit contingent upon a letter from the Town of Arcadia. Chairman Halderson closed the public hearing at 9:55 AM. Chairman Halderson call for any additional discussion. Estenson verified with Jones that the plant site will be about an acre and another acre or two will be used for stockpiling. Monson made a motion to approve the CUP with Standard Non-Metallic Mining Conditions applying for 5 years with an annual review, contingent upon the County's receipt of a letter of approval from the Town of Arcadia, Kiekhoefer seconded, motion carried with no opposition.

Public Hearing – Conditional Use Permit – Non-metallic Mining – Ronald Solberg and Anton Stawarz Chairman Halderson opened the public hearing at 10:56 AM. Haines read the public hearing notice aloud. An ArcView aerial photo was provided for all to view. Estenson stated that as a courtesy all adjoining landowners were notified along with notices being published. Estenson informed the Committee the quarry is the former Bondeli quarry and is approximately 5 acres of a previously mined quarry and some wooded area on Ronald Solberg property. Estenson stated they are requesting standard mining hours of operation, construction sequence is as follows: Stawarz will put in any erosion control measures prior to any land disturbance, the mine has been certified reclaimed back in 2004, so the existing mine is all that is dedicated and not active. Estenson added that the site will be cleared and grubbed, silt fence and tracking pad at the site entrance and exits will be installed as needed. The topsoil will be stripped and a berm will put around the upper portion of the mine to keep the mine

internally drained which is a requirement the DNR looks for to meet NR151 Stormwater Management criteria. Estenson added that the mining operation duration is based on a 3 year lease. For additional information, Ronald Solberg stated that his neighbor, Glen Mahlum had expressed concern about boulders rolling down into his yard which had happened in years past. Solberg had assured Mahlum that wouldn't happen. Estenson stated she has walked the site and took photographs so when Stawarz leaves the site it will be reclaimed. Halderson wanted verification as to how many feet into the face of the quarry Stawarz would be going. Stawarz replied approximately two acres or nothing less than 25 ton. Leo Leahy, Kramer Co. registered to testify for information only. Leahy questioned if the quarry had been tested to see how much rock is there because Kramer had mined the site previously and when they left, they had good reason. Leahy also questioned what would be happening with the strippings and stated that Kramer still has a lease. Stawarz responded that they are mining more south and that everything would stay on the Lindberg property. Dave McKeeth registered to testify for information. McKeeth had concerns about where fill is going and how close to the property line, McKeeth stated he didn't want stockpiles on the property line. McKeeth had safety concerns as there is a bridge with cornfields on both sides in which the view is blocked and with school bus travel starting there could be some danger. Monson suggested Stawarz talk to the Town to see if the corn is perhaps planted in the right of way and if some could be removed for better site distance. Estenson read a letter from the Town of Arcadia dated 7/16/08 stating they approved a Non-metallic Mining Conditional Use Permit being issued to Ronald Solberg. Lien added that after publication of the public hearing notice he received no responses for or against the CUP being issued. Chairman Halderson closed the public hearing at 10:07 AM. Committee discussion followed with Van Tassel questioning how long the quarry would be open. Stawarz replied he has a three year lease. Kiekhoefer asked if there was a reclamation plan in place. Estenson affirmed that there was. Van Tassel asked about the number of truck Stawarz had. Stawarz replied he has one and several other people with whom he does business will be hauling. Halderson added that since he knows Stawarz personally he will be abstaining on the vote to issue the Conditional Use Permit but Halderson stated that it is just close proximity for him and since it was an existing quarry it may not be enough for commercial use but for a small business it should be sufficient. Estenson added that all Standard Non-Metallic Mining Conditions will apply and Estenson would have Stawarz coordinate with Town of Arcadia on the intersection on Oak Ridge. Van Tassel made a motion to grant Solberg and Stawarz the Conditional Use Permit, Haines seconded, motion carried unopposed with Chairman Halderson abstaining.

At 10:10 Monson made a motion to adjourn the current meeting to go into a Joint meeting with the Personnel and Bargaining Committee, Van Tassel seconded, motion carried unopposed.

Chairman Halderson reconvened the Environment and Land Use Committee meeting to order at 11:10

Trempealeau County Livestock Facilities Standards Ordinance Revision Chairman Halderson advised the Committee that the Trempealeau County Livestock Ordinance revision had been pulled from the last County Board of Supervisors meeting agenda because Doelle and Lien had several concerns about some of the content and due to the staff changes there was no one to present it to the Board that evening. Doelle stated that her and Lien had concerns about enforcement action on 0-300 animal units. Under the current ordinance, Doelle would do a compliance check for NR151 with a inspection fee of \$250.00, if a landowner is not in compliance how does the County have any enforcement. Doelle referred the Committee to the Ordinance, Page 128 (15.13) Violations Subject to Action. Doelle was interpreting it as a landowner, 0-300 because we have done compliance check, even if they didn't have a permit, the County would have the same recourse as if they do have a permit. Doelle clarified for the Committee that Ag Siting starts at 300 animal units, you have to have 300 animal units or you could be a new feedlot(at the least 300 animal units) or if you are over 300 animal units, and your existing, you have to be increasing by 20% or more. Doelle stated you can't just put in manure storage or a new barn

and be required to do Ag Siting, there has to be that increase in animal units. Monson then asked what does the October 1st, 2002 date refer to? Doelle added for example: if a feedlot as of October 1st, 2002 doesn't have any direct runoff to the stream, then it must stay in compliance in perpetuity. If the feedlot becomes non-compliant, the landowner is required to bring the site back into compliance without cost-sharing. Chairman Halderson stated that Vind had a couple of editorials in the newspaper, perhaps her concerns could be addressed by the Committee. Vind stated she was concerned that the compliance part of the ordinance looks like busy work for staff with no enforcement. Nelson stated that the statutes are conflicting perhaps the Committee should consider sending it out to an attorney for a response. Discussion took place regarding animal units. Nelson inquired if the number of animal units should be at zero or should there be a different cutoff other than zero. Lien stated concerns about the statement in Chapter 11 of the Trempealeau county Comprehensive Zoning Ordinance, "any person with or without a permit under this ordinance, violating any of the statutory requirements shall be subject to a condition of an appropriate forfeiture. Lien stated the original ordinance, prior to any revisions that were sent to DATCP, required a permit, now its changed to a compliance check, the two are not the same so how can we enforce it. NR151 says you can make landowners comply and ATCP 51 says you can't and at some point in time this will need to be challenged. Lien suggested that the Committee try to get a legal opinion on this issue. Discussion followed regarding legal consultation on the ordinance. Halderson stated that DATCP doesn't get involved with anything under 300 animal units, and that could be up to 175 cows and sometimes the smaller farms are more of an issue than larger farms because DATCP is overseeing the larger farms. At 11:40, Zauner, Bortle and Kabus returned to the meeting. Doelle asked for clarification of what 15.13, Page 128 of the Livestock ordinance means? Lien referred to Chapter 11 of the Zoning Ordinance which applies to all county adopted ordinances, where penalties can be issued if they violate a permit standard or requirement. Lien said he needed verification if a compliance check is a standard or requirement and whether or not we would have enforcement. Doelle stated that she had talked with Corporation Counsel and the consensus was that we would be able to follow enforcement. At Haines' inquiry, discussion followed regarding the cost of a legal opinion. Lien stated he and Doelle could get an estimate and prepare a list of questions that need to be answered. Budget considerations for a legal opinion were discussed. Animal units were again discussed as the proposed ordinance is pretty much geared for under 300 animal units. Doelle stated another County is currently at 100 animal units. Our signed Memorandum of Understanding with DNR says that we will implement NR151. Lien added that most counties are not regulating 0-300 animal units. Monson made a motion that this matter be tabled and advised Lien and Doelle to come up with a list of questions, to pose to an environmental attorney, Zauner seconded, motion carried unopposed. Doelle added that she has noticed a lot more action on DNR's part. Discussion took place that after getting a legal opinion a meeting with DATCP be arranged.

Approval and Payment of Petty Cash Receipts. - Stalheim presented one petty cash payment of \$7.89 for approval. Van Tassel made a motion to approve and pay the petty cash receipt, Haines seconded, motion carried with no opposition.

Surveyors Update - Lien stated Nelson was unable to attend today's meeting due to a schedule conflict. Lien informed the Committee that Nelson is still working in Township 21-7. Lien added that Nelson has 114 corners completed, with only 6 remaining. Lien presented the Surveyor's bill for approval. Lien reminded the Committee that the Surveyor's budget is usually a target at budget time. Lien stressed the importance of Nelson's work to the Tax Lister, Land Records Dept., and Dept. of Land Management. Lien added Town of Preston is almost complete and only Arcadia and Ettrick are left so it wouldn't be fair to the landowners in those townships to prolong the remonumentation. Monson added if the remonumentation would be prolonged a couple of years, it could cost the County double. Lien stated remonumentation is scheduled to be completed in 2012. Monson made a motion to approve the Surveyor's bill, Kiekhoefer seconded, motion carried with no opposition.

Planning Update - Sveen reported that she has met with Unity and Albion on their Land Use Plan revision and they are ready for public hearing. Sveen stated she is still working with Sumner and Chimney Rock is also up for revision so perhaps their public hearings could be combined. Sveen requested some dates from the Committee for the Unity/Albion public hearing. After some discussion, a tentative date and place of Thursday, October 2nd, 2008 at the Albion Town Hall was set pending approval from the Advisory Committee members. Sveen will send out the letters to the Committee members.

Staff Reports - Chairman Halderson asked for any staff concerns. Sveen stated that a brief staff meeting was held this morning and the staff felt that they did not want an interim director. Gamroth stated there were decisions regarding the committee/staff county tour, office clean-up, and the WLWCA director coming to visit that needed to be addressed. Estenson stated that staff would prefer someone, in place as soon as possible, that can sort out Kevin's position description as it affects approximately four other staff members. Lien stated that he felt the current staff was very capable of handling the current workload, what happens with his position will affect other people. Lien stated he could foresee a technical position being needed in the future depending on what happens with the TRM grants. Lien added that if he is appointed Director he would shed some of his current job duties to other staff, if he isn't the Director he intends to keep all of his current job duties. Lien asked for clarification as to whether old or new DLM structure was in place. The Committee consensus was that since the Courthouse Union never ratified the job descriptions, the old structure is in place. Staff was advised to get a list together of possible tour sites and figure out what it might cost and present them at the next meeting. Monson suggested that the tour visit the Bruce Valley trout project. If the Committee has any additional sites they would like to see on the tour they will notify staff. Staff was advised that the Committee would wait until a new DLM director was in place before meeting with the new WLWCA director. Signatory powers on the E & LU Committee checkbook were discussed.

Roll call taken to go into closed session: Gary Monson, Dick Kiekhoefer, Paul Halderson, Gerry Van Tassel, Michelle Haines, Chuck Zauner, John Bortle, Delores Vind, Sheree Nelson, Personnel Director Jami Kabus.

Motion was made by Van Tassel, seconded by Haines to reconvene into Open session at 1:40 PM

Next Regular Meeting Date was set for Wednesday, September 24th, 2008 at 9:30 AM in the County Board room.

Van Tassel made a motion to adjourn the meeting at 1:43 PM, Zauner seconded, motion carried.

Respectfully submitted,
Virginette Gamroth, Recording Secretary

Michelle Haines
Secretary