

Walworth County Land Conservation Committee

MINUTES

March 25, 2013 – 1:00 p.m.

County Board Room 114 – Government Center
Elkhorn, Wisconsin

The meeting was called to order at approximately 1:13 p.m. by Chairperson Kilkenny.

Roll call – In attendance were Chairperson Kilkenny, Supervisor Schiefelbein and Citizen Members Bellman and Badame. Vice Chairperson Russell had recused herself. A quorum was declared.

Others present – Supervisor Carl Redenius; David Bretl, County Administrator; Michael Cotter, Deputy Corporation Counsel/LURM Director; Louise Olson, Deputy LURM Director; Fay Amerson, Urban Conservation Specialist; Chris Rieck, Conservation Tech; Attorney Bill White, Michael Best & Friedrich, LLP; and Andrew, James and Jean Baker.

Public comment period – none

Public Hearing related to Certificate of Completion Reclamation of a Nonmetallic Mining Site is Complete; Burdick Trucking and Excavation, Inc. Mining Site Operator, Baker Enterprises, Owner. Attorney White continued with his case. Andrew Baker pointed out that Exhibit F from the Bakers' binder had been removed from the evidence. He wanted to replace that excluded exhibit with the Affidavit of James Baker. He requested that be put into evidence. Attorney White called Fay Amerson to the stand, and Chairperson Kilkenny administered the oath. Amerson was questioned by both parties.

Exhibits numbered 1-18 provided by the County shall be labeled Exhibit A; Exhibit B shall be the four sheets of the reclamation plan; Exhibit C shall be the 2010 photos; Exhibit D shall be the 2011 photos; and Exhibit E shall be the 2012 photos. Attorney White had no objection to the new evidence from Andrew Baker.

On motion and second by Citizen Member Badame and Supervisor Schiefelbein, the exhibits were moved into evidence. The motion carried 4 – 0.

Citizen Member Bellman left at approximately 3:04 p.m. The remaining three members will be responsible for the deliberations. At approximately 3:33 p.m., Andrew Baker gave his rebuttal

On motion and second by Supervisor Schiefelbein and Citizen Member Badame, the Affidavit of James Baker was moved into evidence. The motion carried 3 – 0.

The committee took a brief break at 3:37 p.m. The hearing reconvened at 3:51 p.m. Andrew Baker offered his closing statements at 3:52 p.m. At 4:05 p.m., Attorney White offered his closing statements.

Discussion/Possible Action – Baker Final Determination – Committee may make their determination at this time or in writing within 20 days. At 4:25 p.m., the Committee began deliberations. Bretl suggested that the Committee could deliberate now to reach a preliminary vote on how they stand on this issue. Supervisor Schiefelbein felt that if there was a procedural failing, such as the public hearing not being held, the case would be closed. Bretl stated that the Committee needs to weigh the totality of the evidence. Supervisor Schiefelbein felt that the County acted within their purview, but he was not sure how to reconcile the lack of a public hearing. Citizen Member Badame did not feel that the County acted inappropriately. Bretl stated that the Committee could request briefs from both parties. If they chose to do that, he suggested a simultaneous exchange of briefs. Chairperson Kilkenny stated that there were two issues at hand: the lack of the owner's consent on the plan and the requirement for public notice and opportunity for public hearing.

The Committee requested that briefs be sent to County Administrator Bretl by April 15th. He will then distribute the briefs to the Committee members. The decision will then be made at the regular Land Conservation Committee meeting on April 22nd. It was clarified that Citizen Member Bellman and Vice Chairperson Russell would not take part in the deliberations.

Chairperson Kilkenny did not have any announcements.

The next regular meeting of the land conservation committee was confirmed for April 22, 2013 at 2:00 p.m.

Adjournment. On motion and second by Citizen Member Badame and Supervisor Schiefelbein, Chairperson Kilkenny adjourned the meeting at approximately 5:04 p.m.

Respectfully submitted by Tammy Werblow, assistant to the county administrator.
These minutes were unanimously approved by the committee on April 22, 2013.