

PROCEEDINGS OF THE
MARTIN COUNTY BOARD OF COMMISSIONERS
TUESDAY, FEBRUARY 1, 2022
@ 9:00 A.M.

The regular meeting of the Martin County Board of Commissioners was called to order at 9:00 a.m. by Chairman Elliot Belgard. Commissioners present were Forshee, Belgard, Flohrs, Smith, and Koons. Also present were Scott Higgins, Martin County Coordinator, Terry Viesselman County Attorney, Jessica Korte, Martin County Auditor/Treasurer, Leigha Johnson, Human Resources Director, Brooke Wohlrabe, Sentinel Newspaper, Julie Walters, Administrative Assistant, and members of staff and public.

The Pledge of Allegiance was recited.

Motion by Commissioner Koons, seconded by Commissioner Forshee, Be It Resolved that the Martin County Board of Commissioners, hereby approve the agenda for the February 1, 2022 regular Board of Commissioners meeting. Carried unanimously.

Motion by Commissioner Flohrs, seconded by Commissioner Koons, Be It Resolved that the Martin County Board of Commissioners, hereby approve the minutes from the January 18, 2022 regular Board of Commissioners meeting. Carried unanimously.

Sarah Eischens, STS District Supervisor DOC, along with John McDonald, STS Crew Leader, were present and reviewed the STS Quarterly Report for 4th Quarter 2021.

Jessica Korte, Martin County Auditor/Treasurer, was present and noted that Rose Lake Golf Club is requesting renewal of its Liquor, Wine, Club or 3.2% License for a period of one year starting April 1, 2022 through March 31, 2023. Korte noted that all required documentation has been received and recommends approval.

Motion by Commissioner Flohrs, seconded by Commissioner Forshee, Be It Resolved that the Martin County Board of Commissioners, hereby approve the renewal of Liquor, Wine, Club, or 3.2% License with Sunday Sales beginning at 10:00 a.m. for Rose Lake Golf Club for a period of one year starting April 1, 2022 through March 31, 2023. Carried unanimously.

No action taken on District #3 citizen appointment to the 4H/Extension Committee.

Kevin Peyman, County Engineer, was present and reviewed Highway Resolution #1 Approving MnDOT Agreement No. 1049432 for Turnback of T.H. 263; and authorizes the County Engineer and Auditor/Treasurer to execute the Agreement and any amendments to the Agreement. Peyman noted he reviewed the Turnback Agreement with the Board at their previous meeting and recommends entering into the Agreement.

After review and discussion,

Motion by Commissioner Flohrs, seconded by Commissioner Koons, to approve and authorize resolution Entering into a Turnback Agreement with MnDOT for T.H. 263.

Martin County Highway Department

Resolution No. 1 - 2022

RESOLUTION APPROVING MNDOT AGREEMENT NO. 1049432
FOR TURNBACK OF T.H. 263

IT IS RESOLVED that Martin County enters into MnDOT Agreement no. 1049432 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for the reversion of Trunk Highway 263 in Martin County, in accordance with Minnesota Statutes 161.16, the limits of which are defined in said agreement

IT IS FURTHER RESOLVED that the County Engineer and County Auditor are hereby authorized to execute the Agreement and any amendments to the Agreement.

Upon motion by Commissioner Flohrs, seconded by Commissioner Koons, and carried said resolution was duly passed and adopted this 1st day of February, 2022

BOARD OF COMMISSIONERS
MARTIN COUNTY, MINNESOTA

By: _____
Chair, Martin County
Board of Commissioners

Attest: _____
Scott Higgins
County Coordinator

CERTIFICATION

I hereby certify that the foregoing resolution is a true and correct copy of a resolution presented to and adopted by the County of Martin at a duly authorized meeting thereof held on the 1st day of February, 2022.

Scott Higgins
County Coordinator

Roll Call AYES: Commissioners Smith, Forshee, Koons, Flohrs, and Belgard. NAYS: None. Resolution duly passed and adopted this 1st day of February, 2022.

Scott Higgins, Martin County Coordinator, presented the State of Minnesota Snowmobile Safety Enforcement Grant Contract for FY2022/2023 in the amount of \$2,261.00 annually. Higgins noted the grant is effective July 1, 2021 and expires June 30, 2023 and covers costs related to labor and equipment dedicated to snowmobile safety enforcement.

Motion by Commissioner Koons, seconded by Commissioner Forshee, to approve and authorize resolution accepting the State of Minnesota Snowmobile Safety Enforcement Grant.

R-#14/'22

RESOLUTION
SNOWMOBILE SAFETY ENFORCEMENT GRANT

BE IT RESOLVED, that Martin County enter into a grant agreement with the Minnesota Department of Natural Resources for the program entitled Snowmobile Safety Enforcement Grant Program for July 1, 2021 through June 30, 2023 in the amount of \$2,261.00 annually.

BE IT FURTHER RESOLVED, that Mike Anderson, Martin County Sheriff's Office designated representative, and Board of Commissioners Board Chair is hereby authorized to execute and sign such grant agreement on behalf of Martin County.

Motion by Commissioner Koons, seconded by Commissioner Forshee, said resolution was duly passed and adopted this 1st day of February, 2022.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Elliot Belgard, Board Chair

ATTEST: _____
Scott Higgins, County Coordinator

Roll Call AYES: Commissioners Smith, Flohrs, Forshee, Koons, and Belgard NAYS: None. Resolution duly passed and adopted this 1st day of February, 2022.

Higgins presented the State of Minnesota Off Highway Vehicle Safety Grant Contract for FY2022/2023 in the amount of \$7,572.00. Higgins noted the grant is effective July 1, 2021 and expires June 30, 2023 and covers costs related to labor and equipment dedicated to off highway vehicle safety enforcement.

After discussion,

Motion by Commissioner Forshee, seconded by Commissioner Flohrs, to approve and authorize resolution accepting the State of Minnesota Off Highway Vehicle Safety Grant.

R-#16/'22

RESOLUTION
OFF HIGHWAY VEHICLE SAFETY GRANT

BE IT RESOLVED, that Martin County enter into a grant agreement with the Minnesota Department of Natural Resources for the program entitled Off Highway Vehicle Safety Grant Program for July 1, 2021 through June 30, 2023 in the amount of \$3,786.00 annually.

BE IT FURTHER RESOLVED, that Mike Anderson, Martin County Sheriff's Office designated representative, and Board of Commissioners Board Chair is hereby authorized to execute and sign such grant agreement on behalf of Martin County.

Motion by Commissioner Forshee, seconded by Commissioner Flohrs, said resolution was duly passed and adopted this 1st day of February, 2022.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Elliot Belgard, Board Chair

ATTEST: _____
Scott Higgins, County Coordinator

Roll Call AYES: Commissioners Smith, Koons, Flohrs, Forshee, and Belgard. NAYS: None. Resolution duly passed and adopted this 1st day of February, 2022.

Leigha Johnson, Human Resources Director, was present and noted that the Personnel Committee, along with the Martin County Sheriff's Office, recommends the hire and promotion of Skylar Meyer to full-time Corrections Officer for the Martin County Sheriff's Office. Johnson went on to note this is a replacement hire, effective February 2, 2022.

Motion by Commissioner Smith, seconded by Commissioner Koons, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize the hire and promotion of Skylar Meyer to full-time Corrections Officer for the Martin County Sheriff's Office, at Grade 12 Step 2 at \$25.29/hour, effective February 2, 2022; and is eligible for full benefits per LELS Local #115 Union Contract. Carried unanimously.

Johnson noted the Personnel Committee has received a special request from an employee to temporarily work remotely.

After discussion,

Motion by Commissioner Forshee, seconded by Commissioner Flohrs, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize a temporary remote work request for Karen Koehler, Office Manager/Senior Legal Secretary in the County Attorney's Office. Carried unanimously.

Mike Sheplee, County Assessor, was present and provided an Assessors Office Update including Martin County's Preliminary 2022 Assessment for Property Taxes payable in 2023.

Sheplee noted the changes this year are fairly significant and we expect to hear a lot of feedback. Changes in our County aren't much different than they are from around the region and around the state but they are the most significant increases in value that he has seen in his career.

Sheplee went on to note the Assessor's Office uses Sales Ratio Studies. We use sold properties in order to see what the market is telling us we need to do with our own values and one of the measurements is the median; our value divided by a sales price for this Sales Ratio Study. And that range of medians is 90 – 105. So that is our measure of if we are changing our values appropriately or not compared to the market. In the sales ratio study, we used sales from October 2020 through September 2021. Last summer began a significant uptick in values that were needing to be captured in the most recent assessment now dated January 2, 2022. In the chart, you can see a column called EMV Percent Change. That is an approximate amount that each of those classes and categories and parcels within them will be changing. For Agricultural properties, tillable land, it's only going to require a 10% change right now because most of those high dollar sales came late summer which is at the end of our Sales Ratio Study. So, the value of tillable will be going up to about \$8,200 per acre even though we've seen sales in the \$11,000 - \$12,000- and \$13,000-dollar range. So, if the market continues to be hot like that then the rest of the Agricultural will be coming in the next assessment.

Sheplee noted Commercial and Industrial was fairly flat and in checking around the region and as far north as LeSueur it is the same story for Commercial and Industrial. Fairly flat. Residential is where the big changes are. Fairmont off water, so non-lakes, is getting a good size jump this year and they haven't had that in a long time. Anything that comes up on the market doesn't really seem to matter the size or condition of the property. It sells, and it sells quickly, and it sells many times before it is listed. So, it is a very hot market. Sheplee went on to note similar story on Rural Residential properties, acreages as sometimes we refer to them. We see a 1900's two-bedroom home with a small garage selling in the \$200,000 range these days on five acres. So, very hot. So, there will be significant increases. The new valuation notices will be going out around March 20, 2022.

Commissioner Forshee inquired about Fairmont off-water and on-water.

Sheplee noted historically on-water over the last two out of three years they had healthy 15% to 20% increases and I've seen that market plateauing a little bit so that the market is not telling us we had to go up as much to catch it this time.

Sheplee next noted Minnesota Statutes set guidelines as to when the County Board of Appeal and Equalization may convene. Current law provides that the County Board of Appeal and Equalization may meet after the second Friday in June (10th) on at least one meeting day and may meet up to 10 consecutive days. The Board of Equalization for 2022 must hold a meeting that does not recess or adjourn prior to 7 p.m. Sheplee recommends the County Board establish the meeting date in order to include it on the valuation notices to be mailed out to each property owner in March. The law also requires that at least one member of the County Board of Equalization

must have received the training provided by the Department of Revenue and be certified. Sheplee recommends that the 2022 Martin County Board of Appeal and Equalization be set for Tuesday, June 16, 2022 at 6:30 p.m.

After discussion,

Motion by Commissioner Smith, seconded by Commissioner Koons, Be It Resolved that the Martin County Board of Commissioners, representing themselves as the Martin County Board of Appeal and Equalization, along with the appointment of the Auditor/Treasurer, hereby approve and set the meeting date of Tuesday, June 21, 2022 beginning at 6:30 p.m. for the County Board of Equalization to be held in the Martin County Courthouse, 201 Lake Avenue, Fairmont, MN, First Floor – Commissioners Meeting Room; with the County Board of Commissioners serving as the Board of Equalization, along with the appointment of Jessica Korte, Auditor/Treasurer, as a member of the Board as well. Carried unanimously.

Steve McDonald, MIS Director, was present and reviewed a proposal for an upgrade of the Symantec Antivirus system the County currently subscribes to. McDonald noted we renew this every year. With the purchase of additional laptops during COVID we're looking to increase our count. Plus, with the COMODO System we can do mobile management which will allow us to meet some requirements for law enforcement devices. So, we felt this was the time to upgrade our current system to the new system. McDonald went on to note it is a few dollars more but we get more features with it. This is a budgeted item so I have the funds in my budget to cover the expense. McDonald also noted there may be HAVA grant funds available to use towards the purchase also. McDonald recommends purchase of the COMODO System in the amount of \$11,075.00 for one year which includes a one-time \$2,300.00 for installation, set-up, and support. Ongoing will be \$8,775.00 plus increases for additional devices.

Commissioner Smith inquired if ARPA funds could be used for this due to the increase in the devices that we have from working at home.

After discussion,

Motion by Commissioner Smith, seconded by Commissioner Forshee, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize the purchase and upgrade of the County's Symantec Antivirus System from COMODO in the amount of \$11,075.00 annually (includes one-time charge of \$2,300.00). Carried unanimously.

Korte recommends submitting an application for HAVA Grant funds in the amount of \$24,498.15. Korte noted part of these funds will be used to cover the Election Grant match if we get that grant and Steve McDonald has some expenses that he will be using from the total. Korte noted the total that we could potentially get is \$24,498.15.

McDonald noted one line item that I've been looking at that I will bring to the Board either the next meeting or the following one is for Know Before Training a cybersecurity training that all staff will be required to take. The cost is estimated at \$3,200 for 100 users and is based on the number of users.

After review and discussion,

Motion by Commissioner Koons, seconded by Commissioner Flohrs, to approve and authorize Board Chair to sign resolution Approving Martin County's Application for Funding from the 2022 Help America Vote Grant in the amount of \$24,498.15.

R-#15/'22

RESOLUTION
APPROVING MARTIN COUNTY'S APPLICATION FOR FUNDING
FROM THE 2022 HELP AMERICA VOTE GRANT

WHEREAS, Minnesota counties are responsible for administering elections, which includes the purchase and maintenance of supplies and election equipment, including accessible voting equipment, as well as ensuring security of the elections process; and

WHEREAS, HAVA Grants Program funds may be used by counties for any improvements or enhancements to accessibility or security of elections; and

WHEREAS, Minnesota's Legislature, via Chapter 12, Article 1, Sec. 41, during its 2021 1st Special Session, directed the distribution of \$3 million from federal Help America Vote Act (HAVA) appropriations as grants to political subdivisions. Per statute, these funds must be used to improve accessibility to, implement security improvements for elections systems for, and/or fund other activities to improve the security of, federal elections; and

WHEREAS, to receive funding from the 2022 Help America Vote Act, grant counties must submit an application to the Minnesota Secretary of State before February 3, 2022.

NOW, THEREFORE, BE IT RESOLVED, Martin County certifies that any funds awarded from the 2022 HAVA grant will be used only to improve accessibility to, implement security improvements for elections systems for, and/or fund other activities to improve the security of federal elections, as approved by the Secretary of State.

Motion by Commissioner Koons, seconded by Commissioner Flohrs, said resolution was duly passed and adopted this 1st day of February, 2022.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Elliot Belgard, Board Chair

ATTEST: _____
Scott Higgins, County Coordinator

Roll Call AYES: Commissioners Forshee, Smith, Flohrs, Koons, and Belgard. NAYS: None. Resolution duly passed and adopted this 1st day of February, 2022.

Johnson noted the wage placement that was approved at the January 4, 2022 regular Board of Commissioners meeting for the promotion of Deputy Owens it was realized 2021 wage numbers were used and recommends Board approval and authorization to correct the placement for that promotion to Sergeant at Grade 16 Step 6 at \$41.25/hour.

Motion by Commissioner Flohrs, seconded by Commissioner Koons, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize wage placement correction for Matt Owens, Deputy Sheriff Sergeant, to Grade 16 Step 6 at \$41.25 per hour, effective January 16, 2022. Carried unanimously.

Mike Forstner, Drainage Administrator, was present and recommends setting a public hearing date and time for Redetermination of Benefits Hearing and Final Engineers Hearing on the proposed JD #414 M&F Improvement. Forstner noted that Commissioners Belgard, Forshee, and Smith are required to be in attendance.

After discussion,

Motion by Commissioner Smith, seconded by Commissioner Flohrs, Be It Resolved that the Martin County Board of Commissioners, acting as the Drainage Authority for Martin County, hereby sets a public hearing date and time for Redetermination of Benefits Hearing and Final Engineers Hearing on proposed JD #414 M&F Improvement. Public Hearing will be held on Wednesday, March 16, 2022 at 11:30 a.m. in the Commissioners Meeting Room – Martin County Courthouse. Carried unanimously.

Forstner next noted a petition has been received for authority to use JD #414 M&F as an outlet and recommends setting a date and time for holding a public hearing. Forstner recommends March 16, 2022 at 1:00 p.m. and that Commissioners Belgard, Forshee, and Smith are required to be in attendance.

After discussion,

Motion by Commissioner Koons, seconded by Commissioner Flohrs, Be It Resolved that the Martin County Board of Commissioners, acting as the Drainage Authority for Martin County, after having received a Petition for Outlet to JD #414 M&F, hereby sets a public hearing date and time for the consideration of the Petitioners request. Public Hearing will be held on Wednesday, March 16, 2022 at 1:00 p.m. in the Commissioners Meeting Room – Martin County Courthouse. Carried unanimously.

Forstner continued noting a petition has been received for the removal of property from JD #314 M&F and recommends setting a date and time for holding a public hearing. Forstner recommends March 16, 2022 at 1:00 p.m. and that Commissioners Belgard, Forshee, and Smith are required to be in attendance.

Motion by Commissioner Smith, seconded by Commissioner Koons, acting as the Drainage Authority for Martin County, after having received a Petition for Removal of Property from JD #314 M&F, hereby sets a public hearing date and time for consideration of the Petitioners request. Public Hearing will be held on Wednesday, March 16, 2022 at 1:00 p.m. in the Commissioners Meeting Room – Martin County Courthouse. Carried unanimously.

The Board reviewed Warrants, Auditor Warrants, and EFT Transactions to be paid February 1, 2022.

Motion by Commissioner Koons, seconded by Commissioner Forshee, Be It Resolved that the Martin County Board of Commissioners, hereby approve Warrants, Auditor Warrants, and EFT Transactions to be paid on February 1, 2022, and includes the Highway Department bills and Drainage bills as presented. Carried unanimously.

Warrants received and paid February 1, 2022, are registered on file in the Auditor/Treasurer’s Office as follows:

Revenue Fund – Warrants Approved February 1, 2022	\$117,228.53
Enhanced 9-1-1 Fund	\$ 588.45
Martin County Economic Development Fund	\$ 40.00
Solid Waste Management Fund	\$ 29,582.66
Recorder’s Technology Fund	\$ 956.54
Ind. Sewage Treatment Sys. Loan	\$ 6,798.40
Human Service Building Fund	\$ 843.00
Debt Service Fund	\$ 495.00
Forfeited Tax Fund	\$ 125.00
State Agency Fund	<u>\$230,000.00</u>
Total	\$386,657.58
Road and Bridge Funds Totaled	\$ 46,080.30
Martin County Ditch Funds Totaled	\$139,484.58

Dr. Tessia Melvin, David Drown Associates (DDA), was present to review the County’s Pay Equity Report. As a local unit of government, the County is required to submit a pay equity report every three years to be in compliance with the MN Pay Equity Act. The state reviews the number of jobs in Martin County along with the number of males and females the County has in those jobs and how the County pays them. If this reporting is not done you could lose County Government Aid. Melvin noted Martin County’s score has improved with the new Classification and Compensation Plan and has passed and is in compliance.

Motion by Commissioner Forshee, seconded by Commissioner Smith, Be It Resolved that the Martin County Board of Commissioners, after review of the required reporting by the County on pay equity, per the Local Government Pay Equity Act M.S. 471.991-471.999 and Minnesota Rules, Chapter 3920, and after review, hereby ratify and approve the 2022 Pay Equity Report as submitted to the Minnesota Pay Equity Office. Carried unanimously.

The Board recessed at 9:53 a.m.
The Board reconvened at 9:58 a.m.

Chairman Belgard opened discussion regarding a citizen petition received for an EAW (Environmental Assessment Worksheet) to be completed related to the Conditional Use Permit request received from W. Lorentz & Sons Construction, Inc. proposing to mine gravel and sand in an "SL-1" Shoreland Special Protection District and in an "A" Agricultural District. Belgard noted we received notice from the state that we have 15 days to either approve or deny it.

Terry Viesselman, County Attorney, was present via WebEx and noted what I would start with first is ask Lorentz Construction to state their position on this because it directly affects them.

Chairman Belgard noted for anyone that's going to speak is I'm going to have them go to the podium, speak into the microphone, and identify yourself for the record.

Matthew Berger, attorney with Gislason & Hunter, LLP representing W. Lorentz & Sons Construction, Inc., was present and noted with respect to the Petition for an EAW there are a couple of items that I would draw to your attention. I submitted a letter to the Minnesota Environmental Quality Board on Friday. In my view there are significant doubts about the validity of the Petition in the first instance. That is a decision for the Environmental Quality Board at this point but those issues relate to whether the required number of signatures were obtained and whether those signatures are valid electronic signatures under Minnesota Law. Again, that is something that under the regulations is something that they decide but I'm noting that that issue is out there yet.

Berger went on to note on the merits of the Petition I submitted a letter to Mr. Viesselman yesterday. It appears that that has been distributed to the Board. I'm not going to go through every part of that but just a couple of big picture items on that. The standard that this Board needs to apply in assessing this Petition is whether there is a potential for significant environmental effects from this project. That is a burden that is up to the petitioner to establish based on evidence that is submitted with the Petition. So, they are required to come forward with material evidence that shows a potential for significant environmental effects. And, there is case law on that; broad, vague, generalized...

Public speaking out of turn and over Attorney Berger.

Chairman Belgard noted we're going to have a lot of action around this room today and I'm not going to allow anybody to interrupt anybody when they talk and I'm not going to allow anybody to over speak or talk to somebody...I expect it to be quiet in here so we're respecting the person that is talking. If you can't abide by that I'm going to ask you to leave. And, that's the only warning that anybody is getting.

Berger continued again the case law is clear that broad, vague, unsupported fears and concerns are not enough. There must be actual evidence that relates to the particular project here. In the Petition there were a number of things identified. There's a lot of overlap in them. Many of them are not environmental concerns at all and I think that's important because what this statute of what this process is about is environmental effects. It's not about road safety, it's not about land use for

aesthetics. It is about the environment. That is what this is intended to effect and it only applies to environmental effects. That's point one. Point two one of the things to consider is in considering the evidence is potential mitigation or other regulations that apply to a project that mitigate or relate to whether there would be effects here. And on the broad concerns related to water quality, the wetlands, and the proximity to the lake, I believe the record is clear that there are no possible effects here with the overall status of things. And that's for a variety of reasons. There's already been a no loss determination that was made by the Soil and Water Conservation District related to the wetlands on the property. That's been evaluated, it has been determined that there will be no loss, no impact on that wetland. So that has been decided, that has been evaluated, that is done. With respect to other water quality concerns this project will require a storm water permit from the state and there are two possible permits depending on what will be done out there. One would be an Industrial Storm Water Permit; one would be what is called an *MNG Permit*. That would include storm water and also if there is processed waste...if there is a wash plant or something of that nature at the site. In either case there would be a state permit and state regulations that apply. W. Lorentz & Sons Construction has a MNG permit for other sites. If the state regulations require it, they would get one here. The Industrial Storm Water that would be there and that would require such things as silt fencing and other practices to protect waters. So that's covered elsewhere. That's addressed with the state permits and state regulations. There's no possibility for environmental effects. Similarly with air emissions and dust. There are state regulations that set thresholds that look at the amount of material that would be processed in any period of time, the equipment that is used on the site, and evaluates whether the potential emissions exceed a threshold. If so there is a state permit that is required that establishes conditions on that. W. Lorentz & Sons Construction has that at other sites where it is necessary. If it is necessary here they will get that and if they don't they will be in violation of state law. So, on all of that stuff, there are other regulations in place that ensure there are no potential for environmental effects here.

Berger noted the last bucket that I want to touch on is the concerns about the wildlife and in particularly how that combines with road use and traffic. On that the materials that are with the Petition talk extremely vaguely about wildlife that may exist. They talk for example about a turtle that has been seen on another lake. No evidence that the turtle was seen on this particular lake. I have no evidence that it is seen in the are of this project. It is a broad, vague concern that is not substantiated by the evidence. So that is not material evidence that satisfies the definition. More broadly related to the traffic concerns and the operation of the site generally and I think this is important to understand both on this and later with the Conditional Use Permit as well. The people who seek to oppose this project are setting up an apples and oranges comparison here. They're looking at the County pit that is immediately next door and saying the County only actually uses that two weeks a year. On the other hand, when they look at Lorentz's pit they're saying we're going to look at broadly the entirety of what may be allowed at the farthest extreme of operations and say that's what they're going to do and then they're comparing traffic from that extreme from the County's and saying it's going to be a lot more traffic. Again, that's an apples to oranges comparison. That the County's permit for its pit does not have any conditions on hours of operation. But, the County obviously does not operate it to the full extent that it can. As similar Lorentz does not plan to operate for the full extent that it would be allowed and I think that is important to understand.

Chairman Belgard noted I think I'm going to interrupt you here and say that this is probably stuff we're going to talk about at the Conditional Use Permit portion. This right now is addressing the environmental...the EAW...

Berger noted and this was particularly raised in the Petition which is why I'm touching on it. The actual use of a pit like this is necessarily dependent upon projects and contracts that aren't let yet and that are out there in the future. So, W. Lorentz & Sons Construction cannot sit here today and tell you we are going to operate the pit from June 4th to June 17th in 2022 and July 14 to July 17, 2023, whatever that is. It depends on jobs that are in the area, the amount of materials, and even within those contracts it depends. Some highway projects for example set a very narrow timeframe and says material must be on site during this one-week period. Some projects say you need to operate and be delivering materials on Saturday to keep the project moving. So, a lot of that depends on the actual project. But if we look at what is likely and we submitted this in the letter what's likely is that under normal operations, under Lorentz's experience with bidding on jobs and past practice, this pit is actually likely to be operated two weeks to a month a year. The hours are going to depend on the materials needed for jobs but it's not going to likely be the full time period. There may be some narrow periods where they're running the full hours for short periods of time. But it's not going to be running six days a week, 52 weeks a year. That's just not how this works and putting that extreme out there as the amount of traffic is just not an accurate representation of what is going to happen here. And if you look at what is actually likely the proposed use here is very comparable with what the County does on its pit. I think the existence of that pit shows that there isn't potential for environmental effects here. The County itself has shown it can be operated without doing so here and I think that the evidence firmly establishes that there is no potential for significant environmental effects and that this Petition should be denied.

Stacy Van Gelderen, petitioners representative, was present and noted I'm the one that submitted the Petition for the environmental worksheet on behalf of our residents and our community members. I did receive a letter from Lorentz's attorney last night in the mail stating that they were requesting a copy of the Petition and I did have a conversation with the environmental agency this morning. I did my part as submitting the Petition correctly to the state Environmental Quality Board. The Environmental Quality Board then took all the documents. The reason it was resubmitted on the 18th is because I had everything cited but what they wanted was the actual research studies themselves to be submitted along with the Petition so I provided that to them. During that time, they asked if I could, since it was still open, could I put in more information and I said that I could so I put Addendum A as part of that Environmental Worksheet Petition. So, I gave them an Addendum, I gave them all of the research studies that I had cited in the Petition and then that completed my job as a petitioner for the environmental worksheet.

Van Gelderen went on to note the environmental worksheet to my understanding is used to determine to see if there is a bigger environmental need in a study that needs to occur. I did not know that Lorentz was requesting the Petition. I would have been happy to provide that to him or them. But I spoke with the environmental agency this morning and they said that is not my role that they take and process the paperwork. I did my part. The Petition is complete. They have all the documentation including all the research studies and give it to the RGU which is the governmental unit that has been assigned which is Martin County. So, Martin County supposedly has all of the Petition in full. According to the attorney's paperwork they are saying that they only

had 61 signatures. Well, that isn't accurate. You have 296 signatures. Some are and I brought them with me today so you can see so whatever was given to their attorney in my understanding is not accurate. Is not the full picture of what they should have been given. We have 296 signatures. Only 61 of them were electronic. We have two hundred and some handwritten signatures and we are complete. We're at 296. So, there is no ambiguity about not having enough signatures here. So, it is my understanding that that is what the environmental worksheet is for is to go out in the community, have an expert look at the situation. I guess I fully feel that we are comparing apples and oranges because the current County pit is 36 years old, had a conditional use permit from 1985 to my understanding from Pam Flitter (Planning and Zoning Director) has not needed renewing in 36 years. Now we're going for a new pit who has in my opinion has an open checkbook. A six days a week thirteen hours a day to truck up and down our roads and crushing of materials for eleven hours a day six days a week. They may have periods of high times and low times but with this conditional use permit it's an open book. They can run six days a week thirteen hours a day crushing eleven hours a day. They might have periods of low and high but they have the ability to completely run that.

Chairman Belgard noted this again is getting more towards the conditional use permit rather than the environmental assessment portion. So, you as the petitioner are required to prove to us that we need to spend the money to do this environmental assessment. So, let's keep it to that part of it.

Van Gelderen noted okay that's fine. I'm not an attorney. I'm a public health nurse. What is all needed to have this done to me, an environmental worksheet, is what the process is for and I understand from the environmental agency that if Martin County does or does not have the ability to process it they can ask a consultant and Lorentz and Company can be responsible for those expenses based on my conversations with the Environmental Quality Board. So, I do feel it is valuable for our County to go through with this environmental study. I feel that us as residents are harmed by you know the dust pollution, whatever grinding that they're going to be happening on this pit site. You don't even know fully what they're bringing to the pit to be crushed onsite there. I'm worried about *silicate*, I'm worried about the land, about our shallow wells, about you know we have all of us in that area have very shallow wells, less than 100 feet. I mean if they're going to be digging down... there's wetlands. How can they not be directly or indirectly effecting the wetlands. They're within 200 feet of excavating. They are excavating with their Special Protected Shoreland, SL-1. I don't understand how that cannot be an environmental concern. The road traffic that is going to be going by that pond is within 50 feet. They're going to be having their semi-trucks within 50 feet of the pond. Okay, that to me is an environmental concern. They're talking about six hours and thirteen hours of truck traffic back and forth next to the pond within 50 feet, excavating within 200 feet. How can you not impact the environment. Blanding turtles was seen in the neighboring next to the north lake next to Rose Lake okay which is directly across the street from the pit. Those Blanding turtles were seen and documented by our own Martin County Water and Soil. Fairmont Township and Rutland Township has been designated as a secure area for Blanding turtles. We've got eagles nests in the back of Neist's yard. We've got purple martins in Luckow's yard. You've got blue birds...these are all endangered and threatened species. How can we not go through an environmental worksheet? It's a watershed. This is not a public access lake. Where do the trumpeter swans land? Where to do the ducks and geese land? They land on Sager and Rose Lake because there is no traffic. This is where they come to. The deer come through there. It is all about the environment and wildlife. So, I fully believe that is

what the environmental worksheet is for and should be conducted to be due diligence to our environment and our wildlife. I mean that's what the process is for. So, I would highly recommend that petition goes through and that environmental worksheet be conducted.

Chairman Belgard noted do you have specific evidence of any of this? That's your burden of proof.

Van Gelderen noted I have pictures documented by Dr. Neist that are submitted in this petition if you will on Addendum A Material Evidence I have birdhouse pictures of all the birdhouses of blue birds that are in there, martin house pictures from the Luckow residence, I have from Dr. Neist bald eagles, wood ducks, scarlet tanagers, purple martins, tons of pictures of bald eagles that are in their backyard right on Sager Lake which is within like 300 feet from the pit. We've got trumpeter swans...five submissions of that taken by Dr. Neist...tons of pictures of swans. Cedar waxwings, Baltimore orioles, cardinals, gray crested flycatcher, American turkey, turkey vulture, osprey, yellow headed blackbird, wood ducks, great blue heron, American white pelican, white pelicans, indigo buntings, tree swallows, yellow rumped warbler, blue jay, rose crested grossbeak, we have a brown headed cowbird, coopers hawk, red tail hawk, purple finch, green heron, blue heron, red headed woodpecker, cattle egret, great egret, great white egret, ruby throated hummingbird, Canadian geese, red tail hawk juvenile, red headed woodpecker, barn owl, American *inaudible*. So, I mean, he's got pictures right on Sager Lake and Rose Lake from these species. I've got deer pictures...

Chairman Belgard noted there's no doubt these species exist. What I'm looking for is the harmful effects. Is it just conjecture that they are harmed by this or is there some proof that you bring to the table. That's what we're considering here for us to do this worksheet.

Van Gelderen noted well the pit is not there yet to have the six days a week.

Unidentified member of public speaking...

Chairman Belgard noted we're going to use the same rules here now. We haven't gotten to the public hearing yet for the conditional use permit but we're going to do that. I expect we have a crowd here that is very passionate about this and I get that. But we're going to do this respectfully and we're going to listen to the speaker that is acknowledged and identified by this Board. Everybody gets a chance to talk at some point if they want to but they don't get to interrupt, they need to get my attention because I'm going to run the meeting, and once they get my attention I'll get them at some point up to the podium, they need to identify themselves for the record. But, we won't be interrupting and we're just going to be very respectful of every opinion. But, we're here to talk about this EAW right now and the Board has a decision to make. That's the first thing before we can get into that public hearing whether we are going to approve or deny that. If we would approve that then the other public hearing probably doesn't happen. So, we need to be respectful and I don't want to have to ask somebody to leave but I will. Go ahead Miss Van Gelderen.

Van Gelderen, noted thank you. You know we can't in my opinion show detrimental effects of a pit that doesn't exist. Okay? They aren't there yet. They are trying to get the permit. But, my

point is, is that this is a wetland. This is a special protection district. I don't understand how they can even excavate and be in that area. Half of the pit is in the shoreland special protection. Why do we have that ordinance if it is not being protected?

Chairman Belgard noted unfortunately they can. They can mine for stuff any place within Martin County that's not in a city. We'll get Pam (Flitter, Martin County Planning and Zoning Director) up there at some point and she can address that issue. We can't change the rules that are in place. This Board neutrally looks at both sides of this and then decides what our rules are and we go by those rules. So, keep going...I hope that helps.

Commissioner Smith noted I've got some questions. Are we going to start at 10:30 a.m. with our meeting on the Conditional Use Permit?

Chairman Belgard noted we have to decide the EAW first.

Whispering and talking by public.

Chairman Belgard noted this is what I'm talking about now. I don't want interruptions (from public audience members). I don't want to ask somebody to leave but I will do that if they aren't respectful of the Board and everybody that is going to talk.

Van Gelderen noted I guess I'm not an expert in this. I'm really truly just a citizen, a nurse, a mom, trying to...concerned about...

Chairman Belgard noted we're certainly not experts on this either.

Van Gelderen, noted ok. Can you rephrase your question to me one more time because I'm not sure if I'm addressing...

Chairman Belgard noted well the petitioner has the burden of proof. We have an estimate to do the EAW the minimum cost of it is approximately \$25,000. It could go up from there. That's according to Bolton & Menk who we would probably hire to do it. So, we have at some point two things. We have to justify that; we have to justify setting this thing back again which is probably not in anyone's interest. So, I'm just asking you as the petitioner to provide some kind of data not conjecture on why we need to do this. We've got a letter from Dan Girolamo who is the Mn DNR local hydrologist who doesn't approve anything. I've been to many, many meetings that he has been at and his recommendation to Planning and Zoning and he wrote a letter into the report that night that he has no problem with it. And that's very damaging to your side of it when the DNR hydrologist says there's no problem here. So, then this is what we have to overcome.

Van Gelderen noted so I read that the permit that was submitted, Pam Flitter gave me the full permit that Lorentz and Company had sent in. I have a couple issues about the permit because Andrew Lorentz had signed off that he had put not applicable to having any direct or indirect effect on wetlands. They are operating on wetlands. They are in a special protection district. They are like I don't know 300 feet, 400 feet, not very far feet just from Rose Lake. Another problem with it is with the DNR report. I don't know if Pam (Flitter) didn't give me the full report but what I

read was basically three sentences from the DNR and the DNR representatives basically as long as they do the 200-foot setback and the silt line and that there is an existing pit, it should be okay. Okay, okay. The existing pit is 36 years old, has had a conditional use permit from 1985 and to my understanding does not need to be renewed. Okay, that to me is weird. I don't understand how everybody can base it on that there is an existing pit. Again, it's 36 years old. Environmental things change in that 36 years and that the DNR is basically saying oh well because there is an existing pit let's just let it through. That's what I read. That's the information that I was given. The Martin County Soil and Water they had put in there that basically according to the Minnesota Wetland Conservation of a decision they authorized it for five years. Well, why is it for a ten-year conditional use permit if they're offering it for five? And in the report they said it's on that the pit is going to be existing on agricultural land. That's partially true. Half of it is on agricultural land. The other half is in the SL-1 and I wonder did they know that? I seriously question if they understood when they wrote their report that it is in an SL-1. Because that was not...that's what was stated in the report.

Commissioner Belgard noted you don't think that the DNR hydrologist knew that?

Van Gelderen noted all's I said is what I read that Pam (Flitter) gave me which is three sentences that said there was an existing pit from 36 years ago it should be fine as long as there is a 200-foot setback with a silt fence and whatnot. That's what I read. I don't know if there is other that went into it or not. I'm just being blatantly honest.

Chairman Belgard do you have any other comments you want to make? Pam (Flitter) do you want to address the issue at all or Terry (Viesselman, County Attorney).

Pam Flitter, Martin County Planning and Zoning Director, noted as far as the Planning and Zoning Office all of our information is public information and there's nothing for us to keep from anyone. Any information that is asked we give that. The only thing we can't is complaints and that's done by statute. So primarily when you're looking at an EAW you've got to look at the facts and you've got to show that you have a significant environmental impact and you have to have proof of that. And because a mining operation would be limited to less than 40 acres a mandatory EAW is not required by the rules. And the mining operation does not cross any of the thresholds of Minnesota rules 40, 4010, 4400, that would mandate the preparation of an EAW. So, with a discretionary EAW significant environmental impacts really have failed to be demonstrated by evidence for a need and I think that we've seen that through a lot of materials that have been passed back and forth with Lorentz's attorney. There are several mining operations in the County and the surrounding area of the proposed. The County has not experienced significant environmental impacts with those existing operations and there is no reason to believe the proposed mining operation would be any different. If the CUP is approved the mining operation will be required to comply with requirements and limitations imposed by that CUP. The operation associated with the mining operation did not occur on a regular schedule. The operations proposed for the mining operation are fairly commonplace in the area and the environmental effects have been demonstrated to not be significant. There is no reason to believe environmental effects on this mining operation be any different or more significant than any of the other mining operations we have in the County. The Martin County Planning Commission approved the CUP by recommendation of approval to the Martin County Board of Commissioners stating that it meets

all the standards and criteria of the Martin County Zoning Ordinance and that really is the Planning Commission's job is to make sure that it meets all of those requirements. Both Fairmont Township and Pleasant Prairie Township are satisfied with the conditions that were put into play. The Planning and Zoning Office we do not vote on any of these issues. We primarily are the liaison between the Planning Commission and the County Board and so that is the information that I have regarding an EAW.

Terry Viesselman, County Attorney (via WebEx), noted as Flitter accurately brought forth the standard and the attorney in the verbiage as well you have to have the evidence there is going to be potential for significant environmental effects and not just concerns. You have to have evidence. And if there isn't that evidence well then there aren't grounds for the EAW and it is not really discretionary for you at that point and in the petition you are required by law to deny that and just as if you feel there is evidence well then you would go forward and you would require to have the EAW. But it has to be based on evidence. I read the petition...there's a lot of concerns raised but you know the study is done elsewhere its again like the attorney says is comparing apples to oranges. But specifically, this site what effect would it have and I haven't seen much evidence presented and so again evidence of significant environmental impact. The evidence has to be significant and there are certain case laws that when you're talking about significant you're talking about ones that are long lasting and are not reversible. So that's your standard and you got the recommendation from Miss Flitter.

Chairman Belgard noted okay so we're going to look at a few things on this. We're going to look at...the Planning and Zoning has kind of looked at some of this too and we're not going to even allow it to reverse what they've done. But, is there any significant effect on water quality of groundwater contaminations? So, we have some speculation that could happen but do we have some evidence that is happened in the past? Pam (Flitter) said probably not.

Connie Urban, resident, noted my question right now is you asked us to prove that there could be...

Chairman Belgard noted I didn't ask you to do it.

Urban noted the requirement is that we are asked to prove potential damage but when Pam (Flitter) was talking they said there isn't any evidence that there are any issues. But how come in turn you don't have to prove that there is no detrimental effect to the water or any of the environment of the existing pits that have been there. There's really no proof to support that either. So that was just a question that I had.

Chairman Belgard noted you kind of lost me on that one.

Urban noted you're asking us to prove what there would be.

Chairman Belgard noted I'm not asking you...I'm saying that

Urban noted the requirement is that we would prove that there could be or there is detriment but in the statement that was made by Pam (Flitter) she said nothing's happened, there is no effects.

Well, is there not in turn proof to support that or why isn't there proof to support that or a requirement for them to support that.

Chairman Belgard noted I'm not sure but there is no requirement for that.

Urban noted double edge.

Chairman Belgard noted so we're talking about a significant effect on water quality and ground water contamination. I'm wanting the Board now if they have any questions. Now like Terry (Viesselman) said when we're talking about it we're talking about environmental...this isn't related to the conditional use permit. This is the environmental impact worksheet...the environmental assessment worksheet. This is long term environmental. something bad happening that is not reversible. It's not whether a road is bad because we can fix a road. There's no long-term effect. It's not cutting down trees...so we're looking at long term environmental effects.

Commissioner Koons noted so my question would go to Terry (Viesselman). Terry, you said that the burden of proof is on them that something could happen yet...but what happens if something does happen and we didn't have this study. That's my question.

Viesselman noted on the burden of proof that's what the law is just like anything they present a petition they have the burden of proof and so that's just what the law is. If something happens these permits are reviewable and can be reviewed and if there is a problem you could modify it and put a condition on it to try and alleviate that problem.

Commissioner Koons noted so my question is we're talking about long term effects and what happens if there are long term effects and we stop it too late.

Viesselman noted that would be a bad situation, but again Commissioner Koons there's no evidence of that and it would be pure speculation. If we could see the future we could act accordingly but we can't. We just have to deal with what facts are before us.

Commissioner Koons noted well I guess my question is what liabilities do we have in that event?

Viesselman noted I can't see any liability on our part at this stage.

Commissioner Smith noted I have a question about the effect on the water quality and groundwater contamination. I believe in that part of the County there are some shallow wells because of the sandiness of the soil and that's a concern that I have. But the pit does not appear to be very deep so can somebody answer that question for me?

Chairman Belgard noted I was hoping to get an answer to your question before moving on.

Berger noted is the question how deep the pit is going to be?

Commissioner Smith noted the question is, is this going to affect the shallow wells that are in that area.

Berger noted I understand that the maximum depth of the pit would be 20 feet. Again, some of that is subject to what material is actually there but I understand that is the maximum and I have seen no evidence in the record that there would be any impact on wells and I guess I don't know the depth of the County pit but I would suspect that the fact that the County has been excavating nearby would suggest if there was going to be an effect from a pit and shallow wells we would have seen it from that.

Kevin Peyman, County Engineer, noted we have a pit and it was a pit before we got it and the 20 plus years that Martin County has had it we've done two crushings. We stripped the top soil first and the depth does not count what the top soil on top of it was so I think the deepest gravel that we mined is 13 to 14 feet somewhere in there. Most of it is in the 10 foot range maybe close to 15 for the deepest that we went but sometimes our gravel is different and we are basically only mining maintenance gravel for road use which is a certain type of gravel where sometimes if it is a contractor they might need different types of sands or fills so sometimes we would maybe stop at a sandy layer that sometimes a private contractor would not because we need a certain type of gravel strictly for road use so hopefully that answered your question.

Commissioner Smith noted yes. Thank you.

Ven Gelderen noted so I've provided about 40 references of proof of other mines causing you know water contamination and air pollution. I mean I've got it all in here. My worry is why do you wait for the problem to happen. There's lots of research here showing that there are problems with mining and nonmetallic mines and I'm worried about water you know if they're going to be using they call it the watering or even dry mines they're going to drain our aquifer. Okay? Even at 20 feet deep we have very porous ground out there that it is going to be in the watershed. That it is going to affect our aquifer. I'm worried about water pollution. I have great concerns. I'm worried about our watershed, our animals, our people who live...I mean we're talking directly across the road from Poppe's. You walk across the street there, they're digging. How can that not effect their water supply. All of our water supplies. The aquifer. This is way closer even than the current County pit from where they're digging. Again, it's in the SL-1. I don't understand how you would not want to do this environmental worksheet. I've provided lots of evidence from other pits, not this one.

Chairman Belgard noted that's what we're talking about here. You have to give us a reason. That's what we're asking. Give us a reason to do it and somebody has to pay for it.

Van Gelderen noted I personally feel like I am. And I believe Lorentz by looking at this document working with the A Guide for Local Governments on page 5 it says recouping consulting fees it goes through how the RGU can have Lorentz & Company pay for the consulting. You were not given this I was given this by the Environmental Quality Board yesterday and so they gave me it as a guidance to your email and so I wanted you all to be aware of that, that should you choose to get a consultant to do this environmental assessment worksheet that could be potentially then *inaudible* to Lorentz & Sons to pay for that cost.

Commissioner Flohrs noted the money isn't the problem. We want to do the right thing here and you've just got to prove it to us that it is going to cause a significant problem.

Chairman Belgard noted we want to do the right thing.

Van Gelderen noted well I think the right thing is to do the environmental study. If it shows it proves that it's okay then you move forward. If it's not, you don't. I mean to me it should be err on the side of caution and safety and that's what the environmental worksheet is for is to see if there...

Chairman Belgard noted we get that but there are rules set up to how we do that.

Commissioner Flohrs noted an environmental assessment worksheet is not to prove. You have to prove to them on the whole thing. So, they aren't set up to...we can't use them to prove your statements.

Van Gelderen noted I understand the Environmental Quality Board is there just to be the middle person to get all the documents to you and ultimately it's you all that make the decision so I just hope that you'll make this decision on err of safety for our residents, our 30 homes that surround this pit and truck traffic site. To me it is worthy.

Commissioner Smith noted I have a question on wetlands and we're not quite there yet.

Chairman Belgard noted that's the next item any significant effect on wetlands, native habitat, or plants.

Commissioner Smith noted okay my question is and this will probably be for Lorentz or Pam (Flitter). I spoke with Dustin Benes with Martin Soil and Water Conservation District and is the one that does the WACA determination and Dustin informed me that a wetland delineation is also going to be required on this property. Not just the WACA determination. Can anybody tell me if that is true or not? Dustin informed me of this so I assume this is a fact. Mr. Berger can you talk about that?

Berger noted under the Wetland Conservation Act the wetland delineation would be required if there is an impact on the wetland and that delineation would establish where the boundaries of that wetland are. In this case because there was a no loss determination because there is a separation from where the excavation will be and where the wetland is, Mr. Benes issues a no loss determination and with that no loss determination no delineation is necessary because it has already been determined based on the facts and the analysis including Mr. Benes's analysis that there is no impact on the wetland. That there will be no loss. If the project expands in the future, if it moves closer and that there becomes an issue that it may impact a wetland then that may be in play. But, that's not what is being proposed and has not been determined yet.

Commissioner Smith noted I think I need to disagree with you on that from the facts that I know. Delineation needs to be done on the property and if I'm wrong, I'm wrong. But that's what I understood from my information.

Chairman Belgard noted you think by law it needs to be done?

Commissioner Smith noted I wish Dustin (Benes) were here and we could talk to him about this.

Berger noted all I can say is when the application was initially submitted and the issue of the no loss determination came out with Mr. Benes I believe or Miss Flitter raised that question I analyzed the state statute and my conclusion is that with a no loss determination no further action is necessary based on what the project as it was proposed and evaluated. If something changes then you obviously take a fresh look at the changes.

Commissioner Smith noted thank you.

Chairman Belgard noted Terry (Viesselman) do you have a comment on that?

Viesselman noted no comment on that.

Flitter noted I have a comment on that question that you had. I know that it was brought forward to the Lorentz's that they contacted Dustin (Benes) and they went through that process. Benes had contacted me a few weeks ago and wanted to know if there was anything that was put into a condition and we did add a condition at the Planning Commission that a Wetland Delineation Plan is to be completed. If it is needed they'll have to do one.

Chairman Belgard noted okay any significant effects from dust, soil erosion, soil contamination. We're talking about long term environmental effects; poos visibility impact, noise issues, flames, vibration; threat to wildlife such as honeybees?

Viesselman noted there really wasn't any evidence sent with the petition.

Van Gelderen noted I am one of the honey beekeepers and Reyelts's are as well. Our honey bees are kept within 200 feet of 245th Avenue and we have had wasps over the years and could be potentially from road dust. I am worried about having all these trucks go back and forth, 13 hours a day, 6 days a week, because we do raise bees and they are within 3,000 feet of the pit...the Reyelts family is within 3,000 feet of the pit. I have some research that I quoted here that you know these 18 wheelers they have up to 100 decibels of noise pollution. All the road dust. You know I have concerns about road dust because our Fairmont Township has only allowed one maybe two applications of sodium chloride to keep that dust down. The reason why, I spoke with Mike Gerken regarding this is because he said if they have any more application of sodium chloride then it gets too hard for them in order to maintain the roads, to grade the roads, which I understand. However, that does not help the dust pollution issue and significantly to our bees which we have which I said approximately 200 feet from that 245th Avenue which they are coming and going past our home on a daily basis. So, I have concerns regarding our...we sell honey, we have it for sale here in Martin County, we have it at Sterling Drug and at the local market. You know I guess I do have concerns regarding that and we have had wasps that I think will be even more amplified of wasps by having these trucks go back and forth by our home every day. So that alone is worthy of an environmental study. I just can't stress...I've got 40 citations in here. I've got noise pollution here, I've got wetland issues in here, I've got evidence of these 40 citations showing you how mines effect the environment and the wildlife and the aquifers and water pollution. I don't want to wait for the ball to drop. I would like to see some movement from our County to show safety,

to show you know that we are here for the greater good of everybody...people, humans, environment, you know our water supply, Martin County Water and Soil just had a big project by Beemer's for the Blanding's turtles investing I don't know thousands and thousands of dollars of Blanding's turtles. We've got it right in our back door and now we're going to let 13 hours a day of truck traffic go by and crush those turtles? We have turtles in our backyard laying eggs every summer and they're crossing 245th Avenue all the time. Okay? I see turtles dead on our road and the mortality of those turtles are going to be amplified by 13 hours a day of truck traffic. So, I have concerns about turtles. I have concerns about bees. I have concerns about all the waterfowl and everything common to that site. They're not going to be there anymore. They're not going to have a home because with the noise, the traffic, they're going to move elsewhere. This will no longer be their home anymore you know and now we don't get to have that value as part of our property and enjoyment there as residents because they've moved elsewhere. What animal is going to populate those two lakes when we've got 13 hours a day of road traffic and 11 hours a day of crushing? I won't want to be outside anymore.

Commissioner Smith noted have those been identified as Blanding turtles?

Van Gelderen noted yes, from Gary Ferguson, Lake Imogene, and is documented in the Martin County Soil and Water according to the Martin County Local Water Plan from 2017 and 2016 it says Blanding's turtles have been found in Fairmont Township. Fairmont and Rutland Townships have been added to the Blanding's turtle priority area. So, we're talking within 400 feet you know. It's more than 400 feet...Rose Lake...it's not far. But those Blanding's turtles could be just as easy in Rose Lake as they were found in...I mean he had a picture for me. I asked him to provide me a picture...but he has seen it and documented it. Like I said we've got thousands of dollars in Blanding's turtles restoration project going on right now. Why are we not *inaudible* right by our homes? I don't have the physical picture. But, I can tell you, and he's got nothing to do with us, but I had a personal conversation with him to ask him about his experience and he confirmed to me he saw them and that was what they were talking about at the state.

Nate Reyelts, resident, noted sorry for being kind of informal here but I was just reviewing an article I read in the Wall Street Journal on January 20th it says new research from the United Kingdom, and I understand the apples to oranges kind of comparison earlier, but at the same time it's still a study...showed that common air pollutants can interfere with pollination thus the cultivation of crops by making it hard for insects to sniff out the aromatic flowers where they sip nectar and pollen. The article goes on to say diesel exhaust and pollution can react with the chemicals that make up to floral odors that insects use to find flowers. This was in the Environmental Pollution Journal. Some previous research on the effects of air pollution on pollinator lab findings and they looked at the effects of pollutants in the real-world study and there were 70% fewer visits from insects from those untreated areas of the polluted areas. The reduction in visits brought a 31% decline in pollination along with a reduction of plant health as indicated by the reduced growth and underdeveloped seed pods. Research spotlights another threat to bee species. I guess my point in bringing up this article is that at least there is documentation here that it has been shown that pollution, air pollution, can certainly contribute to a decrease in pollination and bees and that is important to me and my wife as well.

Jeff Vanasse, resident, noted I have a question for you that you mentioned several times a long-term effect of this you know framing this study in a long-term effect. As I understand it from the Zoning Commission meeting this is a 10-year permit and when asked at the time does Lorentz have a lease with the property owner that goes beyond 10-years they declined to comment at that time. The implication being that the lease may be renewed at some level presumably that's why they didn't disclose it. So, my question to the Board is what is long-term just this ongoing process for wildlife, what have you been 10-years concurrent with the permit and possibly beyond that and what is long term if that isn't long term. That's my question if you could clarify that for us.

Chairman Belgard noted well I think the long-term part of it comes in the EAW. That's what we're tasked with finding out. Long term can mean different things to different people but what it would mean to me would be irreversible damage...if we damaged a road it's not long term. We can fix the road...everybody knows that. Are we cutting down trees? Are we doing stuff that is not reversible. That's what they're looking for here. So, when we say long term, irreversible, that's what the EAW is about. Not the conditional use permit. We're talking about two different things. Right now, we're addressing the need for the EAW. We're talking about a lot of the same things that we'll talk about at the next hearing. But, that would be my definition kind of a long-term thing. Are they irreversible? Are we going to do something to damage something that is irreversible.

Vanasse noted well I was thinking of the...so I can assume for a moment that the turtle population or the swan population whatever is jeopardized by 10 years of ongoing operation and maybe beyond then would that not constitute for that EAW purpose?

Chairman Belgard noted potentially. But it is up to the Board here to decide.

Van Gelderen noted so you're wondering about harmful effects long term. According to *inaudible* 2004 health hazards from mines involve air-borne particulate emissions that can stay imbedded in the air for long periods of time and pose greatest risk for respiratory health hazards. Silica which is found in sand and rock is a very common mineral found. Silica may cause silicosis from prolonged exposure which may lead to respiratory problems caused by a chronic irritation of the lungs and mucus membranes. It is unknown of the types of materials that Lorentz & Sons will be hauling in or excavating. You know you have some sand and rock but you don't know if they're going to be pulling in more types of materials and what are those materials that they're going to be bringing in. If this commercial company were to haul materials such as cement asphalt the wildlife and residents are further jeopardized for the harmful effects of cement dust that would be released into the air during crushing hours. Cement dust causes lung function impairment. Chronic obstructive lung disease. Restrictive long disease. Carcinoma of the lungs which is cancer, right? Stomach and colon. Cement dust may enter the systemic circulation of the body essentially effecting all organs of the body including the heart, liver, spleen, bone, muscles, and hairs; and ultimately effecting the microstructure of your physiological performance. So that's just in air quality. Road dust...again...is also propensity in that it can obscure your vision, it causes also you know we're even talking about motor vehicle accidents here. We've got road dust coming on...they're going on 245th Avenue you've got a cloud of dust we're only allowed one or two applications of sodium chloride per year...it's going to be a dust fest. I mean you've got 18-wheelers...well the County is there. I've experienced this for 16 years, okay? They're there for 2

weeks. They apply sodium chloride the day before they start trucking, okay? By the end of those 2 weeks the road is a mess, it is full of clouds of dust, it is...there is...it's a mess, okay? We deal with it because it's 2 weeks and we know it is short term, whatever, okay? With this company having the ability to do that 6 days a week, 13 hours a day and only one, maybe two applications of sodium chloride. How can we not live in a dust...our homes have really short driveways, okay? The bees are going to be covered in dust. Our homes, our shop...everything is going to be a mess. So, talk about air quality alone is going to be a problem. You know I just there's all kinds of health hazards you know? The wildlife too not just us. But, you know I can go into the citations of the water quality if you like. Mining for sand and gravel causes potential impairment and quality on the site including harm to the aquifer. The water quality residential wells could be harmless according to Toronto Environmental 2008, okay? Additionally, the water level in specially protected lakes like Rose and Sager Lakes could be reduced detrimentally effecting the specific wetlands around it. They can also increase the water temperature of the lakes, okay? That also can have a detrimental effect to the whole the fish that are there from this pit. Creating pits with quarries requires removal of virtually all-natural vegetation, top soil, subsoil, to reach the aggregate underneath. Not only does it lead to a loss of existing wildlife but also has a huge loss of biodiversity as plants and aquatic habitats are destroyed. Ecosystems are affected by the noise, by the dust, by the pollution and contaminated water. So, let me give you an example. One gallon of oil spill can contaminate 1 million gallons of water, okay? A single pint of oil released into an wetland can cover one acre per surface area and seriously damage aquatic habitat. As of February 3, 2020 Lorentz & Sons were cited by the United States Department of Transportation for a violation called 393.100-part B which is talking about leaking, spilling, blowing, and hauling cargo by two of their trucks, okay? They were already cited for having spilling and issues, okay? Now they're coming to our area and truck up and down the road 6 days a week, 13 hours a day, and they're already cited for having spilling issues? And it only takes 1 pint to contaminate millions of gallons of water? To me, that's an environmental concern. You know I...I think we have a lot of concern regarding this environment. Potential damages from the mine also include destroying wetland habitat contributing to water pollution and indirectly damage the environment. That's from our Minnesota DNR 2013, okay? Consequences of mining is pollution surrounding waters in 2014. You know and I would like to know what is it that they're planning to bring in to crush?

Chairman Belgard noted we'll get into that. We can ask them that question at some point.

Commissioner Smith noted that's my question. I don't think that the permit will allow for materials to be brought in. Is that correct, Pam (Flitter)? And so, they will not be bringing in any material, is that correct Mr. Berger?

Chairman Belgard noted I don't believe that's correct.

Commissioner Smith noted Pam (Flitter) says it is correct?

Flitter noted they...as far as a mining operation? I'm not real familiar with how they do all of their...but I think that materials are hauled in for crushing to some extent.

Chairman Belgard noted well I'm pretty sure and I can ask Kevin (Peyman) to verify is that the gravel is not high quality. It is mostly sand. So, they mix rock and if they have access to concrete

that doesn't have wire in it they use that and asphalt can be...they put some kind of aggregate with it to give it some substance to hold it in place. Now, Pam (Flitter), the question is if they're allowed to do that.

Flitter noted yes, that's part of the mining operation as a whole.

Commissioner Smith noted I was told the conditional use permit did not address that...that they could bring product in.

Chairman Belgard noted I was there that night. I thought that was addressed that they would be allowed to bring in material. I'm going to let Kevin (Peyman) talk but he thought the percent because I asked him because I've been doing some digging too I said what do the mix it, 50/50? And he said no about 10%.

Peyman noted I won't speak to what they are doing because what we are doing is different than contractors if you have a construction project you usually have pretty tight specs and also very few of the material that we are putting when we do a bituminous contract or meeting MnDOT specs most of that material is not local for us. Most is brought in. It doesn't come out of our Rose Lake pit or our other pits just because it is so hard to meet the spec. So, if you are trying to take local material and meet the pretty tight construction specs you are probably bringing in a pretty large percentage of material I would guess has to meet that spec because you have crushing percentages and things like that. What we use our material for is maintenance gravel so there is not a set spec. Basically, it has to be good enough that we think it will be used on the road. So, to Chairman Belgard's point generally what we mostly mix with it is farmers will call and have field rock they want to get rid of. They picked up field rock and so we'll haul in field rock and pile it up and then we will mix that with our crushing. Sometimes we will get like some clean concrete that's almost already crushed and mix it. But what we're mixing in like Chairman Belgard said is more like 10% because that's the material that we have. When we're mixing that amount in we're generally not meeting a classified spec or a class 2 spec which would be required on most other construction type contracts. But if you are going to meet a construction type contract spec you're probably going to have to have a lot more than the 10% that we would normally haul in. When the county trucks are hauling it if I may say what we do when we haul on that road even though it's different. So, what we do a lot of our other pits we will haul over the course of a year or whenever material is needed we try to isolate when we're coming out of this pit like over a 7-10-day time period so what we do is we try...we usually haul one beat out of that pit so it's 7,000 to 9,000 tons that will come out of the pit per year and we haul it with our own trucks. So, what we will do is pick the time that we're going to do it. We contact both townships ahead of time and say we're looking at hauling for these two weeks and we come in and blade the road first. We treat it with the calcium chloride or magnesium chloride, then we get our hauling done for the 2 weeks. We'll sometimes blade when we're hauling and sometimes not it just depends on if we need it. Then when we're done we notify the township that we're done hauling for the year now and then we'll blade it again and then we're usually done with that. We kind of do it all in one short window. It's not a question on if we were causing the damage or if it is from something else so it is different than we do with most of our other pits. Most of our other pits are on either a hard surface road or a road with no residents close by. Those we will haul over the course of a summer but we don't do that here. We isolate it to small windows and we work with the township. And the one other question on treating

it. The hard part of treating it for dust control and treating it multiple times the dust control works pretty well. If you treat it too many times it can get a little slimy when it gets wet and things like that and it's maybe harder to maintain. But the other part is it is mainly effective before it is bladed. Once you blade it up it kind of loses...it's no longer as effective for dust control. So, once we treat it we try and keep the blades off because if you treat it and blade it right away you lose a lot of the effect. So, that's why treating it multiple times would be harder because then you try not to blade it then the road gets harder to maintain and washboards and the potholes and things like that if you're trying to avoid the treated areas so I hope that helps answer that question.

Commissioner Smith noted I still have a question about that...when I look at the application for the conditional use permit it says to open a location to extract sand and gravel in Martin County for construction projects. So, I just need some education. So, does this mean when you do this and you open a sand and gravel pit does that always mean that you bring in other materials? I need some help understanding that.

Peyman noted I can't answer your question specifically Commissioner Smith but we bring it in...we have to apply for a conditional use permit on our newer pits. On some of the old ones that have been there 35 years like the Rose Lake Pit we did not apply for one for that we were grandfathered in with the existing conditional use permit but and we just did a new one previously and when I list what we're going to be doing there I usually say we'll be adding some material to what we are processing out of the ground you know be it field rock or whatever. So, I guess I don't know if that's needed because that's how I've usually done it on ours so I would question too that if because they talk about a wash plant would...could you use this like a...could you set up a bituminous plant there then under this crushing contract or would that be a different...because that would be a lot more material. So, I think your point is valid. What is allowed and what is not. Could you theoretically take material that is there and haul in a bunch more material and set up a bituminous plant then? And would that be a separate conditional use permit than what was allowed under this crushing?

Flitter noted so that would be allowed under the conditional use permit and a lot of time they submit their plan; their workplan of what they plan on doing there and then that is what is discussed that night so it meets the definitions of our ordinance.

Commissioner Smith noted do you have what was submitted that night?

Flitter noted I was not there that night but Rod Erickson, he is from my Planning Commission, and Wendy Chirpich (Planning and Zoning Technician), she was there that night and she said that the crushing was discussed.

Chairman Belgard noted I was there that night too and it was addressed. I'm going to ask someone from Lorentz to come up. I want to ask what you're planning to bring in and a little bit about what you truly think your schedule would be. I guess this is kind of for the conditional use permit too but we're starting to kind of run these two together. The initial question is, are you planning on bringing in other material to crush.

Nick Lorentz with W. Lorentz Construction noted we did address at the Planning meeting that we already attended and our intentions would be based on the material or the final product that is there we may have to import some type of material to move forward with some type of crushing operation.

Chairman Belgard noted most likely.

Lorentz noted most likely. And ideally what we looked at doing to establish like a pattern to where it would be less likely...we would probably look to do some type of screening operation where we're removing the sand material first and be able to utilize as much onsite rock as possible so when we got to that point we would be having to import as little material as possible.

Chairman Belgard noted while I've got you up there, address what you think an operation would entail.

Lorentz noted so the first point would be if we definitely wouldn't be looking export this material to Mankato like the material we would be looking to use would be generally used in this area and then kind of eluded to already, based on the specs of the project that you guys might have in this area, that additional material might be needed to meet those certain specs. But, ideally to set up the operation you know ideally to kind of go along to stay in compliance with our conditional use permit and then the other permits that we're tied to that Matt (Berger) alluded to earlier you know to begin with you would have to come in and strip the site, set up the berms and kind of get everything in place before any type of like extraction process would take place in regards to that. From there then ideally we would have a window to kind of get it set up to where we would want to be using the material to kind of getting a feel of what projects we would have in this area to where we could best utilize it in the manner that would allow us to limit that import. Then, on the flip side there, ideally we would not be looking to be using this pit for six days a week, 7, 11, 13 hours a day. Ideally when we're here working there might be an instance that comes up to where it's a 6-day project or something where we're there in a row. But, ideally, to get us to where we're hauling or importing or doing whatever type of activities that might be going on at this location there would be no way that operating that many hours would be feasible. But with that being said ideally with not knowing the type of projects that are here limiting that window to where you know I think Matt (Berger) touched on it first to be like okay we can have this pit open from like you know July 21st to July 30th, 2023 there would be no way that we could operate under those circumstances.

Chairman Belgard inquired how big this area actually is.

Berger and Lorentz noted approximately 12 acres.

Chairman Belgard noted obviously a 40-acre site triggers an automatic EAW. A 20-acre site that has trees and stuff on it also triggers that as a discretionary. So, the size of this is the reason that we're having this discussion.

Berger noted yes this is either of the state thresholds and this was addressed in the letter as well but there was some suggestion in the petition that the size should be combined with the adjacent

County pit. I fully addressed it. That's not supported by the law. There are definitions of phased actions, connective actions...those are specific terms that are defined in regulations where related projects would get combined. This does not qualify. The other point I wanted to make just to build off of Nick's (Lorentz) point and your question about where this product would be used. Lorentz has other pits in Blue Earth County and Nicollet County and LeSueur County and other locations around and just from a pure logistics standpoint they're going to be using the product for projects that are close. They're not going to be hauling stuff all over the place. It doesn't make sense when there's other sources for projects in other areas. This is intended for material and projects that make sense to use in this area.

Chairman Belgard noted okay we'll keep going on this. Effect on reduction of crop yields; diminished property values.

Vanasse noted I just have a question. You asked a question that I don't think was answered and that is what are they going to have at this site. You went to the Zoning Commission meeting and said at that meeting is what was revealed that there would be crushing going. So, the letter we got simply said there would be mining sand and gravel. They divulged at that meeting yeah he probably will have a crushing there and what I didn't hear answered will they also have a bituminous plant there at some point. We're talking a hot mix plant that's also going to be brought in. Should that not be disclosed now as well. I didn't hear an answer to that.

(Nick) Lorentz noted the answer to that question would be no. There would be no bituminous plant at this location. That is not something that we do.

Van Gelderen noted I still don't feel like we have an understanding of what materials will be brought in. I'm concerned that they're bringing in asphalt and cement. Are they doing an I-90 project and bringing it into the SL-1 to be crushed there? I would like to specifically know what materials are they planning to bring to this site?

Chairman Belgard noted I guess I'm not sure if you can answer that one. If it would depend on the projects, or...let's see if we can answer that one.

Berger noted the short answer is we don't know. It depends on what the specs of the project would be. What I can say is whatever it is there are state regulations that regulate air emissions and as I mentioned earlier and if those regulations are triggered there are permit requirements that Lorentz would abide with to ensure that whatever is brought in they are satisfying the requirements as far as air emissions to ensure that there are not effects based on the state regulations of the state permits. So, this is a bit of a red hair in the effect that there are existing regulations in place. Whatever is brought in that would cover air emissions and ensure it is not a problem.

Roger Neist, resident, noted the thing is when you're bringing in stuff and they're saying well we don't know what we're going to bring in...but we might bring in stuff to crush...how do we know that that stuff brought in isn't contaminated with stuff that's going to go down into our shallow wells? There are wells right across the street from that that are only 60 and 70 feet deep, okay? And that's very easy for contaminated crap to get down into those wells. And that's not something that you're going to undo, you know? And I think we have to think about that. And I don't know

if this is the appropriate place to talk about it but the thing that's even more inappropriate with all of this...it may be legal from the standpoint of all the rules and all of that. But the thing is, is that they want to put this in an area that is a residential community. Okay? This isn't out in the middle of absolutely nowhere country. This is a residential community out there with I think Stacy (Van Gelderen) said 30 houses and most of these houses aren't like farm sites that have a quarter mile long driveway...they sit right next to the road and that's partially because they are SL-1 you know districts out there. And, as a result, you know this grossly effects the life of all of these people. We're all tax paying people that own these properties out there you know and this is going to greatly affect all of that. And most of us have lived there for a long time. I've lived there for 4 years. The people across the road from this have lived there for 40 years you know and the thing is all of a sudden this comes in and it's going to change all that. It's going to decrease the value of that. And, you wouldn't dream of putting something like this right across the street from the city line in the city and you know because of all the houses and everything else even though it might be legal because it's out in the country you know. Why in the world would you put it out in a residential community like we have out there. That to me is absolutely inappropriate. It might be legal, but it's absolutely inappropriate.

Chairman Belgard noted okay. Effect on development of neighboring land. Safety issues for people or traffic on road. I don't think that's environmental necessarily...effect on roads not necessarily. Does anybody have any other questions before we decide on whether we need an EAW?

Mike Gerken, Fairmont Township, if the traffic...at the Planning and Zoning meeting on December 28th we had brought up to them about damage to gravel roads...my question is if they don't abide by our rules AND we have to pull permits and how long does that take?

Chairman Belgard noted I think we said conditional use permits...we give them conditions and the conditions can say we're going to make you drive on the road here that's why there was some misinformation out there about Rose Lake Golf Course. Rose Lake doesn't have a dog in this fight. We'll put that in there, the route they have to take. So, if there are conditions as soon as they agree to those conditions if they don't meet those conditions that conditional use permit is revoked. If we say they can't drive by the Rose Lake Golf Course and a truck sneaks by there and goes across that bridge because it is empty we can revoke that permit.

Gerken noted how long does it take to pull.

Chairman Belgard noted obviously we go to staff and we would probably have our attorney notify them that their permit has been revoked. It would probably happen very quickly.

Gerken noted would it take a month or two to do it or something like that?

Chairman Belgard noted absolutely not.

Viesselman noted well they could send them a notice that we have revoked the permit and what the issue is and if they oppose that it could end up in court.

Gerken noted another concern is both townships have a good working relationship with the County and when they're hauling for their two weeks they maintain that road and at least every other day if not once or twice a day based on conditions they're blading and maintaining that and we have no control over this new operation coming in. will they have to raise their standards to that too?

Chairman Belgard noted that will be working with the company like we have to do and certainly we would hold them to the fact that they're going to keep that road going and I get that if they have a year where they have a lot of traffic on it or we get a lot of rain when they're doing it...there's some bad things that can happen, we all know that.

Gerken noted another concern is soft boils in the spring when it's really wet. What happens at that point? We had a bad one about 2-3 years ago and the County came in and took care of it for us. I mean they did a lot of work out there and we appreciated that. But now we're open to a lot of expense.

Haugen, Fairmont Township, noted he is concerned about being unable to connect with Lorentz by telephone. Concerned about not being able to contact them.

Peyman noted this will not address the last point at all but wanted to make a comment I guess about spring and the condition of the roads in the spring with frost boils and Commissioner Belgard's point sometimes they go all year round and they go past spring but the conditional use permit for anything we're talking about does not supersede the weight restrictions on the roads. So, the gravel road by default during spring restrictions, the state sets those dates when they're put on and taken off, so they're 5 ton per axle by default in the spring, so giving them permission to crush does not give them permission to haul overweight on those roads so they can still only haul...the weight restrictions will apply. So basically, you can't haul in and out of a gravel pit during spring restrictions because an empty truck is more or less 5 ton per axle you can maybe put a few tons of material on a dump truck but more or less it's not worth hauling because of the spring restrictions. So, giving them permission to have a gravel pit does not give them permission to be overweight and gravel roads by default in spring are 5 ton. That's what state law says. The one other comment...it's not a great option...but as the road authority as road conditions dictate the road authority always has the ability to post that road as you see fit. So, worse case you think they're not living up...you know they're damaging the roads...they're not repairing it...the township can choose to post the road past the gravel pit 5 ton per axle which in essence cuts that road off. It's not ideal because that applies to everyone. It applies to farmers and things like that but you know if you have a legitimate concern that the road is being damaged and not repaired...I've had to threaten numerous times and say if you're not using common sense in maintaining this road we're going to have to post it and in that sense you can no longer haul on this road then. So, it's not a great card to play because like I said it would affect everyone and you'd need enforcement but as the road authority you do have some control over the road regardless if you have to go that route.

Chairman Belgard noted I think we're to the point where we're going to decide on this EAW. I want Rod Erickson is the chairman of our Planning and Zoning Commission and he's in attendance and was there that night. Any comment you would like to make regarding that? I'll tell everybody in this room that this is kind of an enigma here. This is the first time this has ever happened where

we had a public hearing that did not just vote to take their recommendation because they are well trained in what they do so we're kind of winging this one because it has never happened before.

Erickson noted I don't really have any comments unless you have questions.

Chairman Belgard noted now the Board gets to decide if we're going to act on this EAW request and throw it to a public hearing because if we allow the EAW then nothing happens until that is done.

Higgins noted if you're ready for that, maybe the county attorney can guide you through those factors that you want to consider particularly with the environmental effects that you probably need to answer and go through those questions based on what you heard today. You can walk through and ask yourselves those questions.

Chairman Belgard noted cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant.

Commissioner Smith noted potential effect. That's really hard because we don't know what the effect is going to be. Significant? I think their water quality and their wells is a significant problem.

Commissioner Koons noted so my concerns are a lot like Commissioner Smiths and I tend to be proactive not reactive, and long-term effects...we don't know. This is an SL-1 so we do have that potential to have water contamination. It can contaminate our lakes, our wells, our ponds, or can it not? You know when you start talking long term effects of something that is not there...I tend to be proactive not reactive...I don't want a six months or a year from now have somebody's well that is bad.

Commissioner Flohrs noted but that's all speculative. You're guessing. You're looking into the future and saying this is going to happen. We have several gravel pits that are agriculture and shoreland and nothing has ever happened.

Commissioner Koons noted this is an SL-1.

Commissioner Flohrs noted yes we've had several of them and there have never been complaints. There are no facts.

Commissioner Smith noted they also weren't located where there are 30 wells so close to it. There's a potential there.

Commissioner Koons noted when you start talking potential in the long term...let's take this in downtown Trimont. Roger's right there. This isn't in the middle of a section someplace. This is like the City of Fairmont saying yeah go ahead and dig one out here behind the radio station. When...and that's not even an SL-1. We're talking an SL-1 with wells not that far away that are 50,60, 70 foot deep in a sandy soil. Potential long term. We don't know. We can't...all we can do is judge whether we think that is or not. Whether there's the chance for it. And I don't

know...that's why I asked the question of Terry (Viesselman) what happens two years from now when we find out oh this is. It puts us in a position where I'd rather know ahead of time if that's a potential problem...if you're going to have it or not.

Chairman Belgard noted we'll go to the next one whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect. So, we all know gravel is a valuable commodity, we're running out of it...the County is having trouble finding them that's why this one which is rather small and admittedly very poor gravel is now coming up to be mined because we're running out of that commodity and we need that type of thing to do projects in the County. Is that contribution significant enough to override some of these cumulative potential effects.

Commissioner Smith noted when you say cumulative. That's the key word there because if you were doing it for one year, one time, okay maybe that wouldn't have an effect. But the fact that they've got this permit for ten years means that it could over time have a cumulative effect.

Chairman Belgard noted continued the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect.

Viesselman noted can I interject here...you know when we're talking about cumulative effects, you're talking about the effects this pit has by adding on our own pit. It's cumulative effects from an adjacent site or something. So what effects is our pit having that this one will also add to.

Chairman Belgard noted the efforts of the proposer to minimize the contributions from the project.

Higgins noted Terry (Viesselman) can explain that further.

Viesselman noted what they're talking about is the extent of the...the efforts to minimize the contributions to this environmental effect. So, what they're talking about is the environmental effect from our own gravel pit and then what this one added onto that is doing. Because there's this factor too which you're looking at right now this is dealing with cumulative effect. So, for you to find cumulative effect on this factor you have to point out what factors are coming from our other site that this is adding to.

Commissioner Smith noted so I'm taking it that cumulative means that over time it builds up. Am I wrong on that?

Viesselman noted yes. I'll read through the definition...it is defined in the Minnesota rules Part 4410.0200 sub part 11A and what it does it focuses on the incremental effects of a project together with other projects in the environmentally relevant area. So, it is this project together with our own project. So, when you're looking at this factor too if it has cumulative effects it has to be added on to ours. So first you have to say our gravel pit is contaminating water and that this one is adding onto that. Does it add on and our efforts to control it. That's what you're looking at for the water issue. Noise issue would be the same thing. Okay, did the noise from our pit add on to this and what is the effect of that. Is it a cumulative effect or not.

Chairman Belgard noted okay the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project. So that means that are we addressing what potential mitigation what might happen to the environment down the line.

Viesselman noted again first are there environmental effects based on evidence and then if there are can those effects be mitigated by ongoing public regulatory authority meaning us or the state EPA or whatever or you know Soil and Water or whatever. So again, first if there are these environmental effects are they subject to being mitigated by others so that we can control them so they don't get out of hand like everybody was discussing concern about.

Chairman Belgard noted the extent to which the environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including the EIS.

Haugen noted from Pleasant Prairie over time around these pits and adjacent areas there's a build up of dust that looks like and that's and I know we're not talking apples to apples because these are much smaller pits but you're going to have the cumulative effect.

Van Gelderen noted one of the cumulative effects that I'm worried about is within our neighborhood of 30 homes with the current County pit and I'm not saying it is connected but we don't know if it is connected. With the current County pit within our neighborhood, we have four people that have either died or currently dealing with cancer, okay? Mrs. Neist, we've got Jeff here, Mr. Schweiger just passed away, and Betty who passed away...they are within a mile of my home. We do not know if our current County pit has contributed. Is it through our water source? I don't know. But having another pit now contributing to that issue in our water source is it my turn next? I don't know. But I just wanted it to be stated that there are four people in our neighborhood who have either died or currently are battling cancer.

Chad Van Gelderen, resident, noted I live on 245th Avenue my question is we're talking about cumulative but if we're talking cumulative why aren't we including...why are we saying that it is only 12 acres. If it's cumulative it's over the entire gravel pit that is all connected together which includes the County pit then we're over 40 acres which would force the permit. We're not talking just 12 acres. We're cumulative everything that we're talking about is cumulative when it's over 40 acres will force the study to be done.

Viesselman noted cumulative effects has its own definition and then what he's referring to now is with this area if you count them together and this one didn't qualify under that. For that mandatory thing it's just on this project at its own site.

Berger noted I just want to address a couple points. Number one the fact that four people in the neighborhood have cancer...there's no evidence of any connection of this to the County's pit, to this potential pit. This is beyond the pail of pure speculation and I think is insulting to this Board to suggest that there is any evidence in the records to support that. It's just not there. If we could stick to the facts on that in that *inaudible* there was mention earlier and I want to correct this factual

issue and Pam (Flitter) please correct me if I'm wrong in this but the way the zoning works in this distinction between agricultural and SL-1, the SL-1 is an overlay of an ag district so in the area where it's SL-1 it would be both ag and SL-1. Those aren't mutually exclusive. But more importantly I have zoomed in on the actual County Zoning map that shows in the blue the SL-1 and if we look at this parcel a small portion of the area that this project would be done in is part of the SL-1. The vast majority of the area that is going to be excavated is not in the SL-1. It is outside of that area because that SL-1 is based on distance from the lake and if you actually looked at the application that shows with the aerial photograph the area that is going to be excavated and not...it's a very small portion that's actually SL-1 here. So, it's true that part of this parcel is but that's why it is appropriate for the staff report to identify it. But if we're actually talking about the parcel and what's being impacted I just want to be sure that the factual record is clear is that the vast majority of this project is not on SL-1 property. It's on property that is purely zoned agriculture.

Commissioner Smith noted so you're saying that that property that's SL-1 is not going to be affected by the new gravel pit. I mean the water...water flows, water flows underground, it flows over the ground. I don't understand that that is not a consideration.

Berger noted no my point is that this project only a very small portion and we don't have a survey on this but if any of the excavation area is in the SL-1 it will be very small. The vast majority of this is subject to the ag zoning, not the SL-1. To the effects of water, there are measures that are in place as part of existing permits that mitigate that. That's the industrial stormwater permits that require specific conditions as far as silt fences, berms, things to prevent runoff from leaving the site and entering those other water sources. Those are required by existing permits and when you're talking mitigation and all of that, that's what that condition is talking about. It's those other permits that are in place. Those state regulations, those state permits that say you can't discharge stormwater. You can't have water running off from this site into the other. The state regulates that, the state has permits that are designed to ensure that that doesn't happen here. So, that's covered through there.

Commissioner Smith noted so where does the water drain then. You just said they tell you where the water can go...where will this water go?

Chairman Belgard noted it will stay onsite. You've bermed it to keep it in, right?

Berger inquired Nick (Lorentz) there's protection?

(Nick) Lorentz noted that's correct.

Berger noted as part of the plan when the mining is going on there will be retention ponds built to contain that water and that's part of those state permits to ensure that that doesn't happen.

Commissioner Smith noted thank you.

Kelly Reyelts, a resident at 245th Avenue, noted he said it's not zoned...here's a map right from the Martin County Beacon and it has the zoning and so this light blue is the zoning and I dare say

about half of it is in the SL-1 and I have many prepared planned statements about the SL-1 in mind but from my understanding we're not to that part of the meeting, correct? So, I'll save those. But I wanted you to be able to see a clear picture zoomed in. Here's the proposed pit. Light blue is all SL-1 and every red circle here is residential homes.

Neist noted getting back to his comment about having a retention pit you know with berms. I understand that and it keeps the runoff but again when we have 60-foot wells and you bring in contaminated asphalt and concrete that has been contaminated with all the oil and gas and everything that is spilled on it on the roads and everything and then that all then drains into the retention pond and that goes right down into our well aquifer and again with 60- and 70-foot wells that's again not appropriate. Because once those wells are screwed up, they're screwed up. You ain't going to fix 'em. You're not going to mitigate 'em at that point.

Chairman Belgard noted is the Board ready to take action on the EAW?

Viesselman noted that first factor about the type, extent, and reversibility of environmental effects, I don't think you've really found what environmental effects there are, if any. You need to find out you really need to make a finding on if there are.

Higgins noted as you walk through these you're going to have to answer these on if there is an environmental impact.

Commissioner Smith noted my concerns are the shallow wells and water quality.

Commissioner Koons noted my concerns too are shallow wells and the quality of the soil there is all sandy and this isn't just going to effect just wells it's going to affect the lakes; it's going to affect all of that. And we are not scientists, not a one of us are scientists to say what the potential risk is. But, that's what the EAW is for is to decide if there's a potential risk. And that potential risk is not something that we want to face 5 years, 10 years down the road. The attorney that come up here to tell us that this insulted us. Personally, I think the insult was more by saying like we weren't smart enough to realize that cancer is all over this County. Maybe it ties in, maybe it doesn't. But, mistakes have been made Nationwide over a lot of years. We don't have a lot of resources left. Gravel is one of them that we're running short. Water is a damn site more important.

Chairman Belgard noted so Terry (Viesselman) I was hoping that the first item on that type, extent, and reversibility of environmental effects I was hoping that was what we had done the first hour of this hearing.

Viesselman noted you've gathered evidence on it but you have to make a determination and again just so you know where I am. If I had a choice and if I was a rule maker I'd do an EAW on this. I'd do an EAW before I'd let a farmer put herbicide or GMO corn pesticide infused corn in the fields. But, I'm just giving you advice based on the law. In regard to the cancer issue, there is no evidence that has been presented that anything coming from a gravel pit that would come from this site would cause cancer. So, what I'm pointing out is you have to make a determination will this site have the potential for an environmental effect and it has to be a significant one. And so,

you make that finding and say what those environmental effects are, if there are any, and then you should say why. Why is that. And so, for example if it's going to harm honey bees...why. What facts have you shown that this is going to harm honey bees. Dust can harm honey bees. What facts do you have to show that and so that's what you have to do and it's a tough decision but I just want to make sure again. Don't do this because yeah we would like to see one. We'd always like to make sure there isn't going to be a problem in the environment I shouldn't say we all do because evidently most of the world doesn't care about that but you as the RGU in this you have to make your decision based on the law and based on the facts presented. Not based on conjecture because you could end up in court. And so, in these findings, so that when a court looks at this they know what you made your decision on and so they can make sure that you made the correct decision or did it like you're supposed to. So, you're going to have to as a Board agree okay we find these environmental effects...there's some potential for these environmental effects because of this. Or, if you find that you know you can say we're concerned about these effects but there's no evidence to show that. You can say we've got a gravel pit across the road that hasn't been causing problems; we've got gravel pits all over the County you know in shoreland and ag land and haven't caused any effects and there's nothing to show that this one is any different, there's no actual evidence showing why is this one going to cause those effects when none of the others did. You could do that. Again, one way or the other, make your finding and get your reason why and then whatever you say I'll reduce down into written a Finding.

Commissioner Smith noted I'm struggling with this and I thought doing the environmental assessment worksheet would look at these issues that have been brought up and they would come to a conclusion because like Commissioner Koons said we're not scientists, we're not experts in this field or any of these fields and I thought that's what the environmental review was supposed to help us with. Am I wrong about that Terry?

Viesselman noted yes. I mean truly it would help with that. But, you can only have one if you meet the criteria from the law when you have one. Because, landowners have rights too and again why haven't you had one for every gravel pit? Why don't you have one for all over. You can't unless you have specific reasons.

Commissioner Smith noted and I think we have reasons with 30 wells in the vicinity.

Viesselman noted okay but how is this drainage...which way is the water going to drain? What kind of chemicals can come from this? Which ways is it going to flow that way? I don't know. You've got the DNR saying that there's not a problem with this. Find your facts and if you feel...you just state whatever reasons you are. This is not for you to find out just because you want to know.

Attorney noted and I have to disagree with what Terry (Viesselman) just told you. Your job is to find out if there is potential significant environmental effects. Not to find if there is environmental effects. So, Terry (Viesselman) mentioned that at one point it is the potential for environmental effect. You guys as you stated are not scientists. You can't tell us today which way that water flows nor could anyone here without doing an environmental assessment. What your job is to do is to determine does the potential that's been identified the concerns does that rise to a significant potential for environmental concerns. Not whether there is the chance of this...not that these will

happen but is the potential and are they significant enough to warrant an environmental assessment. Thank you.

Viesselman noted he said exactly what's right. I'm not saying that you have to say this will happen but you have to have a basis for why there is that potential for that to happen.

Berger noted the standard is right as far as it was stated. But what wasn't stated is it can't be based on abstract concerns or unsubstantiated fears or we don't know. It must be based on evidence that is before you and the petitioners must bring that evidence forward now. They don't get to say the EAW might show us later. They have asked for an EAW that's not otherwise required. They have the burden to bring forward evidence showing that this project, not a project in Toronto, not a project in Michigan, this project adjacent to the County's pit that there's something different about this that is going to cause an effect. That's their burden. Not whether there's some generic potential but whether the evidence shows that there's a potential from this project based on the evidence the petitioners have brought forth. That's the legal standpoint.

Commissioner Koons noted with all due respect Mr. Counsel that pit that you're talking about, the adjacent pit, is grandfathered in. We, none of us, approved that pit. It's still there because it's grandfathered in. We learned a lot in 35 years about water, water quality, and the ground, and everything else. I don't need your opinion to tell me that I've got to follow something that isn't there. This says potential risk. We're not judging again we're not judging that one next to it are we. We're judging this one. That one is grandfathered in. I'd prefer if you would show us a little respect that we deserve sitting here. We didn't make that decision 35 years ago. It's still in effect. We're making the decision today. We've learned a lot in 35 years about where water runs, how it runs, how it filters through the ground, how it gets to wells. If you don't understand that you're standing in the wrong place to represent this bunch.

Berger noted with all due respect Mr. Commissioner this Board did not make the decision to open the pit. This Board decides to continue to operate the pit. This Board could close it if it wants. It's the County's pit. But the question isn't whether this pit would be approved now or not. The question is, is there any evidence before this Board that the pit that is being considered will have a potential for significant environmental effects. And I'm pointing to the County's pit because we had an existing pit the County has operated for years that shows us experience at this site. It shows us experience with this soil, with this proximity to the lake. If there's not effects from that pit what evidence is there that a new pit on the property next door is going to contaminate these wells if it's not already there. That's the point I'm making.

Commissioner Koons noted potential long-term effect. I'm not saying that there's not the potential for long term effect of the one that we've got going. Maybe we should close the door. But should we make the mistake of opening another one without an environmental study.

Berger noted and again my point is simply state law requires that that decision be made on actual evidence not conjecture. Thank you.

Viesselman noted let me interject again. Everything Mr. Berger said is exactly right. And I guess that's what I've been trying to tell you.

Chairman Belgard noted you also told us that you recommend that we require the EAW.

Viesselman noted no not recommend that you require...no what I'm saying is you have to follow the law. I'm not recommending that at all.

Chairman Belgard noted okay.

Neist noted first of all to the best of my knowledge the gravel pit that's there, the County pit, they don't bring in outside stuff and grind it and let the contaminates go down.

Chairman Belgard noted they do.

Peyman noted generally we bring in field rock and like I said roughly 10%. I'm neither for or opposed to this project in the least but with all the comparisons with the County I would like to make a point. We've had other County pits and they're all pretty small where we've taken maintenance gravel out and we also truck in a lot of material from private pits. So, I would just like to point out what we do how the County operates a pit and how a private pit operates are considerably different in a lot of ways. So, I mean I see the comparison because they are close and it's the same water. But, I would say how we operate a pit and how a private pit is operated is a lot different so strictly comparing the two and saying if it's a problem in ours it has to be a problem in another I don't think is really a fair comparison either. I know they said they are not an asphalt plant but that doesn't mean that there couldn't be you know the permit would allow that so I just think how we use our pit is different so I know you have to compare it because they're close but I don't think it is necessarily a fair comparison either because we are generally taking what is out of the ground, taking field rock and crushing and adding it to it and taking that to the road as maintenance gravel. We're not opening it up to we don't know what project we're bidding on we don't know what spec they're going to need we don't know what material we're going to have to bring in. And so, I'm not speaking against it at all I'm just pointing out that I don't think it is necessarily fair to say if ours doesn't have any impact on another one wouldn't necessarily because what a private pit does and what we do is different.

Neist noted and getting back to the comment about you know you can't just project that there may be a problem and you have to have some facts. Okay, well they haven't even given us facts as to what they're going to bring in. They said well I don't know it could be whatever. Ok, how much? Well, I don't know it could be whatever. So how in the world can you make an adequate assessment when you get answers like that?

Chairman Belgard noted for the EAW they're not actually required to do that. For the conditional use permit we can ask them that if we get to that point.

Commissioner Smith noted you have to remember that we're not voting right now on the conditional use permit. We're only voting on the EAW so we're not turning down the permit. We're not doing that right now. We just are looking for more information.

Chairman Belgard noted and I get that and I think it is very important that we do it legally. That's what Terry (Viesselman) is telling us.

(Nathan) Reyelts noted ah just a quick question. Dust. Does that fall into the category of what we're discussing as far as the environmental impact?

Chairman Belgard noted to a certain extent.

(Nathan) Reyelts noted okay well I do have a study and I know you want factual information I came up here earlier and shared a study so this one was studying people with in 500 meters or 1600 feet of a quarry and it showed the health effects that were investigated and 98% had dust exposure, plant leaf covered with dust which I would think would contribute to photosynthesis problems thinking of all the crops that are in the area there photosynthesis is a pretty important part, eye and nasal allergies, eye soreness 22%, eye dryness 17%, chest tightness 9%, chronic cough 11%. I also found using the *inaudible* Law for Fluid and Particle Forces that calculations for small particles so like 10 micrometers which and correct me if I'm wrong I believe that gravel can get that low can travel with a 3-mph wind can travel half a mile, with a 6-mph wind can travel 1.1 miles, I can keep going 12 mph 2.3 miles and it went up to 50 mph so just want to add that just talking about how it can affect the environments. So, thank you.

Higgins noted just as Terry (Viesselman) was saying you have to have the criteria met and have that evidence and Terry (Viesselman) can guide you on because he'll write up the Order. The key and based on that evidence if they've met the burden of proof for an EAW.

Chairman Belgard noted do you think the petitioners have presented factual evidence to warrant an EAW. That's the bottom line. If we're going to deny it, we just have to have a reason. I think when we were here in the first week of January I made the comment that I thought it was more important to get it done right than get it done fast so we set up this hearing and I said to the people that day if I remember correctly that doesn't mean it's going to be denied. It means we're going to look into it. Now we're at the next stage but we're not really supposed to allow the EAW just to push it off again. We're supposed to have some logic behind it and if we deny it we go right into the same issues again on the conditional use permit.

Commissioner Smith noted under 2 a. potential effect is significant. My question to the rest of the commissioners is do you feel the potential effect on their wells and groundwater and lake is significant. That's my question to you. Because I feel it is.

Chairman Belgard noted do you think they have factually proved that?

Commissioner Smith noted I think he factually proved it by just looking at that map.

Chairman Belgard noted what I'm saying is that at some point we have to document what we're doing because very likely we could end up in court either way on this and somebody is not going to be happy.

Commissioner Smith noted could you get sued for requesting an EAW?

Viesselman noted yes you can.

Commissioner Koons noted I agree with Commissioner Smith 100% is you know again Terry (Viesselman) is going to say well proof and law and whatnot. Well, the question here is if there is a potential effect and laws don't always make sense and we have to make sense out of them and I believe like Commissioner Smith when you look at that and there is a difference on how pits are run. I've been to some pits I wouldn't want to go back to. But, I believe that there is a potential long-term risk and I believe they proved that.

Commissioner Koons noted shallow wells and the whole water quality when you're digging in sand and you're bringing in other materials I mean they haven't told us what they're bringing in and they're not telling us they're bringing in field rock only...they're telling us well we don't know it depends on the work we do. Well, I've been around enough crushed concrete to know that it isn't a good thing for the air or the groundwater. I believe there is a potential risk long term risk in water quality. I believe they proved that.

Higgins noted I'm just asking the Board again Mr. Chair if that's the one they are going with and you really feel if there's more to it you would want to add to those findings unless it is just the two items water quality and wells.

Chairman Belgard noted Flitter you mentioned that it is about a \$25,000 minimal cost to do an EAW and that Bolton and Menk could do it. If they go in and do it do they only address the issues that we bring up or do they address all environmental issues?

Flitter noted that I don't know and I don't know and maybe Terry (Viesselman) knows or Mr. Berger. Does it actually give you an answer to that in an EAW of what they're looking for, for wells? I don't do EAW's so I don't know.

Chairman Belgard noted we've never done one.

Berger noted typically in an EAW the scope would depend on what the Board decides. I will say that cumulative effects being one of them it likely would incorporate the County's pit as well. Thanks.

Chad Van Gelderen noted you talk about potential problems most of us grew up on a farm community including myself there's oil leaks on a lot of equipment that will be there that stores very high quantities of oil so everybody knows again on problems what happens when there's a problem and now you've got 10 gallons of oil which is a small amount of hydraulic oil there now you're in a pit in a wet area with the shallow wells around there where the runoff I can about guarantee you because I live right there runs to the lake it's possible tile that runs in that area that runs directly into that lake and even if it didn't run directly in the lake it will eventually seep down into the aquifer. Where else is that oil contaminant going to go in that area when you got poorly graded sand not clay and all that it will seep down fairly fast and now we're going to be digging 15 – 20 feet we're not talking very much distance from where they're digging to the well to the aquifer.

Commissioner Smith noted Mr. Chair I'm going to make a motion that we proceed with an EAW worksheet with the reason because of the significant potential effect of contaminating shallow wells and our groundwater and the nearby lakes.

Commissioner Flohrs noted Terry (Viesselman) are you going to be able to protect this thing if it comes to court?

Viesselman noted the question is do I think you have the evidence to support an EAW based upon the motion? I'm not sure. The court will give some deference to you being the deciding authority whether there is sufficient evidence to do that.

Commissioner Flohrs noted I totally understand how groundwater runs and the potential for this all happening but there were supposed to be facts brought to us today and there's just no facts that this is going to happen. I understand the passion, I understand how this could happen. But I'm just saying Terry (Viesselman) is the one who has to protect us if we go ahead on this.

Chairman Belgard noted we knew it wouldn't be simple and that somebody was going to be unhappy.

Commissioner Smith noted and I know I'm a little more passionate about water quality but I've been around it all my life and it's just not something that you can fix. Once something is contaminated, it's contaminated; and it's a lot cheaper to protect it in the first place than to have to go back and restore and fix it if that's even possible.

Chairman Belgard noted Pam (Flitter) I don't know if you can help me on this because this is kind of uncharted water for the County but if this Board would vote to do the EAW, we hire Bolton and Menk for that matter, we do it...do they come back then with a recommendation that we use to continue on with the CUP process? How does that work?

Flitter noted I don't know.

Commissioner Belgard noted I'm trying to figure out what the next step would be because if we do this the CUP goes on hold. We don't even have the next hearing because this has to go first.

Flitter noted I think the EAW and I could be mistaken might say yes there's this or there's that. It states facts but I don't think it gives a recommendation of where to go.

Chairman Belgard noted so obviously we...at some point I think the \$25,000 was a concern. Like Commissioner Flohrs said that's probably not a concern. It's tax payer dollars and you guys all pay taxes. We can probably pay for that \$25,000 minimum if it's more than that who knows. I just don't know when that's all said and done if they say no you can't do this project or if they because they bring those concerns I just don't know. It's all uncharted territory.

Attorney, noted Terry (Viesselman) and Mr. Berger can disagree with me...my understanding of how the EAW would work is Bolton and Menk would give you a breakdown of what they identified as concerns. Whether there is environmental issues that could arise and then you use

that to make a decision on the conditional use permit. So, the conditional use permit would still be on the table. The EAW is just additional information for you to decide based on your own ordinances if the environmental impact is worth it.

Chairman Belgard noted well it's still going to come right back to this Board. We might have a little bit more factual information. I do have a motion and a second. Does anybody else want to discuss it yet?

With no further Board discussion,

Motion by Commissioner Smith, seconded by Commissioner Koons,

MARTIN COUNTY

RESOLUTION #17/22

A RESOLUTION GRANTING A PETITION FOR AN ENVIRONMENTAL ASSESSMENT WORKSHEET FOR

A PROPOSED GRAVEL MINING OPERATION

Whereas, W. Lorentz & Sons Construction, Inc. has submitted an application for a conditional use permit for the mining of gravel and sand on property owned by Beverly Schlieninger and located in section 25 of Fairmont Township, Martin County, Minnesota; and

Whereas, the Martin County Planning and Zoning Commission held a hearing on the requested conditional use permit and acted to forward the application to the Martin County Board of Commissioners with findings and recommendation that the permit be approved with certain conditions, and;

Whereas, the Environmental Quality Board (EQB) notified Martin County that it had received a petition requesting the preparation of an Environmental Assessment Worksheet (EAW) for the above mining operation before the County Board took action on the request for a conditional use permit; and

Whereas, the EQB has designated Martin County as the responsible government unit for purposes of considering and ruling on the petition; and

Whereas, Martin County, as the responsible government unit, is required to consider the petition for an EAW in accordance with Minnesota Rules, chapter 410 and to specifically determine under Minnesota Rules, part 4410.1100, subpart 6 whether, because of the nature or location of the above mining operation, the mining operation may have the potential for significant environmental effects; and

Whereas, Martin County is required to consider the factors set out Minnesota Rules, part 4410.1700, subpart 7 in making its determinations; and

Whereas, the Martin County Board of Commissioners has considered the petition and hereby finds and determines as follows:

1. The proposed mining operation will extract gravel on approximately 12 acres and therefore a mandatory EAW is not required under the Minnesota Rules based on size, nor does it cross any of the other thresholds in Minnesota Rules, part 4410.4400 that would mandate an EAW.

2. The petition for an EAW raised various concerns regarding the mining operation including water and well contamination, noise, road damage, crop damage, dust, decreased air quality, threat to wildlife including honeybees and turtles, diminished property value, and more.
3. In considering the criteria in Minnesota Rules, part 4410.1700, subpart 7, the County Board finds as follows:
4. (a) Type, extent, and reversibility of environmental effects.
 - (1) The proposed mining operation has the potential for contamination of shallow wells and ground water and nearby lakes.
 - (b) Cumulative Effects.
 - (1) There was no finding on cumulative effects.
 - (c) The extent to which the environmental effects are subject to mitigation by the public regulatory authority.
 - (1) There was no finding on this factor.
 - (d) The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.
 - (1) There was no evidence of any other environmental studies conducted in the area that may affect the proposed location of the mining operation.
5. The proposed mining operation is not exempt under Minnesota Rules, part 4410.4600 from the environmental review process.

NOW, THEREFORE, BE IT RESOLVED, by the Martin County Board of Commissioners as follows:

1. The petition to require preparation of an EAW is hereby granted because the evidence has established that the proposed mining operation has the potential to cause significant environmental effects.
2. Martin County shall provide notice of this decision to the Applicant, EQB, and a representative of the petitioners within 5 days.
3. The public hearing and final determination on the application for the conditional use permit shall be stayed pending completion of the EAW.

Adopted this 1st day of February, 2022.

MARTIN COUNTY BOARD

Elliot Belgard, Chairperson

Attest: _____

County Coordinator

Roll Call AYES: Commissioners Koons, Smith, and Belgard. NAYS: Commissioners Forshee and Flohrs. Motion carries.

Chairman Belgard noted I hope everybody here realizes this doesn't change anything. We're still coming right back here and we're going to go through the same questions. That's no guarantee that this conditional use permit will not still go through once we have more evidence. But, again I say, it's more important to get it right than get it done fast. That's it. I think our work here is done. We will not have that public hearing on the conditional use permit.

Viesselman noted you can still have the public hearing. All the rules say is that you can't make a final decision on the CUP until the EAW is done. But my recommendation is you cancel the public hearing because what is defined in the EAW would have a bearing on what everybody would want to comment on. So, I think it is a waste of time to do the public hearing at this time.

Kelly Reyelts, resident, asked if she could ask a question noting I'm not a lawyer, but can I get some information on the CUP for an SL-1 district?

Chairman Belgard noted I think if you talk to Pam (Flitter) you can get that any time.

Flitter noted you can get anything we have.

Reyelts noted okay...just because this is going to come back to you eventually is it okay if I take a moment? Again, I'm just a mom of seven kids, not a lawyer, so I have been digging into this county ordinance like a Bible, okay? I didn't you know I was surprised I didn't know about the meeting with the SL-1 Board...the permit so I had to research after the fact. So, the first place I went to was the goals for the County and one of the goals in the County Comprehensive Plan was to continue protection of lakeshore area through proper planning and code enforcement. So, I went to the Zoning to look that up, okay? So, I first started in the district that I live in, an SL-1 Special Protection district and if you have this in front of you it is page 54 and it clearly states that the special protection district is used for shoreland areas and natural environment lakes that need protection from development. It goes on to list twelve things that are approved in an SL-1 district which is: home occupation (like we have), wildlife preserves, nature study, everything that we have right now in an SL-1 district. It then goes on to list only six reasons for conditional use and I could list each of those individually but I'll save on time. Nowhere in those six conditions does it talk about mining. So, I got to thinking okay how can mining be in there. So, I pulled up a search engine on this and typed in mining. I found it in three places. You can do the same thing. Brings up the word determining so you have to get through them all...but mining is first defined, number 78, as the extraction of sand, gravel, rock, soil, and other materials. Okay, so I've got my definition for mining. Another place that I found the word mining in the Zoning Ordinance was in Chapter 26 which is the General Regulations. What are the General Regulations? They are the guiding of land development in compatible relationship. So, it's studying the regulations once things have been permitted, Chapter 26 gives us the regulations for how to do that. So, they do have a section for regulations on mining that are given. They, it says, it has to be given on a conditional use permit which remember isn't listed in an SL-1 and then it goes on to tell you the type of regulation. It will tell you; you have to have an annual review of it and you need to talk about the trucking in and out and such. So, this is the regulations for what has already been approved. So that still didn't help me out. So, then I said okay where is mining in this ordinance then for a CUP. For conditional use permit I'm going to use the word CUP. So, I found it in two places and this was an easy search but I put hours into this, okay? A CUP is listed in the "I"

Industry District. Now it's not listed as mining they go back to the definition and use the word extraction so extraction is listed as a conditional use permit in an Industry District. It's No. 4 Subdivision 3 of Chapter 21 it says any extraction, processing, storage of sand, gravel, stone, or other raw material. And I'm going to repeat that because this is exactly what they're saying they're going to do. Extraction, processing, storage of sand, gravel, stone, or other material. That is in an Industry District from this Zoning Ordinance. Okay? I found it in one other place. I found it in the Agricultural CUP again this is Chapter 10 Agricultural under a conditional use permit it is allowed in an Agricultural District in No. 5. It says any extraction of minerals, period. Different from Industrial. In an Agricultural it is only allowed any extraction of minerals, period. Okay? So, I have found that a CUP can be used in an Industrial area and it can be used in an Agricultural area. But, again, in my SL-1 District where I've lived, I bought a house, I knew the zoning before I bought my house I felt confident in my investment, it's not listed there. So, then I got to thinking okay I'm going to go back to that definition its in Chapter 26 General Regulations. This is the regulations that are set forth for those that have been approved and again Subdivision 13 Mining in all districts...and I have to say that because like that County pit that we have it's grandfathered in. It's in the SL-1 District. But mining shall be permitted upon issuance of a conditional use permit. Where can you get a conditional use permit for mining or extraction? Two places. Industrial, Agricultural. And in Agricultural it can just be extraction of minerals. Not the processing, not the storing and stock piling, grinding...any of that. Okay? Maybe you're still thinking gray area Kelly, gray area. I don't know...I'm not following you. So, then I went to Chapter 24 Administration the interpretation of your standard. Okay? This is all in your ordinance. I found it. I'm not a lawyer, okay, I'm just like a mom who's on fire, okay? It says in your interpretation standard where the conditions of this ordinance are comparable with conditions imposed by other law the regulations which are more restrictive shall prevail. What's the most restrictive? There is no mining in an SL-1 District. None. And if it's in Agriculture according to this you're just extracting minerals. So, I dare ask why do the environmental *inaudible*. It is not allowed according to your ordinance and I have everything starred. I have been studying this in and out countless hours. It is not allowed. And I know Commissioner Belgard you thought that Zoning did their duty...I beg to differ. It is not allowed in our Zoning Ordinance.

Chairman Belgard noted Pam (Flitter) you want to address that?

Flitter noted it is allowed under the General under Chapter 26 in all districts a conditional use permit is required, yes.

Chairman Belgard inquired in Shoreland it's allowed?

Flitter noted yes. It's a conditional use permit. It's a conditionally permitted use.

Reyelts noted this is General Regulations. We're not talking about conditional permits in Chapter 26. Uh, uh. Chapter 26 is general regulations. This is how you're going to regulate what's been approved. Where can you approve? Where can you get a CUP for mining?

Flitter noted and we have consistently done it since the early 1980's.

Reyelts noted this has maybe been updated since the early 1980's and this is what we're basing off. Well again, I'm just a mom on fire. I'm not an attorney. But, how can you tell me General Regulations that are there to okay I'll read it...the guiding of the land development in compatible relationship of uses depends on the maintenance of certain standards. In the various use districts the permitted accessory and conditional uses shall conform to these standards given in this chapter. Okay, we're missing that. We haven't even gotten our CUP yet, okay? You've failed the very first thing that it has to pass. It can not be allowed in an SL-1 protected district. What can be allowed in the other half of the Agricultural? It says it right here. Only extraction of minerals, period. It's right there in the Zoning. I wish I could have been at that meeting in December. I wasn't notified. I live very close to the mine. I know your ordinance says first ten people closest or within a quarter of a mile. I'm at a half a mile. A mine is much different than building a building. I think your regulations should be different for notifying people of a mine because man I will see this, I will hear this, it will affect my seven children, it will affect me, my bees, my animals so much. And I do not...not a lawyer, not a lawyer...mom on fire...I do not see anywhere in here where you can have a CUP for mining in an SL-1 District.

Chairman Belgard noted we'll go over that before the next...Pam (Flitter) will review that. Everybody had enough for today? I'm going to make this comment. I'm very appreciative of the fact that everybody was very respectful here today. We didn't turn this into a circus and I say an email out there strength in numbers and that's not the case. I didn't want to hear from anybody that lives in Trimont. I wanted to hear from the people that are profoundly affected by this. So, I do appreciate your passion, I do appreciate the fact that we didn't let it get out of hand, and that we didn't have people here that have no business being here. We kept the Rose Lake people out...there will be a condition if this permit is granted. It does not allow the trucks to go through Rose Lake...we're not shutting down the Rose Lake Golf Course. I got an email on that one that basically said if this goes through that (golf) course is closing. Anyway, I'm appreciative of that and I wish we could have got it done today but like I said more important to do it right than to do it fast and I hope with regard to Mrs. Schleininger and Lorentz that you can understand the problem that we have here in doing this right. I know you want to get in there and even for the people that live there it would have been better to have them do that scraping and stuff in March than in June but we're trying to do it right. Thank you.

Neist noted can I ask a quick question? Is there a reason you can't you know vote on the conditional use permit conditional to the other thing so that it possibly saves you the money for the EAW? Do you understand what I'm saying? Because if the conditional use permit was to be voted down you know then the EAW money would...you know what I mean? Trying to save money.

Commissioner Smith noted I think that we need to do this environmental worksheet so that we know what's there because if it's not going to affect the environment we need to know that.

Neist noted it's going to affect the people though regardless. You see what I mean? You see and again I made the comment that you know the number one thing, the number one thing out there is the fact that it's a residential community and it's effecting people. It's affecting all us as individuals and we've got numerous people and we pay taxes. I don't even know if this company pays taxes in Martin County. We all pay taxes.

Chairman Belgard noted Mrs. Schleiningler certainly does.

Neist noted yeah, but...that's...

Chairman Belgard noted and I'll tell you I'm just going to address that for you if we would go ahead and vote on that conditional use permit...we can't really approve it because we don't have this information. What would happen if we approved it?

Neist noted okay I understand...

Chairman Belgard noted I don't think you probably want to go there. We better hold off on that one. Okay. We've actually got a little bit more of County business to take care of. If you're leaving I'd appreciate it if you'd keep it quiet a little bit because we're not done with our meeting yet. Thank you.

Belgard opened discussion pertaining to commission members attending and voting during virtual meetings outside of any emergency orders.

After discussion,

By consensus, the Martin County Board of Commissioners meet all the open meeting law requirements with having one or more commissioners attend Board meetings virtually and be able to vote by roll call. At least one commissioner must be in physical attendance at the designated meeting location in the Commissioners Meeting Room – Martin County Courthouse; that home addresses of each commissioner be publicly noticed (for attending meetings virtually); and is contingent upon County Attorney review.

Higgins opened a brief discussion as to commissioner attendance at the upcoming AMC Legislative Conference to be held March 2-3, 2022 in St. Paul, MN.

The Board reviewed Reports and Announcements including: Letter received from the Southern Minnesota Tourism Association; Thank You Letter received from the Southern Minnesota Initiative Foundation; and Thank You Letter from the Martin County Historical Society.

Commissioners reviewed their calendars of previous and upcoming meetings and activities: January 19, 2022 – Human Services meeting; January 20, 2021 – Traverse des Sioux Library meeting; January 21, 2022 – Drug Court Steering Committee meeting; January 24, 2022 – South Central Workforce meeting, Rural Minnesota Energy Board meeting, Minnesota Valley Action Council meeting, Kinship of Martin County meeting; January 25, 2022 – Personnel Committee meeting; January 26, 2022 – Justice Center Committee meeting, South Central Minnesota Multi-County HRA meeting; January 27, 2022 – SHIP meeting, Emergency Communications Board and South Central EMS meeting; January 28, 2022 – GBERBA meeting; February 1, 2022 – Martin County Jail Kitchen Tour, Joint Board Redetermination Hearings with Jackson County on CD #53 at 2:00 p.m. and JD #105 at 2:45 p.m., and ARPA meeting; February 2, 2022 – Human Services Executive Board meeting, Personnel Committee meeting, Martin County Veterans Memorial Committee meeting; February 4, 2022 – F-M Joint County Transit Executive Board meeting;

February 7, 2022 – Broadband Committee meeting at 3:00 p.m., Martin County EDA meeting at 5:15 p.m.; February 8, 2022 – Library Board meeting; February 9, 2022 – Martin County Parks/Trail Committee meeting; February 10, 2022 – Soil and Water Committee meeting; February 11, 2022 – Prairieland meeting; February 15, 2022 – Regular Board of Commissioners Meeting at 9:00 a.m. – Commissioners Meeting Room – Martin County Courthouse.

The Board toured the new Martin County Jail Kitchen.

With no further business to wit, Board Chair adjourned the meeting at 1:29 p.m.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Elliot Belgard, Board Chair

ATTEST: _____
Scott Higgins, County Coordinator