

**WAUPACA COUNTY PLANNING & ZONING COMMITTEE MEETING
MINUTES – MAY 5, 2016**

ON-SITE INSPECTION: The Committee made on-site inspection starting at 8:15 a.m. on the Dennison Family Trust and Russel H. & Mary Lou Dennison Revocable Trust property, Town of Union.

Chm. Penney called the meeting to order at: 9:35 a.m. with the following members present: J. Penney, D. Kussmann, T. Murphy, W. Wilfuer and D. Federwitz, all present.

D. Federwitz moved and T. Murphy seconded the motion to approve the agenda as presented. The motion was carried.

D. Kussmann moved and W. Wilfuer seconded the motion to approve the minutes from the April 7, 2016 meetings. The motion was carried.

Public Comment: Robert Ellis.

PUBLIC HEARINGS:

The first public hearing was called to order at 9:43 by Chm. Penney. Roll call was taken with the following members present: J. Penney, D. Kussmann, T. Murphy, W. Wilfuer and D. Federwitz, all present. Deb Giuffre read the names of persons notified of the hearing for the Waupaca County Comprehensive Plan Amendment. The Waupaca County Comprehensive Plan was adopted by the Waupaca County Board of Supervisors on September 18, 2007. The proposed amendment to the Comprehensive Plan Preferred Land Use Map is within the **Town of Union**. The map amendment is to ensure that the Waupaca County Comprehensive Plan remains consistent with the locally adopted comprehensive plan. Vice-Chm. Kussmann read the general procedure and Chm. Penney declared it a legal hearing.

Ryan Brown, Planning & Zoning Director, explained that the Comprehensive Plan Amendment is required for the proposed use.

Attorney Steven Sorenson was sworn in to testify. Attorney Sorenson is representing Gelhar Real Estate Investments. Attorney Sorenson explained the proposed expansion plan for the current Non-Metallic Mineral Extraction which requires a Comprehensive Plan Amendment.

Chm. Penney called three times for any testimony in favor to the application. There was none.

Chm. Penney called three times for any testimony in opposition to the application.

Marilyn Herman was sworn in to testify. Ms. Herman expressed concerns that the Comprehensive Plan Amendment from a RC-N (Rural Commercial-Neighborhood) District to an AE (Agriculture Enterprise) District would affect the tax rate and that the current RC-N (Rural Commercial-Neighborhood) District classification is appropriate for the proposed use.

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Ryan Brown, Planning & Zoning Director, explained that the Planning & Zoning Committee has no jurisdiction over tax assessment or taxation. Mr. Brown explained that the proposed expansion of the Non-Metallic Mineral Extraction is allowed in the AE (Agriculture Enterprise) District with a Conditional Use Permit.

Attorney Steven Sorenson said that the tax assessment is based on the use of the land.

Deb Giuffre read one (1) letter from the Town of Union recommending approval of the Comprehensive Plan Amendment.

Jean Gliniecki, Zoning Administrator, said the Planning & Zoning Office recommends approval of the Comprehensive Plan Amendment.

T. Murphy moved and D. Federwitz seconded the motion to **APPROVE** the application for Comprehensive Plan Amendment for the Town of Union. Roll call vote was taken: J. Penney—yes; D. Kussmann—yes; W. Wilfuer—yes; D. Federwitz—yes and T. Murphy—yes, unanimous vote to approve the amendment. D. Kussmann moved and W. Wilfuer seconded the motion to close the hearing at 10:16 a.m. The motion was carried.

The second public hearing was called to order at 10:17 a.m. by Chm. Penney. Roll call was taken with the following members present: J. Penney, D. Kussmann, T. Murphy, W. Wilfuer and D. Federwitz, all present. Deb Giuffre read the names of persons notified of the hearing for **Dennison Family Trust and Russel H. & Mary Lou Dennison Revocable Trust**: Located in part of the SE ¼ of the SW ¼ of Sec. 13, Town of Union, lying along Dennison Road, Fire Number E7040, Waupaca County, Wisconsin; for a Petition for Zoning Map Amendment from an RC-N (Rural Commercial-Neighborhood) District to an AE (Agriculture Enterprise) District on approximately 7.45 acres to make the zoning the same as the adjoining parcels; and for a Conditional Use Permit application for a Non-Metallic Mineral Extraction located in the SE ¼ of the SW ¼ and the NE ¼ of the SW ¼ of Sec. 13, Town of Union on approximately 79 acres in an AE (Agriculture Enterprise) District and a PVRF (Private Recreation and Forestry) District. The Committee, Ryan Brown, Planning & Zoning Director, and Jean Gliniecki, Zoning Administrator, made an on-site inspection of the property. Vice-Chm. Kussmann read the general procedure and Chm. Penney declared it a legal hearing.

Dennison Family Trust and Russel H. & Mary Lou Dennison Revocable Trust:
Petition for Zoning Map Amendment from an RC-N (Rural Commercial-Neighborhood) District to an AE (Agriculture Enterprise) District on approximately 7.45 acres to make the zoning the same as the adjoining parcels.

Attorney Steven Sorenson was sworn in to testify. Attorney Sorenson gave a brief history of the Non-Metallic Mineral Extraction operation. Attorney Sorenson said that the Non-Metallic Mineral Extraction operation is proposing to expand which requires a Petition for Zoning Map Amendment and Conditional Use Permit application.

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Douglas Pohl was sworn in to testify. Mr. Pohl said he represents Waupaca Foundry. Mr. Pohl said the Waupaca Foundry is in favor of the Petition for Zoning Map Amendment and Conditional Use Permit application to expand the Non-Metallic Mineral Extraction operation for a steady supply of sand for Waupaca Foundry.

Chm. Penney called three times for any testimony in favor to the application. There was none

Chm. Penney called three times for any testimony in opposition to the application. There was none.

Deb Giuffre read one (1) letter from the Town of Union recommending approval of the Petition for Zoning Map Amendment.

Jean Gliniecki, Zoning Administrator, said the Planning & Zoning Office recommends approval of the Petition for Zoning Map Amendment.

D. Federwitz moved and T. Murphy seconded the motion to **GRANT** the application for Petition for Zoning Map Amendment due to the following: The Town of Union Planning Commission and the Town Board of Union have both recommended approval of this request and it is consistent with the Town's Comprehensive Plan. Roll call vote was taken: J. Penney—yes; D. Kussmann—yes; W. Wilfuer—yes; D. Federwitz—yes and T. Murphy—yes, unanimous vote to grant the zone change.

Dennison Family Trust and Russel H. & Mary Lou Dennison Revocable Trust:

Conditional Use Permit application for a Non-Metallic Mineral Extraction located in the SE ¼ of the SW ¼ and the NE ¼ of the SW ¼ of Sec. 13, Town of Union on approximately 79 acres in an AE (Agriculture Enterprise) District and a PVRF (Private Recreation and Forestry) District.

Chm. Penney called three times for any testimony in favor to the application.

Jim Rabideau was sworn in to testify. Mr. Rabideau said he is the Environmental Consultant for A.F. Gelhar. Mr. Rabideau explained the Non-Metallic Mineral Extraction operation location and reclamation plans.

Jay McKeefry was sworn in to testify. Mr. McKeefry explained the Non-Metallic Mineral Extraction plant operations.

Chm. Penney called three times for any testimony in opposition to the application.

Marcella Wentworth was sworn in to testify. Ms. Wentworth quoted and commented on sections of the Waupaca County Non-Metallic Mining Ordinance in reference to berms to create “S” curve at the entrance or exit of the operation and the Town's Comprehensive Plan. Ms. Wentworth is recommending denial.

Attorney Steven Sorenson said the Comprehensive plan was discussed with the Town of Union. The “S” curve was talked about with the Zoning Department and also the mine will be below grade level.

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Deanna Hannigan was sworn in to testify. Ms. Hannigan referenced the Waupaca County Non-Metallic Mining Ordinance allowing Waupaca County to be more stringent as in Sec. 27.6.1 Permit Conditions and asked that the Planning & Zoning Committee do so.

Deb Giuffre read one (1) letter from the Town of Union recommending approval of the Conditional Use Permit application.

~ The Committee took a break at 11:00 a.m. ~

Ryan Brown, Planning & Zoning Director, went through the proposed conditions.

D. Federwitz moved and T. Murphy seconded the motion to **GRANT** the application for Conditional Use Permit application due to the following: The Town of Union Planning Commission and the Town Board of Union have both recommended approval of this request and it is consistent with the Town Comprehensive Plan. The following conditions **MUST** be met:

1. The nearest edge of all buildings, structures, and surface activity areas, including pit edges, shall be located a minimum of 500 feet from all property lines.
2. To prevent tracking of mud onto public roads, access driveways shall be paved within 150 feet of public roads.
3. All public roads shall be kept free of mud, debris, and dust by sweeping or other means as necessary, or as requested by the town.
4. Access to the site shall be only through point designated as entrances on the site/operations plan; such access points shall be secured when the site is not in operation.
5. On-site bulk fuel storage areas and appropriate places for fueling of equipment (e.g., above the water table) shall be located to minimize the potential for groundwater contamination and in accordance with the Wisconsin Administrative Code and Wisconsin State Statutes.
6. All trucks, excavation, and processing equipment shall have exhaust systems that meet or exceed current industry standards to ensure that noise levels are kept at or below allowable limits. The use of "white noise" back up alarms will be required to further minimize noise levels.
7. The average operating noise level at the property line of the non-metallic mining site shall not exceed 75 decibels.
8. Unless the extraction site is inaccessible, the area of extraction shall be completely enclosed by a safety fence or maintained at a slope not to exceed 3:1.
9. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
10. The operation does not substantially impair or limit the current or future use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
11. The use of berms will be utilized to properly screen the operation. Also, there will be screening on the West property line with trees.
12. Lighting at the site must stay within the property. Lights cannot be pointed upwards or away from the property site.

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13. The actively mined area will not exceed 20 acres.
14. Waste water control will be covered by the DNR permit.
15. No other material from a different location may be processed at this site.
16. A. F. Gelhar will be required to comply with a "MEMORANDUM REGARDING WELL AGREEMENT" dated August 27, 2012 that was addressed to the Town of Union Planning Commission and Town Board. Requested changes to this agreement include an addition to the second paragraph stating that "Where permission is given, A.F. Gelhar Co. Inc. and agreement with the Town Board, will arrange for an independent third party professional inspector to test the production and draw down in wells within 3000 foot radius of the quarry. In the sixth paragraph the 2000 foot radius should be changed to 3000 foot radius. If problems occur with water tests in the mine, then A. F. Gelhar must retest surrounding wells within a 5000 foot radius of the mine quarry. The base agreement without these revisions is attached as Exhibit A.
17. A. F. Gelhar will be required to comply with the "ROAD USE AGREEMENT" that was submitted to the town as a draft. Under section (1) of the agreement, clauses have been added that states engine braking is not allowed, speed limits on Dennison Road (45 mph) to County O and a \$200,000 irrevocable letter of credit from a bank for the same amount should be posted for maintenance and repair of Dennison Road. No sand truck traffic will be allowed on Shady Lane. All trucks leaving the sand mine with sand must be covered or enclosed. The original draft of the Road Agreement is attached as Exhibit 13. The mine operator will also be required to develop a "Road Use Agreement" with the Waupaca County Highway Department prior to any work being done.
18. Air monitoring will be regulated by the DNR permit.
19. A full hydrologic study by an independent third party hydrologist (agreed upon by A.F. Gelhar and the Planning & Zoning Committee) including groundwater modeling will be performed before operations can begin.
20. The mine operator shall limit normal hours of operation on-site to 16 hours a day (6:00am — 10:00pm) Monday - Friday. The operation of the mine between the hours of 10:00pm and 6:00am, weekends and holidays will be minimized to only the extent necessary to provide material to foundries, allow for proper security and comply with all existing mining laws. Any requests for exceptions, (operation outside stated hours of operation due to a natural disaster or emergency repair work) shall be made to the Planning and Zoning Director.
21. Property value protection for area residents that are located adjacent to the non-metallic mining property will be provided. This protection will have a baseline property value determined prior to operation of the mine by having two (2) independent appraisals done and use the average of those. This will be the value that A.F. Gelhar, Inc. will provide for the property owner once the property has been on the market in excess of 6 months without selling. They will need to pay 10 percent higher than the market value that was determined and within a quarter (¼) mile of the property; those homes would also be included.
22. The use of flocculants (acrylamides) will not be used in the operation of this non-metallic mine without prior consent of the Planning and Zoning Committee.
23. The sale of sand to the hydrofracking industry from this non-metallic mine will not be allowed.
24. Use of a sprinkler system on the material on site will be required to minimize fugitive dust.
25. Have a Nutrient Management Program for agricultural land on the site.

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26. There will be a review of the conditional use permit after one year of operation. Any additional reviews will be determined at the Planning and Zoning Committee's discretion.

Roll call vote was taken: J. Penney—yes; D. Kussmann—yes; W. Wilfuer—yes; D. Federwitz—yes and T. Murphy—yes, unanimous vote to grant the permit. D. Kussmann moved and W. Wilfuer seconded the motion to close the hearing at 11:27 a.m. The motion was carried.

The third public hearing was called to order at 11:28 a.m. by Chm. Penney. Roll call was taken with the following members present: J. Penney, D. Kussmann, T. Murphy, W. Wilfuer and D. Federwitz, all present. Deb Giuffre read the names of persons notified of the hearing for **Waupaca County Code of Ordinances selected revisions for the following:**

1. Certain provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34 based upon the petition of the Planning and Zoning Committee;
2. Certain provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34 based upon the Petition of Sharon Peterson/Lorraine J. Koeper received March 22, 2016; and
3. Certain provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34 based upon the Petition of the Town of Dayton received March 23, 2016.

Vice-Chm. Kussmann read the general procedure and Chm. Penney declared it a legal hearing.

Attorney Andy Phillips was sworn in to testify. Attorney Phillips is representing Waupaca County Planning & Zoning Committee. Attorney Phillips explained the process and petitions as they relate to off-site parking for a Commercial use under a Conditional Use Permit.

Jackie Beyer was sworn in to testify. Ms. Beyer is the Town Clerk for the Town of Little Wolf representing the Township. Ms. Beyer said the Township feels that from public comments and input that were expressed things are getting top heavy and resident's rights and opinions need to be respected.

Lorraine Koeper was sworn in to testify. Ms. Koeper is representing a large group of residents and business owners who oppose the Zoning Office's petition to amend the Zoning Ordinance with respect to off-site parking. Ms. Koeper commented on off-site parking and the petitions.

Jane Haasch was sworn in to testify. Ms. Haasch is a Supervisor for the Town of Dayton and asked that the Committee consider the changes that the Town of Dayton is petitioning for.

John Miller was sworn in to testify. Mr. Miller is a Supervisor for the Town of Dayton and commented on the petition from the Town of Dayton and the Conditional Use process.

David Armstrong was sworn in to testify. Mr. Armstrong, Town of Dayton Chairman, referenced and commented on Sec. 14.08, Process for Receiving Interpretations of Ordinance of the Waupaca County Zoning Ordinance.

~ The Committee took a break at 12:30 p.m. ~

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Attorney James Hammes was sworn in to testify. Attorney Hammes is representing Jeff Maiman, owner of the Wheelhouse. Attorney Hammes commented on the amendment and statutes as it relates to off-site parking.

Jeff Maiman was sworn in to testify. Mr. Maiman is the owner of the Wheelhouse and gave a history of the business and other businesses in the area. Mr. Maiman spoke on the need for off-site parking.

Kevin Will was sworn in to testify. Mr. Will, Chairman for the Town of Farmington, recommended that off-site parking be in the same Zoning district and within 500 ft of the property.

Tom Bertacchini was sworn in to testify. Mr. Bertacchini is in favor of the proposal for off-site parking and has concerns with the traffic and safety.

Dennis Peterson was sworn in to testify. Mr. Peterson is in favor of the amendment and encourages the Committee to consider the alternatives.

Pat Meighan was sworn in to testify. Mr. Meighan is the owner of the Harbor Bar and commented on the necessity of parking and suggested that parking be considered on a case by case basis.

Dawn Capizzi was sworn in to testify. Ms. Capizzi is opposed to the proposed off-site parking for commercial business. Ms. Capizzi read the names on a petition opposed to off-site parking in a residential district.

Tim Werner was sworn in to testify. Mr. Werner commented on the impact of growth and the need to be consistent with regulations.

Richard Arndt was sworn in to testify. Mr. Arndt commented on the safety of an off-site parking lot in a residential area.

Mary Ann Wells was sworn in to testify. Ms. Wells is the President of the Chain O'Lakes Association and read (2) two letters in support of the Association regarding the amendments to the Waupaca County Zoning Ordinance.

Robert Ellis was sworn in to testify. Mr. Ellis is a Waupaca County Board member and Chairman of the Lake Protection and Rehabilitation District. Mr. Ellis commented on the projects of the Lake District and referred to a letter he submitted regarding off-site parking.

Kay Ellis was sworn in to testify. Ms. Ellis commented on the tourism of the Chain O'Lakes and the safety of the proposed off-site parking lot in a residential district.

Susan Miller was sworn in to testify. Ms. Miller commented and referenced the petitions as it pertains to residential districts.

Maria Belke was sworn in to testify. Ms. Belke is the owner of the Casino property. Ms. Belke commented on the business of the Wheelhouse and is in support of the off-site parking for the business.

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Dan Krenke was sworn in to testify. Mr. Krenke is in support of the Sharon Peterson/Lorraine Koeper petition.

Richard Abb was sworn in to testify. Mr. Abb is in support of the Sharon Peterson/Lorraine Koeper and Town of Dayton petition. Mr. Abb commented on the Wheelhouse parking lot.

Mike Jameson was sworn in to testify. Mr. Jameson is concerned about safety with the location of the proposed parking lot for the Wheelhouse and is in support of the Sharon Peterson/Lorraine Koeper and Town of Dayton petition.

Gerald Murphy was sworn in to testify. Mr. Murphy is a County Board member and represents the Town of Farmington Chain O'Lakes area. Mr. Murphy urged the Planning & Zoning Committee to incorporate the provisions of the Sharon Peterson/Lorraine Koeper and Town of Dayton petition in Article 34.

Diane Forsythe was sworn in to testify. Ms. Forsythe is in support of the Sharon Peterson/Lorraine Koeper and Town of Dayton petition. Ms. Forsythe is concerned with the process of the amendments to the provisions.

Tania Wadzinski was sworn in to testify. Ms. Wadzinski commented on the proposed parking lot revision under a Conditional Use Permit as it would affect property owners in Waupaca County.

Thomas Carroll was sworn in to testify. Mr. Carroll is concerned regarding safety of the location of the Wheelhouse parking lot. Mr. Carroll said the parking lot was constructed with approval of Waupaca County.

Jean Gliniecki gave a summary of the written and electronic correspondence to the provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34, three (3) in favor and 125 in opposition.

D. Kussmann moved and T. Murphy seconded the motion to close the hearing at 2:04 p.m. for Certain provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34 based upon the petition of the Planning and Zoning Committee. The motion was carried.

1. Certain provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34 based upon the Petition of Sharon Peterson/Lorraine J. Koeper received March 22, 2016.

Chm. Penney called three times for any testimony in favor to the application. There was none.

Chm. Penney called three times for any testimony in opposition to the application. There was none.

D. Federwitz moved and T. Murphy seconded the motion to close the hearing at 2:06 p.m for Certain provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34 based upon the Petition of Sharon Peterson/Lorraine J. Koeper received March 22, 2016. The motion was carried.

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2. Certain provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34 based upon the Petition of the Town of Dayton received March 23, 2016.

Chm. Penney called three times for any testimony in favor to the application. There was none.

Chm. Penney called three times for any testimony in opposition to the application. There was none.

D. Federwitz moved and W. Wilfuer seconded the motion to close the hearing at 2:07 p.m for Certain provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34 based upon the Petition of the Town of Dayton received March 23, 2016. The motion was carried.

D. Kussmann moved and W. Wilfuer seconded the motion to **APPROVE** the provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34 to include the Town of Dayton’s petition. D. Kussmann withdrew the motion.

D. Kussmann moved and W. Wilfuer seconded the motion to **APPROVE** the provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34 to include all of the Town of Dayton’s petition with the provision of the 500 feet of the property being served, located in the same zoning district, 5.0 table to include off-site commercial parking and Sec.14.08 interpretation with the Planning and Zoning Committee petition.

D. Federwitz moved and D. Kussmann seconded the motion to **AMEND** the provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34 to include all of the Town of Dayton’s petition with Sec.14.08. Roll call vote was taken: J. Penney—yes; D. Kussmann—yes; W. Wilfuer—yes; D. Federwitz—yes and T. Murphy—no, 4 to 1 vote to amend.

D. Federwitz moved and D. Kussmann seconded the motion to **AMEND** the provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34 to include all of the Town of Dayton’s petition with Sec.14.08 and 500 feet of the property being served (measured nearest lot line to nearest lot line) Roll call vote was taken: J. Penney—yes; D. Kussmann—yes; W. Wilfuer—yes; D. Federwitz—yes and T. Murphy—yes, unanimous vote to amend the provisions. The motion was carried.

D. Federwitz moved and W. Wilfuer seconded the motion to **DENY** the provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34 based upon the Petition of Sharon Peterson/Lorraine J. Koeper received March 22, 2016. Roll call vote was taken: J. Penney—yes; D. Kussmann—yes; W. Wilfuer—yes; D. Federwitz—yes and T. Murphy—yes, unanimous vote to deny the petition.

D. Kussmann moved and T. Murphy seconded the motion to **DENY** provisions of the Waupaca County Zoning Ordinance, Waupaca County Code of Ordinances, Chapter 34 based upon the Petition of the Town of Dayton’s received March 23, 2016. Roll call vote was taken: J. Penney—yes; D. Kussmann—yes; W. Wilfuer—yes; D. Federwitz—yes and T. Murphy—yes, unanimous vote to deny the petition. The motion was carried.

~ The Committee took a break at 2:50 p.m. ~

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RESOLUTIONS:

- Resolution No. 6 (2016-2017) to adopt Comprehensive Plan Amendment in the Town of Farmington.
- Resolution No. 7 (2016-2017) to adopt Comprehensive Plan Amendment in the Town of Union.

D. Federwitz moved and D. Kussmann seconded the motion to APPROVE the Resolutions for the Comprehensive Plan Amendment for the Town of Farmington and Town of Union and recommend them to the Waupaca County Board for their approval at their May 17, 2016 meeting. The motion was carried.

DIRECTOR’S REPORT: Update on Working Lands Program

The next Planning and Zoning Committee meeting has been scheduled for Thursday, May 25, 2016.

D. Federwitz moved and W. Wilfuer seconded the motion to adjourn the meeting at 3:10 p.m. The motion was carried.

Debra L. Giuffre
Recording Secretary

cc: County Clerk