

RESOLUTION # 09-2018

**Resolution to retain outside counsel William P. Scott for phase 2 of the revisions to Zoning Ordinance s. 9.61, which regulates metallic mining in Oneida County.**

Resolution offered by Supervisors of the Administration Committee.

**Resolved by the Board of Supervisors of Oneida County, Wisconsin:**

**WHEREAS**, Oneida County previously hired outside counsel to draft the now adopted ordinance section 9.61, which regulates metallic mining in Oneida County; and

**WHEREAS**, the State of Wisconsin has recently amended state statutes with regard to Metallic Mining (see, 2017 Wisconsin Act 134);

**WHEREAS**, the Planning and Development Committee has hired outside counsel with mining law experience to assist with a review of our current ordinance section 9.61 to ensure that the regulations contained therein are enforceable in light of the recent changes to State law and to provide legal advice regarding provisions that are unenforceable or vulnerable to challenge; and

**WHEREAS**, the Planning and Development Committee has sought out the assistance of Attorney William Scott (William P. Scott, Attorney at Law, Inc.) to review the current ordinance section 9.61 in light of the recent changes to State law; and

**WHEREAS**, the Planning and Development Committee has passed a motion to proceed with Phase 1 of the proposal; and

**WHEREAS**, Phase 1 is currently being completed (review of the ordinance for deficiencies/unenforceable provisions) and the project needs to move into Phase 2, the revisions to ordinance section 9.61 (which need to be completed by July 1st, 2018); and

**WHEREAS**, Attorney William Scott has provided the attached cost proposal for Phase 2 of this project; and

**WHEREAS**, the Planning and Development Committee believes it is necessary to have Attorney William Scott assist with the revisions to the ordinance and has passed a motion to that effect; and

**WHEREAS**, the Planning and Development Committee currently does not have within the operating budget the funds necessary for the Phase 2 revisions or in person meetings with the Planning and Development Committee (a cost of fifteen hundred dollars per meeting according to the proposal); and

**WHEREAS**, the Planning and development committee believes that a budget of twenty-thousand dollars (\$20,000.00) would be required to complete Phase 2, based on the attached cost estimate from attorney William P. Scott.

**NOW, THEREFORE, BE IT RESOLVED**, by the Oneida County Board of Supervisors that Attorney William Scott is hereby retained for Phase 2 of the ordinance section 9.61 review and revisions project; and

**BE IT FURTHER RESOLVED**, that the Oneida County Budget be amended to include budget line items for the Planning and Development Committee for Legal Services and other costs; and

**BE IT FURTHER RESOLVED**, by the Oneida County Board of Supervisors that the County budget for fiscal year 2018 shall be amended to reflect a transfer from the Contingency Fund to Mining-Legal Fees for twenty-thousand dollars (\$20,000.00) to complete Phase 2 of the revisions to Ordinance Section 9.61, which regulates metallic mining in Oneida County.

Vote Required: Majority = \_\_\_\_\_ 2/3 Majority = \_\_\_\_\_ ¼ Majority = \_\_\_\_\_

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The County Board has the legal authority to adopt: Yes  No \_\_\_\_\_ as reviewed  
by the Corporation Counsel, Byrd, Date: 4/11/18

Consent Agenda Item: \_\_\_\_\_ YES  NO

Approved by the Administration Committee this \_\_\_\_\_ day of April, 2018.

Offered and passage moved by:

[Signature]  
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Supervisor  
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Supervisor

\_\_\_\_\_ Ayes

\_\_\_\_\_ Nays

\_\_\_\_\_ Absent

\_\_\_\_\_ Abstain

\_\_\_\_\_ Adopted

by the County Board of Supervisors this \_\_\_\_\_ day \_\_\_\_\_, 2018

\_\_\_\_\_ Defeated

\_\_\_\_\_  
Tracy Hartman, Clerk

\_\_\_\_\_  
Dave Hintz, County Board Chair



**Revised Cost Estimate - Oneida County**  
**Revise Zoning Code Ch. 6 - Art. 9 to Conform to State Law**  
**April 4, 2018**

Article 9.61 of Oneida County's Zoning and Shoreland Protection Ordinance, regarding metallic mineral exploration, prospecting and mining ("Article 9.61"), was written before legislation separated iron mining from nonferrous mining and before 2017 Wis. Act 134 ("Act 134") significantly revised nonferrous mining law. This cost estimate covers only a revision of Article 9.61 to improve compatibility of Article 9.61 with Ch. 293, Wisconsin Statutes, which is Wisconsin's nonferrous metallic mineral mining law. This estimate does not include conforming Article 9.61 with ferrous mining law. The goal of the work is to make Article 9.61 enforceable and defensible to legal challenge. Except as indicated below, the Ordinance will be revised to address the issues and incorporate the recommendations presented in the memorandum dated March 28, 2018 and any agreed-upon instructions from Oneida County about its desires and preferences. The final deliverable will consist of a revised Article 9.61, in machine readable format, for the County's consideration and possible adoption.

| <b>Phase of Work</b>                             | <b>Work Description</b>   | <b>Cost of Work</b>                         |
|--|---|---|
| Phase Two –<br>Prepare<br>Suggested<br>Revisions | Provide revised Article 9.61 containing revisions recommended in Memo (except as priced separately below) to improve enforceability of Article 9.61.            | Estimated Cost<br>\$8,000.00 to<br>\$12,000 |
| Option #1  | Consider, draft and insert defenses against preemption claims (recommended if County desires its Ordinance to depart markedly from Ch. 293.)                    | \$1,200 to<br>\$2,500                       |
| Option #2  | Incorporate Oneida County's stated preferences, as feasible, in accordance with Ch. 293, Wis. Stat.   | None Stated;<br>Not Estimated               |
| Option #3  | Review and comment on any existing draft Local Agreement, or prepare preliminary recommendations on strategy for a local agreement and outline content of same. | \$1,200 - \$2,400                           |
| Option #4  | Prepare ferrous mining ordinance (not included above).  | Not Estimated                               |

The Work set forth above is based on the following assumptions:

1. The Phase Two work would result in Article 9.61 being inapplicable to ferrous metallic mining.
2. This cost estimate is only an estimate and may not allow for fully achieving the described work. The cost of Phase Two will be re-estimated at the end of Phase One.
3. Each in-person, 2-hour meeting in Rhinelander would add \$1,500.00 of cost.



William P. Scott is both an attorney and licensed professional geologist. For 30 years he has concentrated his legal practice on environmental and natural resources law as applied to real estate development, mergers and acquisitions, regulatory compliance, permitting and enforcement defense, and has practiced zoning law including obtaining zoning approvals, appealing zoning decisions, and writing zoning regulations pertaining to metallic and non-metallic mining.

Mr. Scott solves problems involving environmental regulations and natural resources law. Bill represents private- and public-sector clients on Brownfield redevelopment, real estate development, environmental regulatory matters and zoning. Bill's geological training and experience with administrative agencies helps his clients plan and execute practical solutions to difficult problems. He applies his legal experience and geological knowledge to achieve optimal results. He has significant experience developing strategy for and directing brownfield redevelopment; performing transactional due diligence and liability allocation; orchestrating environmental impact analysis; preparing mining regulations; and resolving controversy in asbestos abatement, dam regulation, shoreland and other zoning and water law. He has been very successful in resolving controversies through negotiation to achieve client objectives. His experience practicing before administrative agencies helps resolve alleged violations and obtain permits, exemptions, variances and funding grants for his clients.

Mr. Scott received his B.A., M.S., and J.D. degrees from the University of Wisconsin-Madison. Before law school, Bill worked seven years as a geologist with the University of Wisconsin-Extension Geological and Natural History Survey, as a Specialist in the Mineral Resources Section concentrating on metallic mineral resources and exploration. During law school, Bill interned with the Wisconsin Public Intervenor and served as law clerk for the Environmental Protection Unit of the Wisconsin Department of Justice.

Mr. Scott is admitted to practice in Wisconsin, as well as the U.S. District Court for the Eastern and Western Districts of Wisconsin. He is a member of the American Bar Association Section on Environment, Energy, and Resources; the State Bar of Wisconsin Section on Environment; and the Milwaukee Bar Association.

Honors and awards bestowed to Bill's Brownfield projects include the following:

- Award for Economic Impact, 2012, Brownfield Renewal Magazine
- Award for Adaptive Re-Use of Public Land, 2012, 1000 Friends of Wisconsin