

TOWN OF ARCADIA

Trempealeau County



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Ronald Tuschner, Chairman (608) 323-3035

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Town of Arcadia Corrected Minutes of Special Board Meeting with the City of Arcadia Monday, November 24, 2014 at 7:00 p.m.

The board meeting was called to order by Chairman Ronald Tuschner at 7:01 p.m. Open meeting certifications were met. Roll call was taken. Board members present: Chairman Ronald Tuschner and Supervisors Michael Chitko and Ivan Pronschinske. Also present was the attached list.

R. Tuschner led the Pledge of Allegiance.

A motion was made by M. Chitko and seconded by I. Pronschinske to adopt the agenda. The motion was carried unanimously with a voice vote.

Application to United States Environmental Protection Agency to designate City of Arcadia landfill as a Brownfield site and Application to United States Environmental Protection Agency for grant to identify plume of contamination associated with City of Arcadia landfill

John Kimmel gave background history of the landfill including: the closing for 20 years; monitoring wells; new ownership and developer's agreement for a Brownfield site and post landfill use; previous use; previous meeting with the Town of Arcadia; agreements and responsible parties; liability; costs/funds; main role for the Town of Arcadia is to be the applicant; and thanked the Town of Arcadia for hosting the meeting. R. Tuschner talked about the discussion held with the Town's attorney concerning applicants. The Town of Arcadia does want to help. Discussion continued on time and applications; Wisconsin Department of Natural Resources using the clean-up grants for the whole State rather than individual sites/larger sites because they can only do it one time; non-profit corporation; status of Green Alliance Holdings; grant application and phases; Green Alliance Holdings acquired the property in May or June, 2014; City not being able to be the applicant changed after the developer's agreement was signed/in the last 3 months; concerns of Town of Arcadia liability; contractual agreements releasing applicants from liability; variety of contamination from different residents including City and Town; no blame but an opportunity to clean up and make something positive from it; clean-up costs; DNR priorities; EPA (Environmental Protection Agency) assistance; CERCLA insurance and its procedure; having the Town's attorney present at the meeting; and costs. R. Tuschner read parts of a letter from the Town's attorney, Daniel Gustafson, who has knowledge of this type of work. A copy of this is on file in the office. Discussion continued on: responsible party; agreement between the City and Town; and email about the timeline from John Herzog. At this time a 5 minutes recess was taken. At 7:38 p.m. John Kimmel returned with John Herzog on speaker phone and the meeting reconvened. J. Kimmel introduced the members present and stated that the meeting was being recorded. Discussion continued about the timeline and still being able to make the December 19 deadline for this year; questions being answered and meet the deadline; email from J. Herzog to M. Chitko to withdraw the request for Green Alliance for the year of 2015 and the tight deadline; meeting date; loss of only 1 business day; good working relationship; moving forward with the project; CERCLA insurance, being based on the findings, the \$500,000 cap., and super fund; no cost to the Town of Arcadia because the City of Arcadia is the responsible party; if the Town became a PRP, they would be ineligible to apply for the grant; if the Town became a PRP, would they become liable if they started the process over and/or if the DNR took it over, would the Town still be liable for any damages that occurred in the clean-up, if we become a PRP; the attorney said it would be possible if a Town resident contaminated the

area, then the Town could become a PRP, J. Herzog stated that his understanding at this time this would be disclosed and given to the DNR and the USEPA, it could be a possibility, but their intent is not to seek the people or bring in other entities as a PRP, he can't imagine, at this point, that they are looking for anyone else; it could exist, but is not probable. Terry Madden clarified that the administrative person at Kansas State said the Town of Arcadia was an acceptable applicant. J. Kimmel stated that the City of Arcadia was the responsible party, because there wouldn't be any way to identify who actually put what into the landfill. The City is already on paper and on the books that they are responsible. M. Chitko asked if after the grant process, because we are sponsoring the grant as the applicant, are we obligated to stay to the end or can we stay on or jump off the bandwagon if we want to. J. Herzog stated that at this time the Town of Arcadia is only to get them listed for the Brownfield site, in the event they are awarded the grant money, it would be for investigative work only, and nothing beyond that because they are not applying for anything else. R. Tuschner asked about the administration of the application and who is responsible to administer the grant. J. Herzog stated that the grant applicant receives the funds which will be forwarded to them through the Town of Arcadia. J. Kimmel stated that the City of Arcadia will cover any administrative costs for the grant incurred by the Town of Arcadia. At this time J. Herzog left the conversation. R. Tuschner stated that he is concerned about lawsuits and requested legal documents to release the Town of Arcadia. This agreement will be worked on between the Town of Arcadia and City of Arcadia attorneys. The information for the Town of Arcadia attorney was discussed at the open session meeting on November 6, 2014. After the attorneys have completed the agreement, it will be brought up at special meetings at each entity. R. Tuschner talked about the special meeting procedure and notifying adjoining landowners when topics that affect them are on the agenda. Discussion was held on the timeline for completion of the agreement, meetings, and transparency in government. It was decided to go ahead with the agreement and authorize the application to go forward. Discussion was held on how to state the motion. A motion was made by R. Tuschner that the Town of Arcadia allows the City of Arcadia and Green Alliance to name the Town of Arcadia as the grant applicator with the signing contingent upon a satisfactory contractual agreement between the City of Arcadia, the Town of Arcadia, and Green Alliance, all three. J. Kimmel asked to add: the application to identify the plume of contamination. R. Tuschner did not have a problem with that; he wants the other language as he presented so that it is a go ahead contingent upon satisfactory approval of the contractual agreement between the City of Arcadia, Town of Arcadia, and Green Alliance. Discussion continued on the including of Green Alliance in the agreement. R. Tuschner referred to the letter from the Town's attorney and his recommendation. T. Madden thought the Town was looking for indemnification if Green Alliance causes the contamination to spread. Discussion continued on the time factor with the third attorney and the 2 attorneys; Green Alliance being a party to the contract or to make sure the Town is indemnified from any Green Alliance activity; the City taking on the responsibility; and the three parties involved. B. Killian asked for the motion to be restated for Ryan Sheehy and she to make sure it was written correctly. R. Tuschner restated the motion: The Town of Arcadia allows the City of Arcadia and Green Alliance Holdings to name the Town of Arcadia as the applicant for the Environmental Protection Agency to designate the Town of Arcadia as the applicant to establish the Brownfield site and to grant the City of Arcadia and the United States Environmental Protection Agency the grant to establish the plume of contamination. This is both A and B on the agenda. B. Killian re-read the motion. The motion is: The Town of Arcadia allows the City of Arcadia and Green Alliance Holdings to name the Town of Arcadia as the grant applicant for the United States Environmental Protection Agency and to designate the City of Arcadia landfill site as a Brownfield site and to apply to the United States Environmental Protection Agency for a grant to identify the plume of contamination associated with the City of Arcadia landfill contingent on the City of Arcadia, Green Alliance, and the Town of Arcadia signing a contractual agreement for indemnification between the Town of Arcadia, the City of Arcadia, and Green Alliance. The motion was made by R. Tuschner and seconded by I. Pronschinske. J. Kimmel asked about including Green Alliance Holdings and the costs incurred; the City is paying the cost of a double bill; if Dan Gustafson says Green Alliance is not needed to be a part of this, why force it; if something comes from D. Gustafson that says Green Alliance should be a part of this, we will consent to that, but if they don't need to be, trust your attorney's advice; leave it up to Dan and Terry to get the communication back to you; if they say you need it we will consent to it, but if Dan says you don't need it as long as you are indemnified, why make the City taxpayers pay for it. R. Tuschner stated that we are not trying to have the City incur any more money than necessary; and we are doing what we normally do when we go into a situation similar to this nature, i.e. sand mines; we do not put any money on the table of our taxpayers; the individuals pay the costs; this is our standard practice; he continued giving examples. Discussion continued on the costs to taxpayers in both the City and Town. Both I. Pronschinske and M. Chitko stated that they would go along with whatever Dan says. J. Kimmel asked for Green Alliance to be left out of the motion. Leave Green Alliance's involvement in the agreement up to the attorneys, if they mandate it, the City will pay it, but if they don't mandate it then don't make the City taxpayers pay for it. Discussion was held on how to amend the motion. T. Madden stated that it would be just to remove Green Alliance at the end. An amendment to the motion was made by M. Chitko and seconded by I. Pronschinske to read: The Town of Arcadia allows the City of Arcadia and Green Alliance Holdings to name the Town of Arcadia as the grant applicant for the United States Environmental Protection Agency and to designate the City of Arcadia landfill site as a Brownfield site and to apply to the United States Environmental Protection Agency for a grant to identify the plume of contamination associated with the City of Arcadia landfill contingent on the City of Arcadia and the Town of Arcadia signing a contractual agreement for indemnification between the Town of Arcadia and the City of Arcadia. (Green Alliance will be deleted from the signing of the contractual agreement for indemnification)

ORIGINAL: The amendment was carried unanimously with a voice vote.

CORRECTION: There was a voice vote; M. Chitko and I. Pronschinske voted yes; R. Tuschner voted no. The amendment was carried. The amended main motion was voted on by a roll call vote. R. Tuschner, no; M. Chitko, yes; I. Pronschinske, yes. Motion carried.

R. Tuschner adjourned the meeting at 8:29 p.m.

Respectfully submitted by,

Beth Killian
Town of Arcadia Clerk