

TOWN OF ARCADIA

Trempealeau County



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Town of Arcadia Minutes of Special Board Meeting Wednesday, December 17, 2014 at 6:00 a.m.

The board meeting was called to order by Chairman Ronald Tuschner at 6:00 a.m. Open meeting certifications were met. Roll call was taken. Board members present: Chairman Ronald Tuschner and Supervisors Michael Chitko and Ivan Pronschinske.

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.

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

The attorney, Dan Gustafson, provided a final copy with the changes made to the final draft. The language changed was on page 3 article 2.3 entitled audit. It has been changed to: the Town shall during normal business hours and upon reasonable notice provide to the City and its authorized representatives access to view the specific file or files in the Town books, records, and accounts relating to the Town's application and administrative costs associated with the designation, the Brownfield assessment grant application, or the administration of the grant or cooperative agreement in order to verify the application and administrative costs reported by the Town from November 6, 2014 until total completion of the assessment process. This does contain the changes requested from the Board. Discussion was held on this change and that this states that the records to be accessed would be associated with the Brownfield assessment grant itself and not all of the Town records, which is what we requested. Also discussed was Greenfield Alliance being part of the indemnification. R. Tuschner asked for a motion on the audit portion of the changes made. A motion was made by I. Pronschinske and seconded by M. Chitko that the Town Board accept the revised language on page 3 article 2.3 of the agreement between the Town of Arcadia and the City of Arcadia. Roll call vote: M. Chitko, yes; I. Pronschinske, yes; R. Tuschner, yes. The motion carried by the majority in a roll call vote.

The next item in the contract concerns the indemnification to the Town of Arcadia with and by the City of Arcadia. It was the request of the Town Board to include Green Alliance in the indemnification. In an email from Dan Gustafson dated December 16, 2014 pertaining to that item, it gives the Board his feelings. Two things in the opinion that struck R. Tuschner were: first, more than likely with the shell company and its assets being taken away very readily and if something happens there would be nothing left for the Board to be able to go back after; and second, maybe without knowing what is in the contractual agreement between the City of Arcadia and Green Alliance of Wisconsin or Green Alliance LLC, what that agreement says, maybe they themselves are indemnified by the City of Arcadia. Without the contractual agreement and with the time limit of December 19 looming at us, it was his feeling that we probably will be

covered as well as we possibly can be litigiously for this. R. Tuschner had asked D. Gustafson to make a motion that he thought would be acceptable and correct when we and if we do accept this. This is in the email on page 2, second paragraph. He read the motion into the minutes which could be seconded, not seconded, amended to the way this Board feels it should be amended to. The motion was made by R. Tuschner and seconded by I. Pronschinske to approve entering into the proposed Brownfields Grant Agreement by and between the City of Arcadia and the Town of Arcadia, as revised by the Town's counsel on December 16, 2014, and authorizing the Town Chair to sign the Brownfields Grant Agreement, and the Application to be submitted to the U.S. Environmental Protection Agency by the Town, no later than December 19, 2014, requesting designation of the City of Arcadia Landfill as a 'Brownfield Site,' and approval of an EPA Brownfields Assessment Grant to the Town for the purposes of conducting an assessment of the landfill site and any contamination migrating off-site from the landfill, provided that the City (or its agents, affiliates or consultants) timely provides the Town's counsel with a draft Application, and the Town's counsel approves said Application, after review and, as needed, revision of same. I. Pronschinske stated that it was a lengthy motion, but was need to include all of the necessary things, and referenced a shell corporation and possible future legal battles. M. Chitko stated that the third paragraph of the email summed up what we were looking for and that we could go forward with this with reasonable safety. We are getting indemnification from the City and they probably have indemnified Green Alliance anyway. They would not have any liabilities. R. Tuschner stated that financial portion of recovery might be minute or impossible. I. Pronschinske felt that something should be done. He has not seen anything in writing that the Wiersgalla well has been contaminated. He feels there are still some questions of the City that need to be answered to the Town, and that if we do go forward they should be more open to us. Discussion was held on openness and public's trust. This needs to be addressed with the City, Mayor, and Council. They have known about this longer than the Town. R. Tuschner stated that what we need is a formal motion to the City of Arcadia, if we agree to this in our acceptance of this motion, we need another motion to the City of Arcadia making it our feelings, so that it is public that with the signing of this request for the grants that we are requesting in very uncertain terms that any and all material, whether it being oral or written be provided to the Town the same as to the City of Arcadia and any of its counsel and/or Mayor. Discussion was held on this comment. It would be the same motion that we just voted on; we have the ability to look into their Brownfield site paperwork and notes; they willingly provide everything from the past to the present upon request; we have a right to that; no surprises, now or in the future; what is discovered; and our right to know about the plume to let our constituents know and provide transparency to the public. The motion to the City of Arcadia will be a separate motion in letter form sent to the Mayor, Council members, and attorney. This will include information from the beginning, where we are at, and to the conclusion of this project; the same as 2.3 as we agreed to. Transparency needs to be saved between Council and Town Board which has been asked for the last 2-5 years; the Council and Board to work together; City has not responded to work together; Town of Arcadia has taken a step forward with this mutual agreement to work together when we can; wants the City of Arcadia to reciprocate the same way; adding this as an addendum to the agreement or not; things are being kept from the Town; sending a letter on how the Town feels; not holding up the agreement; on record that we asked for this; make it known publically what we have been trying to do; spirit of willingness to work together and not force; and letter vs. addendum, the letter would be more general, not specific to the Brownfield site. Roll call vote: I. Pronschinske, yes; M. Chitko, yes; R. Tuschner, yes. The motion carried unanimously by roll call vote. R. Tuschner will notify Angela Berg and Mr. Kimmel of the acceptance of it. M. Chitko will call Mr. Gustafson that we have approved the Brownfield grant agreement as he presented, the last one to us, this morning. He can contact Mr. Madden, attorney for the City of Arcadia, and do what they have to do to get this cleared by both attorneys and final signatures can be affixed to the said document prior to December 19, 2014.

R. Tuschner adjourned the meeting at 6:30 a.m.

Respectfully submitted by,

Beth Killian
Town of Arcadia Clerk