



W26051 State Road 95, Arcadia Wisconsin 54612 ▪ Phone and Fax (608) 323-3470
▪ Email: townofarcadia@triwest.net

Ronald Tuschner, Chairman (608) 323-3035
Ivan Pronschinske, Supervisor No. 2 (608) 323-7675

Michael Wineski, Supervisor No. 1 (608) 323-2333
Nancy Rohn, Town Treasurer (608) 323-7063

**Town of Arcadia
Minutes of Regular Board Meeting
Wednesday, February 5, 2014 at 7:00 p.m.**

The board meeting was called to order by Chairman Ronald Tuschner at 7:00 p.m. Open meeting certifications were met. Roll call was taken. Board members were present: Chairman Ronald Tuschner and Supervisor Ivan Pronschinske. Absent was Supervisor Mike Wineski. Also present were the attached list of residents.

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

A motion was made by I. Pronschinske and seconded by R. Tuschner to approve the minutes of January 20, 2014. The motion was carried unanimously with a voice vote.

A motion was made by I. Pronschinske and seconded by R. Tuschner to approve disbursements of February 5, 2014. The motion was carried unanimously with a voice vote.

At 7:04 p.m. R. Tuschner opened the floor to public comments for other topics that were not listed on the February 5, 2014 agenda.

Karen Geske spoke regarding her concern that the city and town council members ignoring their constituents, neighbors, friends and family members concern on the issue of sand mining. She stated in 1976 Badger mining became their neighbor and how it became extremely stressful being outdoors. She requested that the Board members not to issue any more permits in the Township until the public can vote if they want the industry in their neighborhood. The entire commentary by Karen Geske has been entered into the formal meeting minutes.

R. Tuschner made the second for public comments and then a third call. He then closed the public comments at 7:10 p.m.

Update on Possible Implementation on Licensing Ordinance with Bruce Brovold: This portion of the meeting was open for public questions, concerns and comments.

Bruce Brovold stated that he did not prepare any remarks. He stated that he expected questions and to please interrupt him. He asked those in attendance to raise their hand to ask a question and he would do his best to answer them. He made the following statement:

Bruce Brovold: As probably all of you know permitting of non-metallic mining in Trempealeau County is totally in the control of the County government. The town has a very limited in put into permitting mines. It is zoning and many years ago every town in Trempealeau County elected to have the county handle its zoning. That is still the law. That will not change unless either the state legislature changes the law which says that once a town gives it zoning rights to the county they stay there or the unlikely possibility that the county would change its zoning ordinance that the towns would all have a chance to decide all over again; that is unlikely to happen. As it stands whether or not a mine is going to be permitted to open is decided by the County. Now, what is this about licensing a mine? This is something new. Not long ago the Wisconsin Supreme Court decided a case involving a town called the Town of Cooks Valley. That a town had the

power under its general authority to protect the health and welfare of its citizens to require that a mine that the County permitted must still have a license to operate. Picture a liquor license for a tavern. Newcomb Valley gets its liquor license from the Town of Arcadia. Similarly a mine opened by the County could still be obligated to have a license from the Town, even though it has a permit from the County. How does a license work? A license cannot do what zoning does; for example decide the location of the mine. Zoning decides the area to be residential or agriculture, and industrial. The Town has input but the input is non mandatory. What a Town can do if they adopt a licensing ordinance is govern such things as air quality, lights, traffic, sound, ground water protection, surface water run off, safety of the roads, traffic at certain times of the day, etc.

Question: The licensing of the road is that just a Town road?

B. Brovold Response: I do not know the answer. Licensing is new and I believe that when more towns in the State elect to do more licensing there will be court challenges. There will be towns that go too far and step over the line. They will turn what should be licensing for health and safety into zoning and those towns will lose. We will see those cases and we will learn more. Half of me wants to say yes because the other half of me says the town is entitled to protect its citizens should be able to determine a flow of traffic at like school bus time no matter where it is. The other half of me says wait a second the State of Wisconsin is the dominant legal authority in the State of Wisconsin and if it is not going to limit traffic on 93 or 95 how can the Town do so.

Question: Could there also be duplicate criteria set for air and water? Could it be set at the County and then at Township?

B. Brovold Response: The State has guidelines. The Town is entitled to set its own number. It cannot be arbitrary. The town cannot just pick a number. It must be supported by science to establish that the number that the Town picked is a number that makes sense for protection of health and safety.

Question: Can a standard for example like sound exceed State and Federal guidelines?

B. Brovold Response: That has not been decided.

Chairman, R. Tuschner requested that residents please state their name prior to asking their question.

Question asked by Karen Geske: Can a Township protect itself from the State or from corporations that want to come in and mine by becoming into a trust?

B. Brovold Response: If you are asking adopting village powers, that is something different. We are a town. Towns can adopt village powers but it is a complicated process and has some not so good aspects to go with it. If you are asking if the Town can limit the number of mines, I do not think so because that is zoning. Zoning is up to the County. Can the Town require that each mine have a license and then obey the rules of the licenses? The answer to that is yes.

At this time, we do not know how strict the license rules can be. The Zweifelhoefer case said that a Town is entitled to protect the health and general welfare of its citizens. The Town cannot usurp the County powers to zone but can require licenses and can put obligations on those licenses. Example: The Town set hours that taverns can be open. The towns can do things to protect the citizens. How far can we go if we elect to go there is going to be I am afraid it is going to be a learn as we go.

Karen Geske: So even in the case where you could apply nuisance.

B. Brovold Response: Nuisance is a different law. It is a tort law. It is a law of damages and it would not fit it what I am speaking of this evening.

Jeff Bawek: Could you speak about an overlay district at the Township level that the Town could enact?

B. Brovold Response: Talking about a zoning overlay district. Not with any sense that I would be getting it exactly right. I have never done anything like that. What you are talking about is the Town adopting its own overlay zoning which overlays the County.

Jeff Bawek: It is your own Township and then it goes to the County to be approved.

B. Brovold Response: I am not familiar with overlay zoning.

Question by resident: Over time, for example in a ten year span, can the license be renewed within a year or a certain period? Can the Town license be more strict and/or held at a higher standard? Is that company grandfathered in.

B. Brovold Response: Licenses are by their nature renewable, unlike a permanent grant similar to an easement. A license legally and traditionally is renewed periodically. There is a licensing fee that is paid. The fee has to

be has to be reasonably associated with the cost of the Town to handle the administration of the license. It cannot be a profit center but it does not have to be a loosing proposition.

In regard to changing the rules, the current law reads so long as the rule changes are supported by the facts and the science; the rules can change. This is not a licensing agreement, it is a license.

Question by resident: So this is in contrast to what is called a Developers Agreement?

B. Brovold Response: Yes, is significantly different from a Developers agreement. This does not prevent a town, village or city from entering into a development agreement. This is not one, it is a license.

Question by resident: How does a developer's agreement differ? In that case are you basically contractually negotiating payments that exceed the cost of administration?

B. Brovold Response: The idea of a development agreement is in exchange for allowing a mine essentially to destroy town property like roads. The company pays development use fees to replace those roads and help with law enforcement, pay for inspectors etc. The development agreement is not limited in reasonableness in amount like a license.

Question by resident: If the county zoning has the most stringent decibel, can the licensing of the Township be less stringent?

B. Brovold Response: Yes, the Town can be less stringent. The County grants the conditional use permit. The County is entitled to put conditions on its conditional use permit. The Town can license operations. When it grants a license, it can have rules that the licensee must follow. If the County level is more stringent than the Town, the mine will not get in trouble with the Town. It will not breach its license so long as it stays within the Town level. If it breeches the County level, it could loose its conditional use permit. A mine cannot operate without a conditional use permit.

Donna Brogan: Ask why this is being pursued.

B. Brovold Response: I was asked to come to the town meeting to explain licensing ordinance law. This is something new that Towns can now get invoked. It is not cheap, and it is complicated. If Towns want to; the law says Towns can.

Donna Brogan: Can the Board members are pursuing this.

R. Tuschner, Chairman Response: The Board like the residents in attendance are also learning about licensing. This is a public forum for education.

Paul Winey: What are the names of the two towns that are doing licensing?

B. Brovold Response: I cannot not remember the name of one town, but the other one is the Town of Hixton.

Question by resident: Cooks Valley is village powers, are they licensing?

B. Brovold Response: Yes, they are licensing.

Paul Winey: Cooks Valley is not under county zoning. And that was one of the ways they were able to obtain village powers.

B. Brovold Response: If a town wants to adopt the licensing ordinance, it can even though it is county zoning.

Paul Winey: What is the advantage of licensing?

B. Brovold Response: Do not know if there is an advantage. The theory is that if a Town requires licenses for mines, the town can add obligations to the licenses that the County typically would not on a conditional use permit. The idea is that the Town, in theory, is better attuned to the needs of the health and safety of its constituents than the County. Again, this is a theory. Whether it would work or not is difficult to say. Any Town has a small budget. Enforcement will be costly. Licensing fees must be reasonable otherwise will be tossed out by the courts. Will the cost of enforcing over run the licensing fees? If they do, where does that money come from?

R. Tuschner: The Town has set up conditional uses/or requests. At the County level the Town is told that we do not have enforcement over a conditional use. Does the Town have power on a license?

B. Brovold Response: The license would have nothing to do with the County. The question is would the Town be able to enforce it. Would the Town have the financial ability to enforce the power that you might adopt? It is good to make rules but who is going to monitor it.

R. Tushner: If the financial end of it would be a problem, can that be specifically be put in that agreement that the monitoring, air quality, etc. that all costs be born by the developer at the time constraints set for by the Town. Is that possible?

B. Brovold Response: In theory, a development agreement can have what ever the two sides agree to with some restrictions. Towns, villages and cities can collect fee revenue that covers costs otherwise the only way that towns, villages and cities can collect revenue is by taxation. Of course taxation has to be based on valuation. That is a constraint. The difficulty the Town of Arcadia, like every town in Trempealeau County has is where our bargaining power to make a development agreement. If ABC Mining Company comes to the Town of Arcadia to say they have applied for a conditional use permit at the County we would like your support. The Town says not unless you sign this development agreement. Then ABC mining says they are not signing. The Town votes no to the mine. The mine goes to the County and gets the permit anyway; the Town is now out of luck. Maybe you can bargain a development agreement in exchange for the approval but it will be difficult. The theory a development agreement sounds good but like any contract when you bargain for something it is give and take. Ultimately, someone will end up with an advantage and if we really have nothing to give why should a mining company give the Town a development agreement.

Question by resident: What do we do when we have these mines coming in? They did not ask any of us if we wanted them here. Now what is the difference between that type of industry and let's say I come to the Board and want I want to open up a strip joint business across the street and they deny me a permit to open that business. What rights to do we have as the people that live in this township? What are my rights? Is there any kind of nullification that we can use?

B. Brovold Response: No. You have the right to vote as a citizen.

Resident Response: My vote does not count then. Do we have to become a corporation in order to be heard at the same level that major corporations are?

B. Brovold Response: To obtain a mining permit, you must go to the County. What you need to do and want to do is to attack the permit process, you must go to the County. The Town cannot address any matters on zoning. It must be done at the County level.

Resident: We need to remove that from the County.

B. Brovold Response: You have to go the State Legislature to do that. Talk to your legislatures.

I. Pronschinske stated: Town of Arcadia does have an ordinance for strip joints.

Resident: What is the violation of the license agreement? What is the deal with people with deep pockets that tie up the litigation? How do we survive the whole process?

B. Brovold Response: You are voicing my fear. On the surface licensing sounds like a really slick thing. We can require a license and any body that operates in the Town has these licensing rules that they must abide by. It would be Town wide and it is based upon the science. If we have a license and it is consistently violated and every time a violation is prosecuted it is dragged out as expensively as possible.

Henry Schultz: My fear is the reclamation. There can be hundreds of acres than the city would have. Reclamation can be very costly and it is a cost that the mine does not want to deal with and will leave the mine open as long as they can.

Paul Winey: It almost seems that at that point that it's the Towns licensing can be more stringent than the county. A company wanting to come in and get in operation would push to challenge that. Where is the advantage of it? The only to avoid the challenge by the company is to avoid making the guide lines less stringent and then you are giving things up.

Otherwise, it is sort of the same argument on a different scale of if the County continues to tighten their restrictions this is going to push the companies to annex in the cities to avoid more restrictions. If the townships license is more restrictive that is either going to push them to annex or push them to challenge legally. Which we do not have the where with all to say that. If you use that argument of the County being more restrictive it is going to push for city annexation you will have to almost apply the same argument with the township level saying that it is more restrictive which is actually more protective to the health safety and well being. Now yours is less restrictive than the county now you have created a dichotomy that I do not know who is going to answer.

B. Brovold Response: I agree with you Paul.

Paul Winey: One argument that if you apply it to one, I think you have to apply it to the other because you are talking about restrictions and regulations. And you have a pair that is going in one direction the same pair has to apply to the other.

I. Pronschinske: Bruce you were talking about reclamation. Each mine company puts up a bond for reclamation for dollars and cents, whether it would be about one half million dollars. They post a bond and they have to pay insurance on it.

Henry Schultz: A million dollar bond now is going to be peanuts in 10 years.

I. Pronschinske: Well if it is a million dollars whatever the County puts on it. They pay a bond.

B. Brovold Response: Bonding is something that the Town could require too under the license if it wanted to. Of course, I know exactly what the argument would be if I was a lawyer for a mining company. I would say that Town you are being unreasonable because the proven cost is what the County has established and you are making me double it up. I am taking you to court. That is what would happen, probably.

Hank Schultz: They could tie it up in litigation forever and it is cheaper.

R. Tuschner: Bruce I have a question for you in relation to the last comment to Dr. Winey. And at least in my mind, I have been under the assumption that I could very well be erroneous on that but if the dichotomy is as he said we are basically budding heads together and not really coming to an end result. Either the Town licensing or the County issued a CUP (Conditional Use Permit) Then at some point, in your opinion, is it incorrect to turn around and take both ends and try to meet in the middle and try to prevent annexations from happening where both parties are actually going to get the better of the two sides. The point that I am getting is the word compromise. Compromise can be bad for this side and can be beneficial for this or vice versa. How would that work in that scenario?

B. Brovold Response: As I see it, so long as the State law is what it is there can never be a compromise without the County. That is the short answer. In some locations, counties and towns have worked together with mining companies and had resulting Development Agreements. A development agreement was mentioned before. I have not seen that in Trempealeau County. Maybe it has happened, but I have not seen it. The one thing that when I was reading about this new licensing concept, I was thinking to myself that if a Town wanted to do licensing maybe something to consider is to have the license cover what the County does not. So long as it relates to the health and safety of the citizens of the Town. Traffic is one that comes to mind. What I have seen from the County Conditional Use Permits they have been are lacking on traffic to my way of thinking. I am sure there are others. The County tries to protect neighboring properties; maybe a Town license could do a better job on that. There again we are not getting in a fight over air quality or how many decibels is safe from whatever distance sort of thing. This is what the County has been trying to do. Those are just a couple of examples. I am sure if one looked at it there may be others if the Town wanted to.

R. Tuschner: But there might be room for a compromise someplace.

B. Brovold Response: The concept would be if the Town is going to use the exact same standards as the County then why are you messing with it. Why are you going to the expense? If the standards are tighter, now you know that you are going to have a fight. You really can't afford the fight, if the County is already handling the standards that we were going to use anyway. Why should we duplicate it? Maybe there are some things that could make mining more palatable to the community and the neighbors that the County does not cover.

John Schultz: Can licensing include a mandate for property value protection?

B. Brovold Response: It was not mentioned in the Zwiefelhofer case as one of the powers. The thing about property valuation protection it is not health and it is not safety, it is money. We would be stretching the holding of the Supreme Court case to go there. Unlike, protecting the well water which is clearly health; traffic, which is clearly safety. Currently, John, I have to say I do not think so.

John Schultz: I just feel that to ponder the possibility that the equity that I have been building that for that value to just go down and it is out of your control to me that seems stressful and does not seem healthy.

B. Brovold Response: That is was zoning ordinances are intended for and the case is pretty clear that towns are not to use licensing to back door into zoning.

I. Pronschinske: John to answer your question on real estate. There was a sale on Thompson Valley Road, the Joe Matchey property was listed in the tax book at \$116,100.00 and sold for \$225,000.00.

John Schultz Interrupted Ivan: Everyone's property is under assessed on value.

I. Pronschinske: Anyway that is what the property was listed in the tax book. On Highway 95, near the Winey residence, Alpine sand mine, Rumble sand as it states in the tax book he pays \$15,301.63, Alpine pays \$30,137.86 for a grand total amount of \$45,439.49 in net taxes to Town of Arcadia. John alluded to Guza sand mine. The Guza's have Cameron Rail which has the assessed valuation of what they pay is \$5,977.00. Guza's ten acres is assessed at

\$150,000.00 and he pays \$3,004.00 on that for a total of \$9,377.00 is what is collected. In comparison on Kramer's, up on the hill in Schultz quarry, he has 287 acres and he pays \$10,958.60. What I am saying is that without the mines, in the Town of Arcadia, on the assessed valuations with that \$68,000 or that 3 million dollars does not sound like much because we have got 145 million dollar assessed valuation on 75,000 acres. But still if we did not have that it would give us another assessed valuation would be \$50.00 on every \$100,000.00 on assessed value.

Resident: What percentage of that money is allocated toward those roads?

I. Pronschinske: What percent? We have mine agreements. The one I am thinking about is on Cross Road, with Bob Hempker. We receive .43 cents for every ton that leaves the sand mine. Out of that, we maintain the road from Highway 93. We have resurfaced it this past summer all the way back to the mine company. We must have collected an estimate of \$30,000.00 to \$40,000.00. If the road deteriorates to a point that we spend more than what they have in the road fund, the mine will have to pay the cost out of their pocket. There is no reason it should cost the tax payers for that. We have bonds on the bridges in our township. We have roughly 745 houses in the town of Arcadia. For example if everyone had an assessed valuation of \$100,000.00 it would cost everyone another \$50.00.

B. Brovold: Does anyone else have any further questions on licensing otherwise, I can leave.

Resident: Have we figured out where property values drop with the land around the mines?

R. Tuschner: Let's stick to the licensing and then we will get back to you?

Carol Bawek: What type of position would have to supervisor the licensing, and if so does this Township already have this position on hand?

B. Brovold: The type of person or persons would need to be professional/trained at whatever requirements there are in the license. So if it is air quality, it would have to be people with a scientific background to be able to measure the air quality. If it is protection of the ground water, it would need to be the sort of people who know how to make certain that the ground water is not being negatively impacted by the mining. It all depends on the rules of the license. If the only thing part of the license is that you cannot blast except between ten in the morning and two in the afternoon and that is it. Then anyone that can hear a blast and can look at a watch can be hired to monitor that rule. The short answer is that it all depends. I doubt that we have the people who have the scientific acumen to determine whether or not a mine is operating in such a way it is going to negatively impact the ground water. Those are typically people with engineering degrees.

R. Tuschner: Bruce if I may add to that, we are having enough trouble in the Township right now keeping up administratively. So there is going to be an additional cost there because that data has to be collected, stored and kept on file. We cannot keep up with our administration at this point in time right now. I not putting that as a negative, I am just saying put your feet on the ground, it is realistic. We don't have the personnel as Bruce explained with the expertise; we do not have the administrative staff right now to do it. No way.

Hank Schultz: If Bill 349 becomes law does this make our licensing difficult?

B. Brovold: If I understand that law correctly, it allows towns to recapture the zoning powers that the towns gave up 30 years ago.

Hank Schultz: That is only to keep the Counties in check, really. The permit would be held by the regulations of the County.

B. Brovold: Yes. Now, first off the bill has not even gotten out of a committee. So ultimately, if it got out of a committee and got through both sides and the Governor signed it; it would be what the law says. So maybe it would be only going forward and that anybody who already has a permit would be entitled to keep it. I do not know until we write it. But that is the goal of the application.

Becky Larsen: Gentlemen of the Board, our process is that if I want to have a sand mine, I would bring my proposal here and we would have three meetings to bring information and then you gentlemen would come up with conditional permits.

B. Brovold: No, that is not correct.

Becky Larsen: Is not that the procedure that we have been doing though.

B. Brovold: It is suggestions.

Becky Larsen: I am sorry suggestions. Ok so then you give your recommendations. Then I bring that to Zoning. Do you find that the Zoning condition permits are less stringent or more stringent that your set conditions? Or are they the same? Because well may be Zoning will have their 23 conditional permits with the decibels and health and safety. Are they matching yours pretty much.

I. Pronschinske: What we send up to the County for example is on a Town road on how the mine is going to pay to keep up the Town road. As far as canvassing the trucks and the blasting hours; the blasting hours are regulated by the State.

R. Tuschner: The water is now regulated by the State.

B. Brovold: I am not involved in that process but I think what Ivan was saying probably the answer is that the Town's recommendations are in addition to what you already know what the County is going to do. The Town recommendations are probably more specific for the location and the occurrence, like the Town road or maybe a neighbor very nearby. The County has its list and of course it is handling a large volume for the whole County.

Becky Larsen: Just a question. Thank you. I am just fearful that they may be less stringent and that is my fear. I am wondering what the process is now, we got the information a lot of us are here and I am not sure what side we are all on. But what happens next in this decision and process of either going licensing or not.

B. Brovold: Ultimately it is up to the Town Board whether or not it feels that it would be a benefit to the Town to do it. Taking into consideration everything we talked about and probably a lot more things.

R. Tushner: There would be a lot more things than just what we talked about tonight because an annexation is one; property values is another. I mean that has to be taken into consideration, I don't care who it is. That is why I said before, when I spoke and I asked Bruce this hypothetical question before; if the constituents don't want annexation they keep on coming losing more property, losing more assessed value is how we collect our taxes. We are the only one losing in this game, meaning the values and property taxes. But yet we are ending up with the same amount, I will say road mileage, police, ambulance, fire. We still have to collect the taxes. That is where we come from the financial side. We keep on losing and we are the only one losing in this. Is there some place that we can come together with the mining companies, together and compromise? I do not know. Otherwise, we are both loosing.

I. Pronschinske: To add more to that and to give you an example. This has actually happened. Arcadia Sand has annexed to the City of Arcadia. The property value that the Town lost was is \$822,900.00. Our mill rate is \$18,000.00 less than we would get, the City of Arcadia will get this amount. The School District does not lose, Trempealeau County does not lose; the Technical College does not lose; the Town of Arcadia loses. What I had said before that the sand mine out on Highway 95 on Soppa Road where we were collecting 2011 taxes in the amount of \$2,573.18. This year we are collecting \$45,439.49. Big difference!

John Schultz: How is licensing going to impact the assessment of the mines?

I. Pronschinske: John to answer your question, the frac sand mines are assessed by the State of Wisconsin. Our Assessor does not have anything to do with assessing a value of mine.

B. Brovold: To answer your question in as far as licensing John, it wouldn't. Licensing wouldn't impact the assessment because the State assesses industrial and manufacturing.

Paul Winey: How do you feel on defending the cases knowing the pockets you would go up against?

B. Brovold: It's always a problem when you have a big guy against a little guy and law is not supposed to allow the big guy to beat up the little guy. Well it does. It just does. The big guy can hire the experts from Chicago, Los Angeles and New York. And we hire someone from like Buffalo City. It is just the way it is. If you are fighting a fact case like for example was the blasting before 10 a.m.; easy stuff. But air quality, ground water, all the scientific things that are not visible to our eyes. It is hard and ultimately comes down to expert opinions. It is hard to win unless you have the better experts. You can't win the football game without the best quarterback. It is the way it is.

Paul Winey: So unless the licensing stipulations from the Township are looser than the County, there is no advantage for a mine company to want to come in and play. If you set it up tighter they are going to challenge you. Or they are going to figure out what else they can do in leverage into another position.

B. Brovold: If the sand is there and they can get to the sand they can haul the sand. They will deal with the consequences. There is the old saying do what you want and ask for forgiveness later.

Paul Winey: Sure, so the only way to play is not a compromise. I know what you are attempting to do and that is attempting to protect the Township. But I think it is the same thing as what that the County is doing. The Townships will now in essence doing it themselves. Unless you make your stipulations looser then you are giving up of what you are standing for in health, safety and welfare. And if they are looser, who has ultimate control, does it fall under the County or does it fall under the Township? There you are going to have an argument as well.

B. Brovold: Don't duplicate and have the license only have requirements that are those that the County does not. If that is worthwhile. You do not want to do that unless it is worthwhile.

Paul Winey: I don't know that they are many, other than, setting up such things as overlay districts where they can occur. How does the Town of Caledonia have an overlay district?

B. Brovold: I do not know much about overlay. I know they exist but I do not know much about it.

Paul Winey: The Township does have a road use tonnage fees that helps to repair roads. The County takes care of hours of operation; passing ordinances; sound levels; expansion of hours and lights. Air quality when necessary goes to the DNR. Water quality is approved through the DNR. The Town really has to weigh in on that. I like the angle on it; to do something that is not being covered. I don't know where the rabbit holes are that you need to cover up.

B. Brovold: Then do you have the administrative staff to do it.

Paul Winery: Then you are looking to hire someone to take a full time position.

Michelle Roesler: With the licensing instead of charging them on a front fee, can you charge them in the end of year fee?

B. Brovold: That would be unique for licensing. I think not. I do not want to say no as I have never had that question asked of me. Every other license I can think of, you pay the fee and then you get you license. I do know that in licensing, if you try to go heavy into the science side as a condition to the license, we could require the proposed licensee to pay our initial costs to study the impact their mine would have. But, then that is that and away they go. I do not know how you would police it.

R. Tuschner: Bruce, if I may add to Michelle's comment. I don't know if makes sense or not. But we presently have a mine, it is no secret, it is off of Thompson Valley Road. Where the people that run Arcadia Sands must move the road over, we have a problem with the road. The Town of Arcadia has negotiated with the mine operators. Your firm went through the permit. In that agreement all the expenses, this is where I said before about the compromise. We will get the billing but in that agreement we send all of our billings including attorney fees, engineers, everything comes through the Town and it is done to our specifications and it is reimbursed by the mining company. If they do not reimburse us, we pull their road use agreement. Without their road use agreement, they have no way to go with their product. We have done this already and to my knowledge I think we are the only Town in the County of Trempealeau that has done this. Many of the Conditional Use Permits that are in Trempealeau came from this Township. We have been getting stricter and stricter with them and we have been negotiating with them. I am not saying that it is a feather in our hat but there are things we can do and that is where I come back at the compromise and what I said before. No one has done it but no one has said that we cannot do it.

I. Pronschinske: Also, Ron with the help of the DNR, they will move the creek over. This will be a less hazard from where it is right now. With the last flood, we had a potential to lose the road.

B. Brovold: I spoke about the Town leverage earlier. The Town road is your only leverage. If the mine does not need the Town road, the mine does not need the Town.

R. Tushner: So far the mines that are here operating need the Town road so we can take advantage of where we can. So we can negotiate with them. We have the power to do it, but only the Town has.

B. Brovold: Any other questions for me.

R. Tushner: I thank you Bruce. Mr. Bruce Brovold then left the meeting at 8:15 p.m.

Update on Rainey Valley Bridge

Both Dave Pantzlaff and Jim Johnson joined the Board members at the table. R. Tuschner introduced Mr. Pantzlaff and Mr. Johnson. D. Pantzlaff intended to give an update on all of the bridges, but since Rainey Valley Bridge was the only one listed on the agenda, he will speak to the others at a later time.

Back in November someone observed that the south side railing was about to fall off due to rust. It was posted at 10 tons. Because of the unsafe railing and height of the bridge the town closed it to traffic. R. Tuschner called Ayres Associates. We do most of the engineering for the Town. They looked at it and came to a meeting later in November/early December; Jim Johnson was also at that meeting; they discussed options on what to do with the bridge; there are bridges without railings also, an example is Halverson Lane; it was closed in December, about the same time because farm equipment got too close to the edge; options for Rainey Valley Road: open it up to 10 tons and not worry about the railings, but to be prudent, make sure things don't happen like on Halverson you could replace the bridge with a bridge or a culvert. It is a pretty long bridge, so if there were culverts there probably would be back up waters upstream, and you would have to make some legal arrangements with the property owners upstream agreeing to possible flooding, up to a

foot. Another option: erect new railings on the outside, which would not be a simple task due to the retrofitting on the south side. In November we talked about using concrete barriers, temporarily; we did not look at the road rating on that. In December or January we were there measuring things up and found out the load rating is in fact 10 tons. This will change that idea. The roadway width is 31 feet wide, but the other end is only 25 feet wide. The road is tapered. Specially made railings (specific details were given) could be made; making this an 18 feet wide bridge which is legal for a one lane bridge; which is more than you need. I. Pronschinske asked what it would take to make it a one lane bridge. D. Pantzlaff said to bolt down railings down 18 feet apart, use a fabrication/guard rail with steel posts and a base plate, drill 4 holes into each plate, bolt down through the desk, have plate washers on the bottom and nuts on the top, have 5-6 posts spaced equally, live with it like that until the time of the 80-10-10 funding is available. It would depend on the inspectors, if they would rate the condition down, to be able to apply for the 80-10-10 funding. You probably could get a replacement in 2018 or 2019. They did not look at a load rating for big heavy concrete barriers on the bridge; that would probably knock it down to 6. There isn't much you can get across on 10 tons. R. Tuschner read a statement on what legal limit is. I. Pronschinske asked J. Johnson when he could get the steel things up there. J. Johnson said they figured 5 on each side per post. There is cost to make the plates. I. Pronschinske stated that this project has to be done. R. Tuschner asked about the costs. J. Johnson said they came up with \$5,500 for 10 posts, plates, to drill holes, mount the guard rail, 45 feet of guard rail. I. Pronschinske asked if this cost would be shared. M. Wineski said it is replacement, so the cost is not shared, it is ours. R. Tuschner asked about the main concern; the safety of the ingress and egress of County A. If the bridge is 18 feet wide it will handle vehicular traffic: cars, pick-ups, and SUV's; but what about buses, farm equipment, milk trucks, semis, and other things that use that road when commodities come out? We still are not addressing the safety issue. We can have traffic go out the south exit, but we are still not addressing the safety for a lot of people that use it. We need to address the core issue of safety for the benefit of all. If the north intersection could be swung out more towards the bridge, there would be more sight vision. I. Pronschinske spoke about taking some of the bank off and putting some of the fill on the side. R. Tuschner asked how close we can come to cutting the hill out without dismembering Mike Chitko's operation. There are chicken trucks and feed trucks, etc. that come out of there. Michele Roesler stated that M. Chitko was present and he had explained that the bank had been cut out twice already. She said the school bus still does not have enough sight vision to come out. Discussion continued about the possible layout of the road. M. Chitko stated that everyone now has a chance to see what it is like to go on County Trunk A; it has been redone twice; discussed the 8 second line of sight; we all understand the problem; follow the creek and look to the bridge on County Trunk A, then swing out for a clear line of sight. This would be a beautiful solution. Discussion continued on County road and Town road and how they would meet. We would still have a 10 ton bridge, a repaired bridge. Discussion continued on who uses the valley road, bridge, locals and others that are not familiar with it and the safety. R. Tuschner asked if a bus driver would want to take the bus over the bridge; the number of days the bus would use the road with one or more children. A question was asked about the fire department. They would also have to go around. It would be everybody. This will take care of 95% of traffic. I. Pronschinske said the intersection still needs correcting. Discussion was held about the speed limit. There is a possibility of dropping the rating on this bridge in the future. Discussion continued of other bridges that are not posted and potential problems that could happen if that was the case here. R. Tuschner stated he would like to see what could be done to start the process of fixing the intersection. He will contact the individual involved. I. Pronschinske asked when this construction would be completed. J. Johnson said it would be the end of March or early April. A motion was made by I. Pronschinske and seconded by R. Tuschner to repair the guard rail on Rainey Valley Bridge. The motion passed unanimously with a voice vote. R. Tuschner stated we need to start the process to correct the core issues. D. Pantzlaff said there would need to be some modifications made. Halverson is in phase 1; it is not an emergency; he is wondering about a time schedule. R. Tuschner stated that he contacted the property owner; thought that it could be done at the same time as Stevens Lane, when the County was in the area. When the studies are done, we will order the culverts and have them delivered on site. Discussion continued on specifics of Halverson Lane. Contacts were made with the Seversons and Nilsestuens and a letter is on file with no objections. Discussion was held on specifics of Stevens Lane. The studies and survey are not completed yet. The standard contract, for \$3500 was presented. It needs revision, because it is for multiple projects. It will be on the next agenda; also the Stevens Lane will be on the agenda. Set priorities; Haines Lane later; there are many places that need guard rails and bridges that can use bridge railings. M. Chitko talked about the temporary fix on Rainey Valley Bridge. J. Johnson talked about a different access point. There will be a meeting with everyone involved in the future.

Recycling Compliance Assurance Plan

R. Tuschner explained the reason for the plan and the suggestions printed in the examples received from the DNR. He stated that this could be a problem to administer. I. Pronschinske talked about existing procedures and problems occurring. E. Helwig explained why this required. I. Pronschinske said people go other places and asked why the tonnage is down. R. Tuschner said this might hinder more people. I. Pronschinske mentioned the idea of stickers that was discussed at a previous meeting. Karen Geske asked if we were mandated by the state to have a recycling site, stated that in her 25 years that she hasn't used it; she uses the site in Independence and the process there. R. Tuschner gave a history of our procedure. The cost was greater and that was why we went to the procedure we have now. K. Geske asked if anyone contacted the health care center to see if they would serve our area. R. Tuschner responded with no, and continued to talk about using Red Box and the cost. I. Pronschinske stated that he used Toys. Sarah Slaby asked about other options so the numbers could go up. Discussion continued on the Town of Arcadia's responsibility to provide a contracted disposal site, the contract, and what would happen if it was brought over to the Town Hall. R. Tuschner talked about the spring and fall clean up. It has to be policed or it would be a fiasco. Becky Larson asked if B. Sonsalla could be contacted and asked to get easier on his requirements. The Board stated to contact him as a private citizen. B. Larson asked about the contract and making the requirement looser or taking business elsewhere. R. Tuschner stated that a private citizen may do whatever they want to; that is their right. Discussion continued about requirements. K. Geske asked about the cost. The Town of Arcadia pays \$200.00 per month to B. Sonsalla plus there is the cost of dumpster deliveries and pickups. She asked what items are being recycled; requested to try the health care center option which is paid by the state; talked about the process they use; and the jobs. I. Pronschinske talked about the service that is provided to the taxpayers of the Town of Arcadia. He agreed that the option of using the health care center could be checked out. Lance Pronschinske asked a question of K. Geske, is the garbage also picked up by the health care center. She stated no, just the recyclables. I. Pronschinske said that would be the \$200.00 cost there. There was a discussion of using garbage bags and dumpster. P. Winey explained his process. K. Geske explained other items taken by the health care center. R. Tuschner clarified that he would contact the health care center. A motion was made by I. Pronschinske to table the Recycling Compliance Assurance Plan. It was explained that a second was not necessary for an item to be tabled if there were no objection.

Trempealeau County Resolution for Comprehensive Zoning Ordinance Chapters 10, 13, 19, & 20 Revisions

R. Tuschner stated this would be tabled since M. Wineski was not present. He had the revisions and the Board wants to go through the chapters line by line, as requested at the last meeting.

Update on Road Use for Ashley Furniture on Town of Arcadia Road in Emergency Cases

R. Tuschner tried to call Mr. Lockington three times, but was not successful. This will not be put on a future agenda until they contact us.

Compare Century Link with Tri-County Communications Cooperative

A comparison of the two companies was presented. To continue with TCC with email only is an option at \$6.45 per month. Discussion was held on office computer use and the options. A motion was made by R. Tuschner to double check again about the option of keeping email only with TCC. The clerk will get verification in writing that keeping the email with TCC will continue to be an option. With that caveat we go to CenturyLink. It was seconded by I. Pronschinske. I. Pronschinske asked about the savings. Discussion continued about the assurance. The motion carried unanimously with a voice vote.

Correspondence: R. Tuschner spoke about moving property on Thompson Valley Road and the services provided by David J. Selissen's Company. A contract/agreement will be sent in the future and will be on the next agenda. Slaby Electric gave information to repair the furnace in the shop at a cost of \$657.34. The furnace was manufactured in 1962 and the point was made to do no further repairs. Discussion continued about a new furnace and the cost of \$2,953.12. This will be on the next agenda. A thank you card was received from the Leonard Pierzyna family.

Discussion was held about the next meeting date and time; and setting up a meeting for the Trempealeau County Resolution for Comprehensive Zoning Ordinance Chapters Revision changes. A motion was made by I. Pronschinske and seconded by R. Tuschner to set the next regular Town of Arcadia Board meeting for Monday, February 17, 2014 at 7:00 p.m. Motion was carried unanimously with a voice vote. Some possible dates for a meeting with Bob Hempker, in executive session, for changes in road use agreement were discussed. If changes are made, a public meeting will be held. Agenda items were discussed previously. A list is in the office.

R. Tuschner adjourned the meeting at 9:30 p.m.

Respectfully submitted by,

Elva V. Helwig
Town of Arcadia Deputy Clerk