

# TOWN OF ARCADIA

Trempealeau County



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## Town of Arcadia Minutes of Special Town Board Meeting Tuesday, March 10, 2015 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. The Clerk also posted on March 10, 2015 the notice of the Thursday, March 12, 2015 Open Meetings Law presentation to be held at the Independence City Hall. Roll call was taken. Board members present: Chairman Ronald Tuschner and Supervisor Mike Chitko. Supervisor Ivan Pronschinske was absent. A list of residents that attended is available at the Town Hall Office.

M. Chitko led the pledge of allegiance.

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

A motion was made by M. Chitko and seconded by R. Tuschner to approve the minutes of February 23, 2015. R. Tuschner disagreed with page 1 with the comment made: Clients are outraged; this was improper verbiage; clients were not in agreement, because there was no banging of fists. Beth Killian stated that he would have to ask Nancy Rohn as she typed up the minutes. R. Tuschner stated that outraged; it was nowhere near that point; with that change in the minutes; and he asked M. Chitko if he agreed with that. R. Tuschner felt that Attorney Scott Curtis spoke very calmly and this was not the appropriate verbiage, because they were not that outraged. M. Chitko stated he spoke on behalf of his clients, so he was OK with leaving that in there, because he spoke on behalf of his clients, and his clients were outraged, and he let us know about that. R. Tuschner stated that that was the only one that he would go with, and at this point in time he would not, we would have to re-do these, we will have to come back to these minutes, because he disagreed with that. B. Killian stated that she would have Nancy look at it.

A motion was made by M. Chitko and seconded by R. Tuschner to approve the minutes of February 25, 2015. R. Tuschner questioned item K on page 4: "Arcadia's growth is dropping, jobs aren't local and there aren't as many, and they are looking and tracking this information". From what Ivan presented and the information that he presented on housing; and he talked to Kevin Lien on that after the meeting; we need clarification on that, because our growth is not declining. B. Killian asked for clarification. R. Tuschner stated that he is questioning that Arcadia's growth is dropping. This has not been proven that Arcadia's growth is dropping; we have seen an increase. B. Killian stated that this is what he (Kevin Lien) stated; that is what is on the tape. R. Tuschner stated that this is an incorrect statement. B. Killian stated that she can't correct what someone's statement is. She will listen to the tape again; you may disagree with what he is saying, but

that was his statement. R. Tuschner just wanted it in the minutes that he is willing to agree with the minutes, but that needs to be checked into for it to be correct in nature, because it is questioned; that is all he is doing. The motion was carried unanimously with a voice vote.

A motion was made by M. Chitko and seconded by R. Tuschner to approve the minutes of February 26, 2015. The motion was carried unanimously with a voice vote.

At 7:09 p.m. R. Tuschner opened the floor to public comments for other topics that were not listed on the March 10, 2015 agenda. Karen Geske had a question on water testing. She referred to Cameron Rail and that the water was to be tested every year. As of July/August it had not been tested again. There are no results from the first water test. Since there has been a change of hands, was shut down under Cameron Rail, shouldn't Cameron Rail uphold its agreement since Superior Silica Sands has not been permitted? John Kimmel asked if he could have the agenda shuffled to accommodate his work schedule. Kathy Lockington asked that before the Board vote on anymore sand mine issues, do you have a definition of what a compromised well means? She would like to see that published; she could not get a definition from her meeting with the sand mine close to her; this is very important, intellectual way to approach something; before voting on anymore sand mine issues, could the Town Board explain fully what a particulate matter is, and how the DNR permit is issued and what they have in that permit. How much particulate matter can be emitted into the atmosphere? The Town should keep on record who is operating the mine and what their subsidiaries are at the Town Hall. So if they are applying for a permit it is not just who is operating the mine, but who exactly owns it. R. Tuschner made the second and third call for public comments. He then closed the public comments at 7:14 p.m.

Comments from the Board: R. Tuschner commented on the last part of K. Lockington's question: who owns and who operates the mine is something that we as a Board should know, we don't know, the only ones that do know is zoning at Whitehall, knows because they issue and control the permit. M. Chitko asked if anyone wants to know who operates any mine in Trempealeau County, how can they find out. R. Tuschner stated to call the Department of Land Management. M. Chitko asked if there is a change in ownership isn't there a requirement to let the Township know who owns it. R. Tuschner stated we should, but we don't; he also referenced the DOT (Department of Transportation) and that they should let us know also. This has been discussed several times.

R. Tuschner asked if M. Chitko minded if we went to item 9C before the Rossa Sand Mine. M. Chitko had no problem with it.

### **City of Arcadia and Green Alliance Holdings Corporation Redevelopment Agreement**

John Kimmel spoke of the former City landfill and the contamination. He explained the agreement with Green Alliance Holdings, the developer's agreement: 1) a Brownfield site needs to be designated to qualify for the funding from the United States Environmental Protection Agency, 2) the Town of Arcadia is working with the City of Arcadia to get the grant, 3) the City of Arcadia is responsible for the insurance policy. He continued with the history of the landfill; gave a brief overview of Green Alliance of Wisconsin/Green Alliance Holding and their technology for clean-up; been negotiating for 4 years; taking 10-12 years to clean-up; the transfer to Green Alliance of Wisconsin to limit the liability and a requirement by the USEPA; and cost of clean-up of \$16-20 million. Donna Brogan asked where the process would take place. J. Kimmel stated in close proximity, but yet to be determined, plans are not finalized yet. K. Geske asked about the number of acres and annexation. J. Kimmel stated that the City of Arcadia did not say anything about annexing additional property; future development will be with Green Alliance Holdings, the City of Arcadia, and the Town of Arcadia; and a 40 acre parcel. Chad Rossa asked who would own it when it is done. J. Kimmel stated that currently it is owned by Green Alliance Holding; any sale of the property to a private developer will have a 60/40 split with Green Alliance getting the 60 and the City of Arcadia getting 40. Darlene Rossa asked about annexation. J. Kimmel explained that the City's authority happens when someone petitions the City for annexation. D. Rossa asked if it would come back to the Town since it was sold to Green Alliance. J. Kimmel stated that he wouldn't be the mayor then and there hasn't been any loss to the Township. Barb Tock asked about the amount of the dumpsite. J. Kimmel stated that there are many cells, but doesn't know about the depths and sizes, this will be determined as part of the plan. He continued explaining the site. R.

Tuschner stated that this agenda item was an update and wondering if there was anything new; to keep this Board abreast; a letter was requested from Mr. Herzog which was taken care of on February 9<sup>th</sup>. J. Kimmel assured the Board that they would inform the Board when something is learned by the City. M. Chitko asked if there was an update from Green Alliance. J. Kimmel stated no; discussed the CERCLA insurance; the City passed a resolution for eminent domain, next step is to receive a value of the property; and continued explaining that process; this process can always be negotiated because this process is a formality; and offered to move the house anywhere within 15 miles. M. Chitko asked when the hammer would be dropped on the Wiersgalla family, the eminent domain hammer, since there is no brownfield agreement determination yet; wondering on the deadline or if it can be held off. J. Kimmel stated that it could be called off at any point; he continued explaining the steps; and if the property is not needed it can be dismissed. R. Tuschner stated that this could take 6-9 months. J. Kimmel stated that if the EPA says there is no avenue to get this done, we will have to re-evaluate the strategy. Scott Fernholz asked about the well contamination and future contamination. J. Kimmel explained the determination: the volume of contamination, site determination and process, and the plume and how far it has spread; currently there are monitoring wells; we have a moral responsibility to clean it up. Jeff Bawek asked about the depth of the contamination. J. Kimmel stated that it varies on the year with the drought or amount of rainfall. It is serious enough to be dealt with. R. Tuschner asked about the directional flow, other neighbors, and the brownfield moving beyond the boundaries. J. Kimmel responded that the water flows in a southwesterly direction, and the contaminants, if not mitigated, will spread. Discussion continued on the spreading and continued cooperation. (Town of Arcadia, City of Arcadia, and the landowners)

#### **Rossa Sand Mine expansion Presented by FOTH (Initial Presentation)**

Bill Vachon made the introductions and thanked the Town of Arcadia Board for the meeting. A PowerPoint presentation was given. It included: location of the existing mine and the 3 additional areas, history, parcel ownership, current project, activities completed, Turton Creek, the current layout, the proposed amendment adding 543 acres of which 145 acres will be mined, 225 trucks/day, 20 years, the phasing plan, reclamation to add additional farmland, future meeting dates (March 18 and March 19) J. Bawek read 2 prepared statements from Jeff and Carol Bawek; the first subject read was on the public safety concerns specific to Soppa Road, Joe Rossa Lane, and County Road T; the second subject was on the affected adjacent properties. Copies of the statements are in the Rossa Sand Mine folder.

#### **Policy and Procedures for Non-Metallic Sand Mines (Amendment)**

R. Tuschner referenced the letters received by Pat Rohn and Kay Pronschinske both requesting the residents and property owners living or owning property within 1 mile radius of perimeter of the proposed non-metallic sand mine to be contacted by the sand mine operators. A lengthy discussion took place: one mile is farther than Trempealeau County requires, but may be appropriate; property borders or mining borders; crossing over into other governmental boundaries, K. Pronschinske read her proposal to clarify this discussion; example of the Suchla-Bagniewski Mine; onus of contacts being on the permittee; notification to the City of Arcadia; common sense gesture to notify the municipalities; uniform and specific footage, a baseline; 2500 feet; housing development; example of the Rossa Mine and the American Heights and Amber Lane developments; anywhere a mile would hit the rural residential developments; minimum depending on the size of the mine, size of the mine being within the boundary line of a property owner(s); adjacent/adjoining landowners; making sure everyone gets notified; ads in local newspapers as a class 2 notice; word of mouth, postings, internet, 2500 feet; how far to go and the limits, consistency; Kerry Suchla explained his notification process, K. Pronschinske asked for clarification on the notification, K. Suchla stated the outside perimeter; Pat Rohn gave his reasoning for his amendment on the initial notification, giving examples of Myers Valley versus Parkview Lane; the procedure had adjoining and surrounding and this was discussed at great length at a previous meeting, so he proposed one mile for the definition of surrounding to prevent going around in circles, to eliminate the gray area, and make sure those people are notified; specificity and defines surrounding; P. Rohn's goal is so no one falls through the cracks; K. Geske gave the example of her situation and the proposal of the expansion, clarify the mine site versus boundary of the property, today's presentation 2500 feet from the boundary of the property, the Guza Mine and its expansion; clarify mine boundary and the property boundary line; Henry Schultz asked about the notification of the amendment and the new boundary lines; D. Rossa explained what they did, 2500 feet away from the 690 acres, and their situation; P. Rohn asked that his amendment be read; D. Rossa explained permitted versus property and adjoining property owners; Jeff Halverson stated that the problem

with 2500 feet is that it doesn't cover the most populated area, American Heights; D. Rossa stated that what is permitted won't all be mined; missing concentrated areas of residence; Chad Rossa suggested 2500 feet from the property line of the permitted area/proposed site, but if it comes in contact with a subdivision all people in such subdivision should be notified; Becky Thomas asked if within a mile people are affected, they fix the roads and bridges, why is it so onerous that they can't notify people within a mile; K. Pronschinske spoke about the mile distance, the value of homes, and being neighborly; D. Rossa stated that the sand mines will do what is required of them; Dan Sobotta was not notified and that would have been nice, notify people you see; H. Schultz stated that one distance doesn't fit all because the effects are uneven; M. Chitko talked about over-regulation, getting the word out, consistency of numbers (2500 feet), and residential development of greater than 5 homes—within 500 feet of that 2500 feet—those residents need to be notified, and the permit process/agenda; B. Killian stated that D. Rossa was correct, FOTH, as an example, will do whatever the paper given to them says, this is just a notification of a 15 minute presentation, has nothing to do with permitting, well or foundation inspections, if you say a mile period, and add what C. Rossa said about a housing development and to contact them; Ron Grulkowski spoke of the 2500 feet on a dairy operation, if it is good enough for the County is should be good enough for the Town of Arcadia; Dennis Hesch stated that he heard that people that are involved like American Heights should be notified, this is your purpose as a Board to take care of the public; and Mitch Thomas referenced two meetings ago and the directive to define surrounding, a mile is a great round number, no one has disagreed, listen to the people here. A motion was made by M. Chitko to have a 2500 foot radius from the property boundaries out with the addendum of an additional 500 feet if there is 5 or more residences in a group. R. Tuschner asked if he was willing to add more to the motion if he seconded it. M. Chitko stated yes, he would. P. Rohn stated, point of order, are they voting on the proposed amendment, because the proposed amendment said one mile. R. Tuschner stated that he is asking M. Chitko what he wants to see in the form of a motion, because the proposed amendment is one mile. We are going to see what he wants. R. Tuschner asked if M. Chitko was willing to back off on that motion and to add as a first to the motion take out 5 or more houses and just say housing development. M. Chitko stated he would and gave Amber Lane as an example. R. Tuschner asked for the motion to be read. B. Killian read: Mike made a motion that the boundary be 2500 feet radius from the property boundary out with an addendum of an additional 500 feet if there was a housing development. R. Tuschner stated to scratch the 500 feet and just say for housing development. M. Chitko would go along with that because rural topography is different from urban topography; he will go along with that. Clarification was trying to be made. S. Fernholz stated that in the last situation 2500 feet left out some housing. J. Halverson stated that 2500 feet and adding another 500, do you know what the math is, it doesn't even come close; why can't you just make the amendment as it was offered to the Town Board; it's simple; you will always have a gray area; it is a notice from the permittee, that's it, a letter. M. Chitko gave his reasoning for is motion, using a consistent number (2500 feet), with no housing around you that is sufficient, changed the motion to add any housing development in the Town of Arcadia; there will always be gray areas. R. Tuschner mentioned the class 2 notice in the paper. J. Halverson stated that the meeting was not posted on the board. B. Killian stated that just the regular board meetings are on the board; it is on the website and the 3 postings. Carol Bawek stated that she is getting old listening here tonight; go with a mile and go to the next item on the agenda; that is what the people are asking you to do. Discussion was held on the one mile and possibly coming back to this again. M. Chitko rescinded his motion. A motion was made by M. Chitko that we require a permittee to notify everybody within one mile of the property boundaries/property lines. John Jasin asked about the class 2 notice which will cover everyone outside the boundaries. The more areas that you publish, the more people will see it. M. Chitko made the addition of a class 2 notice. (within one mile of the property boundary with a class 2 notice) R. Tuschner seconded it. The motion was carried unanimously with a voice vote. Applause was given. To continue: K. Pronschinske read her amendment for item number 5 and gave the rationale. A motion was made by R. Tuschner and seconded by M. Chitko that a minimum of a 2 week period of time be allowed between each of the 3 phases of meetings, the initial, the formal presentation, and the CUP, and that this will become effective henceforth to any new mine application. B. Killian wanted clarification. This would be effective after passage tonight. Those in the process, Suchla and Rossa, will continue with the existing procedures. K. Geske asked for clarification on the 2 weeks, special meetings, and 14 days. The motion was carried unanimously with a voice vote. A motion was made by R. Tuschner and seconded by M. Chitko that any amendments to the original conditions must follow the same procedure. The motion was carried unanimously with a voice vote. J. Bawek asked for clarification on Rossa and High Country. R. Tuschner stated that they would remain with the old procedure.

**Policy and Benefit Handbook pages 21-40 (15 minutes)**

Discussion was held on the pages: attendance; dress code; personnel records; workmen’s comp; seat belts; performance reviews; payroll (direct deposit is an option); medical and COBRA coverage, some not being pertinent, because we don’t have health coverage, but to keep it in with a note that says it is not applicable at this time; and each employee signs that they have received a copy. Pages 41 to the end will be on the next agenda.

**Update on Hiring of an Auditor**

Discussion was held about the status of an auditor. The idea was to get someone within the next month for the transition; the rush; training; better ways to do things; new clerk/treasurer trained by the auditors; to begin early so things don’t have to re-done; and time frame for the new position. M. Chitko stated to get bids, bring in auditors, and have training. It was decided to get 3 bids by April 15; to ask for an audit of the books to find out where we are at from the old clerk and new clerk/treasurer, and to ask for suggestions to do better with the operations of said position.

**Specific matters for discussion and possible action by town board in closed session per Wisconsin State Statute 19.85(1) (c). “Considering employment, promotion, compensation or performance evaluation of any public employee over which the governmental body has jurisdiction or exercise responsibility.”**

At 9:39 p.m. a motion was made by R. Tuschner and seconded by M. Chitko to move into closed session. Roll call vote: R. Tuschner, yes; M. Chitko, yes. The motion was carried.

**Reconvene to open session per Wisconsin State Statute 19.85**

At 9:55 p.m. a motion was made by R. Tuschner and seconded by M. Chitko to reconvene to open session. Roll call vote: R. Tuschner, yes; M. Chitko, yes. The motion was carried.

No action was taken on evaluations.

**Correspondence:**

B. Killian mentioned the Wisconsin Utility Tax Association, nothing will be done with this; the State of Wisconsin Department of Revenue sent a letter that CSI Sands (Wisconsin) Ltd. is now manufacturing property, this is the Dennis and Darlene Rossa property; the County Clerk sent the zoning ordinance change for the Soppa parcel from transitional agriculture to residential-20, the zoning map will be changed for that; she sent “everything” in the Superior Silica Sands and later items in the Guza Mine and Cameron Rail file to O’Flaherty, Heim, Egan, and Birnbaum Ltd. for open records requests; Lisa Fleming sent an update on Thompson Valley Road, and discussion with Tom Greco on possible charges with Thompson Valley Road; the weight ban will go into effect on March 12, 2015; and there are upcoming WisLine Teleconferences this spring. The road petition is the plan for next year for County Co-Aid roads. This process was explained to Mike. This will need to be on the next agenda. R. Tuschner mentioned 2 public hearings with the joint finance committee in the future, to call the legislators to stop county assessing, and the re-assessment for Nancy on equipment and buildings/grounds for the annual report. Suggestions were given to report to Nancy.

R. Tuschner adjourned the meeting at 10:16 p.m.

Respectfully submitted by,

Beth Killian  
Town of Arcadia Clerk