

Regular Town Board Meeting – May 11, 2010

Posted Friday, May 7, 2010 at 4:00 p.m. at the Town Garage, Buffalo Bay Store, Peterson's Foods and Red Cliff Tribal Administration Center and the Town Web Site.

A Regular Town Board meeting at the Town of Russell Community Center was called to order at 7:18 p.m. by Chairman Paul "Rocky" Tribovich. Roll call was taken as follows: Present – Supervisors Leon Basina, Brian Goodwin, Larry Meierotto and Don Sullivan and Clerk/Treasurer David L. Good.

The Pledge of Allegiance was recited by everyone present.

Approximately eighteen Town Electors and members of the public were present.

PUBLIC INPUT – Dick Bowker spoke regarding open spaces and natural areas. He explained that the intent is to maintain more space in a natural state. Now these natural areas or open areas are dispersed throughout a development. This violates the natural intent. Now they are little pockets. Dave Martinson spoke about an ongoing problem with the Board which is the lack of critical thinking. In March when the Board voted on the CFS Re-zone the Chairman stated we have to approve the re-zone or the Town can be sued. The Town is not liable for its recommendation to the County, they cannot be sued. At the April meeting a vote was taken for a beer and wine license for the VFW. In spite of the efforts of a close neighbor with a legitimate complaint, the Board voted to grant the license saying the Board had no choice. The Board did not do their homework. As the licensing authority you have the right to grant or not grant a license. You have options. A researcher at the Wisconsin Law Reference Library was able to answer my questions regarding your licensing authority. I was e-mailed the following. "The Wisconsin Supreme Court case Ron versus Superior, the matter of granting retail licenses is within the discretion of the licensing authority, while it may not act capriciously or arbitrarily it may grant or refuse to grant on the exercise of sound discretion". Your decision was to grant was arbitrary because it had no basis for decision. I think the Board made a mistake without knowing they had the option to not grant it. That is my understanding. Tribovich stated he did not make the statement "we could be sued", Goodwin did. Mary Defoe read a statement regarding how the safety of her home was taken away from use. We need to protect the elderly and my grand children who now live next to a bar. Normally, society does not allow bars by schools or nursing homes. The behaviors that go on by bars are not safe from children or the elderly. She asked the Board to reverse its previous vote. Most of the inmates in Bayfield County jail are there for alcohol and drug related crimes. And now you want another bar. Grants and programs in Red Cliff are dedicated to addressing the issues with alcohol. How does this improve people's lives? She asked the Board to review and reverse the decision for the VFW license. I have heard they will be open limited hours and for special occasions and I hope that is true. Two years ago we were told there would be no bar there. I don't believe the VFW regarding bar hours and operations. Ken Defoe stated a public bar in that location is not a good idea. The evidence you have tonight, I ask you to review your decision because it was based on a false assumption. You need to consider the impact this bar will have on the people who live in the neighborhood. This is not a commercial area. No governing authority should legislate environmental injustice on people it serves, especially children. A mistake was made. We will do whatever we can legally do to stop that bar from ever being next to our home. Your decision lacked integrity. Ed Johnson

spoke that the VFW is made of people who fought for this country and they should be able to make a decision about what they want to do.

APPROVAL OF MINUTES

A motion was made by Basina and seconded by Meierotto to approve the minutes of the Regular Town Board Meeting of April 13, 2010. The motion carried.

Tribovich presented Ed Johnson a plaque in recognition of his service to the Town as an Experience Works employee. He stated he is an outstanding guy. A round of applause followed. Johnson thanked the Board. Tribovich explained how they got Ed to attend tonight because we were going to change his job.

ROAD MAINTENANCE REPORT

- a. Dust control needs - Barningham identified nine roads needing an application. Costs are up and we need half a load. We are looking for someone to take the rest of a load. Costs is \$1.00 per gallon. Discussion followed about the need and it was agreed to go ahead.
- b. Road crack sealing needs – We can get estimates from Fahrner for the remainder of Old County K. Turner Road is ok. It was agreed to get a cost estimate.
- c. ATV/Snowmobile signs and new UTV statewide pilot – Discussion followed about the UTV pilot. The Clerk was told to prepare a resolution. It was agreed to replace signs as needed because of a safety issue.
- d. Gravel for various Town Roads – Barningham reported that Peterson Hill Road and Hyde Road have been graveled. A few areas need some additional gravel. Good asked for gravel on Ladd St N.
- e. Old County K culvert failure near Ripples – This was supposed to be replace by Bayfield County but was not done. We will replace this 24 inch culvert.
- f. Danger trees on Old County K marking for removal – Tribovich reported that trees that are flagged will be removed. Land owners will be notified. Approval has been received for the Kaemmer property. Most trees are on Bayfield County land.
- g. Shouldering of Town blacktop roads – Barningham stated we need to gravel the inside radius on the curves where needed. It was agreed to use the recycled blacktop for the areas that need additional material.
- h. Needs for disking and compacting to Town Road shoulders – Discussion followed about what will be done to recover material.
- i. Request to clear trees from small triangular parcel in the SW corner of the Community Center on Old County K – Barningham said this request was to improve the visibility of the Community Center. A motion was made by Sullivan and seconded by Basina to clear this land. The motion carried.

ELDERLY HOUSING COMMITTEE - Discussion regarding prior agreement to re-zoning additional land by Community Center to accommodate Elderly Housing – Tribovich explained how the new location for the proposed Elderly Housing would straddle parcel lines and how this creates an issue with Zoning. This would mean we need to re-zone the land the Community Center, pit area, and Shooting Range are located on. We need to look at re-zoning this land as Commercial also.

RECREATION COMMITTEE – Meierotto stated nothing new to report.

PLAN COMMISSION – No report other than the items under new business.

OLD BUSINESS

Robert Salvas request to discuss driveway snow plowing services for 2010-2011 – Salvas has not provided any information. The item will be dropped from future agendas.

Discussion regarding liquor licenses held that are not in active use and language for a possible Town Ordinance – The Clerk had mailed data on other jurisdiction ordinances. Discussion followed regarding the multitude of options available and the pros and cons for short or long time periods to be open. A motion was made by Meierotto and seconded by Goodwin that liquor license holders (not beer and wine licenses) be open at least 120 days per licensing year. Basina felt the minimum time should be 6 months. The motion carried with one opposed.

Towns response to the NPS letter denying the Town Cooperating Agency status – A motion was made by Goodwin and seconded Sullivan to send the following letter:

May 12, 2010

Stephen E. Whitesell
Associate Director, Park Planning, Facilities, and Lands
U.S. Department of the Interior
National Park Service
1849 C Street, NW
Washington, DC 20240

Dear Associate Director Whitesell:

The Town of Russell thanks you for your letter of April 2, 2010, in response to our concerns over the lack of a cooperative approach for including our local government in the GMP process for the Apostle Islands National Lakeshore. As explained in our previous letter to the Secretary and Director, the Town would experience serious adverse effects under the draft GMP. The Town also holds jurisdiction over lands within the Lakeshore and has special expertise that is critically important in planning for the future of the Lakeshore.

Since our last letter, Lakeshore staff have reached out to the Town in a very positive, constructive and cooperative manner. We greatly appreciate the gesture and believe that it signals precisely the kind of cooperative approach that will be mutually beneficial for the Lakeshore and the Town. We are grateful to Ms. Myra Foster and Mr. Jim Nepstad for taking this initiative. While our attorney advises us that cooperating agency status remains available to the Park Service and the Town at this time (memorandum enclosed), we are receptive to continuing the work with the Lakeshore staff on the GMP and other issues on a more informal

basis, provided that the NPS retains the ability to address the concerns that we have raised and that final decisions have not been made on the relevant GMP issues.

On a related point, our attorney advises us that your position that cooperating agency status is not appropriate because "no substantive changes" are expected to the GMP appears to conflict with the representations made by Ms. Foster and Mr. Nepstad that the Town's concerns with the GMP, in particular the preferred alternative, would be addressed in our future discussions. The Town will continue to rely on the statements of Ms. Foster and Mr. Nepstad that the Town's concerns with the GMP can be responded to during the remainder of the GMP process. If our understanding on this point is incorrect, we would appreciate clarification from NPS as to the degree of flexibility that is available in preparing a final GMP at this time and the role that the Town of Russell will be able to play.

Sincerely,

Paul Tribovich – Chairman
TOWN OF RUSSELL

cc: Secretary Ken Salazar
Director Jon Jarvis
Congressman David R. Obey
Senator Russ Feingold
Senator Herb Kohl
Myra Foster
Jim Nepstad

Discussion followed regarding the attachments and a review by our attorney. Goodwin amended his motion and Sullivan amended his second to include the review by our attorney. The motion carried as amended.

NEW BUSINESS

Town Board Recommendation to Bayfield County Zoning regarding Wayne and Robert Nelson request for Special Use Permit to divide 60-acres of land Zoned F-1 into 9 building sites on Peterson Hill Road per the Town of Russell Alternative Development Ordinance – The Plan Commission tabled this request. A motion was made by Basina and seconded by Sullivan to Table. The motion carried.

Town Board Recommendation to Bayfield County Zoning regarding Mark Fumosa request for Special Use Permit to divide 35-acres of land Zoned F-1 into 4 building sites on Peterson Hill Road per the Town of Russell Alternative Development Ordinance – The Plan Commission recommended approval by a vote of 3-1-1. A motion was made by Sullivan and second by Meierotto to approve. The motion carried.

Town Board Recommendation to Bayfield County Zoning regarding Ronald Nelson and Steve and Debra Nesheim request for Special Use Permit to divide 40-acres of land into 4 building sites on Peterson Hill Road per the Town of Russell Alternative Development Ordinance - The Plan Commission recommended approval by a vote of 3-0-2. A motion was made by Sullivan and second by Meierotto to approve. The motion carried.

Recommendations regarding changes to the Bayfield County Zoning Ordinances proposed by Bayfield County Planning and Zoning Department – The Plan Commission took no action. The Clerk is getting additional data on a change regarding navigable and intermittent for streams.

Approval of a Class B Combination Beer and Liquor License for Christine Peterson doing business as the Gill Net Tug – A motion was made by Sullivan and seconded by Meierotto to approve. The motion carried.

Approval of various Operator Licenses – The clerk recommended approval of the following licenses; Randall Bresette, Josephine Brown, Diane Frizzel, and Thomas Reyes. A motion was made by Basina and seconded by Meierotto to approve. The motion carried.

Possible revision of the number of public inputs and Public Input Resolution – Tribovich discussed that the two public inputs makes meetings too lengthily. The 3 minute rule works well. He suggested a group could allow a representative to speak longer on their behalf. Having one public input could either be at the beginning or end of the meeting. Ask the people when they want it. A motion was made by Goodwin and seconded by Basina to revise the Public Input Resolution to one public input per meeting with the attendees determining if it will be at the beginning or end of the meeting and that a group of people can have a representative speak for more than 3 minutes on their behalf. The motion carried.

Request for donation Red Cliff/Bayfield/LaPointe Little League (\$150 paid in 2009) – A motion was made by Sullivan and seconded by Basina to donate \$150.00. The motion carried.

Request to hold wedding at LSB dock & beach on June 26, 2010 – Sarah Yantz requested to use the beach at 2 p.m. on June 26, 2010 for a wedding. A motion was made by Goodwin and seconded by Meierotto to approve. The motion carried.

CORRESPONDENCE

Received

1. Darryl Deragon certified letter unclaimed and returned regarding suspension of liquor license.
2. VFW request to be considered for any additional Class B Liquor licenses that become available.
3. WI DNR PILT payment of \$136.07.
4. Lottery Credit Settlement of \$730.47.
5. Notice of Wayne Nelson Special Use Permit approved by Bayfield County Zoning.
6. Notice of Fumosa Special Use Permit approved by Bayfield County Zoning.
7. Notice of CFS Re-zone approval from Bayfield County.
8. Notice of Coastal Management grants availability.

9. WI Attorney General notice of election fraud charges.
10. MYOB Support notice.
11. Notice of search engine optimization training opportunity.
12. RA Smith Grants Newsletter.
13. Bayfield County Highway salt sale offer.
14. Bayfield County Highway Department invasives training.
15. JFNew Newsletter.
16. Grant Writers Handbook offer.
17. Notice of warranty expiration Dell computer.
18. Offer to scan Town records by doucuScan.
19. Notice regarding cooperating with census takers.
20. Brochure regarding smoking ban.
21. WI DNR Point of Origin Spring 2010 Newsletter.
22. Monroe Truck sales brochure.
23. Notice of SKYWARN Training opportunities.
24. Bayfield County Health Department Opinion Survey.
25. CWR Notice of participants selected for drug and alcohol testing.
26. Invitation to Pipeline Safety Training.
27. Notice of Grant Writing Best Practices Training.
28. Bayfield County Board Meeting Agenda April 20, 2010.
29. UI Statement.
30. Various correspondences regarding Old County K Culvert Replacement.
31. Various WI Department of Revenue mailings.
32. Various WMCA mailings.
33. Various meeting notices for the School District of Bayfield.
34. Various Bayfield Chamber of Commerce mailings.
35. Various State Elections Board mailings.
36. Various National Park Service mailings.
37. Wisconsin Towns Association May Report.

Outgoing

1. Notice of LSB pit toilet pump out violation by Bayfield County corrected.
2. Oath of Office and Certificates of nomination issued to Leon Basina and Brian Goodwin.
3. LSB Campground Host agreement finalized.
4. Christine Peterson Gill Net Tug liquor license legal notice.
5. Website updated for recycling and Plan Commission.
6. Quinlin delinquent property tax billing paid to Bayfield County.
7. UDC notice of occupancy.
8. Comp Plan brochure price posted at \$3.00 per copy.
9. WTA officer listing updated.
10. Recognition plaque ordered for Ed Johnson.
11. Kin Halvorson vacation approval for week of May 3, 2010.
12. Levy cap worksheet filed with WI DOR.
13. Mill rates filed with WI DNR.
14. Discussion with Town Assessor regarding increasing G-5 and G-6 10%.

15. Magnan LSB reservation request.
16. Postage machine software update.
17. Cigarette, beer and wine licenses issued to VFW.
18. Nielson's notified weight limits have been lifted.
19. April 6, 2010 Election GAB-190 filed.
20. Xerox service agreement renewed.
21. Side letter executed with Operating Engineers Local 139.
22. Report from NPS regarding dirty restrooms at little Sand Bay referred to Barningham.
23. McAfee virus protection renewed.
24. Inquiry from Kathy Russell regarding sale of Jim Erickson property.
25. 2010 Fire Dues Report filed by Jeff Benton.
26. Bill Tribe for April Road Maintenance.
27. UI report filed for 1st qtr 2010.
28. Sales tax report filed 1st qtr 2010.
29. Federal 1st qtr 2010 941 reports filed.
30. April 2010 Federal Tax Payments.
31. April 2010 State Tax Payments.

A motion was made by Basina and seconded by Sullivan to receive and place on file the correspondence. The motion carried.

CLERK/TREASURER REPORTS

A motion was made by Sullivan and seconded by Basina to approve the bills consisting of checks 14405 to 14442 totaling \$23,496.27. The motion carried.

CLERK/TREASURER REPORT

April 10, 2010

BANK BALANCES

		Previous	Current	Change
Bremer General Checking	4/33/10	\$8,677.37	\$25,598.72	\$6,921.35
Cash	4/30/10	\$608.09	\$614.91	\$6.82
Bremer Investors	4/30/10	\$311,458.38	\$301,711.36	(\$9,747.02)
	Totals	\$320,743.84	\$317,924.99	(\$2,818.85)

DISBURSEMENTS

	4/30/10
Cleared checks	\$33,884.81

BUDGETS vs. ACTUAL

	Apr 2010	Y-T-D	Budget	
Income	20,269	\$127,949	\$ 406,694	31%
Expense	\$25,363	\$127,552	\$ 406,694	31%
Balance	(\$5,094)	\$397	\$ -	
	Previous Mo.	Current		
Accts Recv	\$22,320.99	\$31,951.07		
Accts Pay	\$4.73	\$47.17		

1. Tax collections settled and posted for Jan 15 and Feb 20.
2. Bremer Elderly Housing Grant is \$150,000 of restricted funds.
3. Cash includes \$35,000 of WHEDA restricted funds.
4. Fire and Ambulance contracts paid thru June 30, 2010.

A motion was made by Basina and seconded by Meierotto to approve the Clerk/Treasurer Report. The motion carried.

Open Book will be 4:30 to 6:30 p.m. on June 15, Board of Review will from 7-9 p.m. on June 15. The next Regular Town Board Meeting will be held at 7:00 p.m., June 8, 2010 at the Community Center. Discussion followed about moving the Board meeting to June 15. A motion was made by Basina and seconded by Sullivan to move the meeting to June 15, 2010. The motion carried.

Chairman, Supervisor and Clerk/Treasurer Reports – None.

Public Input – Sam Atkins was confused about what was done to public input. The motions are not repeated and you just go on. Tribovich stated the Board has the data in their Board packets. Atkins stated we are here because we want to know. Tribovich stated public input will be one time per meeting. Atkins said everyone should get their 3 minutes. No minutes have been posted for March and April. Good stated the April minutes were just approved tonight and March has not been posted. Tessa Levens stated the two public inputs were established because the meetings are more businesslike by not allowing banter between the public and the Town Board. I know that officially that should not be done. We want to talk to you and want the two public inputs. Currently, if the public does not like what decisions the Board makes, the second public input turns into an “ass chewing of the Board” according to Tribovich. Levens asked that the Town have a Dumpster Day like the Town of Bayfield. Good stated Town of Bayfield spent \$3,500 in 2009 and budgeted \$4,000 for 2010. Ann Bowker asked about the Plan Commission meeting conflicting with the Open Book. It was agreed there would not be a problem. Dave Martinson said the Board is not listening. The beer and wine license for the VFW should be on

the agenda and no one put it on. You did not do it right the first time. The Board keeps limiting people's ability to participate in Town government. You charge \$30 for a CD recording of a meeting. What is the point? Just because the County charges \$30 does not mean you have to charge \$30. Charge what it costs. You are adopting items every meeting limiting our ability to talk to you. Public input resulted in you doing nothing with my or Ken and Mary's comments. If you eliminate it, it does not matter. We have no affect on you. Nancy Trapp stated two public inputs is important because you should be soliciting information from us for your decisions. A County meeting asked people not to repeat themselves which might help. This is the United States of America and we should have the right to speak our minds. Please keep two public inputs.

Tribovich presented the following "Tonight is a good example of having two public inputs. One was at the beginning of the meeting and public input was getting said. The Board does its business, and like I said earlier. Now we are told we are not doing this right, we are not doing that right, we are not listening to them. So what in the hell is the sense of having a second public input." Trapp responded that this is why she wants a second public input, she did not know what was going to be discussed and now she can respond. Tribovich stated she can comment at the next meeting. Trapp said it is fresh in her mind now. Tribovich said the following: "This Board has been very diligent. This Board that sits here today and the past Boards that used to sit here. They have been very diligent listening to people's opinions or whatever. We have had years of it. Sometimes we make a decision that you agree with and sometimes a decision that you don't agree with. That's just government. And if you don't like what we agree with, sometimes, that is your problem. We are looking at a bigger picture than just a few of you. We are looking at a whole dam community here which is very diverse. The Board does a hell of a lot of work doing it and sometimes, if you don't appreciate it great. Go to some other Township that you can complain about it. This Township does a dam good job."

A motion to adjourn at 8:16 p.m. was made by Basina and seconded by Sullivan. The motion carried.

The minutes respectfully submitted by:

David L. Good, Clerk/Treasurer

Special Town Board Meeting – May 24, 2010

Posted Friday, May 21, 2010 at 4:00 p.m. at the Town Garage, Buffalo Bay Store, Peterson's Foods and Red Cliff Tribal Administration Center and the Town Web Site.

A Special Town Board meeting at the Town of Russell Community Center was called to order at 6:03 p.m. by Clerk/Treasurer David L. Good. Roll call was taken as follows: Present – Supervisors Leon Basina, Brian Goodwin, Larry Meierotto and Don Sullivan was present via telephone.

The Pledge of Allegiance was recited by everyone present.

Approximately thirteen Town Electors and members of the public were present.

PUBLIC INPUT – Nancy Trapp thanked Chairman Tribovich for his service to our Town. She stated as the person who came in third in the recent election for Town Board Supervisor that she is prepared and willing to serve on the Town Board. Dave Martinson agreed with Trapp since when Goodwin was the runner up in the previous election the Board appointed him. The Board does not have to follow that, but it would be the will of the people if you did that now. Kathy Wendling agreed with the two previous speakers and Trapp is the logical person to fill the position. Beth Meyers thanked Tribovich for his 14 years of service to the Town. She agreed with the other speakers that the voters want Trapp to be on the Board. Chris Bardon also supports Trapp for the Board and thanked Tribovich for his years of service.

Acknowledgement of receipt of Town Chairman's Resignation – Good stated that the Chairman, Paul "Rocky" Tribovich submitted his resignation to the Clerk immediately following the adjournment of the May 11, 2010 Town Board Meeting to be effective immediately.

Plan Commission members – Good stated Tribovich would like to continue as a Plan Commission member if the Board so chooses. Good stated our Plan Commission Ordinance states "a maximum of two Town Board members can be appointed to the commission". The Board took no action to change the membership of the Plan Commission.

Kathy Wendling interrupted the meeting and asked why the Clerk was running the meeting? Good stated in the absence of the Chair, the Clerk calls the meeting to order and conducts the meeting until a person is nominated to the chair the meeting or in this case, a chairman appointed.

Discussion regarding replacement of Town Chairman and/or Town Board Member – A motion was made by Basina and seconded by Meierotto that Brian Goodwin be appointed to fill the unexpired term of Town Chairman previously held by Paul Tribovich. The motion carried 3-0 with Goodwin abstaining. The Clerk had Goodwin resign his Supervisor position and then administered the Oath of Office for Town Chairman to Goodwin. A round of applause was offered.

Goodwin took over as Chairman.

Possible appointment of Town Supervisor – Basina stated he nominated Goodwin to the Board last time not based on the number of votes he received but that he thought he was capable of doing the job. This is the same reason he nominated Goodwin for Chairman. A motion was made by Basina and seconded by Meierotto to appoint George P. Newago as a Town Board Supervisor to fill the unexpired term of Brian Goodwin. Meierotto stated we had a lot of options we could have gone with but he feels Newago has the experience and will do well. Goodwin stated he has known Newago and he has always been fair and objective and would be a tremendous asset to fair and efficient governance. Basina called for a roll call vote; Sullivan – yes, Basina – yes, Meierotto – yes, and Goodwin – yes. The motion carried 4-0. Newago agreed to serve. The Clerk administered the Oath of Office for Town Supervisor to Newago at this time.

Newago joined the meeting at this time.

Possible appointment of Superintendent of Highways Resolution 2010-03 – Dave Martinson interrupted the Board meeting at this time regarding this agenda item. Goodwin read the following resolution:

**TOWN OF RUSSELL
Bayfield County, Wisconsin**

Resolution 03 - 2010

**Resolution Establishing
Superintendent of Highways**

WHEREAS, Town of Russell Board may, per Wisconsin State Statues appoint a Superintendent of Highways.

And WHEREAS the responsibilities for the Superintendent are described as follows:

82.05 Superintendent of highways. (1) The term of office of highway superintendents shall be one year from the date of their appointment.

(2) The superintendent of highways shall supervise the maintenance of all highways in the superintendent's district that are required to be maintained by the town, and keep them passable at all times, and perform such other services in connection with the highways as the town board requires. The superintendent may arrange for the prosecution of the highway work as the superintendent considers necessary and appoint any overseers that the highway work requires.

(3) When any highway under the superintendent's charge becomes impassable, the superintendent shall put the highway in passable condition as soon as practicable. Upon actual notice of the existence of any depression, ditch, hump, or embankment that impedes the use of any highway under the superintendent's charge, the superintendent, or in the absence of a superintendent the chairperson of the town board, shall as soon as practicable take action to make the highway safe for travel, which may include closing the highway.

(4) The superintendent shall routinely notify the town board of all highway work.

History: 1991 a. 316; 2003 a. 214 ss. 117, 118, 157, 158; Stats. 2003 s. 82.05.

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

The duty to keep highways passable is made mandatory by former ss. 81.01 and 81.03 [now ss. 82.03 and 82.05], when read together. State ex rel. Cabott, Inc. v. Wojcik, 47 Wis. 2d 759, 177 N.W.2d 828 (1970).

And WHEREAS the individual appointed may serve for a term of 1 year.

And WHEREAS the Town Board has established that this is an unpaid position, however, reimbursements submitted and appropriate to accomplish the duties of the Superintendent may be approve by the Town Board.

NOW, THEREFORE, BE IT RESOLVED by the Town of Russell Board that effective the 24th day of May 2010 that __ (Paul “Rocky” Tribovich was named by Goodwin)_____ be named a Town of Russell Highway Superintendent for a 1 year term commencing with the adoption of this resolution.

Adopted this 24th day of May in the year 2010.

_____ Chair

Leon Basina, Supervisor

Brian Goodwin, Supervisor

Larry Meierotto, Supervisor

Donald Sullivan, Supervisor

Attested by: _____
David L. Good, Clerk/Treasurer

Nancy Trapp and David Martinson made an outburst and disrupted the meeting. They were requested to stop and then asked to leave the building.

A motion was made by Sullivan and seconded by Meierotto to adopt the resolution naming Paul “Rocky” Tribovich as Superintendent of Highways. Meierotto stated with all the work underway in the Town this position will be needed. Goodwin agreed. Dave Martinson interrupted the meeting again and was asked to leave and left. Basina called for the question. The motion carried with one abstention.

Discussion and possible action regarding Old County K Culvert Replacement Project:

- a. Meeting with Bayfield County regarding Bridge Aid Issues – Clerk Good updated the Board on issues Bayfield County had regarding our application and approval for Bridge Aid. They requested a meeting with the Town to help resolve any outstanding issues. Discussion followed. The County believes the entire project must be bid to qualify for Bridge Aid. The Board agreed to meet and the Clerk will get a meeting date and time and will post this as a Special Town Board meeting.
- b. Contact for Army Corp of Engineers – Good stated the ACE wants a new contact. Now that we have a Chairman, I will pass this information on to them.
- c. Project Construction Management – The Board has discussed in the past that we would most likely use C&W Trucking but has not named them. A motion was made by Basina and seconded by Meierotto to appoint C&W Trucking as construction project management for the Old County K Culvert Project. Meierotto asked about what this would mean. Good stated we will bid out the culvert pipes and

blacktopping. The Town will provide labor, loader, grader, traffic control, erosion control and gravel as well as hiring a temporary employee to operate a rented hoe for the excavation. The Town will purchase fill sand and rock for rip rap from Bayfield County Forestry. C&W will coordinate the construction project and provide trucking and other assistance as required. Discussion followed that we need to get our work plan finalized. The goal will be to do the project over a 4-6 week time frame in July-August 2010 depending upon water flows in the river. The motion carried.

City of Bayfield request for donation for 4th July Fire Works (\$250 in 2009) – A motion was made by Meierotto and seconded by Basina to donate \$250. The motion carried.

Agenda items for Regular Town Board Meeting on June 15, 2010 – None.

Basina expressed his gratitude to Paul Tribovich his 15 years of service. He has done a spectacular job. When he first decided to run I tried to convince him not to run but he ran anyway but did a spectacular job. Meierotto concurred with Basina and stated Rocky has done a tremendous amount for the Town over the years. We would not be in this building if he had not had the fore site and sought funds for this building. This will be a great loss to the Town. Goodwin concurred with what was said regarding Rocky. He stated that since he has known Rocky, he has never made a decision based on portability. Not once. He has always been honest, been fair, and always looked at things objectively and the record states that. We should recognize him formally for the hard work he has done. The Board agreed to have a resolution and plaque for the next meeting. Sullivan also commented but it was difficult to understand him.

A motion to adjourn at 6:37 p.m. was made by Basina and seconded by Meierotto. The motion carried.

The minutes respectfully submitted by:

David L. Good, Clerk/Treasurer

Special Town Board Meeting – May 28, 2010

Posted Friday, May 26, 2010 at 1:00 p.m. at the Town Garage, Buffalo Bay Store, Peterson's Foods and Red Cliff Tribal Administration Center and the Town Web Site.

A Special Town Board meeting at the Bayfield County Highway Garage in Washburn, Wisconsin was called to order at 8:04 p.m. by Chairman Brian Goodwin. Roll call was taken as follows: Present – Supervisors Leon Basina, Larry Meierotto and Don Sullivan and Clerk/Treasurer David L. Good. Supervisor George Newago was excused.

No Town Electors and members of the public were present.

Others present at the meeting were as follows: Bayfield County- Mark Abeles-Allison (County Administrator) Tom Toepfer (County Highway Commissioner), Jim Crandall (County Highway

Committee) and Paul Johanik County Patrol Superintendent). Representatives for Town of Russell – Randy Erickson (C&W Trucking), Jeff Benton (Red Cliff Tribal Roads), Randy Lund (Lund Engineering), Paul “Rocky” Tribovich (Town Highway Superintendent).

Toepfer stated the purpose of the meeting was to gather information for the Bayfield County Highway Committee regarding the Town Bridge Aid request by the Town for the Old County K Culvert Project. Bridge Aid Agreement makes us partners in the project. Abeles-Allison stated the Highway Committee would like to see the detailed information on this project.

David Martinson arrived at this time as a member of the public.

Abeles-Allison stated the Highway Committee would like to see the detailed information on this project. The County needs to get up to speed and make a recommendation to the Highway Committee that things are in good order or that we have these concerns regarding the project.

Lund provided Toepfer a copy of the design plans. He provided the following history regarding the project. In 2008 the Town applied for funding for this project several different times. The plan is for a culvert replacement. A hydraulic study was done in conjunction with the Rowley Road Project so a hydraulic model was created from Blueberry Road upstream to State Highway 13. The design is based on Army Corp Heckgrass River Analysis System. The design and flood levels with different scenarios were established with the Red Cliff Tribe and Town of Russell for a good design for both projects. Rowley Road Project is down Stream from the Old County K Culvert. The design was to prevent undue burden on the Rowley Road crossing. The new culverts, because of the distance to Rowley, have little impact on Rowley. The new culverts will be set differently. Currently we have a 12 foot corrugated metal culvert with no end sections with poor flow characteristics. The new design is twin eight foot culverts with one set two feet lower than the existing culvert. Being concrete pipes there is less friction and by using end sections and rip rap and shaping, improved entrance and exit loses. Toepfer asked who did the study. Lund Engineering did the study. The WI DNR has been sent notification of this through Trans 207. The WI DNR has not performed their review. This may take 3-5 years for them to review. They believe it is the engineers responsibly to follow the rules and meet the State requirements. The Trans 207 has been approved. Toepfer asked if one culvert will be high and dry. Lund said yes. It is set 2 foot above and about 10 foot over to help with the hydraulics. On a hundred year storm, the water will approach the top of the road, 27 feet from the creek bed with the current 12 foot pipe. The design with the two 8 foot culverts the flood level would be 5 feet below the top of the road. Discussion followed about variables. Lund stated the pipe will be buried 2 foot below the existing level which will ultimately be 1 foot below the natural stream bed bottom and be fish friendly. The upper culvert will be a portage path for the most part. A portage must be provided if it is not a bridge. Lund agreed to provide copies of the hydraulics, plan quantities, WI DOT Specs based on a Bid Book. Lund stated there is not bid specs. This is not going to a full public bid project. Toepfer asked what and how the estimate for the project was developed. Tribovich explained original estimate was \$638,000 because all fill slope areas were included. Then the project was down sized to \$510,000 which was a fine number until we found out the Army Corp funded only \$250,000 when we requested \$378,000. Now, do we accept the funds or let it go back to the Corp. With a lower level of funds, we need to see how we could make this work with the \$250,000 of which the Corp takes up to \$30,000 for their administration of the project. This

caused us to not bid out the project and look to use a force account. The Army Corp was fine with the Town using a force account which reduces the Towns and County's share for the project. The Town needs to expend \$333,000 to recover the entire \$250,000 from the Corp. It is a 75-25% match. Toepfer agreed this is all good and was pleased the Town was this far along with the project. Abeles-Allison, as a County partner in this project, we need to both agree on the process and design for the County to fund it. Toepfer asked about archeology, environmental, and right of way. Lund stated the Army Corp is completing the EA which is anticipated to be published in the next few days and full acceptance by mid July. The Town owns a 100 foot right of way through the entire project. Water inlet and outlet easements for rip rapping are being obtained from the property owners. The Millers have the documents and are in the process of signing permanent easements within the flood plain. Lund stated the plunge pool will be essentially eliminated other than during construction. This builds a temporary settlement trap. Tribovich feels the Town could dam the stream during the day, low water flows, and then prep it for the night. The WI DNR was also concerned about the plunge pool problem. Lund stated the new culverts will be 100 feet long verses the current 70 foot culvert. The easements were discussed. The permanent easements will be donated. If we need to pay for the easement based on \$2,000 per acre, we would pay approximately \$400. Toepfer asked about in slopes. Finished will be 2-2.5:1 to meet WI DOT standards. A prior repair on the west side of the road repaired by FEMA has 2:1 slopes and is holding up well and will not be changed. This helps reduce project costs by not changing it to 2.5:1.

Toepfer stated the Towns follow a different set of laws than the county. He explained how he does this with the WI DOT. No heavy contractors are used by the County. He questioned that if County funds are used and the project is over \$25,000 I have to put it to bid. He needs guidance from the County attorney. He believes this is not a force account based on what the County works under. Abeles-Allison asked about how the project will be constructed. Tribovich stated per the Corp, the Town can be the General Contractor. The bidding will be for the culvert pipe, we only have three possible suppliers, none local. This will be done by asking for proposals and no local advertising. The black topping will be put out for quotations to the two local companies and advertised locally. The Town will get fill and rip rap from the Bayfield County Forestry Pit, use Town gravel, Town trucks will be used if appropriate, but most fill and other transport will be hired as needed. The Town will use their loader and grader. The Town will rent a large excavator, 160,000 lb hoe, for work on the project. An experienced operator, Bob Glau will be hired by the Town as a temporary employee. C&W Trucking will assist the Town with construction management. Federal guidelines state that work not exceeding \$100,000 may be done through force account without bidding. This information came from the Army Corp. Toepfer stated the Corp handles this as a grant. He was concerned that by using some contracting you are not a force account. The County believes you have to follow the bidding requirements and WI DOT policy. Tribovich stated, force account by local and counties, cannot work for each other under Federal Transportation dollars. Toepfer felt this is an issue. He believes that without County dollars, this is not a problem but when the County is involved he cannot do it. Lund clarified that the rules are difference for Federal Highway dollars administered by the WI DOT and Army Corp dollars. Toepfer stated Bridge Aids are local County taxes levied for specific projects.

Abeles-Allison asked for budget break down. Tribovich stated the project is now estimated at \$350,000 to \$375,000 as follows: \$100,000 culverts, \$100,000 Town for sand, gravel, rip rap; paving \$50,000; equipment rental \$50,000; labor, management & miscellaneous \$35,000. Lund will provide a detailed estimate. We also need to add back engineering costs to this \$335,000 which are \$15,000 to \$18,000.

Toepfer needs additional data for the Highway Committee as follows:

1. Plan quantities.
2. Better documentation on cost estimates.
3. Project contact is Randy Erickson C&W Trucking.
4. Town minutes how this project went out.

Crandall was concerned about the County levy dollars he will levy and he wants to know how the costs were developed and what they need to levy. Discussion followed about the estimates. Lund stated the \$510,000 is based on WI DOT bid items. The force account analysis was able to cut about \$135,000 from the project. Toepfer asked about prevailing wages. Tribovich stated it will be Davis-Bacon which the Feds require. Town employees will be at current wages based on union contract other than the operator that will be paid Davis-Bacon.

Toepfer will need a legal opinion on how to proceed.

Discussion followed that Bill Rito, Army Corp, is very knowledgeable with WI State Statues and has done many projects in Wisconsin.

Toepfer felt our documents were good. He asked about reducing the culvert spacing to qualify as a Federal Bridget for future 80-20% funding. Discussion followed that putting in poured end walls would greatly increase the project costs by \$10,000 for each wall. Discussion followed.

Abeles-Allison stated the Town is bidding out a portion of the project. Toepfer said that does not work for the County. Toepfer stated a tax payer has called him about the project and they are trying to be sure everything is good. Toepfer will contact Goodwin with what needs to be done. Crandall wants to know how the Town can do this without going to bid. The County was reminded that this was a County road that the Town agreed to take over from the County and there were 5 culverts that were to be replaced that were never replaced. The County has no record of the agreement in 1999.

Discussion followed that this is a trout stream and all in stream work needs to be done by September 15. This and high water can delay this project to 2011.

Introductions were done at this time.

Agenda items for June 15, 2010 meeting – Basina asked that a resolution establishing a vice-chairman be added and an elimination of the public input resolution. Meierotto asked for a Recreation Committee Report.

A motion to adjourn at 9:00 a.m. was made by Basina and seconded by Meierotto. The motion carried.

The minutes respectfully submitted by:

David L. Good, Clerk/Treasurer