

**TOWN OF ALGOMA
WINNEBAGO COUNTY, WISCONSIN
AGENDA FOR SPECIAL TOWN BOARD MEETING
STORMWATER MANAGEMENT**

Wednesday, August 22nd, 2012 at 5:30 PM
Algoma Town Hall
15 N. Oakwood Road, Oshkosh, WI 54904

1. Call to order.

The meeting was called to order by Chairman Blake at 5:30 PM.

2. Roll call.

Chairperson Blake	Supervisor Hamann
Supervisor Timm	Supervisor Drexler
Supervisor Kierszh - Excused	Atty. K. Marone
Town Treasurer Edson	Town Clerk Nelson
Road/Drainage Coordinator Bill Tollard	

At 5:32 PM, Chairman Blake turned the meeting over to Mr. Shubak of Strand Associates. Most of the topics on tonight's agenda are administrative, therefore there isn't a presentation for tonight's meeting. However, if we need to refer to back to the information, Mr. Shubak does have it with him.

3. Discuss Honey Creek Improvements - Phase I and Phase II.

a. Review status of construction contracts and projected start date.

The contract was awarded at the August 15th, 2012 Town Board Meeting to H&H Civil Construction. H&H Civil Construction has the contracts. They are in the process of working through the paperwork and getting the required insurance. The projected start date is the second week of September. There will be a preconstruction meeting with the contractors and the regulators about a week before the start of the project. Mr. Shubak again was very pleased with the outcome of the bids. Drexler requested the board attend the Preconstruction Meeting as well.

b. Review and Discuss draft maintenance agreements.

The draft maintenance agreements were distributed to the board members and Attorney Marone. This is a mechanism that in the event maintenance is required or the streambank restoration / stabilization improvements fail beyond the capability of what work the property owners perform, the town or their agents will be able to access the property to do maintenance. This is a legal document that provides a legal description of the property, a general location map that depicts the where the improvements are being done, and a summary of the maintenance requirements needed to be done by the property owners. The types of maintenance required by the property owners are such activities as mowing, removing evasive plants and debris, etc. Most of these requirements are already being done by the current property owners. Maintenance agreements are typically recorded which is binding to all future property owners; meaning the agreement is attached to the parcel not the owners. In communication with most of the property owners, Mr. Shubak believes this is something that they are willing to do. Attorney Marone worked with Clerk Nelson on the draft in

order to make some changes and to add information from the Ordinance #145. Attorney Marone's review was to assure that everything in the document was accurate and comprehensive. The maintenance agreements will be recorded at Winnebago County which will follow any future land owners. The next step is to contact the property owners and determine the best way to get this agreement to them and to be able to explain it to them. Mr. Shubak thinks sending the maintenance agreements to them with a coverletter are impersonal. Mr. Shubak would like to invite the affected property owners to meeting to explain to them that this is a legal document, what its purpose is, and what their obligations are. This document should not be burdensome of the property owners; it should allow the town and its staff access to come onto the property to do the work, and the costs should not be assessed to the property owners. Therefore, monetary compensation should not be a factor in this maintenance agreement. This is a situation where Honey Creek serves the entire town, therefore there is a difference in who is financially responsible. Mr. Shubak would include in the maintenance agreement immediate notification to the town, so the town can deploy crews who have the means and equipment to perform the necessary work. It's important that the property owners are informed and educated on what this document is and what their being asked to sign. Attorney Marone spoke on the format of the document. There is a signature line for the owners, and a printed line for the owners, along with a notary. The purpose of the notary is to assure the true people are signing the document. There is also a line for the town chair to sign. Some consideration should be given to the property owners to have someone here to sign as notary as opposed to having them scout out a notary on their own. Attorney Marone did include in item 7 of the document financial responsibility if the homeowner doesn't take corrective action. The draft maintenance agreement gives an easement for the town to go onto their property to perform the work. The routine maintenance is also built into the document, but ordinance #145 does address sanctions should there be a failure in doing routine maintenance. Paragraph 7 outlines the process of doing a special assessment. None of the property owners are here tonight, but when they do meet they need to understand:

- 1- The town can enter upon their property to perform necessary maintenance;
- 2- If they don't perform routine maintenance and the town does, the cost can be put on their taxes. This doesn't mean they're going to be automatically assessed, but if they are negligent or perform an act that compromises the integrity of the improvements they can be assessed. If there's a natural act of God, the homeowners aren't going to be responsible for that; it's out of their control.

The agreements should include access, monitoring, and reporting. There is also mention in the maintenance agreements where there is periodic checking by town staff. Blake would like to have a meeting specifically with the property owners so the document can be explained to them and they won't feel like they have to hire an attorney on their behalf. It would be good to have the meeting before construction begins so everyone is on the same page. H&H Contractors could also be invited because the project is entirely on private property and it's understood that they have multiple clients to be considerate of. Attorney Marone addressed the issue of a schedule of maintenance which is included in ordinance 145, and should be addressed in the maintenance agreement. Mr. Shubak addressed the language of ordinance 145. Most of the language of ordinance applies to detention facilities that are owned and operated by one specific land owner. This project is unique in that there are multiple landowners and doesn't really apply to this project. In a detention basin there is a

schedule of maintenance that is done on a monthly or a weekly basis. This project is neither a facility nor a detention basin; it's a stream that moves water for the entire town. The maintenance agreement could address an annual inspection of stabilized and re-graded areas or inspection after significant storm event. Beyond that, it's really not necessary. There was discussion regarding the changing some of the language in the draft maintenance agreements which is attached to the record copy of the minutes. Mr. Shubak recommends that the Town Board approve to the maintenance agreement contingent upon the changes that were discussed. Once the revisions are done, they should be given to property owners with an invitation to a meeting to avoid any delay. Mr. Shubak was fine with the changes as well as Attorney Marone. *Motion by Drexler/Timm that amendments are made to page 2 under schedule needed to read "annually or after significant rain events", and to add a sentence on page 7 to read "annually or after significant storm events" which incorporates all the bullet points listed below that. No further discussion. Motion carried in a voice vote, 5-0.* Clerk Nelson will make the changes. There are six property owners that need to sign this. Mr. Shubak addressed an opportunity for the town to purchase a small piece of vacant land adjacent to Honey Creek just past the Oakwood Road culvert to assure future access. Blake informed the board that any purchase of land would have to done at a meeting of the electors. Clerk Nelson will send arrange the meeting with the property owners and the town board and will send out notices to all parties.

c. Discuss Phase II Oakwood Road/Honey Creek culvert replacement.

A memo from Treasurer Edson regarding funding of the Oakwood Road/Honey Creek culvert was discussed. Blake believes the town has enough money to replace the culvert and if it's not done, then the project will be stalled. Drexler believes there are other issues within the town to spend the money on. The document tells the board nothing new, that the town is in great financial shape, in part due to Treasurer Edson. This document also takes money away from other issues that can't be abandoned, such as roads. Drexler would like to begin talks about a stormwater utility. The board also hasn't voted on replacing the culvert. Drexler represents a group of taxpayers who are not interested in replacing the culvert at this time, but would rather wait to see if the other improvements are going to have an impact. There are other things that need to be done in the Sheldon Nature Area that may help the water flow through the existing culvert. Hamann thinks the culvert acts as a dam and the water can't get down to where the improvements are being made. Blake made a demonstration for the town board of how the existing culvert acts. Drexler didn't understand the demonstration. Blake reminded the board that stormwater management was established as their number one priority on their priority list. Drexler debated that other issues were being abandoned in order to allocate money to stormwater management. Discussion ensued. Road Drainage Coordinator Tollard weighed in on the culvert discussion. The creek can be as wide as a football field, but if the water can't get through the culvert to the other side of Oakwood Road, it might as well be as wide as a chair. If the water is slowing down because of the culvert, then there isn't going be any benefit unless it's opened up to let the water get there. Mr. Shubak advised the board that phase 1 (streambank improvements) was the setup to phase 2 (culvert replacement). The lynchpin to the overall stormwater management project is opening up the culvert. It's deceiving because when the creek floods, it doesn't go over Oakwood Road. It looks like the culvert is flowing full and it's working great, when in fact Sheldon Nature Area and Sheldon Drive is flooded. The reality is the culvert is vastly undersized. To see a significant impact, the culvert needs to be replaced. When Edson wrote the document, he had in mind that the culvert needed to be replaced and there needed to

be at least one detention basin before the 14 year old problem is solved. Blake reiterated that when the constraint is taken away, there's less of an opportunity for backups. If the culvert is opened up, there is less opportunity for the Sheldon Nature Area to flood. Mr. Shubak advised that opening the culvert is not going to alleviate the problem, it will relieve the problem. The plan is a multifaceted plan, and in order to get the level of protection the town is seeking, the entire plan will have to be implemented in an orderly progression. Phase 3 is to do work upstream of the culvert and in the Sheldon Nature Area. Replacing the culvert isn't a "fix all" but it will certainly bring a meaningful benefit. The entire plan needs to be implemented in order to be most effective. However, the culvert is the most important part of the plan. Residents may not want to spend money on a project that may not benefit them; the reality is that every resident who lives in the Honey Creek watershed contributes to the flooding problem stemming from the culvert. *Motion by Drexler/Hamann to table this item to a meeting where all the board members are present to vote on this issue. No further discussion. Motion carried in a voice vote, 4-0.* There was discussion to tie the culvert replacement into the meeting with the property owners. Again, Clerk Nelson will make arrangements and notify everyone regarding the special meeting.

4. Discuss status of Sheldon Drive, Prairie Wood Drive, and N. Oakwood Road drainage improvement project.

a. Review construction progress and status.

A lot of work has been done in this auxiliary project. The project is on a temporary hold while utilities are relocated. There are overhead electric lines and buried gas lines on the west side of Oakwood Road that have to be done before the storm sewer and culvert work can be done. The under drain work has been done and the ditching work has been done. Until some of the utility work is completed, the county has pulled off this project. This is the status of the project at this time. Tollard has been checking in with county on the project. They are doing a very nice job and it looks good. They're about a third of the way done with the ditch between Prairiewood and Sheldon. If weather permits they are going to continue working on the black dirt and seeding as far as they can go. Basically they are waiting for the pipe to arrive and Public Service to move the utilities. There was discussion on revising the slope of the ditches to a 4:1 slope. Tollard should work with the county to determine what the "best practice" is for ditches. There was discussion on a change order. Mr. Shubak didn't feel a formal change order was necessary as the work would be within the scope of the current Task Order. *Motion by Drexler/Timm to authorize Road Drainage Coordinator Tollard to talk to the county to work out the "best practice" for the ditches between Sheldon and Priairewood and the ditch on Oakwood east to Honey Creek. No further discussion. Motion carried in a voice vote, 4-0.*

5. Next Stormwater Workshop – Monday, September 24th at 5:30 PM.

Board members should watch for e-mails for Clerk Nelson in order to schedule the special meeting with the property owners and to discuss the culvert.

Approved at the October 17th, 2012 Regular Town Board Meeting.

6. Adjourn.

Motion to adjourn by Hamann/Timm. No further discussion. Motion carried in a voice vote, 4-0.
Meeting adjourned at 6:43PM

Respectfully submitted,

Charlotte Nelson, WCMC

Town Clerk

Town of Algoma, Winnebago County, Wisconsin