

July 17, 2012 Regular Meeting

The regular Town Board meeting of the Town of Stony Creek was held on July 17, 2012.

Supervisor Frank Thomas called the meeting to order at 7:00 PM with members present:

Councilman Harry Paul Gill

Councilman Nathan Thomas

Councilwoman Doreen Ryan

Attorney James Cooper

June 19, 2012 minutes

A motion was made by Councilman Nathan Thomas seconded by Councilwoman Ryan to accept the June 19, 2012. All in favor, motion carried.

106-12. A resolution was made by Councilman Gill seconded by Councilwoman Ryan to pay the General Fund bills in the amount of \$11,791.60.

Discussion: Councilman Nathan Thomas asked about the Waste Management bill voucher # 167A for the newspaper. We are paying \$133.05 to dispose of the newspapers. Are we being paid by the ton for the newspapers as well?

Supervisor Thomas stated yes. The \$135.00 is for the hauling.

Councilman Nathan Thomas stated where is that credit back through or do they do that quarterly.

Supervisor Thomas stated we just received the first check Saturday.

Roll call, vote, all in favor.

107-12. A resolution was made by Councilwoman Ryan seconded by Councilman Gill to pay the Highway Fund bills in the amount of \$18,572.06.

Discussion: Councilman Nathan Thomas reported he saw a delivery charge on the Curtis Lumber bill and its something we should look into. Roll call vote, all in favor.

Town Clerk report:

Conservation licenses:	\$ 3.20
Copies	<u>.25</u>
Total Town Clerk Fees	3.45
Dog Licensing	<u>145.00</u>
Total Town Revenues to Supervisor	148.50
NYS Ag. & Markets	29.00
NYS Dept. of Environmental Conservation	<u>54.80</u>
Total disbursed	\$232.25

Correspondence:

Dog Control report for June 2012.

Stony Creek 50+ Club: Permission to use the Rec. field for their annual picnic August 21<sup>st</sup>, 2012

Patricia Liebl: Thanking the Town Board for the use of the Town Park for their Family Reunion, which includes a donation.

Stony Creek Chamber of Commerce: Requesting Bed Tax funds in the amount of \$1400.00 for the Lumberjack Competitions during the Mountain Festival.

Stony Creek Fire Co.-requesting Bed Tax Funds in the amount of \$4827.00 for a Kids Safety Day, Car Show and Fire Truck Show. The bed tax funds will go toward giveaways for the kids, trophies for the cars and Fire Trucks, prizes and advertising. A Warren County Officer will also be on hand to teach kids safety. Proceeds will go to the Stony Creek Fire Co's Christmas Party for the kids.

A motion was made by Councilman Gill seconded by Councilman Nathan Thomas authorizing the Stony Creek 50+ Club to use of the recreation field August 21<sup>st</sup>, 2012. All in favor, motion carried.

#### Committee Reports:

##### Highways; DEC Order on Consent:

Supervisor Thomas stated he hasn't signed the Order on Consent yet. They are still negotiating the wording. This was wording that they had for the Environmental Betterment Plan. The wording they had, they wanted it on everything displayed in the promotional materials that tell about the trail system and he objected to that because the way it reads is that we did something wrong and we would be paying for it forever, it would be there all the time. Granted we did violate some of the regulations but he doesn't think we need to be painted with a red X the rest of our life either. The Attorney for DEC is trying to change the wording or change the amount of places we have to use the wording. When she gets back to us we'll move forward. In the meantime our engineer has been moving forward, he took soil and water samples. He sent them to Upstate Labs in Syracuse and there is a \$1200.00 bill in the General Fund bills to pay for the testing and all the tests for the soil and water came back clean so that settles that situation. The only thing we have to deal with is the 2000 gallon tank that came from the Market Place to the Town of Stony Creek also we have to dispose of the soil that was removed from behind the old highway garage and some of the soil by the drain of the new highway garage. That will be hauled to ESMI in Fort Edward. There is probably a good tandem load of dirt.

The engineer talked about putting in two holding tanks for the floor drains in the new highway garage and we'll use the tank that's there to catch the sediment and the other two tanks will catch the water or whatever comes out of the floor drains. There will be an alarm system on it. Once it reaches a certain level we will have to call somebody to dispose of the wastewater.

Councilwoman Ryan stated the floor drains are going to stay. Supervisor Thomas stated yes. The ones in the old garage have been cemented shut.

Supervisor Thomas stated when he finally signs the Order of Consent we are under timetables. There will be 30 days for some things also the highway dept put two more coats of paint on the tank behind the town hall, so hopefully that should be satisfactory that makes four coats total. It has sat there since 1991 with the factory coating on it, nobody had a problem with it until last year, and he thinks four coats should hold it. Supervisor Thomas asked if Attorney Cooper had anything to add. Attorney Cooper stated he could add supplement to what he said. Mr. Stec may want to know the background because he may probably be our Assemblyman next year and might have to go to him for help.

Attorney Cooper stated we were sited by DEC for a number of technical violations. We didn't have some of our tanks labeled and Supervisor Thomas just alluded to the fact that our 3000-gallon didn't have the requisite number of paint coats on it under DEC regulations. So we set about correcting what we could but there was a problem with the regard to the new highway garage in which the floor drains drained into a dry well. That was not satisfactory from the Department's standpoint. It wasn't something we feel we did wrong; it was our architect that did it that way. He since died and so we set out correcting that. Because of these technical violations they fined us \$27,000.00. They suspended most of that to the extent that we will actual pay \$7500.00 as a fine. We tempted to immediate that by approaching the state and saying we have a park system we are developing, would you please consider folding that into your Environmental Betterment Plan, which allows is to allocate some of the fine money to the construction of this park. So we get a double whammy out of it and they were receptive to that although it was slightly outside of the perminator of these intentions of this program. Among the things the program calls for is that the project that the municipality put together be a "new" project. The way we were able to finagle that was, this phase we were going to work on would be "new". So ultimately we came up with a hand shake agreement that would allow us \$5000.00 of the fine to the Environmental Betterment Plan program. In other words we would spend that on employees, materials or equipment to construct this park we have going and \$2500.00 we have to pay because they want us to pay a penalty of some kind. The problem with the Environmental Betterment Plan is that they don't want municipalities to crow about doing this when in fact it's done as a result of a carouse of action on part of the department. You've seen the BP ads about the gulf and everything is coming back along the coast and so forth. They didn't do that out of the kindness of their heart they were required to do that as a government settlement. So they don't want us crowing or any other municipality's crowing about the Environmental Betterment Plan when In fact it was caroused in a way. So they have a regulation that requires the town to publish the fact that this Environmental Betterment Plan was induced by compliance with the Director of Environmental Conservation to immediate in part an environmental situation that we caused. There regulations actually require us to put them on all of our brochures, all signs which were grossly disproportionate to the money involved. The park project is going to be like \$250,000.00 ultimately in the build out and they agreed it is disproportion. The regulation doesn't really technically fit out situation. So they apparently are trying to work out language, which would allow us to make this acknowledgement and comply with the regulations in our first series of brochures and announcements and post it at one of the trailheads and not to having it on all signs and continue to wear this scarlet letter X forever. That's where we are. They are have a hard time making the wording extra right so they don't get boxed it a situation where the Town of Hadley looks at them and says you did it for Stony Creek why can't you do it for us. So that's the rub of the problem. Ordinarily we had another problem where the highway dept. went out on this Dead End Road on Harrisburg, the Wild Forest area wilderness to most people. The road dead ends out there and the Superintendent was trying to make the road passable toward the end, not the absolute end but toward the end, by dumping loads of gravel off of dump trucks and when they raised the box they ran into problems with trees tipped over and in the road. They cut some of the trees on the side and some really small stuff too. The State accidentally came along with some of their planners to work on the Wilcox Lake Wild Forest and saw these stumps and got excited about it and sited us for violations there.

So Michelle Crew, the State Attorney wants to fold this in to the consent order and but she acknowledged to him that the count on the actual value of the timber cut is about \$100.00. They're not real excited about it they just want to wrap it all up in terms of the paperwork. That's what we are waiting to hear back from her about. The two issues and he assumes by the next meeting it will be straightened out and it will be Supervisor Thomas's call whether to convene the board to get approval for signing the order or whether he feels that it comports with prior resolutions of the Board and he can sign it on his own, that's his call, he is the Supervisor. Supervisor Thomas stated so they actually want \$100.00 for them trees?

Attorney Cooper stated no, no they don't want \$100.00 as far as he knows. Supervisor Thomas stated he doesn't think they are worth that much. Attorney Cooper stated the thing is when you are valuing commercial timber, diameter breast height and some of them had no diameter breast height. That is why the value is so low. He thinks Supt. Bradley was forth-coming when he said he couldn't understand what the tempest and teapot was about, they didn't cut that many trees of any size and probably the ones that were of size he would guess were as big around as the thigh, so \$100.00 bucks worth. Supervisor Thomas asked if she mention anything about us being able to work this road? Attorney Cooper stated yes she said generally since this road assesses the state lands they want cooperate with us to be able to work the road. He told her that he understood that DEC wanted to build a bridge or establish culverts back in there and that was an issue, we could always abandon the road, politically he knows you can't do that, you may not have the support of the board. If DEC got really snotty about it we could abandon it as a town road and DEC can take care of it. They don't have a budget to do it. The Recreation Operational Budget is the first thing they cut. She said she is going to talk to the guy in Warrensburg and get back to him about the bridge that was new to her and wants to get more information before she proposes language in the consent order about the road situation.

Councilwoman Ryan stated we know we were fixing the road because it was ok'd by FEMA to fix. Supervisor Thomas stated right we did receive money from FEMA to fix it. Councilwoman Ryan stated we should be able to fix our road. Attorney Cooper stated it is also on our list of CHIPS all the way up to Moosewoods Club, so as long as its listed CHIPS highway.

Supervisor Thomas stated there is private property in there, Moosewood. Attorney Cooper stated yes, we can't abandon the road, technically we could notifying the Moosewood people and so forth but as he indicated he doesn't think the town board wants to, it's a matter of principal. Attorney Cooper stated Supt. Bradley was going to talk about the TRP. (Temporary Repical Permit). He was hoping he would be here tonight because he didn't know if it was going to be nasty or friendly and we don't know until he reports back to the Board. Supervisor Thomas stated he didn't mention anything to him about it.

## Old Business

### Francis Dean Heritage Trails:

Supervisor Thomas stated the organic materials have been removed; they cleared the brush and trees on the trails. So that part is finished. The highway dept has hauled stone and rubble and they started putting down the fabric and rubble in the trail. The highway dept. took back the skid steer and also took the UTV back for its 50-hour service.

There is an electrical type problem; things are saying things are off when they are on. But it seems electrical in nature. They have returned that to have it repaired and serviced.

He thinks Sandi's plan is come September to rent an excavator, mini excavator and get an auger for the end to dig holes for post. She is trying to get a compactor for it.

Right now they have stopped work for a couple weeks and when she starts up she said she would be willing to bring her small tractor and donate the use of it to the project. They will be using that through the month of August just to load the stone and she also priced out some materials for the boardwalk and a couple bridges too. Also in the General Fund bills there was a bill for \$800.00 for engineer services from Tom Suozzo. The bridges and some of the boardwalk the UTV will have to travel over and they felt that it should be looked at by an engineer and designed to hold the weight so no one gets hurt. With that in mind she came up with about 612 feet of boardwalk, which includes the two bridges. Its about 5 feet wide or a little better, some are weight bearing and some are non-weight-bearing.

Sandi broke it down into units. Each unit are 12 foot X 6 foot and a total of 51 units and she broke down what is in a weight-bearing unit, and materials in a non-weighting-unit basically the only two differences are the ledgers, the non-weight bearing is 2X8X12, the weight bearing is 2X10X12, the stringers on the non-weight bearing is 2X6X12 and the weight bearing is 2x8X12. Sandi received prices from Murphy's, Stevenson, Curtis Lumber, Lowe's and Home Depot. Supervisor Thomas purpose is to get approval from the Board to move forward and buy these materials and start installing this part of the project.

Councilman Nathan Thomas stated these are as engineered? Supervisor Thomas stated yes.

Attorney Cooper stated mindful of our other problems with DEC, do we have a non-jurisdictional letter or something from the APA. He knows they went out and flagged the wetlands but to what end did they do that where we could lay out our trails and stuff.

Supervisor Thomas stated we have an APA permit.

Attorney Cooper asked to have this faxed to his office because as stupid as it sounds if you cover a wetland or even a trail of a wetland, for example you have three acres and there is a spur and you out a bridge over the spur its considered filling in a wetland and we don't need any more problems. Supervisor Thomas stated we have been through all of that. That's why we are doing the boardwalk because its in wetlands and if we just put the boardwalk on the ground it would run into a large project and this was done under the general permit. So the only part of the project they're counting is the 4x4 post that goes in to the ground.

Attorney Cooper would like a copy to look at. Supervisor Thomas stated that's why we are doing a lot of this boardwalk to get around the wetland part of it. The APA was down at least three times and between himself and the people from Soil and Water, they went back and forth with them numerous times over the phone.

Attorney Cooper stated sometimes their permits have a little hook at the end that say any filling will require amendments or additional permits that's why he would like to read it.

Councilman Nathan Thomas stated so we are going with the combination non-weight-bearing and weight-bearing? Supervisor Thomas stated the all weight bearing he interrupts is everything is 2x10 and 2x8. 2x8 and 2x6. Looking at the numbers he would be inclined to go with the all weight-bearing there's not that much difference.

The two lowest quotes were from Curtis in the amount of \$14,490.63 and Murphy's in the amount of \$14,657.40.

Councilwoman Ryan stated keep in mind shipping charges. Councilman Nathan Thomas stated everybody does that across the board now. Its unfortunate and these prices are probably good for 30 days from the day of the quote.

Attorney Cooper asked where it would be stored once it gets here. Supervisor Thomas stated at the Historical Association.

Supervisor Thomas reported that Sandi and Kathy are competing in the Iron Man Competition this weekend in Lake Placid.

108-12. A resolution was made by Councilman Nathan Thomas seconded by Councilwoman Ryan to purchase the all weight bearing materials not to exceed \$15,000.00. Roll call vote, all in favor.

#### Committee Reports:

Supervisor Thomas reported he received the DEC Smart Growth Grant reimbursement check in the amount of \$25,000.00. He also received a check from Waste Management for recyclables in the amount of \$1155.00. They did not reimburse for the magazine and newspapers that went out on June 20<sup>th</sup> so he assumes that will be forth coming and to his calculations it will be around \$896.00.

#### New Business:

##### Bed Tax requests:

109-12 A resolution was made by Councilman Gill seconded by Councilwoman Ryan authorizing the expenditure of \$1440.00 of Bed Tax monies to the Stony Creek Chamber of Commerce to be used for the Lumberjack portion of the Mountain Festival on August 4<sup>th</sup> and 5<sup>th</sup> 2012. Roll call vote, all in favor.

110-12. A resolution was made by Councilman Gill seconded by Councilwoman Ryan authorizing the expenditure of \$4827.00 of Bed Tax monies to the Stony Creek Fire Co. for a Kids Safety Day, Car Show, Fire Truck Show the bed tax funds will go toward giveaways for the kids, trophies for the cars and Fire Trucks, prizes and advertising. A Warren County Officer will also be on hand to teach kids safety. Proceeds will go to the Stony Creek Fire Co's Christmas Party for the kids. Roll call vote, all in favor.

111-12. A resolution was made by Supervisor Thomas seconded by Councilman Nathan Thomas authorizing the following budget transfer:

Debit A1990.4 Contingent in the amount of \$122.48

Credit A1410.4 Town Clerk in the amount of \$122.48. Roll call vote, all in favor.

#### From the floor:

Supervisor Thomas stated that tonight we have Supervisor Dan Stec who is the Supervisor of Queensbury and also the Chairman of the Board of Supervisors and is also a candidate for State Assembly. Hopefully he will be our next Assemblyman. His father George Stec was also present.

John Thomas asked where we are at on the cemetery. Supervisor Thomas stated we have a committee but some of the committee people are busy. As the summer winds down that will be one of the priorities to get that taken care of. John Thomas stated he is talking about the Dean Cemetery, Its 2-2½ times of what the deed says is there and asked what the preferences on how the board wants to handle that? He is happy to sign over to the town; it's just the case of who is going to do the survey on it. Attorney Cooper stated it doesn't necessarily have to be surveyed if you and the town board could agree on monuments and just measure the tape out between the monuments and a general direction like north or whatever. If we had a fixed monument like a telephone pole or something like that as a fixed monument and then measure to a point of beginning we wouldn't necessarily need a survey. He doesn't know if that precedes the other work that the committee was going to do. That might be part of their recommendations toward the end product. But your probably serving yourself well to keep bring it up. John Thomas stated he may have some time over the summer where he can pour 4x4 concrete on the outside corners as he know where the cemetery is.

Attorney Cooper stated it is more or less rectangular. John Thomas stated the last grave is in the roadway now. He is not sure how he is going to handle that. It's up just 20 feet of the grave and goes back down and he's not sure how he is going yet. Attorney Cooper stated you say the roadway, you mean the driveway? John Thomas stated there is a circular driveway, the deed says its 50 feet straight in but over the years it goes to a circular driveway. The person who dug the grave said it's actually right in the driveway.

Attorney Cooper stated he did get a hold of Bill Liebl and went down though the town highways and asked him what he knew about old cemeteries on these town highways. There were a lot of them with like single graves but they don't count for our purposes. So we went down through the highways and he gave a list of where more or less of cemeteries which could be argumentive considered to be public cemeteries are located. At least we have tapped into one historical resource. Supervisor Thomas stated he thinks one thing that should come out of this we should probably establish a local law that if anyone is going to be buried in town whether it be in a private, public or in their backyard they should at least notify the Town Clerk and doesn't know if they should get a burial permit or whatever because that is the biggest problem, people are getting buried and we don't know anything about it, sometimes never, other times when its to late.

Elaine O'Neill stated wasn't that the reason they built the cemetery (Glassbrook Cemetery) because the other ones were just about full?

Supervisor Thomas stated yes that was part of the reason. Mrs. O'Neill stated how many years was that? Supervisor Thomas stated at least 10-12 years. Mrs. O'Neill stated she would say the other ones are full. John Thomas stated there isn't anything stopping them from being buried. Mrs. O'Neill stated they should be closed. John Thomas stated there is no way of closing them. Supervisor Thomas stated some are on private land. He doesn't know if we have the authority to close them.

Mrs. O'Neill stated the ones on private land; the people that own the land should be responsible for those, the public ones the town owns, that's why that (Glassbrook Cemetery) was built.

Councilman Nathan Thomas stated you said the boundary of the cemetery they want them fenced especially the roadside, correct?

Attorney Cooper stated that's what the State Law requires. It tends to be honored on the breach. Someplace like the Glassbrook that's fenced but like Dean Cemetery its not fenced. John Thomas stated he doesn't care if it is fenced because he needs to mark the outside. Attorney Cooper stated its an emotional issue because if there's a family that claims there are plots available and they want to be buried by mom how can the town board say you can't. So this is why we try to do the metrologic, mythological process to identify, inventory the cemeteries and determine whether in face objective evidence says it is built out. Then we could publish a Local Law requiring among other things to get a permit to get buried here in town and send notice of it to all local funeral homes so hopefully we have it out in front of the problem and not just catch it as what we have been doing.

Supervisor Thomas stated we should get on that and get it taken care of.

A motion was made by Councilman Gill seconded by Councilwoman Ryan to adjourn the meeting at 8:46 PM. All in favor, motion carried.

Respectfully submitted,

Susan Harrington  
Town Clerk