

March 20, 2012

The regular Town Board meeting of the Town of Stony Creek was held on March 20, 2012. Supervisor Thomas called the meeting to order at 7:00 PM.

Members present: Councilman Harry Paul Gill  
Councilman Nathan Thomas  
Councilwoman Doreen Ryan  
Attorney James Cooper

Absent: Councilman William Liebl

February 21, 2012 minutes:

A motion was made by Councilman Nathan Thomas seconded by Councilwoman Ryan to accept the February 21, 2012 minutes. All in favor, motion carried.

March 6, 2012 minutes:

Correction- Page 148 Attorney Cooper stated it is professional service so you're not constrained by any bidding process.

Page 148 and page 149 Resolution # 064-12. Change has built to as-built.

A motion was made by Councilwoman Ryan seconded by Councilman Gill to accept the March 6, 2012 minutes with these corrections. All in favor, motion carried.

065-12. A resolution was made by Councilman Gill seconded by Councilwoman Ryan to pay the General Fund bills in the amount of \$12,449.38. Roll call vote, all in favor.

066-12. A resolution was made by Councilman Gill seconded by Councilwoman Ryan to pay the Highway Fund bills in the amount of \$48,359.97. Roll call vote, all in favor.

Town Clerk report:

|                                   |              |
|-----------------------------------|--------------|
| Cemetery Book                     | \$10.00      |
| Fax                               | <u>1.00</u>  |
| Total Town Clerk fees             | 11.00        |
| Dog Licensing                     | <u>30.00</u> |
| Total Town revenues to Supervisor | \$ 41.00     |
| NYS Ag & Markets                  | <u>6.00</u>  |
| Total disbursed                   | \$47.00      |

Correspondence:

Dog Control Report-February 2012

Debra Locke-permission to use the park pavilion April 20, 2012 for a picnic and going away party for her son.

Starr Cole-permission to use the park pavilion July 7, 2012 for a family reunion.

Rick and Ruby Moses-permission to use the park pavilion July 21, 2012 for their daughters Graduation.

Stony Creek Chamber of Commerce- permission to use the park pavilion July 19 for their semi-annual dinner also October 13, 2012 for their annual "Fall in the Creek Festival".

Stony Creek Free Library- requesting Occupancy Tax Funds in the amount of \$2500.00 for a motorcycle show/rally sometime around June 4-9<sup>th</sup> 2012. Funds will be used for a DJ, large quantity of food/refreshments, printing, trophies and the marketing for the program outside of Stony Creek.

A motion was made by Councilwoman Ryan seconded by Councilman Gill for the following use of the town park pavilion:

Debra Locke to use the park pavilion April 20, 2012 for a picnic and going away party for her son.

Starr Cole to use the park pavilion July 7, 2012 for a family reunion.

Rick and Ruby Moses to use the park pavilion July 21, 2012 for their daughters Graduation.

Stony Creek Chamber of Commerce to use the park pavilion July 19 for their semi-annual dinner also October 13, 2012 for their annual "Fall in the Creek Festival". All in favor, motion carried.

#### Old Business

##### Dump Day cards:

Councilman Gill asked if there was going to be a limit on the tires. Supervisor Thomas stated we did last year, limit of 4.

067-12. A resolution was made by Councilman Gill seconded by Councilwoman Ryan to mail and continue with the free dump day cards for the year 2012. Roll call vote, all in favor.

#### Warren and Washington Menu for a Healthy Community, funded by the NYS Dept. of Health: Complete Streets, Lands Use Option:

Councilwoman Ryan stated she doesn't think it's for us. Councilman Nathan Thomas stated it's not really for our community, it is a \$5000.00 grant but not for everything they are hoping for us to do for them. Bicycle paths and walkways would be a great idea but he hasn't seen too many car-pedestrian accidents in town.

Supervisor Thomas stated he thinks it is a lofty goal but doesn't think it is completely retainable and he doesn't think it obligates us, it encourages us but doesn't think it obligates us.

#### Highway-Garage:

##### NYS DEC-Bulks storage-floor drains.

Supervisor Thomas stated the meeting on March 13<sup>th</sup>, 2012 went very well. The Attorney that represents DEC and the two inspectors, Mr. Pasco and Mr. Delfinis. He thought they were very reasonable and more than accommodating. They are going to send a rewrite of the Consent of Order, he hasn't received that yet but anticipates that we probably will by the end of the week or first of next week and go from there. The engineer that we hired, Mr. Suozzo from Cedarwood Engineering, he did say that he would try to have at least a preliminary plan by the end of this week or next week as to the floor drains in the highway garage and what we can do with them. He did indicate that probably what we are going to be looking at is a tank that will collect two to three gallons of water or whatever and will be hauled away. He is going to investigate all possibilities and come up with the hopefully, the cheapest and reasonable plan for us.

Attorney Cooper stated there is a wild card they brought up. That is the old garage had floor drains and there is a lot of indications of dripping off the trucks in there. The floors are stained with oil and they don't know where the floor drains go. So they are assuming water carried the water into the drains and washout somewhere outside the building. They don't know where the pipes run but our engineer is going to figure that out. That is a concern to him and agrees with the Supervisor, the meeting was excellent. The Attorney for DEC, Regional Attorney, indicated that she was going to recommend to her boss that our fine be substantially reduced. What that means we don't know but it sounded good. Our engineer established a good remorse with their people. He was a former employee of DEC so that didn't hurt. There is no indication that we had any feeling that we did anything to cover up shortcomings with our situation. It was all very positive in that sense but are still looking at some kind of a fine and the open issue with the drain in the old garage. To address on the points in the minutes last month, there is no flexibility in regards to a circumstance, like our 3000-gallon that's right behind the town hall. The state regulations require four coats of paint and presumably their thinking about tanks that are not enclosed and are exposed to the elements, whereas ours are enclosed and for 20-30 years were unpainted, didn't leak and didn't corrode but we painted it. We have one coat on it. There is no flexibility to waive the rest of the coats because they say that's the rules. There is no discretion on their part to be reasonable about that even though common sense they agree would indicate this is a different type of situation. So we are going to have to go ahead and jump through the hoops that they indicate. They also, when he pointed out to them they put the town in a bad spot because when the Supervisor wrote them back in May of 2011, his letter suggested we have done this and this let us know if we have to do more. There was seven months of silence until we got the Consent Order in January. Attorney Cooper complained that mechanism made it difficult for the town because we hadn't budgeted for any penalties. The Regional Attorney apologized and said it was on her. That starting in May they had other fish to fry with all the flooding and roads washed out and problems they had up North with the town storms that came though. One in May and one in August and that was her excuse for not following up on it until January and she said she felt bad about it. The town was good, we'll just have to see what substantial means to them as to what substantial means to us.

Councilwoman Ryan stated they would have had to inspect the original building, the State would before we could even use it.

Supervisor Thomas stated he doesn't know about the State, Warren County Building Code should have.

Attorney Cooper stated he thinks they were sympathetic to that agreement. We told them we hired a professional architect eight years ago and assumed he done his job right and now he is dead and the Statue of Limitations have run on any malpractice suit against his engineering firm. So again they weren't saying we did anything, nobody was dumping oil on the ground and trying to cover it up. It was a question of nonfeasance opposed to malfeasance. We will get through this probably better then we first thought but there is going to be with a little sting.

Supervisor Thomas stated as Attorney Cooper did state we do have the issue with the floor drains in the old garage. He doesn't know where they drain to or if anyone else does. That will need to be investigated and looked into and could be a problem.

FEMA:

Supervisor Thomas gave the town board a copy of a project worksheet for FEMA aid.

There are 9 projects.

The Work Complete column: Are projects that the repairs have been made and the materials, time and equipment has been documented, which totals \$96,523.19. That money he anticipates to receive it will probably be a couple months.

Work To Be Completed column: The only money received was \$25,441.50 that was to do work on Harrisburg Road from where the pavement ends to the first creek. This was received back in February.

Grist Mill Rd, Tucker Rd., West Stony Creek Rd., Hildebrand Rd. and Harrisburg Rd. you have work completed but there is also another box to be completed that is \$43,670.00 they combine the \$43,670.00 and the \$27,725.59. That was over \$70,000.00. Anything over \$63,900.00 is considered a large project by FEMA. We will receive the \$27,725.59. The \$43,670.00, we will have to do the work first, document what we do and pay for it then they will reimburse what we done. We won't receive that until the work is completed.

The following is a copy of the project worksheet for FEMA aid:

| Project  | Work Completed     | To Be Completed     | Total FEMA 75%       |
|--|--------------------|---------------------|----------------------|
| Lens Lake Road   | \$ 6,675.82        | \$ 505.00           | \$ 7,180.32          |
| East States Road   | \$ 8,864.70        | \$ 9,661.00         | \$18,525.70          |
| Fodder Road  | \$19,467.89        | \$ 27,73.00         | \$22,240.89          |
| Roaring Branch Road  | \$ 7,192.89        | \$ 841.00           | \$ 8,033.89          |
| VanAuken Road  | \$12,161.14        | \$ 6,133.00         | \$18,294.14          |
| Louis Waite Road   | \$14,435.16        | \$ 846.04           | \$15,281.20          |
| Harrisburg Road- <b>received</b>   |                    | <b>\$ 25,441.50</b> | <b>\$25,441.50</b>   |
| States and Snow Roads  |                    | \$ 10,188.00        | \$10,188.00          |
| Grist Mill Rd, Tucker Rd.,<br>West Stony Creek Rd.,<br>Hildebrand Rd.,<br>Harrisburg Rd. | \$27,725.59        | <b>\$ 43,670.00</b> | \$ 71,395.59         |
| <b>Totals</b>  | <b>\$96,523.19</b> | <b>\$100,058.54</b> | <b>\$ 196,581.23</b> |

Harrisburg Road Project-received in February - \$25,441.50

|   |                    |
|---|--------------------|
| Grist Mill Rd, Tucker Rd.,<br>West Stony Creek Rd.,<br>Hildebrand Rd., project received |                    |
| When complete   | - \$43,670.00      |
| To be completed-will be receiving   | \$30,947.04        |
| <u>Work completed</u>   | <u>\$96,523.19</u> |
| Balance to be received from the State   | \$127,470.23.      |

Supervisor Thomas stated he wanted to break this down to make the board aware of what is out there, what we should receive, and what has to be done. All of these projects are subject to audit by New York State and also by the Federal Government.

These numbers are 75% reimbursement for the projects, that's what FEMA reimburses at. There is some talk that we might get another 12½% from the State but wouldn't count on that. Councilman Nathan Thomas stated the large projects: Grist Mill, Tucker, West Stony Creek, Hildebrand and Harrisburg they got all group together. Supervisor Thomas stated yes. Councilman Nathan Thomas stated did we run out of time or instead of breaking them down into small projects. Supervisor Thomas stated that's how the gentleman from FEMA wanted to do it, to bunch them all together. It's all about the \$71,395.59. Anything under the \$63,900.00 like the smaller projects even if the work hasn't been completed they will send the money. The budget codes have been set up for each project, which identifies each project to be completed. That way as the work is done, we code the materials, time, equipment used, we code them back into these accounts and we can keep track of it. If we do get audited we will have a paper trail to stand on.

#### Committee Reports:

##### Assessment-Board of Assessment Review:

There is one vacancy and Mr. Studer will need to be reappointed in August or September.

Letters of Interest will be received to fill this vacancy.

Newly appointees will need to take a training class, which will be held April 25, 2011 at 6:30 PM at the Warren County Municipal Center.

##### Insurance-Damage to the town highway truck:

Supervisor Thomas reported the insurance money was received for the 1997 L9000 tandem truck, which was damaged from icy roads.

##### Surplus Material-Printers:

Supervisor Thomas reported he set-up an E-Bay account and looking into the Pay-pal

##### Insurance bids:

Supervisor Thomas stated this would be put in the paper tomorrow.

##### Hamlet Revitalization:

LaBerge will be completing our hamlet revitalization draft of the plan for review by the end of March. He believes we will have an opportunity to read, look at it and if you want to make changes we can certainly do that.

##### New Business:

##### Occupancy Funds- Stony Creek Free Library:

068-12. A resolution was made by Councilman Gill seconded by Councilman Nathan Thomas authorizing the expenditure of bed tax funds to the Stony Creek Free Library in the amount of \$2500.00 for a Motorcycle show/Rally. Funds will be used for a DJ, large Quantity of food/refreshments, printing, trophies and the marketing for the program outside of Stony Creek. Roll call vote, all in favor.

HA-PE-De:

069-12. A resolution was made by Councilwoman Ryan seconded by Councilman Gill to renew the HaPeDe Contract for the distribution of Town and Chamber brochures at Exit 9 and 17 of the Northway. Exit 9 in the amount of \$450.00 and Exit 17 in the amount of \$340.00 for a total of \$790.00 to be taken out of the Occupancy Tax monies. Roll call vote, all in favor.

Francis J. Dean Farm Heritage Trail:

Supervisor Thomas stated that Councilman Gill is somewhat familiar with this. He isn't sure about Councilwoman Ryan and Councilman Nathan Thomas.

This is a grant application that we put together back at the end of 2008.

Supervisor Thomas gave a brief rundown of the Dean Farm Heritage Trails project.

The Dean Farm is on the corner of Murray and Lanfear Road. Mrs. Haskell was a descendent to the Deans. When they passed on they Willed 10 Acres of their property to the Stony Creek Historical Association and Willed 217 acres to ESF College Foundation, which is the Environmental Science and Forestry College in Syracuse. This took place in the 1990's.

The 217 acres the ESF Foundation uses to raise money for the college. The way they do that is by logging. They have logged part of it about three years ago and plan at sometime to log it again. Other then that if the foundation decides that they no longer want the property the only option for the property is to go to the State of New York and it becomes forest preserve. That played a key part into an idea of making use of this property and that idea was to construct some recreational trails on the 217 acres. They went into discussion with Robert Quinn who represents the ESF College Foundation. In talking with them he connected the town with the landscaping architect, a student named Katie Johnson. She came up here on a \$1500.00 stipend from the town, she put together a project notebook, which is included in the grant packet. She put together a basic design layout of the entire project where some proposed trails maybe and how it would be tied to the Historical Association, Chamber of Commerce and the town. That was a nice step in the project. After that we took one or two an a half years to get to an agreement with the ESF Foundation as to the maintenance, the type of trails, what can be used there. If the town or ESF doesn't want to participate any longer there is an out clause. The agreement is three-four pages long. The town also entered into a small agreement with the Historical Association because of where the parking lot is placed. It is on the historical property on the first of where the trail crosses the historical property and ESF property. It also is designed to connect with the historical property in an effort to bring more attention to that and hopefully bring more people to it. The town has partially constructed a parking lot it still needs to be finished with railings, signage and that type of stuff.

We applied for this grant from NYS and was not funded, but got help from the Warren County Planning Dept. They helped put the application together and in 2010 the county re-applied on the town's behalf to the NYS Dept of State and we were funded and the amount of the grant was \$220,000.00. It's a 50/50 matching grant and so its \$220,000.00 State and \$220,000.00 matching from the Town. The matching part of the towns share can be forced account, which is help from the highway dept. It can also be Volunteers, their time counts toward the match. Currently we probably have \$10,000.00 match between the Planning Dept. and Warren County Soil and Water. They've spent a considerable amount of time over here plotting out trails and Warren County went over with their GIS and plotted the trails so they are on paper.

It's not just cash money it can volunteers. Volunteers count for \$15.00 an hour. Soil and Water is self-considerable on laying out the plans. We had hoped to start construction last year however we got into the APA permitting process and that dragged on longer than necessary and also with the flooding last May 28<sup>th</sup> it changed the location of where we had the trails because we found out that part of them would have been flooded out and probably destroyed. So we moved the trails. APA was down twice to visit and plot the wetlands. By October we did receive an APA permit. We also have permits from Army Corps of Engineers, NYS Historical Preservations and NYS Dept. of EnCon.

The grant we have is a two-year grant. We are in the second year of it. We will probably get an extension for a third year. However the time for construction has arrived and we need to move forward on that and the part we have been permitted for is, as your going up Murray Road towards Thurman on the left hand side, between Murray Road and the creek, it's about 1.3 miles of handicap accessible trail and that's the part that has been permitted. There was talk when Soil and Water was there as to the various ways to get this constructed. It was thought if we went out to bid and having to pay the prevailing wage rate as required by the Statute that we would not have enough money to construct these trails. There was talk of trying to get ESF to come in partnership and try to fund it though them, (run a grant though them). The other way is to hire temporary employees. That is his desire and thinks that is what we should do. He thinks if we had two or three temporary people that worked part-time, 20 hours a week. Estimating for 5-6 months, 20-24 weeks. We would have to rent equipment. You would have to have skid spears or something along that line to take off the first six inches of topsoil and someway to haul rubble and lumber and whatever is needed to make the trails stable and solid. To get across some of the wetlands we have to build a boardwalk and there's about 100 ft of boardwalk to be built and probably two small bridges. He thinks it is a good project. We have been working on this for quit a long time and if we went that route, hire temporary employees and paid them a descent wage he thinks we can hire people from town and we can keep the money in the town and give people some work. That is his pitch.

Councilwoman Ryan asked how that money would be compared to worry about the floor drains to the town garage, money wise.

Supervisor Thomas stated that was her decision. Councilwoman Ryan stated she brought that up because we don't know the cost of that yet. Supervisor Thomas stated that's true, very true. He stated the floor drains are going to be fixed, he can't say how much but it's going to cost something. Councilman Nathan Thomas stated we received the approval from the State for the funding correct? Supervisor Thomas stated yes. Councilman Nathan Thomas stated \$220,000;00 we put a lot of man-hours into already, it's an approved project at the time and this is initially for the 1.3 miles.

Supervisor Thomas stated this is for the trails on the creek side. They are handicap trails so it will take a little more work than the trails on the other side. They will have to be pretty flat and pretty solid surface. Councilman Nathan Thomas asked what the acceptable wage would be. Supervisor Thomas stated he was thinking \$15.00 an hour there are no benefits to these jobs. The highway crew is making \$18.00 an hour. It is a temporary job, but it's entirely up to us. He was thinking but is up to the board, that we should fund most of this part out of the Occupancy Tax Fund. If you anticipate what you going to receive in Occupancy monies, in December it's over \$96,000.00 because in October we received \$30,000.00 which we receive each year.

That would leave a balance of \$66,000.00. Last year we spent around \$31,000.00. We have a carrying balance for several years and thinks this is going to promote tourism as much as anything he can think of. We should spend at least some if it toward this.

Councilman Gill asked when we wanted to start on this.

Supervisor Thomas stated as soon as it dries out probably the first part of April. The sooner we get at it the sooner we get done.

Councilman Gill stated if anyone wants to do it just have them come see you. Supervisor Thomas stated sure. What we need is some body with small equipment experience. He talked to Sandy Payne and she is interested in working and is enthusiastic about it. Councilwoman Ryan suggested keeping the work local. Supervisor Thomas stated that was the intent.

Attorney Cooper stated after the handicap section is constructed which he understands that will require some mechanisium equipment but even with that these applicants should get \$15.00 an hour because he did trail work for 20 years with the Adirondack Mountain Club and a lot if it is bull work particular building new stuff like bog bridges it really takes you down. For someone looking for a summer job there either going to quit or they're not going to do the job right so you will need to get the right people. The other thing he suggests is the board authorize the Supervisor to hire and fire these people so we don't have to have a Special Meeting and come back here if they don't work out, to allow him to basically be the Clerk of the Works. So that if we have someone we are disappointed in then we ought to be able to replace them pretty quickly to keep the project going.

Supervisor Thomas stated he has talked to Sandy Payne about it and is enthusiastic about it and she would defiantly be good for the project because he thinks she can coordinate it and basically lead it. It is at a point where it needs to move forward.

Councilman Nathan Thomas asked if the trails are mapped out with pins. Supervisor Thomas stated they are flagged out. Its been plotted on GPS, so its easy to find where it goes.

Councilwoman Ryan stated she's glad you have the permits too; we don't need to worry about getting fined again. Supervisor Thomas stated he doesn't think we'll get fined, the permit expires in 2013. Attorney Cooper asked if it expires subject to renewal or expires if we don't get the project underway. Most of their permits say you have to start by that date then it will perpetuate if you start the project within the window.

Supervisor Thomas stated he thinks he doesn't anticipate any problem with that. As the project moves to the other side of the road then it's back to the APA and have to start over again with the process. There isn't as many wetlands on the other side as there is on the right side.

Attorney Cooper stated for the new board members. The Estate left this property to ESF and one of the provisions was that it be used for educational purposes, which presents them with a white elephant because they have Pack Forest that they use for forestry and they intend to use this as forestry because foresters need to be educated in Science Silvia Culture and what not. It was to far removed from their base of operations for them to supervisor so he thinks they approached the town about entering into a joint venture together. Supervisor Thomas stated yes, they called about getting the field mowed and discussed the property and talked about it. They have done other projects like this property they owned, they put trails in.

Attorney Cooper stated they wanted it reserved in the contract with the town, the right to go in and log which would involve crossing these trails to be constructed.

Assumable they aren't going to tear out bridges and that type of thing, kind of process.

The contract says they will restore it the way it was. We can't stop them from logging.



Supervisor Thomas stated that's one way of generating money for the college. To him this project, the property sits there and if the town and someone doesn't do a project like this then the property will just sit there forever.

Attorney Cooper stated it has a huge recreational potential to the town. You could draw a lot of people to Stony Creek, a peaceful little trail system that is not overused. It has tremendous potential.

Supervisor Thomas stated with the help of Soil and Water there will be some interpreted signage along the trails discussing various environmental features that are present.

070-12. A resolution was made by Councilman Nathan Thomas seconded by Councilman Gill Authorizing the Supervisor to hire 2-3 people at \$15.00 per hour for five-months to complete the trail project and also authorizing the Supervisor to be the Clerk of the Words for hiring and firing. Roll call vote, all in favor.

Budget transfers

071-12. A resolution was made by Supervisor Thomas seconded by Councilman Gill authorizing the following budget transfer:

Debit Fund Balance in the amount of \$10,082.05.

Credit A8020.4 Planning in the amount of \$10,082.05.

Roll call vote, all in favor.

072-12. A Resolution was made by Councilwoman Ryan seconded by Councilman Nathan Thomas authorizing the following budget transfer:

Debit DA4960 FEMA in the amount of \$25,441.50

Credit DA8760.47 Harrisburg Road in the amount of \$25,441.50. Roll call vote, all in favor.

From the floor:

Dale Aldrich stated on the highway bills there is \$48,359.97 is there any explanation on why they are high.

Supervisor Thomas stated a good portion of it was salt about \$30,000.00 there is also \$4000.00 for two loader tires that were purchased today. There is also \$5125.00 for 5 new radio's to come in compliance with FCC we have to switch to digital radios.

Sandy Payne stated on behalf of the Stony Creek Free Library she would like to thank the town board for the Occupancy Tax Funds. They are looking forward to drawing people in for the fundraising for the library.

A motion was made by Councilman Gill seconded by Councilwoman Ryan to adjourn the meeting at 8:04 PM. All in favor, motion carried.

Respectfully submitted,

Susan Harrington  
Town Clerk