

July 16, 2013

The regular Town Board meeting of the Town of Stony Creek was held on July 16, 2013.

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

Councilman Harry Paul Gill

Councilman John Thomas

Attorney James Cooper

Absent: Councilman Nathan Thomas

Councilwoman Doreen Ryan

June 18, 2013 minutes:

Page 29 change 4½-foot high to 1-foot high.

Page 33 change subdividing to subsidizing.

A motion was made by Councilman Gill seconded by Councilman John Thomas to accept the June 18, 2013 minutes with these corrections. All in favor, motion carried.

June 27, 2013 minutes, Special Meeting.

A motion was made by Supervisor Thomas seconded by Councilman Gill to accept the June 27, 2013 minutes. All in favor, motion carried.

096-13. A resolution was made by Councilman Gill seconded by Councilman John Thomas to pay the General Fund bills in the amount of \$13,700.19. Roll call vote, all in favor.

097-13. A resolution was made by Councilman Gill seconded by Councilman John Thomas to pay the Highway Fund bills in the amount of \$9895.94. Roll call vote, all in favor.

098-13. A resolution was made by Councilman Gill seconded by Supervisor Thomas to pay the Fire Fund bill in the amount of \$887.79. Roll call vote, all in favor.

Town Clerk report:

Conservation license	\$ 1.60
Birth Copy	10.00
Death Copy	10.00
Copies	<u>.50</u>
Total Town Clerk fees	\$ 22.10
Dog Licensing	<u>100.00</u>
Total Town revenues to Supervisor	\$122.10
NYS Ag and Markets	20.00
NYS Environmental Conservation	<u>27.40</u>
Total disbursed	\$169.50

Correspondence:

Dog Control Log- June 2013

Ron and Pat Carbery- Thanking the Town Board and how they enjoyed the Fourth of July Town-wide picnic at the town park.

Denise Winslow- Congratulating and Thanking the Town Board for the 4<sup>th</sup> of July Town-wide Picnic.

Stony Creek Chamber of Commerce-requesting Occupancy Bed Tax Funds in the amount of \$2800.00 to insure adequate funding to conduct the Lumberjack Competition. The chamber may require a lesser amount than the \$2800.00 dependant upon the success of its advertising and fundraising campaign.

Cindy Cameron, Town Historian- requesting Occupancy Bed Tax fund in the amount of \$500.00 for the Bicentennial Timeline being held August 2<sup>nd</sup> and 3<sup>rd</sup> 2013 to cover the cost of a tent, advertising, pewter and a re-enactor.

Tony and April Lomenzo-permission to use the pavilion on Friday August 16<sup>th</sup> at 7:30 PM for a free movie night. Free popcorn and soda will be served.

Tony and April Lomenzo's request for movie night:

Attorney Cooper stated if the board approves the request, in his judgment the board should accompany the approval with a stipulation that the movie can't be used for the purpose of promoting religion. The town cannot promote or hinder religion under the Supreme Courts Lemmon decision. He doesn't know what kind of movies he intends to show, you can say neutrally if its an old movie or a new movie fine but it can't be used for the purpose of promoting religion since its on town property. He suggests you use a light hand on that and just say this is what the Supreme Court of the United States requires and would like for them to make an effort to avoid proselytizing or whatever way Supervisor Thomas wants to word it. We don't want to put the heavy hand of the town and sound like we're inhibiting the free exercise of religion either because both are just as important.

A motion was made by Supervisor Thomas seconded by Councilman Gill authorizing Tony and April Lomenzo to use the town pavilion Friday August 16<sup>th</sup> at 7:30 PM for a free movie night with the stipulation that the movie can't be used for the purpose of promoting religion. All in favor, motion carried.

Supervisor Thomas stated he received a phone call July 9<sup>th</sup> from Dominick Bussiculo, Stony Creek Fire Co. asking permission to use the town park on July 28<sup>th</sup> for a car show. This will be to help support the Children's Christmas Party. All in favor, motion carried.

A motion was made by Councilman Gill seconded by Supervisor Thomas authorizing the Stony Creek Fire Co. to hold a car show on July 28<sup>th</sup>, 2013 at the town park. All in favor, motion carried.

Old business:

4<sup>th</sup> of July picnic:

Supervisor Thomas reported he gave the board members the accounting of what it cost to put this function on. It ended up being \$1828.75.

There was some meat left over. He purchased \$180.00 worth of hot dogs, sausage and what was left of the hamburger was about \$53.00. We still have some donations for the food pantry. We have a little over \$200.00 so they took \$53.00 out of that and put the Hamburg and buns into the freezer downstairs and made that part of the food pantry. He also purchased the three watermelons that were left over. Councilman Nathan Thomas purchased the left over soda and someone purchased the three bags of chips that were left over. After deducting what was purchased from the \$1828.75, it was approximately \$1500.00 for the cost to put this picnic on. Supervisor Thomas stated he thinks the event was well received and went really well and would like to thank everyone for their participation and help. He thinks and hopefully this will become a yearly thing. Councilman John Thomas stated that he had people come up to him and ask if it was really free. It kind of took them off guard. Councilman Gill asked how many people attended this. Supervisor Thomas stated about 150-200 people, if it was cooler there probably would have been a little more, it was hot that day.

Supervisor Thomas would like to thank Mr. and Mrs. Lomenzo's church with providing the party wagon, snow cones, cotton candy, popcorn, keeping the kids entertained and the bounce house. We will give it a try next year and maybe get a few more people.

Intersection of Swears and Harrisburg Roads: Retaining Wall:

Supervisor Thomas reported that Supt. Bradley stated this was nearly complete; He wants to put blacktop on the bottom. Supervisor Thomas stated there were some bills in the Highway fund about \$4000.00 worth. Supervisor Thomas indicated to Supt. Bradley that he thought that the General Fund should split the cost with the Highway Dept. and this would be taken care of next month. He could have put up any kind of wall. This is a little more then what we could have gotten by with but he thinks it looks good and a good improvement and feels he encouraged that so he thinks the General Fund should help pay for it. Councilman John Thomas stated it should last a good long time. Supervisor Thomas stated the budget adjustment will be made at the August meeting to even up with the Highway.

Committee reports:

Dean Farm Heritage Trails:

Supervisor Thomas reported they are continued to be worked on. The accounting for 2012 is pretty much done. Copies need doing and then he will take it over to the County. They indicated last week that the town accumulated between \$30,000.00-\$40,000.00 match. The County will front that money to the town and they will seek reimbursement from the State. He anticipated two or three weeks the town should receive a check or at least some of it and hopefully that will be enough to carry the town through this year.

Attorney Cooper asked about the signage. Supervisor Thomas stated he spoke to Debbie Kerrigan about two weeks ago and she indicated she wanted to come up make a visit and take pictures and Mary Beth Mitchum who lives on the corner of Harrisburg and Lanfear Road, she is going to help with the narrative for the signs. Attorney Cooper asked if he expected to have them up by December? Supervisor Thomas stated yes. Attorney Cooper stated he walked out there too three weeks ago and they are doing a really fine job. The carpentry work on the bridges is startling good.

Landfill: Scrap:

East Side Metals have paid the town after a while so they are caught up. He hasn't called them to come get their container yet but he will be directly.

Youth:

Supervisor Thomas reported the Youth Director has started the youth activities. They are doing about two field trips a week. Today they went to the Saratoga County Fair; tomorrow they go to Eagle Mills Family Fun, Last week they went to the Schenectady Museum and Lake George Floating Classroom. They have between 20-25 children.

New business:

Bed Tax request:

Cindy Cameron, Stony Creek Town Historian in the amount of \$500.00.

099-13. A resolution was made by Councilman Gill seconded by Councilman John Thomas Authorizing the expenditure of bed tax monies in the amount of \$500.00 to be used for the Bicentennial Timeline being held August 2<sup>nd</sup> and 3<sup>rd</sup> 2013 to cover the cost of a tent, advertising, pewter and a re-enactor. Roll call vote, all in favor.

Stony Creek Chamber of Commerce in the amount of up to \$2800.00 for the funding of the Lumberjack competition.

Councilman John Thomas asked at this event if it was required to have an ambulance standing by. He knows this was mentioned last time. They have been discussing this at the fire dept. whether we are required to be there or whether we were just asked to be there. It's quite a difference. Supervisor Thomas isn't sure if they are required. He thinks they would like to have people standing by, as far as actually being required he doesn't think so.

Attorney Cooper stated somebody would be on call if someone chopped their foot, right?

Councilman John Thomas stated the thing would be is if we were required to be there, if they require to have an EMS on the grounds and we got a call what would we have to do, call mutual aid or whether we take the call and call mutual aid in. that would be something we would have to figure out. Attorney Cooper stated he thinks the towns contract with the fire co. as relates to ambulance services would not require you to be there. It would require you to be on station. So if you got a call from up there you would report. It would seem prudent to him to have one there though, you could get called out of your station because that's where an injury is most likely to occur that particular day and if you get called away, you get called away. Then they would have to use mutual aid to come there. His judgment is it would be smart to have one there.

Councilman John Thomas stated yes we usually do, but his question comes about is someone mentioned to him is this contract the lumberjack competition does with the Chamber, somebody thought it would be required the ambulance service to be on the scene. That's why he asked; do they see any of that or if it's all handled though the Chamber.

Attorney Cooper stated it would be handle through the chamber.

Supervisor Thomas asked if Sue Catana or Ronda Thomas knew about this. Mrs. Thomas stated she didn't know if it was a requirement by the Association but she will find out.

Councilman John Thomas stated he could do it either way but it makes a difference if they get a call how they are going to handle it that's all.

Attorney Cooper stated the guy that chopped his foot last year was probably glad you were sitting there. Councilman John Thomas and Supervisor Thomas agreed. Councilman John Thomas stated they will defiantly be there its just whether they get a call or not.

100.13. A resolution was made by Supervisor Thomas seconded by Councilman John Thomas authorizing the expenditure of bed tax monies up to the amount of \$2800.00 to the Stony Creek Chamber of Commerce to insure adequate funding to conduct the Lumberjack Competition. The chamber may require a lesser amount then the \$2800.00 dependant upon the success of its advertising and fundraising campaign. Roll call vote, all in favor.

#### Notice of Claim:

Supervisor Thomas stated he had the resolution typed up. It's basically the same copy that is in the packet. It seems that the State has recently amended the General Municipal Law Section 53, which permits notices of claim against public corporations to be served on the New York Secretary of State. The Secretary of State may be served with notices of claim against Public Corporations beginning Monday, July 15, 2013. If served the Department of State will forward the notice of claim to the person designated by the public corporation to receive the notice of claim. The Secretary of State will charge a \$250.00 service fee on the persons serving the notice of claim. If we register with the Department of State we get \$125.00 of that. He doesn't know why they would file with the Department of State, it seems they would file it with the Town Clerk. It's up to the Board to decide who they want to put down as the contact and who the Secretary of State will notify. The way he reads the law it can be either himself or the town clerk. Supervisor Thomas stated actually probably the town clerk would be the person to contact. Attorney Cooper stated that for private corporations and other corporate entities like these, this is already a law so if you don't find a corporation, you find out who the corporation is and you serve the Secretary of State and they chase them down so you don't have to send a process server all over the globe looking for this corporate headquarters and an officer. He agrees with Supervisor Thomas it makes little sense to do for the town but this is probably another example of the Legislature being able to enact something that doesn't cost any money to fund and they feel like they have done something good. He agrees with Supervisor Thomas as well probably the town clerk would be the logical person, she has a presents here, you would think more hours then the Supervisor who has County duties and is away quite frequently. Supervisor Thomas stated he did read that if the town didn't register they wouldn't be able to contact us and if somebody did file a claim that it wouldn't invalidate the claim. We could end up with a situation that where we have a claim against us not know about it and that probably wouldn't be good.

101-13. A resolution was made by Supervisor Thomas seconded by Councilman Gill to file a Certificate of Designation of Notice of Claim with the New York Department of State. WHEREAS General Municipal Law, Section 53 requires towns to file a certificate with the Secretary of State designating the Secretary of State as an agent for service of a notice of Claim;

and Whereas, General Municipal Law, Section 53 requires certificate to include the applicable time limit for filing the notice of claim and the name, post office address and electronic mail address, if available, of an officer, person for the transmittal of notices of claim served upon the Secretary as the town's agent; and Whereas, pursuant to General Municipal Law, Section 50-e (1) (a), the applicable time limit for the filing of a notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action, 90 days from the appointment of a representative of the decedent's estate, Now therefore Be It RESOLVED, that the town board of the Town of Stony Creek, County of Warren designates Susan Harrington in his/her capacity as Town Clerk to receive notices of claims served upon the Secretary of State by mail at 52 Hadley Road P. O. Box 96 Stony Creek, NY 12878 and email at suzyquzee@ yahoo.com. BE IT FURTHER RESOLVED, that the town board hereby directs the Town Clerk to file the required certificate with the Secretary of State informing him or her of the town's designating and applicable time limitation for filing a notice of with the town on or before July 14, 2013. Roll call vote, all in favor.

102-13. A resolution was made by Councilman Gill seconded by Councilman John Thomas authorizing the following budget transfer:

Debit DA5120.4 Bridges in the amount of \$8221.68

Debit DA 5140.4 Brush and Weeds in the amount of \$4000.00

Credit DA5110.4 in the amount of \$12221.68.

Roll call vote, all in favor.

103-13. A resolution was made by Councilman Gill seconded by Councilman John Thomas authorizing the following budget transfer:

Debit A1990.4 Contingent in the amount of \$1019.51

Credit A7550.4 Celebrations in the amount of \$1019.51.

Roll call vote, all in favor.

From the floor:

A motion was made by Councilman Gill seconded by Councilman John Thomas to adjourn the meeting at 7:37 PM. all in favor, motion carried.

Respectfully submitted,

Susan Harrington  
Town Clerk