

March 21, 2017

The regular Town Board meeting of the Town of Stony Creek was held on March 21, 2017. The meeting was called to order at 7:00 PM by Supervisor Frank Thomas with members present:

Councilman Nathan Thomas

Councilwoman Doreen Ryan

Councilman John Thomas

Councilman Carl Thomas

Counsel to the Town-Matthew Fuller

February 21, 2017 minutes; corrections:

Page 274-Paragraph 2: \$45,000.00 grant for final design, insert “documents” on the church project the library had. That money is 100% with no match.

Take out he has been, insert “Mr. LaMothe is able”, after the purchase of this property, he has \$400,000.00 from another project that can be transferred.

Page 279-Knowlhurst Cemetery: change Mr. Nelson to Mr. Rayder.

A motion was made by Councilwoman Ryan seconded by Councilman Carl Thomas to accept the February 21, 2017 minutes with these corrections. All in favor, motion carried.

054-17. A resolution was made by Councilman Nathan Thomas seconded by Councilman John Thomas to pay the General Fund bills in the amount of \$9,509.40. Roll call vote, all in favor.

055-17. A resolution was made by Councilman Carl Thomas seconded by Councilwoman Ryan to pay the Highway Fund bills in the amount of \$35,635.52. Roll call vote, all in favor.

Town Clerk Report:

Conservation license	\$ .28¢
Copies	\$11.00
Faxes	<u>\$ 3.00</u>
Total Town Clerk fees	\$14.28
Dog Licenses	<u>\$10.00</u>
Total Town Revenues to Supervisor	\$24.28
NYS Agriculture and Markets	\$ 2.00
NYS Department of EnCon	<u>\$ 4.72</u>
Total disbursed	\$31.00

Correspondence:

Dog Control Log- January and February 2017.

Dominick Bussiculo-Permission to use the town hall Saturday March 25, 2017 from 2:00-6:00PM for a Birthday Party.

Stony Creek Free Library, Patrice Jarvis-Weber-permission to use the town hall on Saturday April 29, 2017 from 9:00AM-4:00 PM for a Hand building Clay Workshop.

Kay Clarke-permission to use the Park Pavilion Saturday June 24, 2017 from 12:00-5:00 PM for her Grandson's Birthday Party (Pig Roast).

Stony Creek Community Church-permission to use the park pavilion July 19<sup>th</sup>-23<sup>rd</sup> from 4:00-9:00 PM for Vacation Bible School.

Stony Creek Free Library-2016 Annual Financial Report.

A motion was made by Councilwoman Ryan seconded by Councilman John Thomas to authorize the following:

Dominick Bussiculo permission to use the town hall Saturday March 25, 2017 from 2:00-6:00PM for a Birthday Party.

Stony Creek Free Library, Patrice Jarvis-Weber permission to use the town hall on Saturday April 29, 2017 from 9:00AM-4:00 PM for a Hand building Clay Workshop.

Kay Clarke permission to use the Park Pavilion Saturday June 24, 2017 from 12:00-5:00 PM for her Grandson's Birthday Party (Pig Roast).

Stony Creek Community Church-permission to use the park pavilion July 19<sup>th</sup>-23<sup>rd</sup> from 4:00-9:00 PM for Vacation Bible School. All in favor, motion carried.

Old business: Buildings:

Rise Engineer proposal for LED lighting.

Supervisor Thomas stated there was a question on how much we were paying per kilowatt hours.

Highway garage: The supply when it's not demand is 3.6¢ and delivery when its demand is a lot about \$10.00 a kilowatt hour.

Town hall is .036¢, delivery is 05.7¢.

Transfer station is .034¢, delivery is 05.7¢. The supply is pretty cheap but he doesn't know about the delivery.

Councilman Nathan Thomas asked what was on the demand meter down at the highway garage.

Supt. Bradley asked what he met. Councilman Nathan Thomas asked if there was only one meter at the highway garage. Supt. Bradley stated yes. Councilman Nathan Thomas stated that the Stony Creek Marketplace and the Stony Creek Inn put in multiple meters so they can get beyond, keep their wattage down so they didn't get into demand meter. The one at the store got spilt up because the electric griddle, compressor and so forth. They had to go through and insulate circuits into multiple single meters to get off the demand. So that might be something to look into as well. That's how you get around them. You have to go through and spilt your circuits, put in some feeds. Insulate what you hook your welder to, then one for the lights, and one for your power outlets. You can spilt up your meters and put more the one panel in and get away from the demand meters. Supervisor Thomas stated they will have to look into that.

Councilman John Thomas asked if they charge for each meter. Supervisor Thomas stated they might, the basic charge. Councilman Nathan Thomas stated then you're only paying kilowatt hours on what you use instead of kilowatt hours on peak.

Councilman Carl Thomas stated each meter is like a service. Councilman Nathan Thomas stated it's a potential savings for sure.

Supervisor Thomas stated on the proposals, they have 52 Hadley Road as the garage and 50 Hadley Road as the town hall. Supt. Bradley asked when they were at the garage were they going to change all the lights that are there.

Supervisor Thomas stated yes he thinks that's the majority of them. Supt. Bradley stated even the ones that were written up by PESH because they aren't hard wired in. Supervisor Thomas stated it's basically changing the florescent to LED. Supervisor Thomas stated as he looks at the more expensive proposal he would say it's for the highway garage rather than the town hall.

If he did it correctly and he is considering 52 Hadley Road as the garage and 50 Hadley Road as the town hall, then the garage would be the most expensive. It's quite a lot of money.

Councilwoman Ryan asked how many lights were in the garage. Supt. Bradley stated he isn't sure, a lot.

Supervisor Thomas stated for the highway garage they estimated \$16,877.00 for the total job. National Grid's contribution is \$2235.00 and the town's contribution would be \$14641.00. If the town pays the full amount they get 5% discount, which would be around \$14,000.00. The annual savings would be \$1381.00, 12000 kilowatt hours. Councilman John Thomas stated the 12000 kilowatt hours is that on the whole garage?

Supervisor Thomas stated yes he would think so. Councilman John Thomas stated even if they change the lights, the power isn't in the lighting it's in the other equipment.

Councilwoman Ryan asked if we should look into the cost of lights ourselves, this seems like it's a little high. Supervisor Thomas agreed. Supt. Bradley asked if you can make \$1000.00 in interest on \$12,000.00 in twelve years. Supervisor Thomas stated no not with the interest rates where they are, maybe a hundred and twenty years. Supt. Bradley stated it is a wicked investment. Supervisor Thomas stated he will double check to see if he has the right address on the buildings. The town hall total job is almost \$6059.62. National Grid's contribution is \$917.00, the towns estimated contribution is around \$5000.00, and the lump sum payment is \$4823.00. Annual savings is \$566.00, estimated annual savings in kilowatt hours is \$5097.39. Supervisor Thomas stated we can give it some more thought. Councilman John Thomas stated see if he has the addresses right to begin with. Supervisor Thomas stated maybe we'll check the prices ourselves, do it gradually because we are paying prevailing wage to get this done. The garage will be about \$1600.00 in prevailing wage plus \$660.00 for a lift charge and he's not sure what the amount charge is. Councilman Nathan Thomas stated it has to be for some of the pole lights. Supervisor Thomas stated the town hall will be \$609.00 in prevailing wage. Supt. Bradley asked if it was for outdoor lights too. Supervisor Thomas stated he thinks so. Councilman Nathan Thomas stated its some of the ones they have on the proposal. Supt. Bradley stated they suck up some juice. Supervisor Thomas stated we should see what we can accomplish ourselves.

Knowlhurst Cemetery:

Supervisor Thomas stated there is a map and there is a deed. He isn't sure if the deed is for the cemetery or the whole property. Councilman Carl Thomas stated the deed is for the cemetery and the church building on it. Supervisor Thomas stated he thought so when he was looking at the measurements. They do have a map he isn't sure what size or if they are individual plots.

Councilman Carl Thomas stated they are individual plots, the measurements go from the center of the highway back to the 198 feet than 264 and he thinks there's another 146 feet up to the other side of the parsonage, which is on a separate deed.

Supervisor Thomas stated it could involve an APA permit possibly. Councilman Carl Thomas stated it shouldn't because it's existing, it's been there for years.

Supervisor Thomas stated you would be splitting the property. Councilman John Thomas stated that is a separate lot. Supervisor Thomas stated between the church and the town. Councilman John Thomas stated he isn't sure how the APA deals with cemeteries whether they would deal with it differently. He would think they would give a little more consideration. Supervisor Thomas stated being it's a cemetery and church it seems like they would. He certainly wouldn't want to speak for the APA. Councilman John Thomas stated it looks like quite a few lots that are still empty in a section on the map and then it says old cemetery, which he doesn't know. Supervisor Thomas stated Mr. Rayder told him it's mainly Van Auken Cemetery and there's 30-40 graves in that area. Councilman Carl Thomas stated he thinks the Van Auken Cemetery is the portion that's down in front, some of them are half sites too. Supervisor Thomas stated that Attorney Mary-Ellen sent him a copy of the Town Law Section 291 Burial Grounds, which Supervisor Thomas read:

1. The title to every lot or piece of land which shall have been used by the inhabitants of any town in this state as a cemetery or burial ground for the space of fourteen years shall be deemed to be vested in such town, and shall be subject in the same manner as other corporate property of towns, to the government and direction of the town board. In any town the town board may adopt regulations for the proper care of any such cemetery and burial ground and regulating the burial of the dead therein. It shall be the duty of the town board to remove the grass and weeds from any such cemetery or burial ground in any such town at least three times in each year, and to erect and maintain suitable fences around such cemetery or burial ground. The town board of any town must also provide for the removal of grass and weeds at least twice in each year from any cemetery or burial ground, by whomsoever owned, in such town, where such control is not vested by other provisions of law in the town or in trustees or other corporate body, and provide for the preservation, care and fencing of any such cemetery and the town board of any town must also provide for the removal of grass and weeds from all cemeteries, other than private burial grounds, which are abandoned or not controlled by any existing board or body and for the care of which there exists no special fund or endowment and such duties shall be performed under the supervision of the town board, or a person whom the town board may designate;

At the end of the section there is was a State Comptroller opinion, which is not a Statue but it's an opinion and it was religious corporations care and maintenance of cemeteries. It stated in the first part "a cemetery which is owned by a church and maintained by a historical society does not fit into any classification of cemetery or burial ground for which towns are obligated to provide care and maintenance. It does say historical society but if it's owned and maintained by the church it would be the same thing.

So if they were to retain ownership of it then the town wouldn't be obligated to take care of it. Councilman John Thomas stated as soon as it switches over to basically a municipality being the town, then we could be obligated to do it.

Supervisor Thomas stated that's because it's owned by a church. If it was just a regular cemetery that an association had started on its own then we would be obligated.

Attorney Fuller asked if they were actually dissolving and what denomination it was. Supervisor Thomas asked Councilman Carl Thomas if they were a corporation. Councilman Carl Thomas stated he didn't think they are a corporation and stated that they were Baptist and he thinks in mid-Summer is when they will actually dissolve or transferring ownership. Councilman John Thomas stated they must have a non-profit status.

Attorney Fuller stated there is a Religious Corporations Law and it gets into separation of churches and gets into the different denominations and what you have to do to dissolve. Some you have to go through some diocese, most of them actually have to have a Supreme Court approval, so the Supreme Court Justice of a county has to sign off on whatever their plan of dissolution is. Attorney Mary-Ellen and Attorney Fuller talked about it today and they didn't know what their plan is for distribution of their funds and that kind of stuff. Part of the property is a cemetery and the other part is the church. So whatever their plan is to do with the church, to sell it off, he doesn't know if they have debts they have to pay. A plan of dissolution would be put together as part of what they will find and he doesn't know what that plan would be for that money. So if it needed to be fenced in, one of the topics the Supervisor was talking about was the provision of where you have to put up a suitable fence, that is really defined, it's just a fence. But part of the plan of dissolution could be to pay for a fence or to create a trust fund within the town to pay for maintenance and things like that. That's kind of a policy decision of the Board. Attorney Fuller wanted to give the Board that. He doesn't know who the organization is or who the people are that are going to receive the dissolution with that, it might be potential if it was question of cost or anything like that. Supervisor Thomas stated it sounds like they are just going to transfer it to another church. Councilman John Thomas stated they indicated that there wasn't any funds. They indicated they wanted the town to pay for the transfer of the deed because there were very little if any funds at all.

Attorney Fuller asked if they are actually burial plots that would be sold that are for sale?

Councilwoman Ryan stated they are empty yes. Supervisor Thomas stated if it was a town cemetery he would think so. Councilman John Thomas asked if they had any sizes on the plots. Supervisor Thomas stated not really. Councilman John Thomas asked if they transfer ownership when they sold. Councilman Carl Thomas stated no.

Councilman Carl Thomas stated Ernest White handled most of them, He marked it on the map. Supervisor Thomas stated it was probably donations to the church. Councilman Carl Thomas thought they were around \$50.00 to \$100.00 a plot back then.

Councilwoman Ryan stated she wished Tony Lomenzo was here. She knows he is interested in the church and that's all she knows. Maybe that's something they would do.

Councilman John Thomas stated he doesn't know how much information he should be giving out at this point as far as what is going to occur with it.

Councilman Nathan Thomas suggested putting a committee together to meet with members of the board, the Baptist Church Trustees, Tony Lomenzo of the Stony Creek Community Church to discuss this and get everyone on the same page and have a report for the next Town Board meeting.

Councilman John Thomas stated He talked with Tony so he has a pretty good idea of what's going to happen. It appears it's just going to be a transfer.

Attorney Fuller stated just to make sure there are aware that it may not be that simple. They may need Supreme Court approval. The big thing being whoever signs that deed if they didn't have the authority to do it, they could be presumably liable to doing that. Its not one of those things that someone would say who cares just sign the deed. They need to know need to know that when the instrument is offered for filing at the County Clerk's Office that has potential legal ramifications.

Councilman Carl Thomas stated a little bit of history on it. It was started by a family. It was a community church up there and the properties basically were given to the church from Ernest and Mildred White. Before that it was the parents that owned the property. So it's kind of a family owned in that sense and not affiliated with any diocese or anything like that. It's just a local community church. Most of them have expired unfortunately. Attorney Fuller stated is there a reversion clause in that deed. Supervisor Thomas and Councilman Carl Thomas stated no. Supervisor Thomas stated according to his notes the Community Church has an attorney. Supervisor Thomas stated he agrees with Councilman Nathan Thomas that two or three Board Members meet with them and see what they can do. He thinks the consensus is if we can do it they want to. Councilman Carl Thomas stated he talked with Mr. Rayder and they don't have anything solid at this point in time. This is what their intent, what they would like to do, what they expect to do. They are trying to protect the cemetery because they don't know what to do as far as the upkeep and things like that.

Supervisor Thomas stated the note becomes quite potential then because the Comptroller's opinion according to that, if it still belongs with the church then we can't do anything with it, where all the rest of the cemeteries the town is obligated to take care of them. Councilman Carl Thomas stated but the town can give it to the town if they want to do that. If the accepts it. Supervisor Thomas asked Attorney Fuller if he had an opinion as to the APA with the subdivision. Attorney Fuller stated he wouldn't expect having a problem. He thinks Supervisor Thomas would probably get it even if it was a permit, he doesn't think the APA would give Supervisor Thomas a hard time. Supervisor Thomas agreed. Attorney Fuller stated if it was land it would be different. This is a church and he wouldn't expect to have an issue with them.

7:36 PM Councilman Nathan Thomas left the meeting due to the Stony Creek Emergency Squad had an EMS call.

13 Lanfear Road property:

Supervisor Thomas stated the paperwork has been submitted to the Comptroller's Office.

Attorney Fuller stated he called them late this afternoon. They do have a list of questions.

A. On the \$30,900.00, the town's part of Occupancy tax, they wanted to know the actual specific account number, budget wise where it's going to be, because they can look it up through the system.

B. what is the actual specific amount of what it's going to be.

C. What are the restrictions on the money if any, from the Occupancy Tax?

When talking to Attorney Mary-Ellen about it. The response 'none' is probably going to solicit a, ok what can it be used for. That was their initial response, that there aren't any. Well they are going to come back and ask us again. What can you use it for?

D. The \$30,000.00 Warren County Occupancy Tax. Same question, what if any are the restrictions and again the reason they want to know is they want to make sure they aren't going to be turned around and sued for us using that money. That we can legally use the money for that. That's the intent they are looking for. Supervisor Thomas stated that they (the State) aren't going to be sued? Attorney Fuller stated no that we can legally use that money for that purpose. When Attorney Mary-Ellen and Attorney Fuller were working on the resolution they kind of hedged at that of putting in a specific description of what we are going to do with the property or using it for general purposes and that didn't sneak by them. So they want a specific description for the purposed use of the property. It doesn't need a new application or resolutions, it can actually be a covered letter from them with these explanations and that will be fine. There will be a two to three week turn around when we get back from them. So the sooner they get this together and get it back. They said this can be e-mailed. Supervisor Thomas would like to comment that the folks get twenty days to challenge this, why does the Comptroller get endless amount of time and how does the Comptroller get to come back with four conditions. Attorney Fuller stated we would have to take that one up with the Legislature. Supervisor Thomas stated to him they are over stepping their authority in his opinion because they don't do this with other towns that are not within the park. So they are only stepping on us. Attorney Fuller stated its land only within the Blue Line. But this is stuff they could have dealt with, he thinks the realty is they are going to ask you a question. He hasn't seen one that has gone by that they haven't asked for something.

Supervisor Thomas stated he has the guidelines for the Occupancy Tax and the last section is on Capital Projects:

"Expenditures may be made for capital projects which facilitate use by tourist and/or increase tourism to an area by improving the aesthetic qualities of the municipality, enhancing the environment, improving infrastructures related to tourism, conventions and trade shows, and developing, operating and maintaining parks, recreational facilities and tourist attractions".

Supervisor Thomas stated the specific amount is \$30,900.00. So this answers some of the questions.

## Committee reports

### Broadband

Supervisor Thomas reported that Frontier applied to the State for broadband money. The State provided 80%, \$642,620.00. Frontier will put up \$160,471.00, which totals out to \$803,091.00. It says it will effect 339 units within Stony Creek. This is part of the Governors Broadband Program, phase two. He isn't sure if they are going to run more fiber optic cable, other items or what they will do. He will try to find out more. Supervisor Thomas stated it's good because the internet would get better.

### Library:

Supervisor Thomas reported the Library has submitted their 2016 financial report.

### Landfill:

Supervisor Thomas reported that Cedarwood Engineering has completed its annual report for the landfill and it's been submitted to DEC. They did mention something about a couple of the wells not having good clarity and might have to be reworked. Supervisor Thomas stated he did call them to see what exactly they were talking about but didn't return his call.

### Buildings; Highway:

Supervisor Thomas stated the PESH was here and did an inspection and found some violations. He believes most of them either have been taken care of or in the process. It sounds like they are inspecting several towns in Warren County. Councilman John Thomas stated they have been doing a lot more inspections, maybe they have extra funding or money.

### Snow removal:

Supt. Bradley wanted to touch on snow removal. He got approached by a State Trooper because they dumped snow over a guardrail on a vacant piece of land that's still pretty much in the county right of way. We have had some problems with this individual going after the town.

Supt. Bradley thinks he is looking for a free ride. So this is the kind of stuff we are going to run into, these flatlanders coming up here thinking you can't push snow on their property. So just keep in mind it probably won't be the end of it. He did inform the State Trooper that there will be no more snow pushed on this certain piece of property so he will have a bank about four or five feet high on some storms and he has no intention of cleaning the intersection off. He can do it himself, like he's done in the past.

Supt. Bradley stated he was almost looking at another harassment, but apparently this State Trooper had a fairly good mind. He kind of agreed with us and thought it was nonsense. So just so you know, if anyone hears about it, it's all good. This person swore he was in the loader and he hasn't been past the firehouse in the loader all winter. Donald was up there and he talked to the State Trooper and told him he was plowing it over the guard rail in the county right of way. Councilman John Thomas stated it's just about near every bridge we have, you guys keep it cleaned off, each end of the bridge. Supt. Bradley stated absolutely, if we didn't plow it we would have an issue. This particular person doesn't want anyone to go down that road so it's an ongoing thing.

Double H Ranch:

056-17. A resolution was made by Supervisor Thomas seconded by Councilwoman Ryan Authorizing the Double H Ranch to host their 8<sup>th</sup> Annual Cycling Event that will pass through roads in the Town of Stony Creek on Saturday September 9<sup>th</sup>, 2017. Roll call vote, all in favor.

Dump cards

057-17. a resolution was made by Councilman John Thomas seconded by Councilman Carl Thomas to mail and continue with the Free Dump Day Cards for the year 2017 with a limit of one TV and four tires that will be put on the dump card. Roll call vote, all in favor.

Kevin Page 257 Harrisburg Road:

Mr. Page stated during this last storm that was unexpected and unpredicted they sustained some personal property damage and if they were to have their insurance co. send in a quote would that go to the Town Board or the Town Highway Dept.?

Supervisor Thomas stated it would probably go to the insurance provider. Mr. Page asked if he would be able to obtain a copy of that before he leaves here tonight. Supervisor Thomas stated copy of? Mr. Page stated a copy of the insurance co. the current one and information for a contact. Supervisor Thomas stated yes.

Supt. Bradley stated he does have a picture of the old town road, a very good picture of where the road runs. So they have to back down with the town truck and come up out of there. So the snow rolled up on to his porch and that's going to happen every year there's no other way to get rid of it without pushing it on his property or taking the loader up and clean it out. So we'll probably be in for a bunch of it.

Budget transfers:

058-17. A resolution was made by Councilwoman Ryan seconded by Councilman Carl Thomas authorizing the following budget transfer:

Debit A64100.4 Publicity (Occupancy Tax) in the amount of \$3400.37

Credit A7180.4 Special Recreation Contractual Expense in the amount of \$3400.37.

Roll call vote, all in favor.

059-17. A resolution was made by Councilman John Thomas seconded by Councilwoman Ryan authorizing the following budget transfer:

Debit DA5142.4 Snow removal in the amount of \$8000.00.

Credit DA5142.4.2.20 Salt Control in the amount of \$8000.00. Roll call vote, all in favor.

From the floor:

A motion was made by Councilman Carl Thomas seconded by Councilwoman Ryan to adjourn the regular meeting at 7:57 PM. All in favor, motion carried

Supervisor Thomas opened the 2<sup>nd</sup> Settlement Meeting for the Town Board to review the Town Justice Court books.

060-17. A resolution was made by Supervisor Thomas seconded by Councilman John Thomas that on March 21, 2017 in compliance with Section 20-19a of the Uniform Justice Court Act the Stony Creek Town Board conducted the required examination and audit of the Town Courts Records and found them to be in order and complete. Roll call vote, all in favor.

A motion was made by Councilwoman Ryan seconded by Councilman Carl Thomas to adjourn the Settlement Meeting at 8:07 PM. All in favor, motion carried.

Respectfully submitted,

Susan Harrington  
Town Clerk