

August 20, 2013

The regular Town Board meeting of the Town of Stony Creek was held on August 20, 2013. Supervisor Frank Thomas called the meeting to order at 7:01 PM with members present:

Councilman Harry Paul Gill
Councilman Nathan Thomas
Councilman John Thomas
Councilwoman Doreen Ryan
Attorney James Cooper

July 16, 2013 minutes:

A motion was made by Councilman Gill seconded by Councilman John Thomas to accept the July 16, 2013 minutes. All in favor, motion carried.

104-13 A resolution was made by Councilwoman Ryan seconded by Councilman Nathan Thomas to pay the General Fund bills in the amount of \$18,930.61. Roll call vote, all in favor.

105-13. A resolution was made by Councilman Gill seconded by Councilwoman Ryan to pay the Highway Fund bills in the amount of \$34,194.21. Roll call vote, all in favor.

Town Clerk report:

Conservation license	<u>\$ 4.03</u>
Total Town Clerk fees	4.03
Dog Licensing	<u>\$175.00</u>
Total Town Revenues to Supervisor	\$179.03
NYS Ag & Markets	35.00
NYS Environmental Conservation	<u>68.97</u>
Total disbursed	\$283.00

Correspondence:

Valerie Cutler-asking to be re-appointed on the Board of Assessment Review.

Carl Thomas-Office of Town Assessor being dysfunctional for years and suggested the Supervisor and Town Board consider abolishing the three assessors positions and hiring a sole appointed assessor or looking into sharing a qualified assessor with another town.

Barbara DeVoe-permission to use the Town Pavilion Thursday August 29th, 2013 for the Seniors 50 Plus Clubs annual picnic.

Attorney James Coopers letter to NYS DEC regarding a sign, 2 feet x 2 feet with the text "Driving Beyond This Point Is Hazardous" being placed on the intersection of the extension of Harrisburg Road and the Harrisburg Lake Outlet Brook leading to East Stony Creek.

NYS DEC's letter in response to Attorney James Coopers letter. Approving the 2 feet x 2 feet with the text "Driving Beyond This Point Is Hazardous" sign being placed near the ford across the Harrisburg Lake Outlet Brook.

Stony Creek Inn-renewing its liquor license.

Kathy Pittelli-permission to use the town pavilion on Saturday August 24th, 2013 for a Birthday Party.

Stony Creek Fire Co. asking for bed tax funds in the amount of \$3827.00 to be used for the car show. All proceeds will be going toward the Stony Creek Fire Co. Children's Christmas Party.

A motion was made by Councilwoman Ryan seconded by Councilman Gill authorizing the following:

Kathy Pittelli permission to use the town pavilion on Saturday August 24th for a Birthday Party. The 50 Plus Senior Club permission to use the town pavilion Thursday August 29th for their annual picnic. All in favor, motion carried.

106-13. A resolution was made by Supervisor Thomas seconded by Councilman John Thomas re-appointing Valerie Cutler 67 Hadley Road P. O. Box 153 Stony Creek, NY 12878 on the Board of Assessment Review. Her term will expire September 30, 2018. Roll call vote, all in favor.

Supervisor Thomas reported that NYS DEC is happy with the signage the town placed at the intersection of Harrisburg Road and the Harrisburg Lake Outlet Brook.

Old Business:

Dean Farm Heritage Trails: Interpretive Signage

Supervisor Thomas stated they obtained three bids for the Interpretive Signage it's been a while now. Sandy Payne had reviewed the bids and he has reviewed them also. They came to the conclusion that Fossil was about the cheapest. You're talking about 11 signs 24 inches X 36 inches. If you do a double post, aluminum pedestal with 45-degree angle, price them all the same. Fossil is \$6281.00, Panna is \$6493.00 and Hopewell is \$7151.00 this is a single pedestal. There are various prices depending on what fasteners you want. The cantilevered support is more expensive that's \$7051.00. If you use wooden post its considerable cheaper.

Councilwoman Ryan stated she would go with the wood because it is an Adirondack Trail.

Councilman Nathan Thomas asked if some of this money is coming from the DEC grant?

Supervisor Thomas stated it's coming from the Town of Stony Creek, it's either, we buy signs or pay a fine of \$5000.00. Councilwoman Ryan stated she thinks the signs would be nice.

Supervisor Thomas stated the Graphic Artist the town contracted with her cost is \$2375.00. Add \$6500.00 to that its about \$9000.00, it will be under \$10,000.00. DEC says it should be done by December 31, 2013 and we also have a \$2000.00 payment at the end of this year, which is the fine. Councilman John Thomas asked if this is already budgeted? Supervisor Thomas stated we will see where we are at. The total budget he gave to DEC was \$11,280.00; he thinks their main goal was to make sure we spend \$5000.00.

Attorney Cooper stated the first section that Sandy is working on is Phase 1. Supervisor Thomas stated right. Attorney Cooper stated sometime in the future we'll be going up in to the woods, so the future will take care of itself. This is not the end of the trail this is the first phase. Supervisor Thomas stated no but this is the most intense, expensive, the rest is just mostly hiking trails.

These are APA compliant so it takes more. Attorney Cooper stated so the next phase your not thinking of it being educational. Your not going to be buying more signs it will be more self-guided more or less. Supervisor Thomas stated he wouldn't say he wouldn't buy any that would be down the road.

107-13. A resolution was made by Councilman Nathan Thomas seconded by Councilman Gill accepting the proposal for 11 Interpretive Signage from Fossil Signage with the double post in the amount of \$6281.00.

Discussion: Councilwoman Ryan stated if its aluminum could it be a greenish color to match into the Adirondack. Supervisor Thomas will check into this.

Roll call vote, all in favor.

Supervisor Thomas reported on July 20th, 2013 Ms. Kerrigan, Mary Beth Mitchem, Sandra Payne and himself met and went to the Dean Farm Trails to discuss what type of signs. Mary Beth is working on the narrative part of the sign as a volunteer; she has produced two signs to date.

Lens Lake Dam: Ownership and maintenance

Supervisor Thomas reported he received a letter from NYS DEC on August 8th, 2013. They wanted a response to their letter in 30 days. They were up on July 17, 2013 and did a visual inspection of what Supervisor Thomas calls their dam because he thinks it is their dam. They have several things they want the town to do.

(1) They want the town to develop and implement a written inspection of maintenance plan on or before August 19, they say 2010.

(2) Develop and distribute to the local emergency responders an Emergency Action Plan

(3) Submit an ambulance certification to DEC by January 31st of each year.

(4) Complete and submit to the Department of Engineering an assessment.

(5) The Engineering Assessment must be preformed by a NYS Professional Engineer and has to be updated every 10 years.

Supervisor Thomas stated the unique thing about Lens Lake Dam is the State of New York Department of Environmental Conservation built the dam, so they own at least half of it. The letter was also addressed to their own department, Mr. Enaney Warrensburg Office.

Supervisor Thomas reported that Attorney Cooper did respond to them on August 13, 2013 and turned the floor over to Attorney Cooper.

Attorney Cooper stated just to back up a little because he doesn't think any of the Town Board Members were here when we went through this in the 1990's John O'Neill was Supervisor. It was kind of an interesting and pain in the neck at the same time, interesting in a sense that the town had received a deed from Henry Gavitt, he was apparently a well know individual in this town, time passed he was a self taught surveyor, Attorney Cooper doesn't know if he was certified or not. Mr. Gavitt issued to the town, he would say for the use of Lens Lake for recreation, there was a launch site there or something like that. On the strength of that deed they approached the town and said we (DEC) want to rebuild the dam, they understand the town owns half and we said yes here's our deed, no one did any title work. They went ahead and rebuilt the dam and its an impressive piece of engineering and Mr. Art Johnson, the first downstream owner stated wait a minute your trespassing on my property and cut down a bunch of my trees and stuff, I want damages from the State. They (DEC) turned to us and said what? So the town had a title search done and found out that the chain of titles from Mr. Johnson was in fact older then the towns and Mr. Gavitt sold the same property twice if you will or deeded it twice. We were the more junior of the deed.

So the negotiations with Mr. Johnson, his attorney, the State and the town went on for better part of the year and finally resulted in a Settlement Agreement.

As he recalls, he just got the files from storage back tonight, he thought it was a dead matter. But as he recalls Mr. Johnson quick claimed half of the dam to the town and a footprint. It was like trilateral agreement, the State took certain responsibilities and we took maintenance responsibilities. We are suppose to go up and clean under the grates so the out flow doesn't get blocked with debris and cause an overflow, so it wouldn't down cut the soil and ruin the dam, then we are suppose to mow it make sure no trees get on there and grow up to size and get wind thrown over and tear up a piece of the berm of the dam and routine maintenance stuff like that. The State took the responsibility of maintaining the structural integrity of the dam. Mr. Johnson got his attorney fees paid and title issues were straightened out. This letter is addressed to the town and the State, James McEnaney Operations Supervisor in Warrensburg Region 5 Sub Office and as Supervisor Thomas described it requires various duties and Attorney Cooper wrote a letter to this guy asking him if he knew the State owns half of it and if they do you would think they would be in compliant with your own regulations, look into this and let him know. He checked with him today and spoke by phone with Mr. Harman who is an engineer. He said they knew the State owned half of it that's why they addressed the letter to the town and Mr. McEnaney and when they had multiple owners of a dam essentially they send out notices to each of them and let them work it out. So Attorney Cooper called up Mr. McEnaney and the good news for us is it looks like there're going to carry the water on this. Their engineers will put together their study that they require here and so forth, which is good. But we still have to cooperate and come up with an Emergency Action Plan, which according to Mr. McEnaney involves a lot of committee meetings, the supervisors time, EMS people and the county emergency people to come with an action plan if the dam breaches. What we try to do to save lives and conserve property downstream from the breach. It seems pretty unlikely because he doesn't think that the topographically doesn't drain that much, but you can get wicked run off from the mountainside as we found out this spring. It's not compatible to the Hadlock Pond breach, because that was incredible. That created a new gorge over there in Fort Ann and as Mr. McEnaney pointed out the first surge would be pretty impressive if the lake went out because there's a lot of water there so we have to work with them on the Emergency Action Plan. The way Attorney Cooper left it was Mr. McEnaney was going to call this guy in Albany and he would get back to Attorney Cooper as to what the next step was for the State. It sounded like to him is Mr. Harman understood the fact that they built it, the engineers have all the data that's needed to put the studies together and that they would be the ones furnishing it. So lets hope that that inclination is true because we can't afford to be hiring engineers to do this when its only half our dam in spirit and not in fact. That's where it stands tonight.

Supervisor Thomas stated out main obligation is to come up with an Emergency Action Plan in case the dam falls. The town's responsibility according to the agreement is:

- (1) Mow grass in the area covered by the easement at least once, June, July and August.
- (2) Provide trash and garage pickup at least weekly form May-October of each year.
- (3) Inspect and clean the trash racks for the drop in-let on a bi-weekly basis
- (4) Maintain the locked gate to be installed by DEC to prevent use of vehicles on the dam.
- (5) Cut and remove and repair any sod from any brush and trees that grow on the dam.

If we were to choose not to do this we would have to pay NYS at least \$60,000.00.

Supervisor Thomas will get a hold of the Warren County Office of Emergency Services and the guys from the fire dept. go from there and see what all we have to have.

Committee reports:

Councilman Nathan Thomas stated he is working with the bed tax as far as more and more people in town asking for use of the bed tax. He noticed the Town of Johnsbury and Warren County have policies on it. He asked if this was something we would like to establish.

Supervisor Thomas stated yes we could. Councilman Nathan Thomas stated the Town of Johnsbury has a through application and then every year you get 25% less unless you deem you still need that amount. Just to try to allow other organizations more money and so forth. The Town of Johnsbury gives a lot but they have a lot going on. Councilman Nathan Thomas asked if the town had any applications. Supervisor Thomas stated no. Councilman Nathan Thomas stated just a written letter? Supervisor Thomas stated yes. Its something we can do. He doesn't think they really authorize any more spending then they get per year. We did spend some on the trail system. Attorney Cooper asked if the county audits the town once a year to make sure all of our disbursements are legit. Supervisor Thomas stated they have to do a report once a year, they don't normally audit us. They have that option. Attorney Cooper stated the bed tax law itself sets up some criteria, as he understands it. Supervisor Thomas stated right. Attorney Cooper stated we have to satisfy the criteria or otherwise we're giving money to people we shouldn't, we always have and the County hasn't questioned anything we did, do they? Supervisor Thomas stated no, he doesn't think they question anybodies. Councilman John Thomas stated its pretty vague criteria too, once he read it over. Supervisor Thomas stated one thing they do is emphasize promotion, so any bed tax that's handed out needs to advertise and needs to promote whatever it is they're getting money for.

Warren County Planning:

Supervisor Thomas reported that Warren County Planning has put in a couple applications on the town's behalf to the Consolidated Funding Application that Gov. Cuomo has set up. This is round three. One thing the County basically wanted to put in, he let them put this in, was \$75,000.00 for a composted bathroom for the trail site. That's what the \$70.00 in the General Fund bills for Cedarwood Engineering was for. They did an estimate to put the bathroom there. The second thing is they got an estimate form LA Group from Saratoga Springs about the four corners and they put an application for \$40,000.00 to revamp the far corner of it.

Councilman John Thomas stated its either, or. Supervisor Thomas stated no its possible we could get funding for both. Attorney Cooper stated the compost perbe is supposed to go on the Dean Farm trails? Supervisor Thomas stated yes. Attorney Cooper stated has anyone figured out how they are suppose to work in the wintertime. Supervisor Thomas stated the one they priced was Clevless Altrim Solar Powered for lighting and fan compost toilet. Councilman Nathan Thomas stated it wouldn't cost that much for just a structure. Supervisor Thomas stated it's plenty expensive he would say it would cost about \$75.00 for an outhouse. He does hope they get the money for the four-corners. Councilman Nathan Thomas stated on the composting bathroom is that something we are going to have to file a special permit to put the compost area in. Supervisor Thomas stated he doesn't think so. We aren't going to need to get water or put in a sewer system. He thinks the biggest thing would be clearing it with the Historical Association and the deed from Haskell's.

Swears Road; Retaining wall

Supervisor Thomas stated the Town Board received the letter from Elisa Downen and the residents along Swears Road thanking the Town Board and Highway Dept for the repairs to the wall.

New Business:

108-13. A resolution was made by Councilman Nathan Thomas seconded by Councilwoman Ryan authorizing the Supervisor to apply for a Grant for the year 2014 from NYS Council on the Arts Decentralization Program administered by LARAC. Roll call vote, all in favor.

Occupancy Bed Tax requests:

Stony Creek Free Library requesting \$350.00 for a Traditional Mountain Folk Music program September 7, 2013 from 2-4:00 P.M. Funds will be used to cover the musician fees and relating advertising.

1000 Acres Ranch requesting \$5000.00 to defray the expense of the 2013 Summer Rodeo shows beginning in July through Labor Day weekend.

109-13. A resolution was made by Councilman John Thomas seconded by Councilman Gill authorizing the expenditure of bed tax funds to the Stony Creek Free Library in the amount of \$350.00 to be used for a Traditional Mountain Folk Music program Saturday September 7, 2013 from 2-4:00 P.M. Funds will be used to cover the musician fees and relating advertising. Roll call vote, all in favor.

110-13. A resolution was made by Councilman Gill seconded by Councilman Nathan Thomas authorizing the expenditure of bed tax funds to 1000 Acres Ranch in the amount of \$5000.00 to defray the expense of the 2013 Summer Rodeo shows beginning in July through Labor Day weekend. Roll call vote, all in favor.

111-13. A resolution was made by Councilman Gill seconded by Councilwoman Ryan authorizing the expenditure of bed tax funds to Stony Creek Fire Co. in the amount of \$3827.00 to be used for the car show. All proceeds will be going toward the Stony Creek Fire Co. Children's Christmas Party. Roll call vote, Councilman Gill-Yes, Councilman John Thomas-Abstained, Councilman Nathan Thomas-Yes, Councilwoman Ryan-Yes, Supervisor Thomas-Yes.

Office of Assessor:

Supervisor Thomas stated he received a letter from Carl Thomas regarding the Assessors Office; he's not sure how the board feels about this. This would be the time to Councilwoman Ryan stated look into it. Supervisor Thomas stated he believes the State changed the law that in the past, he knows one other time he believes we tried to go to a sole elected or sole appointed he forgot which. That had to be done by Referendum. He thinks the Legislature has changed that to where the town board can pretty much just pass a resolution. Councilman John Thomas stated he thinks if we have got one that isn't showing up and we're paying this money on and not getting a return on that, the very least we should look into the cost of it and see what our benefits would be to go with one person.

Paying someone \$12,000.00 here where every year not putting time in spending money and your not getting anything back on it this is not the way this is suppose to work.

Attorney Cooper stated Peter LaGrasse gets that kind of money but the other two don't get that kind of money do they? Supervisor Thomas stated no, they get the same as the board each year. Peter gets around \$10,000.00. Attorney Cooper stated he hasn't researched the legal point that Supervisor Thomas brings up. If it was the old law this would be a Mandatory Referendum and it's suppose to be at least 60 days after the resolution is passed. The local law resolution is passed; the voter's vote on it and it says not less then 60 days. So he would guess if we decide on it next month we wouldn't have time to get it on the ballot under the old law, he hasn't researched it, but we wouldn't have time to get it on the November Ballot. So it would be an additional expense for the town to hold a Special Election Referendum.

Supervisor Thomas stated he thinks if you go back four or five years you are going to find we don't have to have a Referendum. Attorney Cooper will check this out.

Carl Thomas stated the law has been changed. The Board has the authority to do that without Referendum. If they want to get enough people on a petition then they can force this but the Board has the Authority to act on it. Attorney Cooper will report back to the Board next month but he is not prepared tonight to do that.

Supervisor Thomas stated he has one question Carl Thomas brought up here is State Land being decreased in value each year. He has been harping on that for eight or nine years now and Carl Thomas says it's easily remedied, what's the remedy, you're an assessor why is he sitting here harping on it if it's not being remedied. Carl Thomas stated the remedy is a re-val. It's been very reluctant, The Board of Assessors have been very reluctant to enter into a re-val. But that would get rid of your transition, which we are taking a beaten on every year and that's a very complicated criteria that they use in Albany and he doesn't know how you can figure it out because it changes every year.

Supervisor Thomas stated according to Peter LaGrasse we have about six more years of this 2-2½% reduction each year. Carl Thomas stated it's to our disadvantage. If you have a re-val there's going to be a slight shift but then you going to be gaining more from State Land, more value from State Land. It's going to increase you tax base and it does amount to thousands of dollars. Supervisor Thomas stated he knows it's driving our tax rate up. Since he has been Supervisor he bets between \$80-\$90.00 of our tax rate is a direct result of the decrease of State Land value. Carl Thomas stated yes it is.

Councilman John Thomas stated part of the report Mr. LaGrasse gave us a short time ago said it's a result of that. Supervisor Thomas stated when he starts out doing the budget and he has to cut 2½% just to be even that's anywhere from \$12-\$15,000.00 depending on where its at that year. It gets kind of tough to do a budget after a while

Carl Thomas stated the State will help on the re-val. You will get a slight shift from the State to private but it's going to be more then compensated for on the return of State Land, It would make sense to do that. Supervisor Thomas stated what's the chances of us being dragged right back in to court again like we did back in the 1990's with the State challenging their assessment. He knows this town spent a lot of money on that at that time. Carl Thomas stated right now the State basically sets their assessments. Supervisor Thomas agreed. Carl Thomas stated he doesn't think that would be an issue.

Supervisor Thomas stated that Attorney Cooper will report back to the Board next month on what the legal end of it is.

Councilman John Thomas asked if Lake Luzerne also does this sole assessor. Carl Thomas and Supervisor Thomas stated yes. Supervisor Thomas stated her name is Deanne Rehm.

Carl Thomas stated he would highly recommend her. If you could work something out because it would be ideal for both of us. Councilman John Thomas stated he was wondering about a little more information of what her cost is going to be versus what we are paying now. What our advantages would be for a re-val and what the process might be. Get a little more information from someone we can talk to. Carl Thomas stated he doesn't know the current figures on a re-val, the State will pay so much per parcel he believes. He just read in the Journal where Warrensburg and Chestertown are going to share an Assessor.

Supervisor Thomas stated it's not a bad idea really. Councilman John Thomas stated we have the opportunity to make a change like Supervisor Thomas said we have a 2-2½% to start out with. Supervisor Thomas stated it's all right for a while. You can do it for a while but after a while. Councilman John Thomas stated you can't run a business like that long.

112-13. A resolution was made by Councilwoman Ryan seconded by Councilman Nathan Thomas authorizing the following budget transfer:

Debit A7310.1 Youth Personal service in the amount of \$347.10.

Debit A7310.2 Youth equipment in the amount of \$700.00.

Credit A7310.4 Youth Contractual in the amount of \$1047.10.

Roll call vote, all in favor.

113-13. A resolution was made by Councilman Gill seconded by Councilwoman Ryan authorizing the following budget transfer:

Debit A0599 Appropriation Fund Balance in the amount of \$6156.59

Credit DA5031 Revenue Inter-Fund Transfers in the amount of \$6156.59.

Roll call vote, all in favor.

114-13. A resolution was made by Councilwoman Ryan seconded by Councilman Gill authorizing the following budget transfer:

Debit DA5130.2 Machinery in the amount of \$1970.62.

Debit DA5031 Revenue Inter-Fund Transfer in the amount of \$6156.59.

Credit DA5110.4 Street Maintenance in the amount of \$7801.00

Credit DA5120.4 Bridges in the amount of \$326.21.

Roll call vote, all in favor.

From the floor:

Attorney Cooper stated just in a cautionary voice here, like Supervisor Thomas said the last time we did a re-valuation the State didn't just take it laying down they sued the town and the town hired a well known Syracuse Law Firm, Hancock and Esterbrook and those guys knew how to bill. Supervisor Thomas stated yes they did but he doesn't think we did a re-val. at that time. We haven't done a re-val in fifty years. Attorney Cooper stated whatever propped it.

Supervisor Thomas stated he thinks we raise the assessment on State Land. Attorney Cooper stated yes that's what we did. Councilman John Thomas stated he thinks that was all based on timber cost. He thinks that's how Peter had figured out; cost of timber versus private land, State land because they weren't adding in the growth and the estimated increases. Supervisor Thomas stated we spent \$75,000.00 on a timber study. Attorney Cooper stated the upshot was although it was expensive, ultimately it was better for the town but in the short line you have to pay the bills before you catch up, Supervisor Thomas and Councilman John Thomas agreed. Attorney Cooper stated you have to budget for that. Supervisor Thomas stated after all was said and done we went from \$13 million in value to around \$20 million. Councilman John Thomas stated it's probably back to \$13 million by now maybe less. Councilman John Thomas asked if he knew of any town that has gone through this that might give a little insight. Attorney Cooper stated no, Peter might know, we might better get him in here just to give him his fair say as to what he thinks of this proposal before you eliminate his job. Councilman John Thomas agreed.

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

Respectfully submitted,

Susan Harrington
Town Clerk