

September 19, 2017

The regular Town Board meeting of the Town of Stony Creek was held on September 19, 2017.

Supervisor Frank Thomas called the meeting to order at 7:01 PM with members present:

Councilman Nathan Thomas

Councilwoman Doreen Ryan

Councilman John Thomas

Councilman Carl Thomas

Counsel to the Town: Jeff Meyer

August 15, 2017 minutes; corrections:

Page 51 change Evan loo to Eloo and converging it to cantilevering.

A motion was made by Councilman Carl Thomas seconded by Councilwoman Ryan to accept the minutes of August 15, 2017 with these corrections. All in favor, motion carried.

August 29, 2017 minutes; corrections:

Page 57 change ability to available.

A motion was made by Councilwoman Ryan seconded by Councilman Nathan Thomas to accept the minutes of August 29, 2017 with this correction. All in favor, motion carried.

102-17. A resolution was made by Councilman Nathan Thomas seconded by Councilwoman Ryan to pay the General Fund bills in the amount of \$11,954.73.

Councilman John Thomas asked if the materials for the park, pavers, posts, were still part of the grant. Supervisor Thomas stated yes as far as the parking lot and bathroom. The first grant expired in June and this grant has another year. Roll call vote, all in favor.

103-17. A resolution was made by Councilwoman Ryan seconded by Councilman Carl Thomas to pay the Highway Fund bills in the amount of \$100,181.26. Roll call vote, all in favor.

104-17. A resolution was made by Councilwoman Ryan seconded by Councilman Nathan Thomas to pay the Capital Fund bill in the amount of \$1,805.92. Roll call vote, all in favor.

Town Clerk report:

Conservation License	\$ 16.16
Certified Birth copy	\$ 10.00
Certified Death copy	\$ 30.00
Fax	\$ 3.00
Copies	<u>\$ 3.75</u>
Total Town Clerk Fees	\$ 62.91
Dog Licensing	<u>\$ 55.00</u>
Total Town Revenues to Supervisor	\$117.91
NYS Ag and Markets	\$ 11.00
NYS Department of EnCon	<u>\$287.84</u>
Total Disbursed	\$405.75

Correspondence:

Dog Control Log-August 2017

Kathy Thomas-permission to use the town hall October 7, 2017 for a Memorial from 11:00 AM -6:00 PM.

Adirondack Volunteer Firefighters Benevolent Assoc.-formed in April 2017 and giving a brief description of their goals and intentions.

Stony Creek Vol Fire Dept. - 2017 Financial Report

A motion was made by Councilman Nathan Thomas seconded by Councilwoman Ryan authorizing Kathryn Thomas to use the town hall for a Memorial on October 7, 2017. All in favor, motion carried.

Old business:

Committee reports:

Zumba Classes at the Stony Creek Fire House

Councilwoman Ryan reported that Denice Bussiculo her sister-in-law, will be starting Zumba classes October 4, 2017 once a week, Wednesday's at the firehouse, she has free coupons and will leave some in the Supervisors Office.

Parks and Rec: Beach area:

Supervisor Thomas met with Supt. Bradley at the town beach. They talked about the walls. They determined they're approximately about 44 feet on each side and figured they would go about 3 feet high and believes Supt. Bradley contacted Palette's and they have started making the blocks. Hopefully they will have enough time to make them. Supt. Bradley stated it will be about a month. If they get half a load to get started and then finish it up., he doesn't see a problem. Supervisor Thomas stated they will get it done and back fill, put some topsoil and seed it down, tidy it up and make it look a little better.

Parks, Rec: Bridge across the creek

Councilman John Thomas stated the snowmobile club said there might be some funding on their part to help with the bridge across the dam, he asked if he heard anything from them. Supervisor Thomas stated no he hasn't heard from them. They did indicate that there is some funding they might be able to access. Supt. Bradley stated that Ken Brooks is excited about doing it and pretty good about starting it. Supt. Bradley doesn't know where you want it. Supervisor Thomas stated it will be put up from the dam or below it. The creeks a little narrow below it and the banks are higher.

Councilman John Thomas will see Mr. Brooks and see if they have made any progress on it and what their options are.

New Business:

Pavilion ceiling: Supervisor Thomas stated a couple years ago they did the smaller part of it. This spring there was a lot of barn swallows in there making a mess of things and he would like to get a ceiling into it to stop that situation.

Councilman John Thomas stated before you put the ceiling up you have to put some type of roof fence up to let the heat out because right now there's no vents to let anything out.

Councilman Carl Thomas asked if you could use screening if it would be sufficient just to close off to birds. Supervisor Thomas stated you could. Councilman Nathan Thomas stated it wouldn't last as long as pine would. Councilman Carl Thomas stated he had screening under his porch for about 14 years because of nesting it probably cost less than plywood. Councilman John Thomas stated you'll need a v-joint on the rest of it. Supervisor Thomas agreed.

Councilman John Thomas stated with the number of kids up there screening probably wouldn't last. Councilwoman Ryan stated you could have those strips made out of, Councilman Nathan Thomas stated aluminum vented ridge. Councilman John Thomas stated there's a lot of things you can use with vented ridge. Councilman John Thomas stated it's something that should be added in before it gets closed off. It will build up a lot of heat in there he also added that it wouldn't be long and it will need shingles. Supervisor Thomas agreed on the shingles and stated the estimated the cost for materials for the ceiling would be approximately \$2500.00.

Councilman John Thomas stated that someone was buying it for less in Edinburg. Councilman Nathan Thomas stated Romans This and That in Mayfield. Its Adirondack grade which means it has a lot of knots but seems to hold together well. They are calls, a lot of 6 footers and a lot of short stuff. Supt. Bradley asked if they are starting to add on the 20% on everything you build. Councilman John Thomas stated no not yet but probably any building projects in the future. Councilman Nathan Thomas stated that plywood is pretty scarce. Councilman John Thomas stated plywood, insulation and sheetrock, a lot of your most expensive stuff is going to go up, once it goes up it never goes down.

Councilman Nathan Thomas stated they get a lot of stuff out of Mayfield. Councilman John Thomas stated sometimes it's worth it sometimes it's not worth the hassle with what you throw out. Councilman Nathan Thomas stated you have to go get it they don't deliver. Councilman John Thomas stated if the quality isn't there you're just going to throw that much away.

Supervisor Thomas stated it needs a few strongbacks on the top of the joists, trusses.

Councilman John Thomas stated there should have been some on it when they built it. It should be on the specs of the trusses. Supervisor Thomas stated there are 2x4's it doesn't really classify as a strongback. He thinks more like a 2x8.

Supervisor Thomas stated if that's what the board wants to do he will move forward and have it done.

105-17. A resolution was made by Supervisor Thomas seconded by Councilwoman Ryan to finish the ceiling in the pavilion not to exceed \$3000.00. Roll call vote, all in favor.

945 Harrisburg Road Property:

Supervisor Thomas stated he doesn't know how many has been into Harrisburg lately but there is property up there he thinks it was where Schuyler Greenmier use to live and there is unregistered vehicles and basically junk. Councilman John Thomas stated its out to the edge of the blacktop. Supervisor Thomas stated yes it right to the edge of the road and he has gotten two complainants so far from people that either live up there or have a second home up there. Supervisor Thomas stated he took a ride up there earlier this summer and took a ride up this evening and he's not sure exactly what he can do about it but needs to do something.

Councilman John Thomas stated if you check he thinks a good chunk of that is in the county right of way. When they had an EMT call in Harrisburg, its right on the edge of the road and had to swing out so not to hit it. They're running out of room to stack stuff. They are going to have to do something with it. Supt. Bradley stated it's bad and there is no way that stuff is up to code either. Councilman Nathan Thomas stated its 20 acres of stuff on a 2 acre lot. Carol LaGrasse stated she has a suggestion that you could look into. The NYS Building Code has retroactive clauses about things of that nature. You may want to pass that over to the Warren County Building Inspector. If you want to forcibly remove it you can sic the Warren County Inspector on him. Supervisor Thomas stated he thinks that is probably the logical place to start, he doesn't know if it will solve the problem. Carol LaGrasse stated they may not know it's in the code it came out in 1986. Supervisor Thomas stated he has one its 2002 and there is a section in there about vehicles and general maintenance. Councilman John Thomas stated it has to be close to the wetlands also. Supervisor Thomas stated he doesn't want to bring the wrath of the State down on these people but they are defiantly going to have to do something it's only 30-40 feet to the wetlands.

Councilman Carl Thomas stated it was wetlands when Greenmier filled it in. Councilman John Thomas stated they have a trailer and the tongue and the corner of the trailer is on the white line. If you stray off the road you would hit it. Supervisor Thomas stated it's still there. Supervisor Thomas can talk to Charlie Wallace. Councilman John Thomas stated it would seem the county would want there right of way cleaned up. Supervisor Thomas stated they need to get rid of some of that stuff. Councilman John Thomas stated junk prices are up a little bit.

Councilwoman Ryan stated yes and someone will come and pick it up. Supervisor Thomas did get a notice from the Park Agency. He thinks someone did call the APA about it but he doesn't think they followed up on it. He thinks it's something they should deal with he doesn't think they should be seeking the park agency. Councilman John Thomas stated not to start off with no. Supervisor Thomas stated the next thing is if the county will do anything about it.

Councilman Nathan Thomas stated you are the Health Officer right? Supervisor Thomas stated the town board is yes. Councilman Nathan Thomas stated he hasn't been up there, but if there is a hazard on the white line maybe the sheriff's patrol should look at it for at least that side of it. Councilman John Thomas asked if the town needs to draft a letter to get this going so it doesn't sit on someone's desk for the next two months. Supervisor Thomas stated yes, it wouldn't hurt. Councilman John Thomas stated it's been building for a while now. Supervisor Thomas stated we'll try building codes and a letter to them and a carbon copy to the property owner.

Attorney Meyer stated the town has some authority if you want to go it on your own through the Town Law and even the General Property Maintenance Code provisions for the town to enforce even though Warren County does the larger code issues. It just has to be a decision the board makes to go that route to be the enforcement one. Councilman John Thomas asked how far the town can go without the county's backing as far as the building codes. Attorney Meyer stated what typically happens is you ask the county if they mind doing their jobs for them and they say go right ahead, help yourself. If there's junk there is provisions in the law strictly from junk and other property maintenance issues for garbage and anything else. There are remedy's available it's just a question if you want the county to try.

Your tax dollars go to the county for them to do code enforcement whether you want them to take the first crack at it or whether the town wants to. Supervisor Thomas stated we could do that, he thinks that could be in his opinion, give them a week. If they don't do something in a week then the town board do it. It's not like they don't know it. Councilman Nathan Thomas stated there's enough building going on in Harrisburg, he would imagine there was a building enforcer out that road. Two houses were finished in Harrisburg Lake, he would imagine somebody drove by it within the last three weeks or so. Supt. Bradley stated when he drives by it he turns his head the other way, there is no way he wants any part of that mess. Councilman John Thomas stated he wouldn't give them a long length of time. The county would be an easy enforcement. Councilwoman Ryan stated we're having nice weather the next couple weeks it's a nice time to do it. Councilman John Thomas stated we can wait for snow and let the snowplow push it back. Supervisor Thomas stated if you had a second home or coming up to one of the establishments for a vacation, we've been down this road in the past but when you do these things and put them on the edge of the road your just asking for it. Councilman John Thomas stated it needs taken care of one way or another. Supervisor Thomas stated he will approach Warren County Building codes and ask them to give them notice and he will put together a letter requesting that so they have it officially from the board. We will give them a timeframe, a week to ten days. Then he will check with the town's attorney to see how we can proceed.

Adirondack Community College:

Councilman John Thomas stated he saw in the paper the county is loaning the college a million dollars for a building and they are going to place it elsewhere. It sounds like it will be placed off campus somewhere else. Supervisor Thomas stated yes they are going to place it down in Glens Falls. The culinary part of it. Councilman Nathan Thomas stated it's the big building next to the Glens Falls Hospital entrance. Supervisor Thomas stated the college got a million dollar grant from the State to do this but they want the county to upfront the money and the county will be reimbursed from the State. They do have a signed contract because it was issued. Councilman John Thomas stated he didn't know if they were going to move part of it out of Glens Falls because they really didn't state the location. Supervisor Thomas stated they are going to move from where they are currently, he thinks it's on Bay Road. Councilman Nathan Thomas stated right now they are in the building on Bay Road next to Stewarts Shop because they serve meals there at different times of the day.

They teach them how to set tables, and all the rest of that and they are hoping by putting it down town they will be able to draw more of the downtown crowd. Supervisor Thomas stated yes, they think there will be more activity in the city and can accommodate more people, but in theory the county will be paid in full but the project has to be completed first. Supervisor Thomas stated it got labeled a loan and it's not legal, they can't loan money to anyone. It's pretty much similar to what the county does rather consistently actually. They do it with us with the grants we have, seek re-imbusement with the county and the county gets re-imbursed by the State otherwise we wouldn't be able to do what we do. You would have to wait for the money from the State and a town like Stony Creek we wouldn't be able to do it.

SESAC (Society of European Stage Authors and Composers" a Performance-Rights Organization in the United States)

Supervisor Thomas received a letter from SESAC he didn't think much about it when he first got it at the end of June but then he got a phone call a couple weeks ago from a gentleman. He wouldn't use threatened it's pretty strong, but the conversation heated with, "take us to court if that's what you think". What it is, they want \$397.00 from the town so we can play music in the park, for a licensing fee for the songs. The ways he looks at it he's not singing those songs down there, no one from the town. We're contracting with the musicians. He doesn't see where they owe him for anything. Supervisor Thomas passed the information over to Attorney Meyer to look over. Supervisor Thomas stated he isn't paying them \$397.00. Councilwoman Ryan asked if he played in the park. Supervisor Thomas stated no he thinks he has rights to some of the music being played and wants to provide the town with a license that he doesn't think we need. Carol LaGrasse stated people who do musical performances, they can't use someone else's work without requesting permission in paying, and that's a fact. Supervisor Thomas stated yes. Mrs. LaGrasse stated she doesn't see why that would fall back on him. To have one of those agencies that supposedly distributed to all there musicians, there's also iffyness about how it's distributed. But mildly you would think that they would pay the person whose music they play. The entity that she has dealt with did that when they did it legitimately. Some churches are very legitimate and some churches say, we are a church why do we pay. But also as far as performing groups you do have to get permission and you do have to pay. It's like sheet music you can't zerox sheet music unless they give you permission to zerox. To make a poster and hold it in front of a group of children to sing certain words, that's illegal, you have to get permission from the people who purpose the music and words. It's not the church that got permission it's the people who needed the music, the choir director. She doesn't see why he would have to pay that, that's crazy. Supervisor Thomas stated that's what he thought. Councilwoman Ryan stated she thinks most of the performers perform their own music too. Supervisor Thomas stated a lot of them do he thinks. Councilwoman Ryan stated it's their own music that they're performing at the park its nobody else's song but their own. Mrs. LaGrasse stated if you purposed the music yourself there's no question. Attorney Meyer stated the town hires the performers. Supervisor Thomas stated yes. Attorney Meyer stated if the town showed a movie at the park it would fall under this. You would have to get a license from Disney if it was a Disney movie in order to do that. Supervisor Thomas stated the music is all contracts.

Attorney Meyer said it should be in your contract with whoever is paying whether a DJ or band that they are responsible for all those things, it shouldn't come back to him. Councilman Nathan stated someone is looking for a quick buck. Supervisor Thomas agreed.

Budget transfers:

106-17. A resolution was made by Councilman Nathan Thomas seconded by Councilwoman Ryan authorizing the following budget transfer:

Debit A8160.4 Refuse contractual in the amount of \$400.00.

Credit A8810.4 Cemeteries Contractual in the amount of \$400.00. Roll call vote, all in favor.

107-17. A resolution was made by Councilman Carl Thomas seconded by Councilman John Thomas authorizing the following budget transfer:

Debit A1990.4 Contingent in the amount of \$1805.92.

Credit H1940.4 Purchase of Land in the amount of \$1805.92. Roll call vote, all in favor.

108-17. A resolution was made by Councilwoman Ryan seconded by Councilman Nathan Thomas authorizing the following budget transfer:

Debit A7180.4 Special Recreation Contractual in the amount of \$13,833.38.

Debit A3897 State Aid/Culture and Recreation in the amount of \$7581.55.

Credit A7180.4.7 Special Recreation Parking Lot in the amount of \$11,414.93.

Credit A7180.1 Special Recreation Personal Services in the amount of \$10,000.00.

Roll call vote, all in favor.

A Special Meeting for the Town Board to review the 2018 Town Budget will be held on October 3, 2017 at 6:30 PM.

Dean Farm Trails:

Councilman John Thomas stated the grant we have now for the trails, how much more does that cover money wise? How much more do we plan to do? Supervisor Thomas stated he isn't sure how much is left in it. It was like \$75,000.00 total. Councilman John Thomas stated is this the part that's going to include the toilet? Supervisor Thomas stated yes and the parking lot. He isn't sure he will spend all of it if they do the toilets we talked about. Councilman John Thomas stated it depends on the engineering. Supt. Bradley asked if it was a 50/50 or full grant. Supervisor Thomas stated 50/50. They are doing 75/25 now he thinks they changed it and started it this year.

From the floor:

Peter LaGrasse, Assessor stated he sympathizes with Supervisor Thomas on the junk and junk cars on Harrisburg Road but up by Lagace's the next house up there are two unlicensed cars. They are collector items hopefully they will restore them and they're not junk. So you have to make it a distinction between priceless and nuisance junk car eyesore. Councilman Nathan Thomas stated it's not just the unregistered cars it's the ever flowing collection of stuff.

Parks: bridge liability.

Supervisor Thomas stated he is sure at some point that would be but he isn't sure right now. You have to know what kind of bridge you have and the use. Councilman Nathan Thomas stated also the new plan for the new property and getting everything else in order as well.

Councilman Carl Thomas it looks like there is concern on the liability for the cemeteries also if the town assumes that responsibility.

Supervisor Thomas stated there are cemeteries we own and maintain.

Councilman John Thomas stated how much are we responsible for, to what extent are we responsible for as far as injuries in the cemeteries that the town doesn't own but the town maintains. That would be the main question as to insurance wise, as to what the town is going to have to put up and cover that we don't now. If there is any that we have to pick up and cover.

Attorney Meyer stated if it's a public cemetery, which means you don't have to be a member of the church to be buried there and the town maintains it its yours and the insurance company should have a list to put on the policy.

Councilman John Thomas stated there are several other cemeteries the town has as far as maintains, mows and keeps the brush back that sort of thing.

His question would be, to what extent the town would be liable, because some have trails going into the access from private property that sort of thing. What point if any does the town have to pick up responsibility for anyone getting injured?

Attorney Meyer stated the town is always going to be a risk of a lawsuit. It depends what they are doing there. If there visiting the cemetery and they get hurt then it's something that could come back to the town.

If they are using a trail that's not part of the cemetery then your looking at whether the public was invited or not or trespassing.

Was there something that the town should have known, some kind of condition the town should have known, but ultimately that's really why you have insurance to protect you in those type of situations?

Councilman John Thomas stated he knows there is one on Riley Hill Road that a trust goes to. The town holds a trust.

Supervisor Thomas stated on Riley Hill Road? No there is a trust with the Haskell's for the one on the Hadley Road Cemetery and a trust with Gill Cemetery.

Councilman John Thomas stated so they may be treated a little bit different because the town is holding the trust on it as far as liability. He is trying to think what differences there would be from one to the next that we aren't covering and need to pay more insurance.

Attorney Meyer stated there really isn't if there is a trust there. He is assuming the trust is for maintenance and upkeep and that's really just left over money from when it was a public cemetery.

The cemetery did what it was supposed to be doing which is unfortunately rare. They should have this trust and keep money aside and set it aside to keep things in perpetuity. Too often it didn't happen, but where is that trust money?

It's the first towns maintenance cost, but it doesn't change the nature of liability or whether or not the town should have it under their insurance.

Supervisor Thomas stated we take care of cemeteries too, you could classify them as a family cemetery that were used years ago and aren't use that much today and there is quite a few we take care of.

Attorney Meyer stated abandoned cemetery? Supervisor Thomas stated yes.

Attorney Meyer stated this is fine but there's a distinction between small and large cemeteries.

You can have a lot that started out as family cemeteries and become something more. Supervisor Thomas asked if they were in a legal grounds to expending money on those cemeteries, the family. Attorney Meyer stated if they are abandoned public cemeteries your fine. Councilman John Thomas stated that's a question, what's an abandoned public cemetery? Carol LaGrasse stated she stands by her years of research. If it's a family cemetery, immediate family the town isn't obligated to take it over. It might be illegal but if it's a family cemetery and people in the neighborhood use it as a cemetery that became public then the town has the obligation and requirement to take it over. You can look at the Cemetery Law and the cemetery stuff she had in her files on which they passed the law recently. You can't avoid town responsibility the town never has and it also requires the access road going in and as the attorney says it's a usually liability access road which is trespass or snowmobile on the back of someone's property, that isn't part of the towns liability unless we perhaps create the hazard. But it's really not that complicated and she doesn't agree with Councilman John Thomas that the law is in conflict. She looked into zillions of cemetery decisions it's not that confusing. You get local decisions that fly in every direction who cares about that. You look at the trend of important decisions and the way the cemetery authorities of the State speak of them and they are consistent. We haven't done anything wrong except that one little cemetery going into the dump, that one immediate family, it's no big deal who cares, so we work on the little cemetery for years and years. Supervisor Thomas agreed and stated there are several like that, not quite that small. Carol LaGrasse stated take the one on Waite Road there is more than one family there. She has all the names from the Haskell's. The town worked it and the town has a contract which the town accepted to work. There is a trust fund included it that and the Haskell's gave her a copy and they have a record of when the people loaned it. When the trust fund first came in on the Riley Hill Road and Waite Road. It's really not a problem. All the towns with these small cemeteries aren't going broke with them and our town isn't stealing the land by expanding or fighting with property owners. We really don't have a cemetery problem here. Supervisor Thomas agreed. Carol LaGrasse stated John Thomas's is solvable. Councilman John Thomas stated he has no problems. Peter LaGrasse asked what the status of the Waite Cemetery is. He directly asked and he would still like a resolution from the town board that the cemetery on Waite Road is maintained by the town as an abandoned cemetery and it should be mapped on the tax maps the same matter as all the other 14 or so abandoned cemeteries are. That was the original issue the tax mapper is saying there is no deed for it. Now we have to have deeds when we have no deeds for any of them. Even the large one on John Thomas's. There is no deed describing its boundaries and it's mapped on the tax map and all the others are mapped on the tax map. It's an issue that came to him of why it shouldn't be mapped and he was astounded that the tax mapper said he can't do it with no deed. It's reached a point where if the town made a statement that it is the facts, you are maintaining it the same matter as your maintaining all the other abandoned cemeteries and that's the truth. It has gone to the lawyers hands and he doesn't know what resolution were made. It went to the town lawyer, county lawyer and what has happened, that's what he would like to know.

Councilwoman Ryan stated they said they won't have a problem with putting it on the map according to County Attorney Reichenbach. Councilman Nathan Thomas stated the request has to come from the board not the Board of Assessors but the Board. Peter LaGrasse stated what are they requesting?

Supervisor Thomas stated a resolution from the Town Board. Peter stated that's what he requested two months ago. Attorney Meyer stated the request comes from the Town Board and the County act on the town's request.

109-17. A resolution was made by Supervisor Thomas seconded by Councilwoman Ryan Requesting that Warren County Real Property Tax Service put the Waite Cemetery on Lewis Waite Road on the Warren County Tax map. Roll call vote, all in favor.

A motion was made by Councilman John Thomas seconded by Councilman Nathan Thomas to adjourn the meeting at 8:03 PM. All in favor, motion carried.

Respectfully submitted,

Susan Harrington
Town Clerk