

December 17, 2013

The regular Town Board meeting of the Town of Stony Creek was held on December 17, 2013. Supervisor Frank Thomas called the meeting to order at 7:01 PM with members present:

Councilwoman Doreen Ryan

Councilman John Thomas

Attorney James Cooper

Absent: Councilman Harry Paul Gill

Councilman Nathan Thomas

November 19, 2013 minutes:

A motion was made by Councilwoman Ryan seconded by Councilman John Thomas to accept the November 19, 2013 minutes. All in favor, motion carried.

145-13. A resolution was made by Councilwoman Ryan seconded by Councilman John Thomas to pay the General Fund bills in the amount of \$ 10,857.35. Roll call vote, all in favor.

146-13. A resolution was made by Councilman John Thomas seconded by Councilwoman Ryan to pay the Highway Fund bills in the amount of \$9809.98. Roll call vote, all in favor.

147-13. A resolution was made by Councilwoman Ryan seconded by Councilman John Thomas to pay the Fire Fund bill in the amount of \$75.00. Roll call vote, all in favor.

Town Clerk report:

Conservation licenses	\$ 22.45
Certified Death copy	10.00
Fax	<u>1.00</u>
Total Town Clerk fees	\$33.45
Dog licenses	<u>30.00</u>
Total Town Revenues to Supervisor	63.45
NYS Ag and Markets	6.00
NYS Environmental Conservation	<u>497.55</u>
Total disbursed	\$503.55

Correspondence:

Dog Control log –November 2013

Carl Thomas-resigning his position as Assessor effective December 31, 2013.

Stony Creek Free Library- permission to use the town hall on January 10<sup>th</sup> 2014 from 6-9:00 PM for the first of four Winter Concert Series pending Bed Tax monies.

Stony Creek Free Library requesting \$2800.00 of Occupancy Bed Tax Funds for four Winter Concerts being held each month from January to April 2014.

148-13. A resolution was made by Councilwoman Ryan seconded by Supervisor Thomas authorizing the expenditure of Occupancy Bed Tax funds to the Stony Creek Free Library in the amount of \$2800.00 to be used toward four Winter Concert Series and for the purpose of securing some even higher-quality musicians. These concerts will be held on Fridays at the Stony Creek Town Hall during the months of January to April. The Town Board also authorizes the Stony Creek Free Library to use the town hall on January 10, 2014 from 6-9:00 PM for the first of four Winter Concert Series. Roll call vote, all in favor.

Old Business:

Penflex:

Supervisor Thomas stated back in September the Board passed a resolution authorizing a lump-sum payment to the people who were eligible for the service award money. Rather than collecting it monthly for 10 years they could take the lump-sum payment. Penflex came back with a 2-page summary provisions they want the Board to approve, Trust Document and a Plan Document. Supervisor Thomas read the letter, which states they drafted documents for the Stony Creek Fire Cos. Service Award Program. The Trust Document didn't change. They don't have an executed copy in their files. They are asking the Board to execute the copy so documentation is complete. The Summary of Program Provisions is a brief 2-page summary explaining the basics of the Service Award Program and is met to provide to all firefighters and participants. Once finalized they will send enough copies to be distributed to all program participants. The full legal description of the program is detailed in the Plan Documents. The documents have been approved by their clients and Attorneys. They recommend the Town's Attorney review and approve them as well. Once approved the Town Board must execute both Plan and Trust Documents by signing the execution pages. They urge the documents be finalized and executed as soon as possible and no later than December 31<sup>st</sup>.

Supervisor Thomas stated they also e-mailed a Legislation Introduced Clarifying Volunteers not Subject to Employer Mandate. It was introduced on December 10<sup>th</sup> in the House of Representatives clarifying that qualified emergency services volunteers will not be counted as employees under the Patient Protection and Affordable Care Act. If enacted the protecting volunteer Firefighters and Emergency Responders Act would make clear that fire and EMS agencies will not be required to offer volunteer personnel health insurance, even if they receive other nominal benefits. Councilman John Thomas stated it is his understanding that if you have 50 or over employees then you have to.

NY SAFE ACT:

Supervisor Thomas stated at the last meeting Tom McGinty came before the Town Board about the SAFE Act and wanted the Town Board to pass a resolution about the SAFE Act. Supervisor Thomas did have a chance to prepare a resolution, which he read.

149-13. A resolution was made by Supervisor Thomas seconded by Councilwoman Ryan  
The Town of Stony Creek Opposing the NY SAFE ACT  
WHEREAS, We the Town Board of the Town of Stony Creek, as the elected representatives of our residents and as individuals, strongly object to the infringement of our rights preserved by the second Amendment of the Constitution of the United States of America, and;

WHEREAS, the second Amendment to the United States Constitution states “A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed”, and;

WHEREAS, the Right of the People to keep and bear arms for the defense of Life, Liberty and Property is regarded as an Inalienable Right by the people of the Town of Stony Creek, Warren County, New York, and;

WHEREAS, on January 14, 2013 the rights of our citizens as protected by the second Amendment of our United States Constitution were infringed upon without due process, in haste and without just cause by passage of the New York Secure Ammunition and Firearms (S.A.F.E.) Act by the New York State Legislature and signed by the Governor, on the same day, and;

WHEREAS, the tyrannical use of “Message of Necessity” to expedite passage, stifle debate by our elected State Legislators allowing no opportunity by the public to be heard on the infringement of the peoples second Amendment rights is completely devoid of representative government, and;

WHEREAS, The Stony Creek Town Board believes there are many other more practical and less intrusive means available, other than an in haste, confusing and inarticulately drafted legislation that would effectively control, manage and reduce violence in New York State, such as, mental health reforms, enforcement of existing laws, increasing the punishment for criminals who use firearms to harm or threaten law abiding citizens,

NOW THEREFORE BE IT RESOLVED, that the Stony Creek Town Board condemns the actions taken in passage of the New York S.A.F.E. Act and calls for an immediate suspension of the New York Secure Ammunition and Firearms Act, and

BE IT FURTHER RESOLVED, that the Stony Creek Town Board reaffirms its support of the second Amendment to our United States Constitution and calls upon Governor Andrew M. Cuomo and the Legislature to engage in proper legal procedures in a constitutional and effective manner that focuses upon the real problem of firearms being in the hands of criminals and the mentally ill, and;

BE IT FURTHER RESOLVED, that the Town Clerk of the Town of Stony Creek forward copies of this resolution to Governor Andrew M. Cuomo, Senator Charles E. Schumer, Senator Kristen E. Gillibrand, Congressman William Owens, Senator Elizabeth O’C. Little, and Assemblyman Daniel G. Stec.

**Discussion:** Attorney Cooper stated it is extremely well put together. Over the course of his career and is pretty sure ‘whereas` is one word and with that typo he thinks its an excellent job. Attorney Cooper stated there are complications. He had a client come to him and he had a lot of firearms. There was a question on what happens when there’s a death, a devise situation, a bequeath of personal property in this case and he had to check with the State Police. They have a website, they have a guy you can actually call up and ask questions and the first thing you have to establish is what is the weapon, because the SAFE Act is essentially focuses on what appears to NYC people to be an assault weapon. So they define it by saying does it have a beyonet mount, flash suppressor, and pistol grip, is it a center fire cartridge and is it semi-automatic. If it passes all those tests to them its considered an assault weapon and you have to register by the end of the year that you have one and if you die and you leave it to your children or son the estate will have to administered either the executor, administrator or get a form from the State to transfer the ownership of the weapon so in Albany they can continue to track who owns it.

There is spin-off's like they talked about last month about the ESF Property in Newcomb and Pack Forest that they didn't even think about when they passed this thing. It was so ill considerate and rushed through that a lot of things Supervisor Thomas said in the resolution really strikes home. Supervisor Thomas stated he is sure they will ignore it like the rest of them. Lisa Bartow asked if other towns were doing similar things. Supervisor Thomas stated yes over 300 have. Most of the Counties have. He thinks all of the upstate counties have except two. Peter LaGrasse asked if Warren County has. Supervisor Thomas stated yes. Tom McGinty stated yes and they are in the process, E. J. Stokes is approaching Gene Merlino's (Supervisor of Lake Luzerne) Town Board and he was to ask Supervisor Thomas to basically be prepared because they were going to try and have Warren County do it as well. January 18, 2014 at Waterhouses Restaurant they are having a forum to try and educate, what Attorney Cooper was saying what's involved with some of the requirements of the SAFE Act. They are going to register some voters. They have a few 100 people that are going to attend. Attorney Cooper stated the laymen may want to understand the elements of the statues and just go to the NYS Police website and they have links to specifically the SAFE Act provisions and there is a guy you can call and ask questions. Mr. McGinty stated one of the things they were disturbed over is, someone in your home goes to the doctor and gets diagnosed as clinically depressed, they now have to report it and you have to turn over everything even if you may not be the one that's depressed. There is other things in there they are trying to bring to the attention. A lot of hunters can be affected. Ammunition as well, you can no longer buy ammunition as a gift. If you take a firearm, which is deemed to be an assault weapon and hand it to your child, like we all have done, and there happens to be an officer there you both can get into serious trouble. Not that they would do it but under the law you become a felony. He has flyers that he will hand out at the end of the meeting. Mr. McGinty stated he thinks the resolution was also exceptionally well written. Supervisor Thomas stated it seems to be another upstate downstate issue of what he sees. Its like NYC and Long Island against the rest of us. Mr. McGinty stated he has a number of people downstate that were in fact the representative for NYS Firearm and Pistol. He's been down there trying to do some recruitment but the statistics he has been told that there were four million people that voted in the last Governor Election. There is over five million gun owners, so if they can get them out on Election Day, and its downstate, and they vote they could take the election. Supervisor Thomas stated you should encourage the other towns that sent resolutions back in January, February to reauthorize them or send them again. Mr. McGinty stated Steve McLaughlin has been speaking at a lot of the rallies; they are trying to get him to run for Governor. He is trying to get Dan Stec to show up. They are trying to get a war chess together. There will be ads in the Pennysaver for the next 3-4 weeks about the forum, everyone is invited and there will be a buffet afterwards. It starts at 1:00 PM and doesn't know when it will end. Mr. McGinty stated if Supervisor Thomas would like to speak let him know, they are making allowances for this. Supervisor Merlino may speak. Parking will be at the town garage, firehouse and the building across from Waterhouse Restaurant, they have people coming from Buffalo and downstate. There are five to six well know speakers at the rallies. They are trying to get grassroots movement going, which the Board did here. He thinks its great because he doesn't think the average layman knows or understands what's in it. Mr. McGinty stated he read the thing what the State Police issued; it was kind of general if it's the same one.

Attorney Cooper stated he didn't download anything he went to there website to get info for his client. It turned out his weapons didn't have suppressants, bayonet mounts, or pistol grips so he could pass them on to his son and like most lawyers once he answered his question he stopped looking.

Roll call vote, all in favor.

#### Committee Reports:

##### Murray Road

Supervisor Thomas stated he believes the Highway Dept. went up and cut some brush. Mr. Page called him today and wants to meet with him about the road again. He doesn't know exactly what there going to talk about but he's willing to meet with him. That's on going. He did tell Mr. Page they are going to have an Organizational Meeting and he is welcome to come to that, that way he can talk to all of us.

Attorney Cooper stated if you remember Tom Murphy, the Jerusalem Road issue. We have to be careful not to take any official action that isn't initiated by us at his suggestion because then it would be setting you up to an Article 78 proceeding. So if you make a decision then he can appeal this decision in Article 78. Whereas if we just maintain the status quo there's really nothing he can do unless he wants to bring a pretty complexed lawsuit in the nature of mandamus to compel the Highway Supt. to do X Y Z like rebuild the bridge or something like that. It's almost never done so His suggestion to the Supervisor is not to agree and have the Board decide anything officially on the record until we think it over. Supervisor Thomas agreed.

Supervisor Thomas reported the following:

##### Parks and Recreation:

Erie Pane Co., the company that painted the bridge on Lanfear Road paid the town \$500.00 for repairs to the recreation field, when they had their equipment on the rec. field.

LARAC has awarded the town \$1518.00 toward the summer concerts.

The Consolidated Funding Awards were announced last week. Through the First Wilderness Heritage Corridor Plan implementation projects for Warren and Town of Hadley and Corinth their application was awarded \$553,500.00. Two of the items are for Stony Creek. One was approximately \$50,000.00 to design and change the Creek Center, the one section of the four corners that the town owns. The other was approximately \$120,000.00 awarded to the Dean project for composting bathroom and some other improvements. They are both 50/50 matching grants. There was money for the Adirondack Folk School, White Water Rafting Rodeo, and in Corinth there was money for a train platform.

##### Francis Dean Heritage Trails:

The signs are nearing completion. Ms. Kerrigan did assure him that she was just about finished, she is waiting for some verbiage for the large sign for the kiosk and when that is finished, we get a chance to review them, then the data will be forwarded to Fossil to have them manufactured, they will set it up and will proof it again.

Supervisor Thomas reported he wrote to Attorney Crew with the Department of Environmental Conservation a letter on December 3<sup>rd</sup>. He sent documentation as to what the town as done as far as that project and told her where we were at and she responded back and would like to hear back from the town by March 1<sup>st</sup>, 2014.

New Business:

150-13. A resolution was made by Supervisor Thomas seconded by Councilwoman Ryan to enter into the Intermunicipal Agreement between Warren County and the Towns of Johnsbury, Chester, Lake Luzerne, Stony Creek, Thurman, Warrensburg, Hadley, Corinth and Village of Corinth concerning Local Waterfront Revitalization Program 2014 EPA Fund Act. Roll call vote, all in favor.

151-13. A resolution was made by Supervisor Thomas seconded by Councilman John Thomas authorizing the Supervisor to sign the 2014 Senior Transport Agreement between the Town of Stony Creek and the Warren Hamilton Counties Community Action Agency in the amount of \$4800.00, with \$1680.00 being reimbursed by the Office of the Aging. Roll call vote, all in favor.

152-13. A resolution was made by Supervisor Thomas seconded by Councilwoman Ryan authorizing the Newly Elected Officials to attend the Association of Towns schooling in Albany NY on January 15-17 and be reimbursement for expenses. Roll call vote, all in favor.

153-13. A resolution was made by Supervisor Thomas seconded by Councilman John Thomas this agreement is made between Standard Medical Testing Services/Mountain Medical Services with the Town of Stony Creek, PO Box 96 Stony Creek, NY 12878.

This agreement shall be in effect from January 1, 2014 to December 31, 2014.

The responsibilities and obligations and liabilities shall survive the term of this agreement.

This agreement may be cancelled by either party after thirty days of written notification.

Both parties to this agreement are independent contractors, and nothing contained herein shall be construed to place the parties in the relationship of partners, joint venture, principal-agent or employer-employee and neither party shall have the power to obligate or bind the other whatsoever beyond the terms of this agreement.

Standard Medical Testing Services/Mountain Medical Services will be compensated for its services as follows:

Yearly Consortium Fee: 10 or more employees	\$100.00
(one-time fee) 9 or less employees	\$50.00
Urine Drug Screens	\$48.00
Alcohol Breath Testing	\$25.00
Non-Dot	\$85.00
Dot/CDL Physicals	\$100.00

In addition, should there be after hours, post accident testing; there shall be a flat fee of \$120.00 per hour with a minimum two hour charge. Also there will be a mileage charge of 56.5 cents per mile applied.

The fee for split specimen retesting of positive specimens (including shipping, lab fees and chain of custody) shall be the actual cost of said testing.

Payment of Invoices is expected within 30 days of receipt of invoice payable to Standard Medical Testing Services PO Box 2424 Glens Falls, NY 12801. A late fee/interest of 2% monthly will be allied to outstanding invoices over 30 days.

Standard Medical Testing Services/Mountain Medical Services attest that it will keep all information obtained from Town of Stony Creek for the purpose of testing confidential unless otherwise required to disclose said information by applicable law, regulation, or subsequent agreement.

The provisions of the Agreement shall be construed, interpreted and governed by the substantive laws of the State of New York, including all matters of construction, validity and performance. Roll call vote, all in favor.

Supervisor Thomas stated he has another item, it's a touchy situation but it has to do with the town Tax Collector and her health. Maybe it's not for him to say but these things have gone on for a few years now. He knows the Town Clerk has done updates on her computer and writes the checks. He's not sure who is transporting the money, who's accounting for it. He has picked up the tax rolls, brought stamps for her; he's picked up paper, ink and everything else. He's not looking to throw her out of office or anything like that, but at some point maybe somebody here has more influence on her then he does, but at some point he thinks she should consider it, getting off the job. He's not trying to stir up a hornet's nest or anything but he thinks the Board needs to be aware of the situation and like he said he's not sure who's transporting the money to the bank. He's not sure who's accounting for the money. It's not his business she is the Tax Collector. She is elected, on the other hand he could throw his hands up and say to bad do what you want, but he wants to make the Board aware of it. There will probably be some blow back about it but it's gone on long enough, something needs to be done about it.

Councilman John Thomas stated if you run for the job you should be eligible to do the job. You should be able to carry it out from start to finish. Supervisor Thomas agreed and stated he know she has some health issues and everything. He knows the money is a concern but there is a job to do too.

154-13. A resolution was made by Councilwoman Ryan seconded by Councilman John Thomas authorizing the following budget transfer:

Debit SF Fund Balance in the amount of \$75.00.

Credit SF3410.8 Benefits in the amount of \$75.00.

Roll call vote, all in favor

155-13. A resolution was made by Supervisor Thomas seconded by Councilwoman Ryan authorizing the following budget transfer:

Debit General Fund Balance in the amount of \$2000.00.

Credit A7180.1 Special Recreation Personal Services in the amount of \$500.00.

Credit A7180.4 Special Recreation contractual in the amount of \$1500.00.

Roll call vote, all in favor.

156-13. A resolution was made by Councilwoman Ryan seconded by Councilman John Thomas authorizing the following budget transfer:

Debit General Fund Balance in the amount of \$1860.02.

Credit A9030.8 Social Security in the amount of 1860.02.

Roll call vote, all in favor.

157-13. A resolution was made by Councilman John Thomas seconded by Councilwoman Ryan authorizing the following budget transfer:

Debit Highway Fund Balance in the amount of \$500.00.

Credit DA9030.8 Social Security in the amount of \$500.00.

Roll call vote, all in favor.

From the Floor:

Supervisor Thomas reported the Organizational Meeting will be held on Thursday January 2, 2014 at 4:00 PM.

A motion was made by Councilwoman Ryan seconded by Councilman John Thomas To adjourn the meeting at 8:05 PM. all in favor, motion carried.

Respectfully submitted,

Susan Harrington  
Town Clerk