

March 20, 2018

The regular Town Board meeting of the Town of Stony Creek was held on March 20, 2018. Supervisor Frank Thomas called the meeting to order at 7:01 PM with members present:
Councilwoman Doreen Ryan
Councilman John Thomas
Councilman Wayland Baker
Counsel to the Town: Matthew Fuller
Absent: Councilman Nathan Thomas

Supervisor Thomas welcomed newly appointed Wayland Baker to the Town Board.

February 27, 2018 minutes; corrections:

Page 131 change redefying to ratifying his signature.

Page 133 change 488 to 480A Forest Tax Law, change Henry Vanderheber to Henry Van den Heever.

Page 135 resolution 066-18 insert Debit A-General Fund Balance, resolution 067-18 insert Debit DA-Highway Fund Balance.

A motion was made by Councilwoman Ryan seconded by Councilman John Thomas to accept the March 20, 2018 minutes with these corrections. All in favor, motion carried.

068-18. A resolution was made by Councilman John Thomas seconded by Councilwoman Ryan to pay the General Fund bills in the amount of \$8,394.60. Roll call vote, all in favor.

069-18. A resolution was made by Councilwoman Ryan seconded by Councilman John Thomas to pay the Highway Fund bills in the amount of \$17,732.02. Roll call vote, all in favor.

Town Clerk Report:

Fax	\$ 2.00
Copies	<u>\$ 3.00</u>
Total Town Clerk fees	\$ 5.00
Dog Licensing	<u>\$10.00</u>
Total Town Revenues to Supervisor	\$15.00
NYS Agriculture and Markets	<u>\$ 2.00</u>
Total disbursed	\$17.00

Correspondence:

Dog Control Log- January and February 2018

Stony Creek Free Library-rescheduled March 2nd Winter Concert to March 16, 2018.

Ashley Bullard-permission to use the park pavilion July 16, 2018 for a wedding from 10:00AM-8:00PM.

Robert N. Drake-applying for a seat on the Board of Assessment Review.

A motion was made by Councilwoman Ryan seconded by Councilman John Thomas authorizing Ashley Bullard permission to use the park pavilion July 16, 2018 for a wedding from 10:00AM-8:00PM. All in favor, motion carried.

070-18. A resolution was made by Supervisor Thomas seconded by Councilwoman Ryan to appoint Robert N. Drake to seat on the Board of Assessment Review. His term will expire September 30, 2018. Roll call vote, all in favor.

Old business:

Investment Policy:

Supervisor Thomas reported that Attorney Mary-Ellen indicated she wanted to add some language to the Investment Policy. Attorney Matthew Fuller stated he talked with her today and she is working on this and will have it for next month's meeting.

Truck Loan approval

Attorney Matthew Fuller stated all the information is in to the State Comptroller's Office and they are still waiting for the State Comptroller's Office to get back to them.

Local Law-Prior written notice:

Supervisor Thomas reported he bought this up last month and it was a recommendation from the town's insurance provider, NYMIR. Since then the Town Clerk informed him that we have a Prior Written Notice Local Law that was passed in 1975. Attorney Matthew Fuller stated he quickly flipped through it and thinks the town is going to need to amend this. Under Town Law under 65A, we can't expand the protection in that law and reading through it he sees a couple of things expand beyond that section of the law. The other thing we want to do is recite in there that we are specifically superseding Section 1 and 3 of 65A. Attorney Fuller will have the amended Local Law at the next Town Board meeting.

Committee report:

Supervisor Thomas handed out an Occupancy Report for 2017. This is a report that he has to submit to the county.

Town Board Committees Assignments for 2018:

Supervisor Thomas reported he took out Carl Thomas and inserted Councilman Wayland Baker.

The Adirondack Park Local Government Conference will be held in Lake Placid on Wednesday April 18th & Thursday April 19th, 2018.

Highway Ceiling:

Supt. Bradley stated he can squeeze in a day or two but he can't justify \$150.00 or \$200.00 a day to rent a lift. He is trying to plan out a week. Councilman John Thomas got a price of \$780.00 for a month. Supt. Bradley stated he got one for \$600.00 a month. They're trying to squeeze it in here and there. That's where they are at with that.

Councilman John Thomas asked if there were any other places they can use it or does any other towns have a lift as part of the Town's Shared Services. Supt. Bradley stated you can buy a nice used one between \$4,000.00-5,000.00 from a dealer. He knows you still have to do the ceiling in the park pavilion and its way out of range. If you rented it for a month, it would at least need a month, but maybe figuring two months if you kept it here. It would take about two months to knock it out, so there's \$1400.00 there and you have to do the park pavilion ceiling or is it easier to use the scaffold. Whatever, we can keep working on it. But can't justify renting it and using it a day here and there but should squeeze it out by the end of summer. Supervisor Thomas stated he knows the county has a lift truck but thinks you have to keep it running. Councilman John Thomas stated he will keep looking and see if someone has got one they can rent cheap or borrow. It would take a straight week to do the fans and get the stuff up and get it done. Supt. Bradley stated a week isn't bad but you're paying more money. Usually when you rent something for three weeks you get the fourth week free. So if you rent it by the week you still pay more money. If you rent it by the month you're getting a free week. Councilman John Thomas agreed and stated it's cheaper by the month. Councilman John Thomas asked if there was anywhere else they could use it. Supervisor Thomas stated not really.

New business:

071-18. A resolution was made by Councilwoman Ryan seconded by Councilman Baker To purchase a full page ad in the 2018-2019 Southern Adirondack Magazine in the amount of \$945.00, with 50% (\$472.50) being reimbursed by the First Wilderness Heritage Corridor. Roll call vote, all in favor.

Dangerous Dog Hearing:

Supervisor Thomas reported that there was an incident here in town and there is going to be a hearing at the Stony Creek Town Court and our Town Attorney is unable to be there on March 26th. Supervisor Thomas gave the board members a copy of the letter from Attorney John Wright from the offices of Bartlett, Pontiff, Stewart and Rhodes to attend the hearing and represent the town in this matter.

Supervisor Thomas stated his first question is do we really need an attorney there. Attorney Fuller stated that's certainly the town board's call. Given the liability that presents some of these things, he would say yeah. The judge has requested that the town have an attorney. The dog owner does have defense counsel. They have hired a well-known dog defense attorney that they have been inactive with. The photos he has seen are pretty severe. This needs to be prosecuted and the dog needs to be handled appropriately.

They have conflict, Mary-Ellen is on vacation, and Attorney Meyer and Attorney Fuller have meetings. They asked to have it adjourned and the judge wouldn't adjourn it.

That puts them in a conflict. Supervisor Thomas asked if it would go pass one session. Attorney Fuller stated he doesn't know, it could if they get into a scheduling order with the Judge. Most of them are dealt with hopefully by plea at the hearing. The good news is the Dog Control Officer, Mr. Fitzgerald and Attorney Wright have worked together. Attorney Wright has prosecuted these cases that's why they call him if they have a conflict. Sometimes they have a conflict with an actual person, they may have represented him on a real estate deal so they have to have outside counsel so they call Attorney John Wright.

Supervisor Thomas asked if it does go beyond one session with the court would Attorney Wright continue to represent the town. Attorney Fuller stated yes, he wouldn't cross it back, there wouldn't be time to get back up to speed on what he had done. The Town would be spending money twice at that point. They haven't had to prosecute a lot of them here, but a lot of municipalities have one a month. The dog bite cases have become a bit of a liability for municipalities. If the dog does it again, one of the first moves is the victim sues the municipalities. That's why you have to watch them and take care of them quick. Maxine Zawartkay, DCO stated this dog has bitten more than once. Attorney Fuller stated all the more reason we need to prosecute it.

Carol LaGrasse asked what the subject of this discussion is, she doesn't have any idea what the board is speaking of. Attorney Fuller stated under NYS Agriculture and Markets Law there is something called Dangerous Dog Hearing and the municipality or the town is obligated under NYS Law to prosecute those cases. So once someone brings in an allegation or Dangerous Dog, usually it's the Dog Control Officer or it could be a victim, it sometimes gets reported through the police or things like that. Then within so many days an initial hearing has to be held and then a full hearing has to be held to prosecute the case.

Mrs. LaGrasse asked if there is such a case pending now in Stony Creek. Attorney Fuller stated yes there is. Mrs. LaGrasse asked if it's a secret of what the case is, what's the dog's name is or anything about it. Attorney Fuller stated he doesn't have the victim's name, he didn't bring the case file with him. Supervisor Thomas stated it was a complaint by James Fitzgerald of Warren County SPCA against Mark Varney and /or Jo-Anna Keller. Attorney Fuller stated once those complaints are sworn out by the Dog Control Officer we have to prosecute them. Mrs. LaGrasse stated so there will be a public hearing in a court. Attorney Fuller stated there's no public hearing it's just a public case. Mrs. LaGrasse asked if there was a date, she didn't hear the date. Attorney Fuller stated it's on March 26th at 7:00 PM. Councilman John Thomas stated we really have no choice, we have to have counsel there it sounds like. Supervisor Thomas agreed. Maxine Zawartkay stated after talking to her she is going to fight this. Councilman John Thomas asked if he had any estimate of what it's going to cost. Attorney Fuller and Supervisor Thomas didn't have any idea.

Maxine Zawartkay stated she read in the paper where there is a law that's passed where dogs have to be scanned within 24 hours for a chip. What is the chance of us getting a chip reader so she doesn't have to transport these dogs somewhere else in order to have them scanned? Supervisor Thomas stated this will discussed later in the meeting.

072-18. A resolution was made by Supervisor Thomas seconded by Councilman John Thomas to engage Attorney John D. Wright with Bartlett, Pontiff, Stewart and Rhodes to prosecute this matter before the Stony Creek Town Court.

Discussion: Councilman John Thomas asked if there are any recourse for the town to recoup expenses. Attorney Fuller stated unfortunate not.

Roll call vote, all in favor.

945 Harrisburg Road; Dog issue:

Supervisor Thomas reported that he did fill out restitution paperwork for the Warren County Probation Office for the other matter that took place in Stony Creek with Ms. Fish and Mr. Porter of 945 Harrisburg Road with the dead and neglected animals. That was around \$865.00. He doesn't know if the town will get it back.

Carol LaGrasse asked if she can bring an action as a person with a disability, then maybe you would allow her to hear. She is half deaf although it doesn't general affect her hearing. She has no idea what Supervisor Thomas is talking about. You mentioned someone on Harrisburg Road and another litigation but she has no idea what the subject is. She could go to court, she has certainly been rude and complained politely and rude and complained every way possible. She is truly half deaf so that must be a disability although it never held her down, but she can't hear a word he is talking about. Supervisor Thomas stated she should move her chair closer. Mrs. LaGrasse stated she would have to sit up where he is. It wouldn't matter she tried one seat further. She knows energy varies the square of the distance but hearing is not really, it's a small incremental amount and she doesn't think it would make a difference. She could sit up by him and look like a freak but what's the point, why can't you speak up so a person here can hear. What's the hostility, reasoning? Why make it hard for her. Supervisor Thomas stated there is no hostility. Mrs. LaGrasse stated you're a friendly person and she's a friendly person speak up. This is an interesting subject and asked what it is.

Supervisor Thomas stated at 945 Harrisburg Road, sometime last fall there was a notice of dead animals laying on the side of the road. It was investigated and found various neglected animals and dead animals that were removed by Warren County SPCA plus the towns Dog Control Officer did quite a lot of work and he put a notice into the Probation Dept. They asked what he thought of the case and about restitution and he indicated that they spent about \$865.00 taking care of the dogs and etc. Mrs. LaGrasse asked if this was the same place when they had stuff to close to the highway. Supervisor Thomas stated yes it is the same place. Maxine Zawartkay stated that also goes back to court on Monday.

Dog enumeration:

Supervisor Thomas stated he thinks we haven't done a dog enumeration in about 5years and thinks it's due.

Mrs. Zawartkay asked if she had to write up another paper or use the one she gave Supervisor Thomas last year that needed adjusting. Supervisor Thomas stated we should send out a letter indicating what we are doing and when it will start. Councilman John Thomas asked how much it cost the last time. He knows she had quite of bit of time, mileage and stuff.

Mrs. Zawartkay, DCO stated as she brought up to Supervisor Thomas, she suggested making a flyer out to make it easier so that people can pick it up either in the store, town hall or the post office and have a drop spot. They can fill it out and give it back to her so she doesn't have all that traveling going house to house. Plus with the log she gets from the Town Clerk, which helps show who has dogs licensed, that helps as well. But she can't tell you how much it will be in mileage because it's really hard to say because there is a lot of new people that's moved in town that have dogs. She gives them the information and paperwork so doesn't know if they have gotten it or not. She would like to get it started before summer so that those who come up for the summer, you don't have to include those because there not permanent residents. Councilman John Thomas asked if there was an easier way like we do for the free dump day. You send out a paper that would save a lot of running around and save time and save the town some money. Mrs. Zawartkay proposed that to Supervisor Thomas. Supervisor Thomas stated that's not a bad idea. Councilman John Thomas stated if someone sends it in and stated they don't have a dog and Mrs. Zawartkay gets a call, shows up and there is a dog. Supervisor Thomas stated what he was going to say is he knows there are people that know dogs should be licensed and are not. Mrs. Zawartkay stated last time she did it she had people refuse and tell her to get off their property, yelled and screamed at her, but as she recalled it bought in a lot of money in town because a lot of people didn't have their dogs licensed. Supervisor Thomas stated they will send out a paper. Mrs. Zawartkay will write it out and give it to Supervisor Thomas and get it out. The Town Clerk stated there is a \$5.00 Enumeration Fee that needs to be added.

073-18. A resolution was made by Supervisor Thomas seconded by Councilman John Thomas authorizing the Dog Control Officer to conduct a Dog Enumeration. Roll call vote, all in favor.

Mrs. Zawartkay stated once it goes out they can fill it out and have a place, either at the store, library or post office, just to make it easier for people so they don't have to worry about getting it to her then just re-mailing it. Supervisor Thomas stated we have a Court Drop Box maybe he can talk to the Judge and arrange it so that people can put them in there or he can put another drop box up. He's not sure if he would want it dropped off at the library, store or post office. Mrs. Zawartkay stated these were just suggestions because a lot of people go to those places. Supervisor Thomas stated they should come to the town hall, we are the one doing it.

Chip Reader for dogs:

Mrs. Zawartkay stated she read where the law was passed where dogs have to be scanned for chips within 24 hours of being picked up. Supervisor Thomas asked Attorney Fuller if he knew about it. Attorney Fuller stated he hasn't heard of it yet.

Mrs. Zawartkay showed Supervisor Thomas one article. She stated there were two articles on it. Supervisor Thomas asked if she knew how much the scanners are. Mrs. Zawartkay stated they range from \$88.00, which reads one type of chip, to \$200.00. There are two different groups which have the chips, one is home again and the other is state funded. They are two chips and the scanner reads them both.

Supervisor Thomas stated let's make sure the law exists. Councilman John Thomas stated then get one that does both. Mrs. Zawartkay has a phone call in to Elizabeth to find out what she knows on it. Supervisor Thomas stated she should know because it says that Ag and Markets will be coming up with regulations. Mrs. Zawartkay stated that was the other article that said it was going to be required that everybody have one in x amount of time and that's why she wanted to double check with her.

Councilman John Thomas stated he has a neighbor that has over 10 dogs, which is becoming a huge noise problem. He doesn't know if there is anything the town can do about it as far as the quantity of dogs. He doesn't know if there is any law on the books that would help handle it. Supervisor Thomas stated he would have to read the local law again. We do have a local law, it's not that old, 6-7 years old, and it does deal with the noise. He's not sure about the number. Councilman John Thomas stated at one time they were advertising them for sale but doesn't know if they still are. He doesn't know if there is a breeder thing they have to have because of the sale of them. He not quite sure, that's why he's asking.

Mrs. Zawartkay stated as far as backyard breeders go there is no requirements for that. She has looked into that. As far as local law goes from what she has read so far there is nothing that says anything about how many dogs that person can have. Councilwoman Ryan stated as long as they are properly cared for. Mrs. Zawartkay agreed.

Councilman John Thomas stated it's becoming a huge noise issue that's why he's asking.

Supervisor Thomas stated there is a section about noise. Mrs. Zawartkay stated yes, because we dealt with that last year.

Supervisor Thomas stated if it's a problem then a summons could be issued and talk to the judge about it.

Budget Transfers:

074-18. 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 \$5,000.00.

Credit A6410.4 Occupancy Tax in the amount of \$5,000.00. Roll call vote, all in favor.

075-18. A resolution was made by Councilman John Thomas seconded by Councilwoman Ryan authorizing the following budget transfer:

Debit A1990.4 Contingency in the amount of \$204.49.

Credit A1010.4 Town Board Contractual in the amount of \$204.49. Roll call vote, all in favor.

From the floor:

Carol LaGrasse stated she thought the board may be interested. You probably read in the papers or been participating in the controversy over our Governor's proposal to eliminate our, a, or the towns in the Adirondacks to receive tax payments from the State and the bases of local assessors managing that. The matter came up before about 10 years ago to eliminate the State payments and that was the time of the Dellingburg Decision.

At that time when that was really hanging, Senator Betty Little made it possible for the State Legislature Librarian to bring out all the books that were related to that history of how the towns got to be the ones who put the taxes on the State Land. The most important thing that she read was a particular document that was produced by the Forest Commission which was established to design the legislation that would figure out how the State Forest Preserve would be managed as opposed to being established and it goes back to about 1885. That was presented to the legislature by the comptroller, and on page 23 a simple marvelous statement that they understand and they believe, the fundamental belief that said the towns would lose because of the forest being protected like that and therefore they should be given in return the benefit of setting assessments on State Land just like any other land. She called Senator Betty Little and read it out to the clerk and they know it's still hanging in the Senate. The Senate is quite amenable to the North Country issues and the Assembly has already been struck from the Governors presentation. There it is the heartfelt statement of ethics, that the only right the town is able to do because they will be losing so much economically with the State having the Forest Preserve on controlling and restricting or limiting on cutting.

That is the history in 1885, when the whole thing was set up and that's what was behind it. They just can't do it and then afterwards put in there someplace into the law it was from the beginning. They had that basic conviction that was only the fair way that says Forest Preserve. Supervisor Thomas stated the town board passed a resolution last month in opposition to the Pilot Program.

A motion was made by Councilwoman Ryan seconded by Councilman John Thomas to adjourn the meeting at 7:53 PM. All in favor, motion carried.

Respectfully submitted,

Susan Harrington
Town Clerk