

August 16, 2011

The regular Town Board meeting of the Town of Stony Creek was held on August 16, 2011. Supervisor Thomas called the meeting to order at 7:01 PM with members present:

Councilman Dale Aldrich
Councilman Stanley Ross
Councilman William Liebl
Councilman Harry Paul Gill
Attorney James Cooper

July 19, 2011 minutes

A motion was made by Councilman Ross seconded by Councilman Liebl to accept the July 19, 2011 minutes. All in favor, motion carried.

097-11. A resolution was made by Councilman Liebl seconded by Councilman Aldrich to pay the General Fund bills in the amount of \$10,970.94. Roll call vote, all in favor.

098-11. A resolution was made by Councilman Gill seconded by Councilman Ross to pay the Highway Fund bills in the amount of \$44,381.91.

Discussion: Councilman Aldrich stated the American Salt bill in the amount of \$23,888.87 is being purchased from last years contract.

Peckham bill in the amount of \$7,473.16 is gravel for the repair of roads due to the washout. Roll call vote, all in favor.

Town Clerk Report:

Conservation License	\$ 3.20
Death certificate	10.00
Dog enumeration	225.00
Fax	1.00
Copies	<u>.25</u>
Total Town Clerk fees	\$239.45
Dog licensing	<u>425.00</u>
Total town revenues to Supervisor	\$664.45
NYS Ag & Markets	85.00
NYS Environmental Conservation	<u>54.80</u>
Total Disbursed	\$804.25

Correspondence:

Stony Creek Inn-renewing their liquor license.

Virginia Lorrain-re-applying for her seat on the Board of Assessment Review.

Sue Brooks- permission to use the town hall on Sunday August 21, 2011 from 2:00-4:00 PM for a Baby Shower.

A motion was made by Councilman Ross seconded by Councilman Gill authorizing Sue Brooks use of the town hall on August 21, 2011 for a Baby Shower from 2:00-4:00 PM. All in favor, motion carried.

099-11. A resolution was made by Supervisor Thomas seconded by Councilman Aldrich to re-appoint Virginia Lorrain on the Board of Assessment Review. Her term will expire 09/30/2016 Roll call vote, all in favor.

Old Business:

Councilman Liebl asked what happened with the tires on Mr. Schultz's property. Supervisor Thomas stated that they are still there. Councilman Liebl stated after the meeting he was thinking Mr. Schultz is not there and actually it should be, he feels, the responsibility of the town to look after his property if someone abused the property unbeknown to him, he lives in New Jersey. Supervisor Thomas called and told him that someone dumped tires on his property. Councilman Liebl stated he doesn't see how the conservation department can blame him for dumping the tires and why he should be held responsible. Supervisor Thomas stated he doesn't think they are blaming him, he thinks it's his property and the way they look at it is it's his property and it's his responsibility to clean them up. He did get a call from Mr. Schultz today and he does have a couple of people that will help him pick up the tires and is willing to pay to dispose of them. However he was told by our landfill attendant that we don't accept up to 20 tires and he doesn't recall us setting a limit on the number of tires that can be bought in, maybe we did. Councilman Gill stated we did on the free dump cards, that is about it. Councilman Liebl stated he would be in favor of, under the circumstances, if we could help him clean up the tires and accept them at our landfill, he would be in favor of that 100% because it is not his fault the tires were dump there. It was an ideal spot for someone to make some bucks and dump them on private property.

A motion was made by Councilman Liebl to help Mr. Schultz clean up and accept the tires at the landfill.

Councilman Ross stated, help him by accepting them or actually help him clean them up. Councilman Liebl stated we would help him by accepting them we would help him clean it up. Supervisor Thomas stated he thinks he has a couple of gentleman that is willing to help him out. Councilman Aldrich stated he just needs a place to dump them. Supervisor Thomas stated yes, he was just told that he could bring only 20 tires in to the landfill. Councilman Aldrich stated there is an estimate of up to 100 tires up there, Supervisor Thomas stated there is a lot of them. Councilman Aldrich stated if he wants to bring a hundred in and pay that accordingly we can do that as a neighborly jester. Supervisor Thomas stated right. Councilman Aldrich stated as far as the town doing the legwork for him that's not right. We will let him put them in the landfill. Councilman Aldrich stated he agreed to pay for it originally? Supervisor Thomas stated yes, he didn't like it. He did request if the town could put some rocks in front of the clearing to keep people from dumping other stuff there. Supervisor Thomas did say we could probably do something like that. He doesn't know how that matters they can go down the road 50 feet and dump there. There has always been partying and other things going on there. Councilman Liebl stated his opinion on this whole situation on this is if we sit back and let this happen it's going to happen on other properties. Councilman Aldrich stated the law enforcement has to do something, they have to file a formal complaint and they are doing nothing. It's not our position we are not cops. Councilman Liebl stated they could have taken the serial numbers off the tires and found out who owned them and checked in to whom disposed of them.

We were informed that someone was looking to get rid of a large amount of tires, they should have investigated that to find out who it was. Supervisor Thomas stated he talked to the DEC Officer and informed him of the Craig's List that John Fieldstadt told him about at the last meeting. He did seem quite interested in that because they had another pile of tires dumped on Viele Pond Road. Supervisor Thomas stated he doesn't think we need a motion to accept them because he doesn't think we have a limit on the number of tires we take now. Councilman Liebl rescinds the motion he made. Councilman Aldrich stated he thinks this is a one-time deal, tell Tom at the Landfill/Recycling station that this is going to happen and to accept them and Mr. Schultz will pay for them accordingly. Councilman Liebl stated that someone else is going to come along and say you did it for Mr. Schultz why can't you do it for me, that's why he said it in a form of a motion that we were going to do it as a one time deal for Mr. Schultz. Supervisor Thomas stated we have no limit on the number of tires we take now so he doesn't know why we need a motion to accept the hundred tires, unless you are going to establish a limit. Someone could pull in there with a thousand tires as long as they want to pay \$2.00 a tire. Councilman Aldrich stated maybe it was a good thing that Tom shut it off and it came back here and now we accept it as it is. Supervisor Thomas stated if we want to make a limit we can do that too.

Parks: Pavilion kitchenette:

Councilman Liebl stated at the January meeting we discussed about putting up some kind of a pole barn by the pavilion for the library to use, are we still looking at that? Supervisor Thomas stated yes. Councilman Liebl asked if there was money left in the budget where we could do it this year or do we have to look at putting it in the budget for next year. Supervisor Thomas stated we could probably do it this year. Councilman Aldrich stated that was going to be Occupancy Tax funded, Supervisor Thomas stated some of it yes. Councilman Ross stated that Councilman Aldrich suggested fans inside so that people would have some sort of breeze on them. Councilman Liebl stated putting lights in there too. Supervisor Thomas stated he was hoping to start and have it done before the music started but with the events in the Spring we spent more time cleaning up the park and didn't want to do it in the middle of the music, hopefully the first part of September.

Committee reports:

Parks and Rec:

Councilman Ross stated the field looks nice after the flood damage and it has been used two weeks in a row for a couple events. Harold Hastings and Foster Bills did a good job keeping it cleaned up.

Supervisor Thomas reported he received a carbon copy of a letter from NYS Department of Environmental Conservation pertaining to Bormann's Dam on States Road. They inspected the dam and found several deficiencies and other things. They have been notified to take care of the problem or remove the dam. The letter was addressed to Betsy Whitefield, Danny Whitefield and Millie Wechgelaer. Carbon copy was sent to himself, Randy Galusha DEC Engineer, Bill Lupal DEC Engineer, Brian Laflure Warren County Office of Emergency Services. DEC feels it poses a threat to people down stream.

Councilman Aldrich stated if that went out it would be devastating to the town. Supervisor Thomas and Councilman Thomas agreed and stated it could be. Councilman Aldrich stated there is a lot of water there.

FEMA:

Supervisor Thomas stated he was asked by Warren County Emergency Services to write a letter to FEMA requesting some assistance for our flooding that happened on May 28th. FEMA has pretty much determined that they are not going to do another Declaration because we didn't reach the \$24.6 million dollar threshold for a Presidential Declaration. His letter was explaining the towns budget, how much money is in the highway budget, how much we don't have, the extent of the damage and requesting that they extend the previous Declaration from April 26th-May 8th to include May 28th, 2011. He thinks they haven't made a determination yet, he does believe that FEMA was back around the county last Thursday surveying more damage. Supervisor Thomas stated our roads are in pretty good shape. The Highway Supt. and Highway Crew have got the roads pretty much back to how they were and they look good and pretty much better then they were before.

Lake George Triathlon:

They are having the Lake George Iron Man Triathlon and this is the sixth year and they have developed what they call Big George All Race that is a 56-mile loop and they pass through Lake George, Warrensburg, Thurman, Stony Creek, Lake Luzerne, and back to Lake George. This will be on the 3rd or 4th of September, Labor Day Weekend. They expect about a thousand racers. Councilman Ross stated he looked on their website and it looks like they are going up Grist Mill Road and down to Hadley.

New Business:

Occupancy Tax requests:

Jack Arehart, owner of 1000 Acres Ranch was present. He would like to request the bed tax funds for the Labor Day Rodeo. He would like to request \$5000.00 the same as last year.

100-11. A resolution was made by Councilman Aldrich seconded by Councilman Liebl authorizing the expenditure of bed tax funds to 1000 Acres Ranch in the amount of \$5000.00 to be used for the Labor Day Weekend Rodeo. Roll call vote, all in favor.

Francis Dean Farm-Historical Association:

Trails:

Attorney Cooper asked if the APA came over and look at the Dean Farm and what the outcome was there. Supervisor Thomas stated yes they did and stated we marked out a trail to begin with and then moved the trail because of what happened on the 28th day of May. They reviewed the trail again and reviewed the wetlands and she thought that we might be able to use the general permit but if it's anything over 300 sq. ft of affected wetlands, it requires the longer style permit. That's where we are at redoing the permit. Attorney Cooper asked who was doing the permit. Supervisor Thomas stated Lori Kerrigan from Soil and Water and he is helping. When we get that ironed out we can move ahead.

From the floor:

Dean Cemetery:

John Thomas-Hadley Road:

He stated he asked about Dean Cemetery about three months ago about the size of it 100 x 200 now it is twice the size of that now. He went by there last Thursday and there was a hearse parked in the turn around. The problem is it's not really in the cemetery now it's up to the road and talking to Densmore who was doing the burial and the person out of Corinth that does the digging, is basically all they need to get is the permit, the town receives the permit after the body is already in the ground. In order for the body release they have to know where the body is going and it was out of Glens Falls that got buried there. All they have to do is put down the cemetery that they have, the lot there, the bodies released and they get buried there. He doesn't know how many cemeteries the town has that are not fenced in, What he is told is if it's not fenced in they can bury anybody there anytime.

Supervisor Thomas stated he knows the town has a couple cemeteries, there's Glassbrook and VanAuken. He isn't sure Dean Cemetery is a town cemetery. John Thomas stated on his deed it says 100X200 owned by the town. It's more than twice that size now. The only way to stop it is to fence it in and make the boundaries. Basically what they told him was if the town has control of any cemeteries, if they aren't fenced in and the corners aren't marked they can go up as long as whoever is deceased and put down that's where they want to be buried, they will go and bury them and the town isn't notified until the body is already in the ground.

Supervisor Thomas asked the Town Clerk if she was notified of the burial. The Clerk stated they came up and it was a Mr. Chase being buried, we don't have any records on those cemeteries they said there was an empty spot and they would use that one.

John Thomas stated it's all being done on his property now, they are way past what the town owns. Supervisor Thomas stated he knows that the town has other ones we actually own, he doesn't think that we are only obligated is the mowing two or three times a year. That is pretty much what we are obligated to do.

John Thomas stated he knows the town owns it, he doesn't know when the deed was done, he doesn't know if in some point in time the town should have been responsible for fencing it in, he's not sure what the circumstances are, he mentioned a couple months ago he'd deed over the property. The only way to stop it now is to have it surveyed. He doesn't know if the town would be willing to do the survey in exchange for the property, It's up to the Town Board.

Supervisor Thomas stated he is not a title searcher but he did look for a deed and he didn't find a deed that the Town of Stony Creek owned any part of that, but that doesn't say there isn't one.

John Thomas stated he can give him a copy of his deed, there is a fifty-foot right of way from the town road straight in. Attorney Cooper stated the deed refers to the town cemetery, but does it also recite what the back title source is for the town cemetery?

John Thomas stated Town of Stony Creek it's under owner. If you go into the Warren County Tax map, the owner before that is the Town of Stony Creek.

Attorney Cooper stated maybe the Tax Mapping Dept. would have the deed, he can't answer this question completely because this question doesn't come up often enough so he can burn it in his memory, but generally speaking the town is responsible to maintain the cemeteries in the town but that doesn't mean we own them all. If this is a private cemetery the town's responsibility maybe very limited and if you want relief you maybe the one to put up the fence and let somebody complain, he doesn't know. It doesn't have to be a pretty fence it depends on how

much is bothering you if the Board isn't going to act on your suggestion to get it surveyed and have an exchange of deed or have a Quit Claim Deed of the piece that exceeds the 100X200 piece you described and that would be the consideration for us doing the survey. If they're not going to pick up on that then probably you are going to be left at your own device to fence your property off at the edge of the cemetery.

John Thomas stated that is what he is looking for input because the only way he can protect his liability is if he fences in what is his and his is all around the cemetery which is owned by the town, so if he fences his in no one could get in the cemetery.

Attorney Cooper stated we don't know if the cemetery is owned by the town, you have a deed that refers to a piece of the cemetery that says it's owned by the town. John Thomas stated on the Warren County site, this says this 100X200 is owned by the Town of Stony Creek. Attorney Cooper stated because the tax mapping people say its owned by the Town of Stony Creek doesn't mean it is owned by the Town of Stony Creek it means they think it is and they're not taxing anybody else for it. Probably what happened was, maybe there was an ancient deed that the town inquired a cemetery plot there maybe not he doesn't know. Old timers might have thought it was an old cemetery, things were done a lot more informally back then, then as people continued to bury people it just kind of x-crouched out of the rectangle and went onto your property and no one complained until he came along, he's not saying your more sensitive then the average guy but there had to be a tipping point where it would be acceptable anymore.

John Thomas stated the point is they are up to the road. They are burying within two feet of the roadway. Attorney Cooper stated it doesn't sound like an attractive lot to him. John Thomas stated it's for free, there is no charge to the plot that's why it's being done. He doesn't want to be the bad guy here but that's the only way to protect himself is if he fences in the whole unless the town does something.

Attorney Cooper stated it is one of those deals where if you do it and there is no complaints problems solved, if you do it and there is a complaint. John Thomas stated there is going to be complaints if he does it. Attorney Cooper asked if he was going to enclose the whole thing, are you going to leave a gate for people to get in there. John Thomas stated if he leaves a gate then they are walking on his property and he's liability if somebody gets hurt. He doesn't have a choice.

Attorney Cooper stated he doesn't necessarily agree with that but you don't have any right to enclose the whole thing with a fence, he thinks there is a town law on that. If you were to fence off part of your property and leave an access to the cemetery so a vehicle could go through he doesn't know who would complain.

Supervisor Thomas stated if the town only owns a certain portion of it then the rest of it is somebody else's property anyways and if he doesn't want people buried on his property then he would think he could stop them from being buried there.

Attorney Cooper stated the problem is they present him fait of complete every time he turns around every so many years there's a hearse there the hole is already dug and the persons in the ground. You don't have good cards to play but play your hand the best you can.

John Thomas stated that's why he was hoping the town would, he talked to some of the ole people in town and they told him that it was deeded over to the town, that was back when they flooded Sacandaga, there was 30-40 graves moved from Sacandaga to that point. That was probably the original cemetery. He was told it was at that point it was deeded to the town that's why they were buried there.

Attorney Cooper stated it would be a somewhat expensive position for the town to hire an abstractor to establish a title and then they would end up paying for a surveyor too, so he doesn't know if the town wants to jump into that kind of open end obligation. He is not speaking for them but they would probably prefer you to exercise self-help in the meantime and see if it causes any stir. You don't have to fence the whole thing in but fence in the part that's bothering you. John Thomas stated he would have to fence in the whole part because the 100X200 is in the center of the cemetery. The cemetery now is probably 250 by almost 500 feet. The only way he can protect his liability if somebody goes in and gets hurt is he has to compass the whole cemetery so someone doesn't go in and get hurt. There was a lawsuit on this other one cemetery down there and it turned out going back on the landowner, originally owners Hoag's. He doesn't want to end up that way. Attorney Cooper stated what happens if someone climbs over your fence and gets hurt. You're liable to get sued anyway, this is the world we live in now. He can't counsel him on his private rights but there is a provision in the General Obligation Law that says you're not responsible for trespassers, period. So if you get sued your insurance co. gets out of the lawsuit real fast but that may require you to post, he doesn't know you will have to get your own private counsel in that regard.

John Thomas stated he may have to fence it and post it. Attorney Cooper suggested he consult with an attorney about this problem and let him give you advice on what you should do.

Supervisor Thomas asked Attorney Cooper if this was something he could research a little bit to see if there is a deed if the town does own it. Attorney Cooper stated he doesn't do abstracting anymore but he could get an abstractor to look at it, he would probably charge a minimum of a couple hundred bucks to see if he could find something. He could call Real Property Tax Services and see if they have a back title and see what happens. If we get lucky maybe there is an old deed. Attorney Cooper stated let's say we credit the gentleman he knows what he is talking about his deed refers to an adjacent town parcel 100X200. That doesn't establish that there was a deed but it establishes that the people in his chain of title thought there was.

Attorney Cooper will check this out and will report back to the Town Board.

Councilman Liebl stated he would like to see the law. He doesn't know of any cemetery in this town that is totally fenced in. Supervisor Thomas stated there are a lot of cemeteries in town. He asked totally fenced in? Fuller cemetery is the fence isn't in good shape in a couple spots, some of it has been repaired. Councilman Liebl stated where his parents are buried it's fenced in but the whole cemetery is not fenced in. he doesn't know of any of them that's why this is the first he heard about the law that cemeteries have to be fenced in.

Attorney Cooper stated he doesn't know if that is a law it may be but the town's only obligation is to keep them trimmed, he doesn't think we are obligated to fence in all the cemeteries in town even the private ones that we're probably prohibited from doing. Supervisor Thomas stated this is his understanding.

John Thomas stated the main reason he brought it up was because Densmore and the person that does the grave digging said there is nothing stopping, if there was 50 people that wanted to be buried and they put down in the paperwork they want to be buried in such and such a cemetery and there was a spot, they would be buried there and the town would not be notified until after they were buried. There is no permitting process that they have to come to the town first and get a permit to be buried in any cemetery. You won't know until it's already been done.

Supervisor Thomas stated they do in Glassbrook Cemetery, they are suppose to. He also stated he is not sure that is something the town can remedy.

John Thomas stated Densmore told him the only way you can do it is you have to have it surveyed, mark your corners and fence in where your boundaries are, he said that is the only sure-fire thing. Supervisor Thomas stated if it's not a town cemetery the property owner has to do it. John Thomas stated correct.

Attorney Cooper will review the Cemetery Law and report back next month.

Taxes:

John Cronkhite-Lens Lake Road:

He stated he noticed an increase in his taxes when he got his bill this year and when he didn't pay it on time they sent him an itemized copy and low and behold the big raise he saw was something called Fire Protection for \$50 bucks. He would like to know what fire protection. Supervisor Thomas stated he doesn't know how it went up \$50.00 but the rate increased a little bit by a couple dollars. The fire protection is Stony Creek Volunteer Fire Dept. the town contracts with.

Mr. Cronkhite asked why he was being billed \$50.00 for fire protection. What fire protection is he getting?

Supervisor Thomas stated because you're in the Town of Stony Creek, if your house catches fire, the Stony Creek Volunteer Fire Dept. will more then likely respond.

Mr. Cronkhite stated even so they are a private enterprise, why are you taxing me to pay them? Supervisor Thomas stated we contract with them.

Mr. Cronkhite stated so, you take that out of General Fund you don't tax us to finance a private organization.

Supervisor Thomas stated that's how we pay the contract.

Mr. Cronkhite stated all towns have contracts with them, they do that to help pay for their engines and stuff like that, there volunteers but your not suppose to tax him for them your suppose to take it out of you general taxes.

Supervisor Thomas stated your going to get taxed one way or another.

Mr. Cronkhite stated your specifically doing this for them and he doesn't think you can do that. Supervisor Thomas stated you could be right.

Mr. Cronkhite stated he thinks he is.

Supervisor Thomas stated he doesn't think he is. Your going to get taxed one way or another.

Mr. Cronkhite stated you don't do it legally.

Dogs:

Mr. Cronkhite asked how many dogs do we have in this town?

Supervisor Thomas stated we have a lot more then we thought we had. The last count we had was about 80.

Mr. Cronkhite stated he was wondering why that would require a dog warden.

Town Road:

Mr. Cronkhite asked what the town's right of way is on town highways.

Supervisor Thomas stated three-rods. Attorney Cooper stated 49 and fraction feet almost 50 feet. There's 16½ feet in a rod.

Are you going to ask where we know where the edge of the road is, that's a good question? Where do you start to measure? Mr. Cronkhite stated you go to the center to the outside. Attorney Cooper stated that's pretty much what you have to do. Mr. Cronkhite wants to put a fence up.

Pam Morin, Warren County Planning:

Her position is Warren County part-time employee of coordinating towns along the First Wilderness Corridor from Saratoga to North Creek and most recently the upgrading and new grading of the scenic railroad, it includes the start and the things you can do.

Mrs. Morin presented the Town Board with a packet, a magazine, "New York By Rail", pamphlet of the Saratoga and North Creek Railway schedule, poster of First Wilderness Corridor, Her business card and a cover letter Introduction of Program and Request for Participation. 1) Participate in the Warren County First Wilderness Project. 2) Select Representatives to be on the Corridor Delegates Team. 3) Board to select up to two events to enhance or create for the stimulation of economic growth and possible celebration of the County Bicentennial in 2013.

They will be doing a two page spread for next year, it's one of the small efforts to showcase the corridor and today it's a quick introduction to show what they have been doing.

They will be following up with a short survey to chamber members and town board on concerns and compliments on the train. The train has been up and running for six or eight weeks now.

They are getting a very good response but if there are any concerns let her office know and they will work on it to make it better.

Supervisor Thomas stated two or three years ago we funded \$3000.00 for a map for the upper part of the Hudson River. He hasn't seen any of those maps yet.

Mrs. Morin stated that right, It has been very difficult to grainer the test that needed to into it with those players that were part of it and not only the granite for it, the proofing of it to make sure it was correct. She was the balance organizer of it. They are still working on it and that is still going to happen they are looking at the school years, September October. By the delay one problem, what has happened is that they train and other sponsors will be able to showcase the train and them going on Amtrak. So there will be additional sponsors. The designer who was going to put it together was terribly unfamiliar North of Albany. They are still working on it, it hasn't died the money is in the bank.

Councilman Liebl reported that there are a couple dead trees leaning toward the railroad tracks on Thurman side of the town line on Warrensburg Road that should be cut down before it does damage.

A motion was made by Councilman Ross seconded by Councilman Aldrich to adjourn the meeting at 8:12 PM. All in favor, motion carried.

Respectfully submitted,

Susan Harrington
Town Clerk