



**Date:** September 20, 2023

**Roll Call:** James Slayton, Police Chief  
Mark Fritz, Fire Chief  
Jeff Dygert, City Manager

**Minutes:** No corrections at this time.

**Motion to approve August 16, 2023, Nuisance Abatement Committee Minutes:** James Slayton, Police Chief, seconded by Mark Fritz, Fire Chief, All approved.

If you have an item you would like to speak about related to a particular address you will have an opportunity to do so by coming up to the podium. The Committee adopted the City Council Rules of Public Speaking which has a limit of 3 minutes on a topic.

**Administrative Due Process:** None at this time

**Complaints:**

- 1. 108 & 113 Osborne St.:** The property at 108 is a city-owned property that has been leased to a private individual for use of the parking lot. There has been communication with the owner of an adjacent business who has been leasing the property that the City will be ceasing the lease of the parking lot. Assistant Corporation Counsel explained they did provide notice to the owner and his attorney that the city would not be renewing the lease. The lease has expired for some time and based on the length of time it would be required to give them 90 days' notice to cease the property. The City Manager shared that the City will be taking care of a couple of items like signage and access to that particular area. This should take care of the issues that have created the source of the complaint for this property.
- 2. 110 Owasco St.:** There have been some ongoing code enforcement, plumbing and law enforcement issues. The Auburn Police Department has had multiple calls for service starting in June of 2023 ranging from drug complaints, assaults, warrant attempts and neighbor complaints. This is a rise in nuisance for the Police Department. The Auburn Fire Department and EMS had one call for service in August for assault with injuries. This property has had immediate follow-up regarding the complaint and there was dialogue that opened up between the City, Corporation Counsel, Code Enforcement and the owner of the property through their attorney. We have been advised that there is an eviction proceeding underway for the occupants of this residence. This should alleviate the source of this complaint. The owner of the property and their attorney have been responsive and

are having issues with the tenants themselves. Corporation Counsel explained they have been moving quickly on this process but would like for it to stay on for one more month. The City Manager requested it to stay on the agenda through December 2023.

**Motion to approve 110 Owasco St. to be monitored through December 2023:** James Slayton, Police Chief, seconded by Mark Fritz, Fire Chief.

### **Hearings:**

1. **304 N. Marvine Ave.:** Mr. Newman is present for a dispute over code enforcement fees related to a violation at this address. Mr. Newman is appealing the levy that has been against him and is looking for it to be reduced or wiped out. Two of the Code Enforcement Officers involved are present and questions can be asked. The Police and Fire Chiefs are familiar with 305 N. Marvine Ave. Code Enforcement violation. The Code Enforcement Officer took action on a complaint and wrote a violation regarding the complaint as they saw fit.

**Mr. Newman, 305 N. Marvine Ave.** A year ago Mr. Newman explained he built a garden and an arbor over an existing freestanding ground-level deck. Mr. Newman put up 2x4s and a tarp for a garden and didn't think he needed a permit. A neighbor took pictures and called Codes stating he was doing an addition then Code Enforcement sent him a threatening letter stating he was putting an addition on the back of his house without a permit. Mr. Newman called Kevin Burke who sent the letter and Mr. Burke requested him to get a permit and pay the \$20 fee. When he applied for the permit he was told it was a higher fee so he requested Kevin to call him. Kevin never called and a second letter was sent and the fees were doubled. Mr. Newman called several more times and with no call back so he sent an email which Code Enforcement has received because it is in the records with no response. Codes continued to send up to 10 letters and now he owes over 5,000 while not once trying to come to an agreement. Mr. Newman served a notarized complaint which was refused by Codes but they did keep a copy without his permission which is in the records. Also, Mr. Newman tried to serve Corporation Counsel and they refused it because it was not a legal notice so they sent him to the Nuisance Board. On September 1<sup>st</sup> City Court ordered an inspection and Larry Nuchesi, Code Enforcement Officer went to Mr. Newman's to inspect and he laughed "this is much to do about nothing, is everything about this? There is a tree growing up through it." Mr. Newman told him it was temporary. Mr. Nuchesi asked him to pay \$40.00 to resolve the issue. Mr. Nuchesi called the next day to say Codes will be charging \$80.00. Mr. Newman said this is getting out of hand and he agreed to pay it to keep the peace if there is no further action and everything is dropped. Codes did not give him anything in writing. Over the weekend before he came in to pay the fee Mr. Newman received a notice from the Treasurer which he believes was an action that came from the Corporation Counsel. He isn't sure because they did not return his calls to find out who served this and why. They assessed \$925.00 on his taxes and the mortgage is tainted. He said to Mr. Nuchesi to take the \$80.00 out of the \$925.00 and give him the change. At this point, \$925.00 was a robbery and was taken before anything was resolved. Mr. Newman feels he is owed \$925.00 and hopes this is what is decided today.

**James Slayton, Police Chief** asked Corporation Counsel what was the court action. Corporation Counsel explained it is a Codes action that deals with our Codes Court based on the actual permit violation which is pending in court. The Nuisance meeting is based on the fees and complaints so they are two separate proceedings.

**City Manager** asked Corporation Counsel if the Committee made a decision if it would impact the court proceeding as well. Corporation Counsel responded that Mr. Newman has the ability to ask for modifications on any fines or surcharges including the \$925.00 that is on his taxes and the Committee has the ability to modify it. The actual permit violation is heard in the Auburn City Court and what the Judge determines to do with that proceeding is separate then what is being done today. Today is based on the administration fees that were imposed and the City has control of what they will charge Mr. Newman. If the City would like to reduce those fees they can but the actual violations regarding the permit process will be heard in City Court. This is the administrative version which deals with our Code Enforcement with our administrative body and working for the City and the actual code violations are laws that are heard in City Court.

The City Manager asked if this is being played out in court as well as with the Committee, what if the court rules that the permit was not needed? Corporation Counsel explained that the court is for the enforcement of the permit and what was issued. The Nuisance Committee is for them to abide by what we are asking and the enforcement of that. If the court decides that we are not in that position to do that they can, but the Administrative Process itself regarding permits is generally a City matter unless Mr. Newman institutes a case on his own against the City. The City Manager confirmed any actions that were made by the court would not impact the committee's decision, and it will not.

**Mark Fritz, Fire Chief** requested to hear from the Code Enforcement Officers on their point of view.

**Kevin Burke, Code Enforcement Officer.** Mr. Burke handed the Committee photos of Mr. Newman's property. Mr. Burke explained this was a neighbor complaint that Mr. Newman was doing work without a permit. Mr. Burke was not able to go on the property so the photos were taken from the neighbor's property. The City Manager asked Mr. Burke to explain how Code Enforcement follows up on complaints from neighbors whether adjacent or in the neighborhood. Mr. Burke explained it can be people in the neighborhood but it could be people driving by and calling in complaints. Code Enforcement has no limit. Mr. Burke requested Mr. Newman to come into the Codes Office to get a permit and he quoted him \$20.00. Mr. Burke admitted he misquoted him the fee and it was actually \$40.00 which would fall under a miscellaneous charge. When Mr. Newman came into the Codes Office there was an interaction between him and the staff so he left without paying for the permit. Mr. Burke explained he was asked not to speak or interact with him. Mr. Newman did send a Cease-and-Desist letter and Mr. Burke wasn't sure if it was from a lawyer or not, so Mr. Burke was asked to not follow up after that so he didn't. Mr. Newman asked who told him not to contact him anymore and Mr. Burke explained Mr. Newman did. Mr. Burke explained he did not have contact with him and Corporation Counsel's handling it.

**Police Chief, James Slayton** asked if the permit was paid for and if the tarp is still up. Mr. Burke explained that the tarp is still up but it is the structure that is permanent.

**Larry Nuchesi, Code Enforcement Officer.** Mr. Nuchesi explained he volunteered at court to do an inspection at Mr. Newman's. Mr. Nuchesi was able to see the structure in the back of his house and then returned to the office. Mr. Nuchesi called Mr. Newman to let him know if he came down and filled out a permit for an \$80.00 fee that this would settle the matter.

City Manager and Auburn Police Chief and Fire Chief would like to get more clarification from Mr. Hicks, Senior Code Enforcement. The City Manager would like an explanation of when there is a need for a permit.

**Brian Hicks, Senior Code Enforcement Officer.** Mr. Hicks explained the City has what is known as the permit fee schedule that came from the City Council years ago and it has been alternated over time. It lays out everything that needs a building permit to be issued prior to work being started. In this case, it would be classified as a miscellaneous permit that covers fascia, soffit, trim work, hand railings and minor components of a structure. Anything that would qualify as a structure would require a building permit in order to meet the City Housing Code, Zoning Code and Collection of the NYS Building Codes. This case does fall under a structure which means a building permit must be issued no matter how large or small, incidental or something that is more complex. This still falls under a structure and a building permit must be issued.

**Mr. Newman,** spoke and he appreciated Kevin's statement. Mr. Newman wanted to be clear that he never heard back from Kevin before the Cease-and-Desist letter was sent. He called 6-7 times before he sent the letter then received another threatening letter with doubled fees and court action. He explained he felt he better do something more formal so he sent the Cease-and-Desist notice. It didn't mean don't contact him it meant stop harassing him because this was causing him stress. Mr. Newman appreciated Larry Nuchesi coming out and he suggested paying the permit fee but when Mr. Nuchesi went back to the office Codes raised the fee to \$80.00. He felt this was getting annoying but he will pay it just to keep the piece. Mr. Newman did receive notice that they took \$925.00 from his taxes and planned to take \$5,000 more. This is when he felt this has gone on long enough and this needs to be exposed and air out and needs more publicity because this is going into his personal domain. Without going into great detail his point is he never received a single detail as to why he needed a permit. If he received a letter from Mr. Hicks he might have or not have liked his answer but it would have been an answer that would have been the public service that these employees are paid to do. Mr. Newman's objection is he did all the communicating everyone else did all the ignoring, where is the fairness?

The City Manager would like to request the Committee to not make a decision at this time because he would like to get more information. The Corporation Counsel explained the Committee could close the hearing at this time and they can issue a decision at a later date. This can be done in person or in writing.

The next court date is October 6<sup>th</sup> so the Committee will have a decision in writing by September 29<sup>th</sup>. The court date of October 6<sup>th</sup> is a different proceeding based on the fact that there isn't a permit issued and that was a requirement. If Mr. Newman were to comply with the requirement from the Codes Department of what needs to be submitted this case could be settled. Unless this is done, the case will continue whether this Committee decides to reduce the fees or whatever the decision will be.

Mr. Newman spoke to say this whole thing began because people can't talk to people. A neighbor had to report him to codes building a structure. This structure has nothing to do with fire, weights or tolerances because it is temporary and it is a tarp to grow plants for him to live. Now we are talking about court, council and more information.

The City Manager would like to look into some of these items and have a written response by Friday, September 29<sup>th</sup>.

**305 N. Marvine the Committee will render a written decision by Friday, September 29, 2023.** James Slayton, Police Chief, Mark Fritz, Fire Chief and Jeff Dygert, City Manager. All approved.

2. **44 Wallace Ave:** No one attended the hearing for this property. Corporation Counsel discussed at the last committee meeting that the City was going to serve the owner, Majid Hasen. Corporation Counsel does have a signed Affidavit from the process server, Fred Cornelius who attempted on a number of occasions to service Mr. Hasen. Mr. Cornelius did have communication with Mr. Hasen and set up appointments to receive notice and Mr. Hasen did not show. Based on the affidavit and discussions with Mr. Cornelius it looks like Mr. Hasen is dodging service. This satisfies the service requirement and Mr. Hasen is aware there was a hearing on this case. As far as notice regarding the hearing today it is satisfied.

The City Manager asked the Chiefs their feeling on proceeding with the hearing without the owner of the property present. Chief Slayton agrees we have given the owner sufficient opportunities to address this meeting and attempts to come to the meeting. The Fire Chief also agrees that the processor set up appointments to serve notice and was ignored so he feels they should move forward.

This property has been going on for quite some time and most recently received another complaint on September 5, 2023 from an adjacent resident. Mr. Hasen shows he is not interested in working with the Committee even though he has done so successfully in the past. Records show apartment #2 has been condemned since January 2023. There are open CO inspections and there was an appointment with codes for September 18<sup>th</sup>.

**Mr. Hicks, Senior Code Enforcement Officer.** Mr. Hicks does not have the current information for the inspection but he was the one that condemned apartment #2. There has been no interaction with Mr. Hasen that Mr. Hicks is are of. The west side apartment is condemned which is a two story and the tenant is still in there and has never left. The tenant is getting her utilities from the east side of the apartment. There are no family ties

to the east side that Code Enforcement is aware of. The owner's response to all his properties is minimal.

The City Manager explained there is list of violations from April 2023 and none of the violations seem too involved or expensive to repair. Often times when we get requests to look into properties it is because of the behavior of the occupants.

James Slayton, Police Chief explained they have had a lot of drug activity, people in the house trespassing, unwanted guest complaints and continual arrest warrants.

The Fire Department and EMS have had no calls for service.

The Police Chief asked how long has Mr. Hasen owned the property because this property has been an issue for over 26 years for the Police Department. Jenny Haines, Planning and Economic Development shared that Mr. Hasen has been the owner since September 1, 2020, and the previous owner was the Bank of America.

The City Manager explained it has been about 3 years since Mr. Hasen has owned the property and this has been on our list for about a year. The lack of response from Mr. Hasen is troubling and this is one of the issues the City and Codes deal with on a daily basis and a major contributing factor to the condition of some of the neighborhoods. The City Manager feels we should take action on this property.

The Police Chief also agrees and that is why this board was put in place and the lack of communication by the owner. There have been numerous calls to this residence which has created a nuisance to the neighborhood.

The City Manager explained we have only shut a couple properties down in the past. Corporation Counsel explained to shut a property down within our authority the Certificate of Occupancy is a suspension of up to six months and if it is revoked it can be up to a year.

The City Manager explained we have shut properties down for up to six months suspension to show some retrain on the side of this committee, so if there is a challenge to this action from the property owner then we can say we are giving them up to six months to take care of the problems. Corporation Counsel shared that based on the circumstances right now as far as what the requirements of the code are any decision would have to be held for 30 days to personally serve Mr. Hasen the decision. If he follows the same track record as dodging service like he has that is on him but we have to give them 30 days for it to go into effect. The committee would have to issue a written decision that we can serve Mr. Hasen so that he is aware of defining the order to this committee and he has to be at the next meeting so he can address it.

**Suspension of Certificate of Occupancy not to exceed 6 months for 44 Wallace Ave. take effect October 19<sup>th</sup>:** James Slayton, Police Chief, Mark Fritz, Fire Chief. All Approved.

## **Other Business:**

We have had several properties over the last few months that we have agreed to keep an eye on for the next six months. We do not need to discuss each one but we do have an update on some of these.

1. **7 Barber St.:** The Auburn Police Department has quite a few calls for suspicious persons, unwanted guests and checks the welfare. The City Manager explained the City has taken ownership of this property through a tax foreclosure proceeding and is working on the proper notifications to evict the tenants. We are addressing the tenant problems which is the main concern and will remove this property from the list with the items being addressed by the new owner.

**Motion to Approve removing 7 Barber St. from the list:** James Slayton, Police Chief and seconded by Mark Fritz, Fire Chief.

2. **126 Osborne St.:** The Auburn Police Department, Auburn Fire Department and EMS had no calls for service. The issue was people living in tents behind the property causing problems in the neighborhood and that was rectified 2-3 months ago.

**Motion to remove 126 Osborne St. from the list:** James Slayton, Police Chief and seconded by Mark Fritz, Fire Chief.

3. **11-13 Lafayette Pl.:** The Auburn Police Department, Auburn Fire Department and EMS had no calls for service. This is in Codes Court as well and Assistant Corporation Counsel has been in communication with the owner's Attorney. This property was fully condemned in June 2023. We will monitor through December 2023.

4. **108 Ross Pl. (property is owned by 202-206 Genesee St.):** The Auburn Police Department, Auburn Fire Department and EMS had no calls for service. Calls have come into the City Manager's Office with more complaints. We had been informed at one point that they were going to be evicted but they were not. The Assistant Corporation Counsel has been in communication with their attorney and he confirmed the eviction has been withdrawn as it was based on payments and whatever the reason was they ended up withdrawing. We have been in active communication with the owner of this property and they own several properties in this area. This is not code enforcement related, it is the actions of the tenants and we will continue to communicate this with the owners and advise them of the potential consequences if this situation isn't under control. We will monitor through December 2023.

5. **20-22 Foote St.:** The Auburn Police Department had two calls for service. One was a trespass and the other was a standby for a person that was removed from the residence. The Auburn Fire Department and EMS went to 22 Foote St. once for an EMS call since the last meeting. Most things that come to the board are due to the behavior of occupants. A recent Certificate of Occupancy inspection was done on September 7, 2023, with some minor findings. The owners and tenants have shown up and addressed the board in the past. There has been an uptick in police calls in this area so we will monitor it through December 2023.

6. **11 Madison Ave.:** The Auburn Police Department, Auburn Fire Department and EMS had no calls for service. There have been no additional complaints. Once the owner changed out property managers the situation at 11 Madison changed significantly. There is one apartment that is still condemned and under repair. We will monitor through December 2023.
7. **33 Jefferson St.:** The Auburn Police Department, Auburn Fire Department and EMS had no calls for service. This was a very active sight for a while until a change in occupancy. This was on the agenda to monitor until December 2023 but we have gone 3- months with no activity there related to police interactions. Code Enforcement issues were minor.

**Remove 33 Jefferson St. from the agenda:** James Slayton, Police Chief and seconded by Mark Fritz, Fire Chief.

8. **33 Columbus St.:** This is one of the smoke shops and there are no updates. This is on the agenda through September 2023 and would like to extend out through December 2023.

**33 Columbus will remain on the agenda through December 2023:** James Slayton, Police Chief and seconded by Mark Fritz, Fire Chief.

9. **104 Grant Ave.:** This is another smoke shop that falls under the same category as 33 Columbus St.

10. **9-11 Case Ave:** Karen Walter, 15 Case Ave. At the last meeting, the focus seemed to be on the issue of the code for fences and Ms. Walter is wondering if the number of animals at this property was still under consideration by the board. The Auburn Police Department had one call for service but it was canceled prior to them arriving. The Auburn Fire Department and EMS had no calls for service. The Assistant Corporation Counsel and City Manager have had communication on this property and the law for NYS, county or local ordinances does not address the issue with cats. A specific section of the City's code that allows cats to roam. If you were referring to dogs there is an exception section in there but the issue with the cats crossing into different yards there isn't one. This extends through state law as well. There is very little we can do regarding this. If there is a problem with waste you can look at that but you would have to prove evidence and where the cats are coming from. This isn't a legal issue that can be handled through the Code Enforcement or this Committee. The law doesn't support the kenneling of cats. This is an issue but the more you dig into it with NYS it is actually less addressed. If there is an issue with waste, if that can be attenuated to the actual cats from the property that you are speaking of that might be something that the board can address but it might be more of a codes issue. It is a burden that is on Ms. Walter to address.

The City Manager explained this is not the only property that deals with this issue and has been going on for years. Recommending Corporation Counsel to talk to Ms. Walter to discuss other options since he is not able to give legal advice.

Ms. Walter explained she does have evidence and it was presented to the board of the defecation as well as the spraying that takes place at her property by the cats from the



owner of 9-11 Case Ave. Also, the City Council did vote on the number of animals at any given property which included cats and that is one of the concerns. At the May meeting the owner of 9-11 indicated she did take in other cats to take care of them. This would be a private kennel which is not allowed in a R1 area.

The Assistant Corporation Counsel explained the more you look into it as far as NYS law allows or even the Environmental Law is very limited what the remedy could be. The powers of this committee it is very limited.

- 11. 255 Grant Ave.:** The Auburn Police Department had calls for services for citizens assist and check the welfare. It is still under control with the amount of people housed there. The Auburn Fire Department and EMS responded twice for EMS calls and agreed with the Police Chief based on the number of occupants it is not unusual.

The City Manager has a note that all violations were corrected. Brian Hicks will check on this but assumes it is completed. This was mostly outside violations and Mark Perry, Code Enforcement Officer is watching over this. This is on the list through December 2023.

- 12. 25 Lafayette Pl.:** The Auburn Police Department, Auburn Fire Department and EMS had no calls for service. This is another property the city has taken possession of. This is not occupiable, so with the City owning the property, it will be removed from the list.

- 13. 9 E. Genesee St.:** The Auburn Police Department, Auburn Fire Department and EMS had no calls for service. The Corporation Counsel explained this is still pending with the Attorney General's Office. We are not involved in it but we are monitoring it. The City Manager explained this could have an impact on what actions we can take depending on what the decision is at the State level. The City still has ongoing code violations regarding potential occupancy of the apartments in this structure but we have not received any more complaints from adjacent neighbors.

- 14. 39 Cayuga St.:** The Auburn Police Department had one call for service unrelated to the calls that we have had in the past. The Auburn Fire Department had no calls for service. This is an ongoing zoning issue and Assistant Corporation has been looking into it. No tickets have been issued and this could end up in Codes Court. There have been some unrelated Code Enforcement issues like an unpermitted pool. This is on the list through December 2023.

- 15. 45 Columbus St.:** The Auburn Police Department, Auburn Fire Department and EMS had no calls for service. This property was in court and there is a plan submitted to codes to correct the violations. It has been withdrawn from court because we have received what we were looking for but we do have the ability to return to court if the plans are not followed through. The owner plans to do this in phases and the initial part is supposed to start this fall. Brian Hicks, Senior Code Enforcement Officer explained the owner would do this in phases.

**Motion to adjourn the meeting:** Mark Fritz, Fire Chief, and seconded by James Slayton, Police Chief

**Adjourned: 10:16 a.m.**

**The next Meeting will be held on October 18, 2023, at 9:00 a.m.**