

MINUTES FOR SPECIAL MEETING OF NESQUEHONING BOROUGH COUNCIL

Wednesday, March 30, 2011 at 5:00 p.m., Borough Office
114 W. Catawissa Street, Nesquehoning, PA 18240

ROLL CALL: COUNCILMEN DiMICELI, SNISCAK JR., ZABROSKI; COUNCILWOMEN FOX AND WALCK; PRESIDENT STROMELO; MAYOR WALCK; & SOLICITOR YURCHAK

President Stromelo called the meeting to order at 5:00 p.m.

Councilman DiMiceli was present by phone.

Councilman Hawk was absent.

Councilman Zabroski arrived late.

PURPOSE: Special meeting for general purposes

Advertise for Reconstruction of Cedar Street Bids

Councilman Sniscak, Jr. moved and Councilwoman Fox seconded to advertise for bids for the reconstruction of Cedar Street. All voted yes. Motion passed.

MEM – default on contract

Solicitor Yurchak stated that MEM's sixty days were up. He stated how they had a meeting with MEM back in January and they had indicated that they would only need sixty days. He stated how they have not contacted them. Solicitor Yurchak stated how he had sent them a letter last week via certified mail telling them that they were holding them to the sixty days. He stated how he had not heard anything and Secretary/Treasurer Ahner had not heard anything. Solicitor Yurchak stated that his recommendation was to declare them in default under the contract and proceed on that.

Councilman Sniscak, Jr. moved and Councilwoman Fox seconded to declare MEM in default of the contract to purchase the street lights.

Councilman DiMiceli asked if they should include in the motion or if they should make a second motion to pursue all avenues necessary to regain the Borough's money with interest. Solicitor Yurchak stated how that would be premature at that point. He stated about holding off on that because they have to declare them in default and MEM has a right to remedy the default under the contract. He stated about just declaring them in default for now. Solicitor Yurchak stated how he will give them the specifics of the default in the letter when he tells them that.

All voted yes. Motion passed.

Curb Cut Ordinance

President Stromelo stated about reviewing the curb cut ordinance. He stated how they wanted to update them because they were very vague. He stated how they have to have enough room to park the vehicle off of the sidewalk. Secretary/Treasurer Ahner stated about being so far away from property lines. President Stromelo stated how they have one in New Columbus that was not going to pass. He asked Solicitor Yurchak to have something for the next meeting.

Secretary/Treasurer Ahner stated how she had received copies of the final draft of the code books. Solicitor Yurchak stated how he did not get his copy yet. He stated how he did receive an email from Attorney Riley on behalf of the bank for the line of credit.

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Councilwoman Fox asked about the money they have left, in regards to MEM, if they were going to have to pay the loan payments when they come due. Secretary/Treasurer Ahner stated how that was what they have been doing. She stated how they had paid it back in December and the next payment will be due in June. Councilwoman Fox asked if she ever received payment on that invoice. Secretary/Treasurer Ahner stated how she had never received a payment on the invoice or for any of the cap stuff that they had told them they would receive. Solicitor Yurchak stated how they never received a copy of the audit that they were supposed to have done yearly.

Councilman DiMiceli stated that what he would like to do, instead of coming back to another council meeting at a later date to go over everything, he thinks . . .

Councilman DiMiceli moved and in accordance with the timetable pursuant to the contract, with MEM being in default of the contract, Solicitor Yurchak should immediately pursue what was available to them at the time instead of coming back each time, go ahead with what needs to be done whenever it needs to be done.

Solicitor Yurchak stated how he felt that the Council President could give him that authorization if it was an emergency situation. He stated how the actions could be ratified at the next meeting. Councilman DiMiceli stated about doing it then so that it was on record for the Solicitor to take whatever actions was appropriate at the time because sometimes it slips through the cracks and does not get brought up at the next meeting. He stated that Solicitor Yurchak should do what has to be done. Solicitor Yurchak stated how he could take whatever action he felt was appropriate regarding MEM and the default.

Councilman Sniscak, Jr. seconded the motion to authorize Solicitor Yurchak to take whatever actions he felt were appropriate in regards to MEM and finding them in default of the contract. All voted yes. Motion passed.

Mayor Walck called Officer Timothy Wuttke up front. He stated to Officer Wuttke that on behalf of himself, Chief Smith and the entire Council he wanted to read the letter of commendation to him.

Mayor Walck read the Letter of Commendation as follows:

Whereas, on February 7, 2011, Patrolman Timothy Wuttke of the Nesquehoning Borough Police Department, while performing his routine duties for the Borough, was called to the scene of a forcible entry at 259 Stock Street, Nesquehoning, the residence of May Ann Fanelli; and

Whereas, through the persistent efforts of Patrolman Timothy Wuttke, one person was subsequently arrested for the forcible entry and burglary of 259 Stock Street, Nesquehoning; and

Whereas, Patrolman Timothy Wuttke did utilize all resources available to him to bring this matter to a successful and speedy conclusion including the coordination of numerous Police Departments in various counties,

Now, therefore, be it resolved, that I, as the Mayor of the Borough of Nesquehoning, do formally commend you for your professionalism and dedication to duty, which reflect positive upon you as a police officer and as a person and I congratulate you upon your performance as an officer and as a result I issue you this Letter of Commendation this 30th day of March, 2011.

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Councilman DiMiceli stated about placing the Letter of Commendation into Officer Wuttke's personnel file. Mayor Walck stated how it was already placed in his file.

Ball Properties – (Carl Faust)

Councilman Sniscak, Jr. moved and Councilwoman Fox seconded to authorize Carl Faust to take whatever action he feels appropriate regarding Mr. Ball's Properties.

President Stromelo stated how Mr. Ball was in the office the other day at lunch time when he was here. He stated how he was in citing economics and stuff like that. He stated that he had told Mr. Ball that he had not done anything with the properties for almost two and a half years. President Stromelo stated that Mr. Ball had conversations with the neighbors and they were disturbed about it. He stated how Mr. Ball was supposed to be there that night to give his side of it. Councilman DiMiceli stated how he felt that it was their own fault. He stated how they were giving these people too much time. He stated how they were telling their attorneys to drag it out for a year. Councilman DiMiceli stated how they have to stay with the code and with the timetable. He stated how he had received some information about a building up the street from the Borough Building. He stated how the Fire Chief wanted an inspection done by Carl Faust. He stated how there were 5 – 6 separate units in that building and according to the code the place was deplorable. Councilman DiMiceli stated how they were giving them too much time and they were doing good as long as they were keeping them on track. He stated how they were now slipping, and they meant all of Council. He stated how they were trying to be accommodating and they were taking advantage of them. Councilman DiMiceli stated how that was his opinion and his opinion was to follow the code. He stated how they were creating their own problems.

Councilman DiMiceli stated about adding the other property to the motion because that was a multi-unit dwelling. He stated how they were blowing fuses because the water was running into the electrical fixtures. President Stromelo stated how they will let Carl Faust know about that property as well. He stated how the property was 130/132 W. Catawissa Street.

All voted yes. Motion passed.

Lawrence Properties – (Carl Faust)

Hugh Lawrence stated how they thought that they were coming that night to a representative group, Attorney Yurchak, Carl Faust, and some Council People, concerning the situation with the property across the street. He stated how they were directed to get an engineering group to take a look at the property, which they did. He stated that he had two representatives there that night and those folks, it was their business. Mr. Lawrence stated how the engineering folks and Attorney Matika, who was not able to be there that night, were telling him that the ordinance that the Borough has did not pertain to his building. He stated how he was a messenger and he was not a lawyer and was not a professional engineer. Mr. Lawrence stated how he was in a difficult position without legal counsel.

Mr. Lawrence stated how he wanted to be up-front with them and wanted to tell the Council Members what he was thinking. He stated how he was not there to be rude to them but he felt that there were some things that had to be said. He stated how he has not been involved between the two attorneys but he sees the correspondence.

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Mr. Lawrence stated how he would like to think that they put some credence in what the professional engineers have to say. He stated how he was the messenger. He stated how they also have an incredible opinion. Mr. Lawrence stated how Attorney Matika, from a legal standpoint, the ordinance does not pertain to their building.

Mr. Lawrence stated how he had the two gentlemen there that night, Mr. Housman and Mr. Chapman, who were two of the three gentlemen who looked at the building. He stated how it was their specialty. Mr. Lawrence stated how he has to believe that there was an incredible consideration in what they were saying. He stated how he also respects that the Borough Council also has an opinion. Councilman DiMiceli stated to Mr. Lawrence how he was going to interrupt him for a minute. Mr. Lawrence stated how he was hoping to present his case. Councilman DiMiceli stated to Mr. Lawrence that as far as he was concerned, he had more than enough time to do whatever he was supposed to do with that building. Councilman DiMiceli stated how he was asking their solicitor and Mr. Faust to follow through with whatever violations were still present. Councilman DiMiceli stated how they have been dealing with it for well over a year and have gotten nowhere. He stated that as far as he was concerned, he was tired of the nonsense. He stated how he was putting it just that way, nonsense.

Councilman DiMiceli moved to authorize Solicitor Yurchak and Mr. Faust to do whatever needed to be done with the violations concerning the building.

Mr. Lawrence asked Councilman DiMiceli if he was saying that the professional engineers have no idea what they were doing and they were unqualified. Councilman DiMiceli stated to Mr. Lawrence how it was not his problem who he hired. He stated how they have a code enforcement officer, Mr. Faust, and they have a Borough Solicitor. He stated how he was asking that they pursue it legally because Mr. Lawrence has been given more than enough time to do whatever he was going to do. Councilman DiMiceli stated to Mr. Lawrence how he had asked for a month in September because he had hired an attorney. He stated how they were now at the end of March and his attorney was not even sitting there with him. Councilman DiMiceli stated how his motion stands. Mr. Lawrence stated to Councilman DiMiceli how he did not want to hear what the professionals had to say. Councilman DiMiceli stated how he would not like to hear what Mr. Lawrence had to say. He stated how he would like to hear it in a legal setting whether it would be a courtroom or an arbitration room. Councilman DiMiceli stated to Mr. Lawrence that he had no time for him at that time and he was sorry if he was sounding rude, but too bad. He stated how he had been given over a year and a half, closer to two years, to fix that problem. Councilman DiMiceli stated to President Stromelo that he recognize his motion and rule Mr. Lawrence out of order until there was a question.

Councilman DiMiceli moved and Councilwoman Fox seconded to authorize Solicitor Yurchak and Mr. Faust to take whatever action he feels appropriate regarding Mr. Lawrence's Properties.

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Mr. Lawrence stated how they were talking about the time. He stated how it was part of his concern as well. He stated how there were three basic issues, emergency lighting in the hallways, wired smoke detectors and sprinklers. Mr. Lawrence stated that in September, he had called Secretary/Treasurer Ahner and told her that they were ready to do the lights in the hallway and she told him that she would have Mr. Faust contact him. He stated how he has yet to hear from Mr. Faust as far as a permit. He stated how they cannot do anything without a permit. He stated that if they would do it without a permit, they would probably be cited. Secretary/Treasurer Ahner stated how she was now going to interrupt Mr. Lawrence. She stated how she does not remember that phone call. She stated that if he would have called her and said how they were going to do lighting; she would have told him to fill out the forms and submit them because she could not just give him permission and call Mr. Faust. She stated how it would go through Gene Kennedy first for a building number. Secretary/Treasurer Ahner stated how she would have told him that on the phone if he would have called her. She stated to Mr. Lawrence that she does not remember talking to him about lighting or how he was going forward to do lighting.

Mr. Lawrence stated how the phone call was made and he was not questioning her memory, he was not questioning anything. He stated how they bought the equipment to do the lighting in September and they will still do the lighting, but they cannot go forward without a permit. Mr. Lawrence stated how they were scheduled to come to a meeting on February 1, 2011 and it was a very icy evening. He stated that he does not know if they held the meeting or not but he lives 35 miles from there and he did not think that it was a reasonable thing to do. Mr. Lawrence stated how it was two months to set up another meeting, from the 1st of February until then. He stated how he was not there to say who was at fault or to point fingers but two months was a long time between meetings for something like that. He stated how they were having a noose around their neck for taking a long time. Mr. Lawrence stated how there was a legitimate concern there and there was a legitimate position for both of them. He stated how they would be delighted to meet with a representative group; Mr. Faust included, and get it settled. Councilman DiMiceli stated how he found no question in anything that Mr. Lawrence said. He stated how he also really resents the fact that he was basically calling our Secretary/Treasurer a liar. He stated to Mr. Lawrence how they have dealt with him for close to two years, if not longer, about it and he felt that Mr. Lawrence had run the rope out on the calendar with them. Councilman DiMiceli stated how he now needed to deal with Solicitor Yurchak and Mr. Faust.

Councilman DiMiceli stated to Mr. Lawrence how his attorney was not even there that night to represent him and he did not want to know what the status was between him and his lawyer. He stated how Mr. Lawrence ran his rope out with Council, as far as he was concerned. Councilman DiMiceli stated how they have to worry about their liability should there be a fire or something else in the building they were talking about. He stated to Mr. Lawrence how his responsibility was his responsibility and the Borough's responsibility was something that they had to worry about. He stated how the first and foremost thing they have to worry about was life. Councilman DiMiceli stated to Mr. Lawrence how he did not ask one question his entire thing and that he was trying to make a speech out of it. He stated to President Stromelo that as far as he was concerned there was a motion on the floor, it was seconded and he would ask that a vote be taken on it.

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Solicitor Yurchak stated to Mr. Lawrence how he wanted to clarify one thing. He stated to Mr. Lawrence how he had indicated that they were supposed to be there on February 3rd and that was correct that the weather was bad that night and the meeting was canceled. He stated to Mr. Lawrence how his attorney was supposed to get back to him with new dates. He stated that after three weeks he had written him a letter, faxed him a letter and asked him for those dates. He stated that on March 1st Mr. Lawrence's attorney wrote back to him and mailed it back to him by first class mail indicating that he could not meet until after March 28th. Solicitor Yurchak stated how another week or so went by and then he had given the Borough some dates starting with March 30th, which that was the first available date. Solicitor Yurchak stated to Mr. Lawrence about not telling him about the two month delay because it had nothing to do with Council. Mr. Lawrence stated how he did not suggest that it did. Solicitor Yurchak stated how he indicated that it did. He stated how he was clarifying how it was not from that side of the table.

Councilman DiMiceli stated how his motion stands and he felt that Mr. Lawrence ran the rope out with the engineers, inclement weather and attorneys. He stated how he felt that they had a responsibility to their firemen and to the tenants of that building and the town to follow through on it. Councilman DiMiceli stated how he was asking for a vote at that time. He stated that when Mr. Lawrence made his statement that was exactly what he did, he made a statement and did not ask a question. Councilman DiMiceli stated how he was asking for a vote. He stated how he wanted a roll-call vote. He stated how everything, all the issues at hand, be addressed between the code enforcement officer, Carl Faust, the Borough Solicitor, Robert Yurchak, and if need be the Zoning Officer, Gene Kennedy. Councilwoman Fox stated to Councilman DiMiceli how that was what was being done at that time and she felt that they needed to hear Mr. Faust so that there could be a time table put on it that night. She stated that they should not leave it up to Mr. Faust and Solicitor Yurchak . . . Councilman DiMiceli stated how that was not what he was saying. He stated how he was asking that they pursue it through the magistrate court and whatever court they have to pursue it by citing them for failure to comply. He stated how that was what he was asking for right then. He stated how he was not asking for anymore delays.

Mr. Lawrence asked how they did not want to hear what the engineers say about what the Borough has asked them to get. President Stromelo stated to Mr. Lawrence that Councilman DiMiceli was saying that he wanted him to deal with the attorney, Mr. Faust, himself and his lawyer and to proceed with whatever goes on. Councilman DiMiceli stated that if it meant filing citations, file them immediately. He stated how they were done playing games with how they want to talk to the Borough Council about it. Councilman DiMiceli stated how he was asking for a roll-call vote that they give the solicitor and Mr. Faust and anybody else who needs the authority to proceed with citing that property, 127 W. Catawissa Street. Councilwoman Fox asked if they should wait for the motion until they hear what was going on that night. She stated that if they were not satisfied . . . Councilman DiMiceli stated how they have waited two and a half years for Mr. Lawrence. Councilwoman Fox stated how they had set up that meeting for that purpose. Mr. Lawrence stated how it was not two and a half years. Councilwoman Fox stated how they set up that meeting to hear what has to go on. Councilman DiMiceli stated how he had nobody there to verify what he has been saying. Eric Chapman, from Liberty Engineering, Allentown, and Dave Hausman, from Liberty Engineering, Allentown introduced themselves.

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Councilman DiMiceli asked the two gentlemen why there has not been anything done to the property located at 127 W. Catawissa Street. Mr. Hausman stated how that was not for the engineers to answer. He stated how they have not gotten a list from Mr. Faust saying what the violations were, which was his duty as the code enforcement officer. Councilman DiMiceli stated how he did recall a letter being sent to Mr. Lawrence over two and a half years ago with a list of items that he had to bring up to code. Mr. Hausman stated how that list did not refer to the sections of the code that were in violation. He stated how it was a list of things that he had found on a walk through as far as leaky roof and ceiling. He stated how that had nothing to do with and did not refer to the code. Mr. Hausman stated to Councilman DiMiceli how Mr. Faust's responsibility was to offer, and in his motion they want a citation, the citation has to say that Mr. Lawrence violated certain sections of the code and/or certain sections of the ordinance. Mr. Hausman stated how they have researched the code and they have researched the ordinance and they disagree with Mr. Faust at that point.

Councilman DiMiceli asked Mr. Hausman if he had researched the code. Mr. Hausman stated "yes". Councilman DiMiceli asked if they had researched the BOCCA code. Mr. Hausman stated "yes, of course". Councilman DiMiceli stated how they had researched every code that the Borough adopted. He asked Solicitor Yurchak to name the codes that were adopted over the years that were pertaining to buildings. Councilman DiMiceli stated how they adopted the UCC and the BOCCA code. Mr. Hausman stated how the UCC supersedes the BOCCA code; there was no more BOCCA code. He stated how there was no more PA Department of Labor and Industry if they adopted the UCC. Solicitor Yurchak stated how that was correct. Mr. Hausman stated how they researched the International Building Code, which was what the Pennsylvania State Legislature has adopted as the UCC, with some amendments that were made that were not in the International Building Code. He stated how their firm was up to date on all the current codes. Councilman DiMiceli stated how he thought that they had adopted a third code. Solicitor Yurchak stated how all of the going back and forth was not going to get them very far. He stated how he would prefer to wait for Mr. Faust to get there because he felt that they would be a little more constructive in where they were going. Councilman Sniscak, Jr. stated about waiting for Mr. Faust. President Stromelo stated how Mr. Faust would be there shortly.

Mr. Lawrence stated how he thought that they had to resolve what the rules were. He stated how he fully respected the Borough's side of the table. He stated how he was not there to tell them who was right and who was wrong, because he was not qualified and he did not know. Mr. Lawrence stated how the gentlemen with him were from an engineering firm with full creditability and they were saying how the code did not cover them. He stated how Attorney Matika was saying the same thing. Mr. Lawrence stated how they might be all wrong; but he still thought that to have a large group like that, they could beat the thing to death until 10 o'clock that night. Councilman DiMiceli asked when the Engineering firm was hired.

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Mr. Faust stated how he wanted to give them his opinion and then the Borough Council could make their decision. He stated how they had a complaint and they went out and looked at the building when the owner let them in on July 20, 2009. Mr. Faust stated how he had sent a list out to him and on the very last page; he will read it. He stated how he had given Mr. Lawrence a list of items and he also put in – “all the above items must be corrected properly and inspected, this applies to all apartments. You will have until August 7, 2009, to respond to this letter. If no response is received on this date, under the PA Uniform Construction Code, Act 45 of 1999 Section 403.84, I will make a determination that the building is unsafe as per Section 403.84a and order the building vacated under Section 403.84b. You must also provide an Occupancy Permit for this building that would have been issued by PA Labor and Industry. If there was no Occupancy Permit issued for this building, then as per PA Uniform Construction Code Act 45 of 1999 Section 403.28, this is an uncertified building and must be brought up to required codes as per Section 403.28b4c and Nesquehoning Ordinance 2009-2”. Mr. Faust stated how that was all he needed to know and his lawyer could look at that and find out what it was. He stated how every building in the state of Pennsylvania was supposed to have an Occupancy Permit, commercial building. He stated that if the commercial building does not have one; they have to give it one. He stated that they cannot give it one unless it meets certain code requirements.

Mr. Faust stated how he has asked for the Occupancy Permit and as of that date he has not seen it. He stated that like Mr. Lawrence stated, they could beat it to death. Mr. Faust stated how it was his recommendation to the Borough Council; they have been screwing around with that person since July 20, 2009. He stated how he was recommending that he write him a letter that weekend and put it in the mail, certified, on Monday. He stated about giving Mr. Lawrence until April 17, 2011, because he was going to be away the 14th and the 15th, to have everybody out of the building that they were deeming it unsafe and inhabitable under Section 403.84 for several reasons. He stated that for one, he does not have a legal Occupancy Permit for the building; for two, it was unsafe for human habitation and for three, it was just an unsafe building.

Mr. Faust stated how he had some interesting pictures. He showed pictures of cockroaches to the Council Members that were taken out of Mr. Lawrence’s building. Mr. Faust stated how one of Mr. Lawrence’s former tenants had let him in and they had caught it along with a couple of others that were running around. He stated how he got him frozen. Mr. Faust stated that if they could tell him that the building was not unsafe or fit for human habitation, he would eat the cockroach.

Mr. Faust stated how Mr. Lawrence has told him that he was hiring an architect to do all the things that had to be done. He stated how they have not seen it. Mr. Faust stated how Mr. Lawrence supposedly hired an architect by the name of Dan Poncavage. He stated how he had talked to Mr. Poncavage and Mr. Poncavage had told him that he had talked to Mr. Lawrence. He stated that Mr. Poncavage told him that he was not hired or fired. Mr. Faust stated that Mr. Lawrence had told them before that he was getting an architect involved when Chief Smith, Mayor Walck and himself were there on February 5th. Mr. Faust stated how he has not seen anything yet. He stated that as far as he was concerned, enough was enough. He stated how they could keep chasing him until the cows come home. Mr. Faust stated how they were the Council Members and they should tell him what to do.

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Mr. Faust stated how his fear was that something was going to happen in the building; somebody was going to get hurt; the lawyers were going to come back and say how the Borough knew about it and ask why they did not do anything about it. Councilman Zabroski asked Mr. Faust if he could read some of the violations or some of the things that he had stated in the letter. Mr. Faust stated how some of the things that he had seen in the one building were; no proper fire extinguishers, smoke detectors were not working, tenants told him there was no hot water for a week, little or no heat in the winter (was told that it was corrected but the temperature only went to 62); under the property code, he thought that it was 68 that they had to give but he was not sure; and there was a bunch of junk in the alleyway between the buildings. He stated how they looked in the basement window because they could not get in the building, it was full of junk. He stated how there was siding missing. Mr. Faust stated how they could push the window frame out when they were in the one apartment. He stated how there was not any emergency lighting and the outside of the building did not have lights, which were required.

Councilman DiMiceli amended his motion to include that it be in accordance with Carl Faust's timetable of April 17, 2011.

Solicitor Yurchak asked if there was an occupancy permit for the building. Mr. Lawrence stated how they do not have an occupancy permit and it was his understanding that they did not need one because it came in before the regulations. Solicitor Yurchak asked if he had a legal opinion that they were not required. Mr. Lawrence stated how he did not and Attorney Matika would have to speak for them legally. Solicitor Yurchak stated how he understood but Mr. Faust was saying how Mr. Lawrence was required to have one. He stated how they should have something stating that he did not need one. Councilman Sniscak, Jr. stated that the code states that if the building was built prior to 1927 it did not need one, but the building was built after 1927. Councilman DiMiceli stated how that was the date they used for the building in New Columbus across from the Church. He stated to Mr. Lawrence that if it was that simple, why his lawyer did not respond with a one paragraph letter stating that. Solicitor Yurchak stated how he was not asked for it. Mr. Lawrence stated how they were asking him to comment on things that he was not . . . Solicitor Yurchak stated how he was only asking if he had it and if he did not have it could he give them a legal authority as to why he does not have it. Mr. Lawrence stated about the legal authority. Solicitor Yurchak stated how he felt that they should give him a little bit of time to get the legal authority. Councilman DiMiceli stated that two and a half years, how much more time does Mr. Lawrence need to get a letter stating that he did not need an occupancy permit.

Mr. Faust stated how he had asked for an occupancy permit in a letter that Mr. Lawrence received on July 22. He stated how they still had not received one. He stated how it was in the Law Book. He stated about his attorney going to the section 403.28 and see that it did not matter unless the building was built prior to 1927. Mr. Faust stated how it was easy to call Labor and Industry to find out if a building has an occupancy permit. He stated how the only problem was if the occupancy was issued prior to 1944-1945, they would not have a record because they lost all of their records in either a flood or a fire. Councilman DiMiceli stated how it was a flood. Mr. Faust stated how he had since July 20th to come up with an occupancy permit. He stated how he needed that for the basis to start. He stated that if he had an occupancy permit, there was not much that they could do, except under the property maintenance. Mr. Faust stated that without an occupancy permit, it was an uncertified building, under the law, and he would have to have one.

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Mr. Faust stated how they do not go around knocking on doors and asking if they had an occupancy permit. He stated how they do not do anything until they have a complaint. He stated how he has had three complaints on the building. Councilman DiMiceli stated how it then had to be brought up to current code pursuant to the date of the building. He stated that for an example Mr. Lawrence would not have to put windows in the stairwells because it would structurally harm the integrity of the building because it was built before a certain date. Councilman DiMiceli stated how there were other things that he had to bring up to code and Mr. Lawrence was well aware of them. He stated how Mr. Lawrence's attorney could have written a letter to the Borough saying how the code did not apply to him because it was built on such-n-such a date. He stated how they were playing around for two and a half years and if one of their firemen would get hurt, or one of the tenants would get hurt or die; it was going to be the Borough's responsibility/liability because they were aware of the situation. Councilman DiMiceli stated how there should be no more discussion about it.

Mayor Walck asked if there was a question on the Boiler inspection also. Mr. Faust stated how all Boilers have to be inspected periodically by Labor and Industry. Mr. Lawrence stated that it was. Mayor Walck asked Mr. Lawrence when. Mr. Lawrence stated how it was within the last six months. Mr. Lawrence stated that if they would give him a list of questions that they want answer for; he would get answers for them. Councilman DiMiceli stated how they have been down that road with Mr. Lawrence before. He stated how he first made the accusation that Mr. Faust did not list the violations that Mr. Lawrence was in violation of. Councilman DiMiceli stated how Mr. Faust read a letter stating the violations. Mr. Lawrence stated how they were addressed. Mr. Faust asked if there were emergency lights installed. Mr. Lawrence stated "no". Mr. Faust asked if there was an alarm system installed. He stated that if he could not produce an occupancy permit, he was in violation of the Uniform Construction Code. Mr. Lawrence stated how there were people who disagreed with him. Councilman Sniscak, Jr. stated how he did not and they needed to pass the motion, get the stuff done or close them down.

Councilman DiMiceli moved and Councilman Sniscak, Jr. seconded that if Mr. Lawrence could not produce an occupancy permit and/or to bring everything up to code that Mr. Faust mentioned.

Solicitor Yurchak asked Mr. Faust when he would issue the letter. Mr. Faust stated how he would send it out Monday, certified. Solicitor Yurchak stated to Mr. Lawrence that he had until Monday to produce the occupancy permit. Councilman DiMiceli requested a roll-call vote.

Councilman DiMiceli	-	yes
Councilman Sniscak, Jr.	-	yes
Councilman Zabroski	-	yes
Councilwoman Fox	-	yes
Councilwoman Walck	-	yes
President Stromelo	-	yes.

Motion passed.

MINUTES FOR SPECIAL MEETING OF NESQUEHONING BOROUGH COUNCIL

Wednesday, March 30, 2011 at 5:00 p.m., Borough Office

Councilman DiMiceli stated to Mr. Faust about the property two doors down from the Borough office. Mr. Faust stated how he had received an email from John McArdle.

President Stromelo stated to Mr. Lawrence how he had received a complaint about garbage on his property located on Allen Street/Railroad Street. He asked Mr. Lawrence if he could please check on that. President Stromelo stated how the fence was knocked down. Councilman DiMiceli stated how they have had a problem like that with a property located in the 300 block of Catawissa Street. He stated how they had the police cite them and the magistrate dealt with it accordingly. He stated how they had given them 7 days to clean up the mess or they were going to impose a \$1,000.00 fine. Councilman DiMiceli stated how they should approach that property the same way.

Councilman DiMiceli moved and Councilman Sniscak, Jr. seconded to cite Mr. Lawrence if the property located at Allen/Railroad Streets was not cleaned up within ten days. All voted yes. Motion passed.

President Stromelo asked Mr. Faust about some of the other properties that they have had problems with. Mr. Faust stated that 1 W. Garibaldi Avenue was empty and they were not doing anything on it. Solicitor Yurchak stated how it was up for sale. President Stromelo stated how they wanted Mr. Faust to follow through with Mr. Ball's properties. He stated how Mr. Ball failed to appear that night. Mr. Faust stated how he would also get with Secretary/Treasurer Ahner for the one on Catawissa Street. He stated how he needed to know who the owner of the property was. Linda Narciso stated to Mr. Faust that she had talked to the gentleman who owns the trailer and he wanted her to take the condemned sign down because he wanted to sell it. She stated how she told him that she would not take it down and he told her that he was going to get his lawyer. Mr. Faust stated how they will get lawyers and fight with them, end up losing and have to pay anyway plus pay for the lawyers.

Mr. Faust stated how he should have told Mr. Lawrence and he would include it in the letter, how it was a \$1,000.00 fine for each day. He stated how that goes to the Borough. Solicitor Yurchak asked Mr. Faust that if Mr. Lawrence was entitled to an appeal right if he could please put it in the letter. Mr. Faust stated how they will get it out to him and if he does not comply, he has to get with Solicitor Yurchak and file legal action at the magistrate. Solicitor Yurchak stated how if there was an appeal right, to put it in the letter. Mr. Faust stated how there was not one. He stated how it will go to the magistrate and he can appeal it from there. Mr. Faust stated how he will probably not move anybody out and the borough will file legal action at the magistrate. He stated that they can appeal it from there. Mr. Faust stated if Mr. Lawrence loses at the magistrate it will go down to the County.

Mr. McArdle asked if they could go check to see if Mr. Lawrence had an occupancy permit for the other property as well, since they now had a complaint about that building too. Mr. Faust stated "yes". Mr. McArdle stated how if they had a complaint and jump through all the hoops. Mayor Walck asked Mr. Faust about the property where the oil spill was. Mr. Faust stated that he had not heard a word about it. He stated how it was still condemned.

MINUTES FOR SPECIAL MEETING OF NESQUEHONING BOROUGH COUNCIL

Wednesday, March 30, 2011 at 5:00 p.m., Borough Office

Councilman DiMiceli stated about requiring a security deposit to cover these kinds of expenses from Landlords. Solicitor Yurchak stated how they were not sure that they could do that but they were moving in that direction with the Landlord/Tenant Ordinance. Councilman DiMiceli asked if the fee was high enough to deter that kind of nonsense taking place. Secretary/Treasurer Ahner stated how they could not punish the good with the bad. Solicitor Yurchak stated how they could not make it an astronomical fee because they would chase the good landlords out of town. Councilman DiMiceli stated how they will just have to be more firm with landlords like that. Mayor Walck stated that if they had to take them to the magistrate then they would. He asked if they needed a motion to have Mr. Faust inspect the property. Mr. Faust stated how he would send Mr. Lawrence a letter stating that the Borough Council had a complaint on record and now that they know it was an apartment building, he would need to see an occupancy permit for that building. Councilwoman Fox asked if he would give a time period. Mr. Faust stated how they usually give them 30 days.

Mr. Faust stated how some other towns were looking at adopting apartment ordinances, where the apartment would have to be inspected yearly. Solicitor Yurchak stated how they have the Landlord Registration Ordinance but they did not go that far with the inspections. He stated how they had to have somebody to do the inspections. Mr. Faust stated how they were inspecting the apartments and they charge \$125.00 per apartment and \$50.00 on a re-inspection, which the landlord pays for it. He stated how they can set it for every 18 months and also when they are renting it out. Solicitor Yurchak stated how that was like Lansford's Ordinance. He stated how that might be something for the committee to look at first. Councilman DiMiceli stated about getting copies of some of the ordinances for Solicitor Yurchak to review. Solicitor Yurchak stated how he had some. He stated how Mr. Faust could get a copy of the fees to Council.

ADJOURNMENT

Councilwoman Fox moved and Councilman DiMiceli seconded to adjourn the meeting. All voted yes. Meeting adjourned at 6:12 p.m.

RoniSue Ahner
Secretary/Treasurer