

The regular meeting of the Bromley Council began at 6:29 p.m. with a pledge to the flag.

Officers answering to roll call: Gail Smith, Mike Denham, Mayor Radford, Dan Gardiner (Dan), and Donnie Jobe. Rob Gardiner (Rob) and Patty Grimes are absent.

The Council members will be given a copy of the special meeting from October, as this was not done previously.

Smith moves to accept the minutes from the September 2012 meeting. Denham seconds. Roll call: all aye. The motion carried.

Gabrielle Summe is not able to attend tonight's meeting.

**Rhonda Whitaker** is here on behalf of Duke Energy/Owen Electric (Duke) as their Government and Community Relations Director.

Duke has heard that Kenton County wants them to collect funding for 911 services. The fees would be placed on electric bills.

Duke feels that this would create a business risk for them as it would consist of them collecting for services that they do not provide. Duke also would be collecting a tax for Kenton County. Duke feels that Kenton County should pursue other avenues. This 911 fee is a public service and should be billed by a public service agency.

This collection, according to Duke, sets a dangerous precedence which, if pursued, opens up a door for other businesses to be asked to become a collecting agency and/or for other counties that they serve to ask that they collect taxes/fees for them also.

Duke does not believe that the County has the legal authority to impose this collection of taxes on them and, if an ordinance is passed, they are prepared to fight it.

Rate-making is how Duke recoups funds and they feel it will cause issues when they try to pursue a rate increase at a future date.

When and if Kenton County determines that they need a raise they will expect Duke to impose that increase on electric bills as well. Gas and electric rates, per Ms. Whitaker, are a lot higher than land-line telephone bills and this would present a big challenge for Duke when a customer gets behind on their bill. They are already collection-challenged as it is and do not need another similar challenge.

Duke serves six states and they do not want others coming and asking them to collect fees.

Ms. Whitaker stated that a statute put into place by the General Assembly indicates that 911 dispatch fees are to be collected by phone companies only (no one else).

School gross receipts' taxes were imposed by the General Assembly and placed on electric bills making Duke the tax payer, not the tax collector.

Duke currently is the only electric company in Kentucky, but they could get competition at some future date and, currently, Kentucky has some of the lowest electric rates around. A regulatory compact is in place in Kentucky so that other utility companies cannot infringe on each other's territories.

Duke honors the fact that Kenton County is trying to set up fees for 911 dispatch for the safety of the citizens, but asks that we not allow them to put the collection of the fee for this service on their company's bills.

Duke is active in economic development with one of their areas of concern being the Brent Spence Bridge, and Duke makes many contributions to the community. The collection of the 911 fee impacts their business and they are not prepared to take this on.

Attorney Vocke felt that it was strange that Duke had not contacted the phone company to determine how big of a burden collecting this fee would be. Ms. Whitaker stated that Duke does not want to be compared with the telephone company. They do not want another fee on the electric bill to interfere with any rate-making increases they may want to ask for and she stated that all fees collected on the electric bills contribute to the process leading to the Commission's decision re: rate increase requests.

**Judge Executive Arlinghaus** spoke at this time on behalf of Kenton County.

He stated that an \$85.00 parcel fee was included on all Kenton County tax bills for this first year to help to set up sustainable funding for the 911 dispatch program. Multiple areas, evaluations, etc. were reviewed until it was determined that the least costly way for funding 911 for Kenton County and to capture all property owners and renters, as well, was to place a fee on the electric bills. The monthly fee, set up for five years, would be \$6.00 and will completely fund this operation and will also alleviate the "catch-up" bill that everyone currently pays to cover the true costs for 911 dispatching.

Kenton County has looked into \$10.00 monthly water bill fees. They have looked into a \$35.00 annual vehicle fee and still come up with the \$6.00 monthly fee on electric bills as the least costly and best way to collect for the 911 service.

Kenton County conducted a survey and, out of 250 respondents, 66% were in favor of the fee being collected on the electric bill. Duke heard about the survey and, per Arlinghaus, asked, on the website, that people vote against the \$6.00 monthly fee. This brought the count down to 60% at which time the survey was removed due to the action taken by Duke (according to Arlinghaus).

Arlinghaus relayed an incident that occurred in Ludlow regarding his rental property. During an emergency situation while using his cell phone he was routed from Cincinnati dispatch to Kenton County dispatch, and, finally, to Erlanger dispatch before he was assisted. He is fearful that, under similar circumstances involving a cell phone, a heart attack victim or fire situation could end very badly.

Arlinghaus feels that \$4,500,000.00 can be saved annually by getting 911 under one roof with the most economical way being to collect the fee using the electric bill collection plan. Kenton County knows that there is the potential of a lawsuit from Duke and they are willing to fight the lawsuit, which they believe they can win. Several cities oppose the \$85.00 parcel fee that was placed on the tax bills from County but they support the fee being placed on the electric bills.

Arlinghaus stated that Kenton County has not pursued the possibility of grant-funding in the five-year plan at this time but they do feel that funds can be obtained, by grant, to help reduce the cost of operation and to reduce fees.

Arlinghaus does not feel that the government fee on the Duke bill would inhibit Duke from obtaining rate-increase approval.

Kenton County will move ahead with their proposal even if Bromley and/or other cities do not adopt the resolution.

Denham asked if Kenton County could not use the bar codes on the electric meters and bill the property owners themselves. Arlinghaus stated that it would be too costly for the County to send out monthly bills.

Denham asks what would happen if a property owner pays their electric bill but refuses to pay the fee for 911. Arlinghaus stated that the phone company keeps a portion of the fee for administrative costs for this purpose and Duke can do the same. Duke would be paid a collection fee. County is not asking them to collect the fee for free.

Arlinghaus stated that Duke could set up a TASK force to oversee this billing procedure and Kenton County could provide a paid staff person to assist them in the organization of the process.

Arlinghaus believes that most citizens would rather pay an extra \$6.00 per month on their electric bill than to pay an additional \$85.00 annual fee on their tax bill.

Smith asks why the fee cannot continue to be collected by the telephone company. Greg Rehtin stated that the electric meter is connected to the residence. A lot of people do not have a landline anymore so they would not have to pay the fee as they do not receive a phone bill. By charging the fee to the electric bill they would be able to collect on homes, apartments, mobile homes, etc.

The cities joining County at this time are Ft. Wright, Park Hills and Ludlow (and Bromley would be included as a four-pocket group). Ft. Mitchell, Lakeside Park, Crescent Hills and Edgewood are the next four cities coming into the group. What Arlinghaus is here for tonight is to ask Bromley to adopt a resolution approving the fee to be collected on the electric bills. The landline fees would be dropped from the telephone bills as of January 2013 at which time Kenton County would pay our subsidy fee to Erlanger until we officially join their (Kenton County's) 911 dispatch system (the term with Erlanger will end on Dec. 31<sup>st</sup>, 2012).

Smith stated that she sued the City of Bromley regarding a flat fee that was being charged on our tax bills to help pay for fire and squad services (a service needed by all but only used by some). She won the case and the fee had to be removed from the tax bills and the citizens were reimbursed some fees. She feels the fee on our Kenton County bills is the same and should not be legal. Our Attorney agrees.

At this time, Arlinghaus distributed a letter from Garry Edmondson, Kenton County Attorney, explaining why he feels that the County's fee on the tax bills is not the same as the one that was on Bromley's tax bills and found to be illegal (see Attachment).

Attorney Vocke wanted to know how Kenton County could get by with putting this fee on Duke's bills without statutory approval.

Arlinghaus replied that the Constitution considers the County a branch of State Government and, as such, gives them the authority to do this. Per Arlinghaus, Kenton County does not have to get sanctioned by the State to put the fee on the electric bill and they are not going to do so but are going to pursue this matter as he has stated.

Arlinghaus stated that it will take \$5,000,000.00 to run the dispatch for one-year. He stated that he inherited a \$2,500,000.00 deficit and has brought the County out of deficit and currently running under budget. He has \$7,000,000.00 to put into the 911 budget. This is his reserve money and he does not want to use it unless he has to do so. If a lawsuit is filed and Kenton County loses they would have to ask the cities to put the 911 fee back on the telephone bills.

Kathleen Smith asked why we could not just leave the 911 fee on the telephone bills. Arlinghaus stated that landlines decrease by 3-4% annually and doing so would cause the 911 fees to keep increasing.

A written copy of the indemnity agreement will be sent to our Attorney by Arlinghaus.

**Rhonda Whitaker**, Duke's representative, reaffirmed that Duke did not believe that the government had the right to impose on a private business in this manner nor the legal authority to do so.

She further stated that the survey that was put out there on the website did not show due diligence on the County's part to Duke, who was dragged into this matter without any knowledge.

Ms. Whitaker stated that, although Kenton County may be an arm of the State, there is nothing in the statutes that gives them the right to impose this fee on Duke. In 2008 this was attempted, per Ms. Whitaker, and the attempt failed. Duke will fight this matter in Court.

Arlinghaus said that County is not asking small businesses to collect a fee. They are asking Duke to collect the fee because they have a monopoly in the business in the State of Kentucky.

Larry Hamant does not feel that it is right for the County to take a private company and force them to collect fees for them. Arlinghaus responded that the matter would be settled in Court. Signing the resolution would assist the County should this occur.

Smith asked if properties with multiple electric meters would pay the fee on each meter. Ms. Whitaker said "yes". Arlinghaus said that there are exceptions in such cases.

Attorney Vocke informed Arlinghaus that the Town of Bromley and the City of Bromley were both billed the \$85.00 dispatch fee from Kenton County. Bromley paid one of the fees but appealed the other and the appeal was denied. The Attorney will pursue this matter. Smith was informed by Arlinghaus that all appeals are answered.

Arlinghaus stated that if Bromley goes with Kenton County dispatch they must give Erlanger Dispatch a ninety-day notice.

The Attorney read Resolution 11-1-12 which is in favor of allowing a \$6.00 monthly fee to be added to the Duke electric bills for 911 services. Denham moves to accept this resolution. Jobe seconds. Roll call: Jobe-yes, Dan-no, Denham-yes, Smith-no. Mayor Radford breaks the tie and votes yes. The motion carried. The resolution is approved.

**FIRST CITIZEN REPORT**

Larry Hamant asks if there is an ordinance in place that disallows curbside basketball hoops to be used in Bromley and, if there is, would we inform Park Hills Police (PHP) to see that the one next to his property is removed. If he gets a copy of the ordinance he will continue to call PHP to have it removed. It took Mr. Hamant three months to get rid of the dogs at the property next to his. The dogs kept knocking his fence down to get away. Mr. Hamant stated that each time he makes a complaint he is given twenty-five pages of violations on his business location. He feels that he should be able to make a complaint without this taking place. His neighbor's property has the basketball court, high grass, parked cars on the property, trash on the property and about eighteen people living at the residence.

Mr. Hamant also wanted to know why a business at Pike and Pleasant is allowed to operate without having a restroom facility when it was not supposed to be able to operate until the restroom was installed.

Mr. Hamant had complained to the Code Enforcement Board (CEB) several months ago about the property next door to his residence and has to remind the Board to pursue this matter every time he comes to a meeting. The Mayor informed Mr. Hamant that he should bring these matters to the CEB before coming to Council. The Mayor will speak to Schutzman about this matter.

The Attorney stated that Schutzman is busy pursuing foreclosures as a priority.

The Mayor suggests that Mr. Hamant set up a meeting with Schutzman.

Hamant stated that the properties across Boone Street from his house have improved their appearance by 75%. The Mayor stated that the rear areas of the houses have not been improved. The owner of the house next to Hamant's, per the Mayor, has filed bankruptcy and it is just a matter of time before foreclosure papers are filed.

**BUILDING INSPECTOR REPORT**

Schutzman left earlier in the meeting.

**POLICE COMMITTEE**

Chief Stanley was unable to attend this meeting. He is to send a detailed report to the Mayor who will pass the information to his Council members. Denham reports that PHP are doing a very good job.

**FIRE DEPARTMENT REPORT**

The written report is available in the office for review.

The first ALS payment was made to the fire department which will pay Rural Metro for this service, per contract.

Air Care held a training session at our ball park. Loading procedures were reviewed.

**HALL COMMITTEE**

Dan reports that the fire department's Ladies' Auxiliary will meet on November 14<sup>th</sup>.

Dan asks that people keep outside doors closed due to the colder temperatures.

**ROAD AND LIGHT**

Denham had a company inspect the cracks in the streets. He was told they were not bad yet and no bid to seal them was received.

Denham is reporting street light issues to Duke Energy.

Denham is looking into the removal of a tree stub on Moore Street. He could get the job done for \$500.00. This situation, per Denham, is an eyesore and is causing curb damage. This fee can be taken from CEB revenues, per Smith.

Denham will see if Shane Hamant is willing to do snow removal for Bromley.

Denham has received bids for curbing in the amount of \$21.00-\$23.00 per foot for curbs. Bledsoe's fee is \$11.00 for the same service.

**ATTORNEY REPORT**

Resolution 11-2-12 appointing Greg Rechten as our cluster representative for TBNK was approved on a motion made by Smith with a second by Dan. Roll call: all aye. The motion carried.

The Attorney read Ordinance 11-1-12 for the first reading. This ordinance allows for the removal of the 911 fee, beginning on 1-1-13, from the telephone bills. Smith moves to accept this reading. Denham seconds. Roll call: all aye. The motion carried.

The Attorney has sent thirty-nine notices regarding delinquent tax bills. He stated that current-year tax bills have increased by about 50%.

The Hildebrandt and Baker properties will go on the docket this month. The NuWay property will do the same next month.

The Traft property situation remains unchanged and the Attorney feels that this is okay for now.

**MAYOR'S REPORT**

The Mayor congratulated all newly-elected Council members.

The Mayor's meeting was held at the K.C. Cooperative Extension office. All committee members gave a presentation regarding needs for animals that they house for a one-year period. Local residents keep, feed and maintain the animals.

They are looking for community garden space. The Mayor stated that the SD1 lot may be a possibility. Fees for 911 dispatch services were discussed.

The Mayor attended the NKAP Council meeting. The 2012 aerial flyover was completed and maps will be updated.

**PARK AND PLAYGROUND**

The Mayor thanked Jobe for his service to Bromley during his term in office. Jobe will have any park-related paperwork available for the next Park Chairperson. Charlie Foulks asked Jobe if he would be willing to assist with the “movie in the park”. Jobe will do so if the City pays event expenses. Larry Hamant asked if the City would be interested in a drive-in-movie event. The Mayor stated that there are various possibilities for activities at the park and this could be one of them.

**WAYS AND MEANS**

Smith stated that Bromley has received \$160,000.00 from B/P and she will have the Treasurer check into rates offered for C.D.’s and put that money aside. Charlie Foulks volunteered to get C.D. prices for her. There is no objection to this being done.

Smith stated that one Councilperson’s check from 2011 was recently cashed. She asks that Council members cash their checks in a timely manner. The newly ordered checks are to read that they cannot be cashed after sixty days.

Smith will check with the Treasurer about an incorrect item on the report.

At the special meeting last month Grimes handed a bill from KLC to Smith for her to take care of. KLC suggests billing Bromley for insurance from December through June 30<sup>th</sup>. and then going to a fiscal-year payment plan. Smith has approved this request.

**LICENSE COMMITTEE/INSURANCE AND GRANTS**

Rob and Grimes are absent. No reports

**Smith moves to accept all committee reports. Denham seconds. Roll call: all aye. The motion carried.**

**NEWSPAPER AND WEBSITE AND SECOND CITIZEN REPORT**

Rob is absent. There is no input.

Some residents on River Road are not receiving the local newspaper. Rob will be asked to inform the newspaper of this situation.

**OLD BUSINESS**

Greg Rehtin will look into the purchase of two new computers for the office. The Treasurer is also pursuing this matter.

**NEW BUSINESS**

None

**COMMUNICATIONS**

A thank you letter was received from the Fiscal Court thanking Bromley for their donation of a gift card for the Kenton County Senior Citizen’s Picnic.

**BILLS**

Smith moves to pay the bills. Dan seconds. Roll call: all aye. The motion carried.

The meeting adjourned at 8:30 p.m. on a motion made by Smith with a second by Jobe.

**MAYOR** \_\_\_\_\_

**CLERK** \_\_\_\_\_

