

**THE CITY OF KENT, OHIO
COMMUNITY DEVELOPMENT COMMITTEE
WED., DEC. 5, 2007**

This meeting of the Community Development Committee of Kent City Council was called to order on Wed., Dec. 5, 2007 by William Schultz, Chair, at 7:45 p.m.

PRESENT: MR. BARGERSTOCK, MR. DELEONE, MR. FERRARA, MS. GAVRILOFF, MR. HAWKSLEY, MR. KUCHAR, MS. OSWITCH, MR. SCHULTZ, AND MR. WILSON

ALSO PRESENT: J. FENDER, MAYOR; D. RULLER, CITY MANAGER; J. SILVER, LAW DIRECTOR; G. ROBERTS, SERVICE DIRECTOR; B. RISSLAND, DIR. OF BUDGET & FINANCE; AND L. COPLEY, CLERK OF COUNCIL

Chair Schultz said this was a continued discussion on housing issues from November. He said they would be discussing utility billing and voluntary deed restrictions.

Jim Silver, Law Director, explained that with the billing of utilities, they can make it the property owner's responsibility, leaving the tenants out of the process. He said he still is of the opinion they cannot request a deposit, especially on water. Mr. Silver said they have had other discussions, but they are not allowed to collect in advance for the payment of water. He said he is unsure what they would call it otherwise.

Mr. Schultz asked what the current policy was, and Mr. Silver said it assesses the landlord, but the landlords requested they pass it onto the tenants. **Dave Ruller, City Manager**, explained that the Service Department keeps the policy. He said once they make a decision on the policy, there are only a few sentences that need to be changed. He said it is easy to change the policy, but they need guidance on how soon this should be effective, since some people have one year leases. He said **Barb Rissland, Director of Budget and Finance**, will address the issues of implementation.

Mr. Silver said there will be a huge time savings fact if they bill the property owners. He said there are approximately three times a year when the finance department is extremely busy changing addresses and getting final readings.

Mr. Hawksley asked if they can put a lien on for unpaid water bills, and Mr. Silver said they can, if the owner resides at that location.

Ms. Rissland said there is only one place that refers to tenants in the City of Kent Rules and Regulations, which is done by the Service Department. She said that in Section 102, the property owner may request that the tenant be billed directly, after completing an application. She said to implement this policy, they would eliminate that paragraph, or state that water/sewer accounts must be held in the property owners' name. She said another section in the Codified Ordinance is Section 913.07 that speaks of either the landlord or the tenant being held responsible. She suggested that not be changed until the policy is fully implemented, and all accounts are in the names of the property owners. She said they have to wait until the leases end.

Ms. Rissland said most leases are for one year, and she did some analysis to find how many accounts were being discussed. Ms. Rissland said there are approximately 6905 meters in Kent, adding that in 2006 they had 1388 final readings. She said it appears that less than 20% of the total accounts are rented out, and reminded them that this does not include apartment complexes. She said of those 20%, or approximately 1308, they randomly pulled information from 175 accounts. Ms. Rissland said they went on the Portage County website to see how frequently they transferred ownership back to the mid 1990s forward. She said there were 360 property transfers, or an average of 2.06 property owner transfers. She said in that same time period, they had a total of 1523 customers listed for those accounts, for an average of 8.7% or four times the amount of property owners. Ms. Rissland said that anytime a customer transfers, they need to send out a service worker to get a final read, adding it usually transfers back to the property owner. She said once a worker gets a final read, it transfers back to the land owner. She said

the land owner, after cleaning and prepping it, rents it, requiring another reading.

Ms. Rissland said delinquencies are another time intensive process, for both Budget & Finance and the Service Department. Ms. Rissland said have an average of 644 delinquent accounts per month, and of those, 286 received door tags. She said to do a door tag, someone from her department must prepare the tag, and the Service Department tags those doors. She said then they received the phone calls.

Ms. Rissland said as she reviewed the average door tag list, she found that 45% of them were tenant accounts. She said this is more than two times the percentage of actual tenants to overall tenants. Ms. Rissland said of the actual water shut offs per month, they need two service workers and vehicles to turn off the water, returning the next day to turn it back on. She said it is both time and people intensive. Ms. Rissland said much of this would be eliminated if it stayed in the owner's name.

Ms. Rissland said she said she viewed the number of inactive accounts, which reflect unpaid final bills. She said they turn off the water quickly when they know. She said if someone has a final bill, they have thirty days to pay it. She said in the meantime, the new tenant has it turned on and switched into their name. She said they then have to contact the owner, requiring payment, which is a time lag.

Ms. Rissland said from January 2006 to September 2006, 327 were actually outstanding final accounts. She said the amount due was \$21,903. Ms. Rissland said 152 of those accounts were owner accounts, while 185 were tenants. She said it is three times the percentage of tenant accounts.

Ms. Rissland said they have a substantial amount of rental accounts. She said there is a higher percentage of time when dealing with the delinquencies, and a higher percentage of uncollected bills. She said they hope to mitigate that by putting the bill in the property owners' names. She said it would save a lot of Service Department time.

Mr. Kuhar asked what fees are charged for disconnection, and Ms. Rissland said they charge \$10 to tag a door and \$30 to turn it back on. Mr. Kuhar noted they are making \$40 in revenue. Ms. Rissland said those that are tagged and not shut off generate \$10.00.

Mr. Kuhar said the percentages are similar to housing in Kent, with more than 50% being tenant occupied. Ms. Rissland said that does not include the apartment complexes.

Mr. Kuhar noted they have 152 owner bills that are delinquent, and Ms. Rissland said that was for a specific sample time period. Mr. Kuhar said the proposal would eliminate the need for the final reading when the tenant moves out, and asked how the owner would bill the tenant if they are responsible for the water bill. Ms. Rissland said the owner has better or more available access to the meter than the City. She said to get a final read, they have to contact the property owner to get access. She said the landlord could read their own bill. Mr. Kuhar said the owner's could call Ms. Rissland's office and she could calculate the bill, and Ms. Rissland said it is the property owner's responsibility. She said if a bill covers 30 days, they could pro rate it accordingly.

Mr. Kuhar asked how they would get around Ohio law that cannot deny service to a person who is credit worthy, if the tenant demanded the water service in their own name. He said the Ohio law states that either the landlord or the tenant can be responsible, and asked how they deny the service. Mr. Silver said they are allowed to bill property owners under state law. He said the property owner under the Landlord-Tenant law is obligated to provide water to the tenants. Mr. Kuhar said that is one-half of the story. He said they are allowed to bill the owner, but cannot deny the tenant's request for water service. Mr. Silver said not deny property service if owner requests it. Mr. Kuhar asked what happens if the tenant wants water service, and Mr. Silver said they need to talk to their landlord.

Mr. Kuhar said he had lengthy conversation with Medina, who has a good program they use. He said the landlord is responsible, and has a contract with the City. He said the City charges a water deposit to the tenant, which can be waived by the landlord if he so chooses. He said they have had good results for the program, which are mainly one or two family units. Mr. Silver said he was unsure how they get around the

State code, and Mr. Kuhar said it is their opinion they are not collecting on water, but have a contractual agreement for the guarantee of payment. Mr. Kuhar said the Ohio Revised Code says a person who is not credit worthy can be required to pay one-twelfth of the annual bill. He said it is a charge guaranteeing payment. Mr. Silver said they can order him to do that over his objections. He said he would rather let Medina take that change to court.

Mr. Kuhar said that no one thought \$21,000 was a lot of money, but because we have another problem, it is an issue. He said his question is whether it is a lot of money.

Ms. Oswitch asked Mr. Ruller what questions he needed answered, and Mr. Schultz said the first is whether they want to change the policy. He said if they agree to do so, then they have to address the issues of implementation.

Mr. Silver recommended implementation over six months, and Ms. Rissland said it may be longer. She said they need to change the rules and regulations, and those changes have to be advertised. She suggested they contact the 1308 landlord/property owner accounts to let them know what they are doing. She said when the current tenant moves out, they can require the change. She said they need to give it time to cycle.

Ms. Rissland said starting around Jan. 1, a lot of property owners line up tenants for the school years. She said they may have active leases signed, adding they need to wait until they cycle. She suggested they could review it by about October 2008 to see how many are left. She said at that time, they could contact the remaining owners and request they switch over. She said a lot of the leases cycle annually, and once a current tenant leaves, they can request it go back to the owner.

Ms. Oswitch asked if the outstanding monies were just through September 2006, and Ms. Rissland said it was January through Sept. 2006. Ms. Oswitch said they discussed this in Sept. 2006, and asked how much money is still not collected. Ms. Rissland said their unpaid monies are fairly consistent, adding she does see fluctuations because of the volume of estimated reads. She said they are trying to switch out the estimated reads to radios reads. Ms. Rissland said they have a percentage of the bills that are not paid at the time of switching. She said they will get paid over time.

Ms. Oswitch asked why it takes two service works to shut off the water, and **Gene Roberts, Service Director**, said they typically have one worker, unless they are training a new batch of employees. Ms. Rissland clarified it is two service workers going to different addresses.

Ms. Oswitch asked why it has taken fourteen months to get this policy, when they discussed it in Sept. 2006. She said she has asked about it almost every month. Mr. Schultz cautioned Ms. Oswitch not to debate with the staff. Ms. Rissland said the Law Director gave his opinion in Sept. 2007, while they were working on the Capital Plan. She said they prepared the budget in October 2007, and discussed the budget in Nov. She said there was one committee meeting in October, and they discussed the Capital Plan. She said in November, the only committee meeting was for the budget. She said this was their first opportunity since the legal opinion was issued.

Mr. Bargerstock said he was concerned about unanticipated consequences. He said a change in this process could create a problem. Mr. Bargerstock suggested it could be a property owner in bankruptcy, a divorce, a death, or foreclosure. He said if a landlord dies, under the proposed policy, a tenant cannot get water service. He asks what happens when they have the water shut off, adding they will end up on Channel 5 news, and the family is a victim.

Mr. Bargerstock said leases for a resident may cycle every six months to a year, but commercial leases are five or ten years, with some being triple net. He said they may not be an US company, and the tenant becomes a victim.

Mr. Bargerstock suggested that a change may open up a new can of worms. Ms. Rissland said she has also thought about some of those, including longer leases and triple net leases. She said that is why they want time to contact them. Ms. Rissland said she felt they could work it out. She said another issue is a

senior citizen discount is granted to the renter, and that, too, would have to be part of the process. She acknowledged it is not perfect, but they can address them as it occurs. She said they have problems currently, including one shut off for two units. She said examples also include a property owner's that does not fix a leak, and the tenant must pay the higher bill. She said they work through multiple issues daily now.

Mr. Roberts said in terms of the rules and regulations, there is latitude in terms of billing and shut off. He said he could tell them they do have due diligence in place. He said they can work around it if someone needs to bathe their child.

Mr. Bargerstock asked what happens to the tenant who is renting, the landlord who is in bankruptcy, and courts refusing payment. He asked where they draw the line, and Mr. Roberts said he would use a little bit of logic. He said they would seek assistance from the Law Department, and would not turn off water with children involved. He said it is resolution through communication.

(Mr. Schultz stepped down as Chair somewhere during the course of the meeting, and Vice Chair Oswitch chaired the meeting).

Mr. Silver said that some of it requires trusting the staff's discretion for unique circumstances. He said that tenants have other recourse, such as depositing monies with the courts or petitioning the courts to pay the water. He said there are other recourses that involve more than just the City in those circumstances.

Mr. Bargerstock said that not all folks can hire an attorney. He asked what they do when a landlord does not respond if he is in jail or Bermuda, and Mr. Silver suggesting, jokingly, that they authorize the Law Director to go to Bermuda. Mr. Bargerstock said the Law Department is not collecting on fines now, and Mr. Silver said they collect some of the fines.

Mr. Schultz suggested they could include wording that exceptions can be made by the administration based upon applications, thus allowing those special circumstances to be addressed. Mr. Silver agreed.

Mr. Kuhar asked Ms. Rissland to show the overhead slide that shows the percentage of owner delinquencies and tenant delinquencies, and she did so at this time. Mr. Kuhar said they are looking at 56% as tenants, and 46% as owners. Ms. Rissland said this is for single and duplex accounts also, and does not include apartment complexes. Mr. Kuhar asked if they go to the new system, and demand utilities to be in the owners' names, they still have 46.48% of the delinquent accounts owed by homeowners. He said the figure they are looking at is insignificant. Ms. Rissland said the numbers represent the number of accounts, not the dollar amounts. Mr. Kuhar said a home owner with two kids pays the same as a tenant with two kids.

Greg Vilk: Mr. Vilk explained he is a property owner in Kent, adding they know his address. He said he has multiple properties in multiple counties, and has the same situation with his tenants. He said he collects a deposit, which is a buffer to cover the water bill. He said every tenant gets a water bill, adding there is no deposit for water as Ohio law does not allow it. He said if the tenant is delinquent, he gets a notice that they are delinquent. Mr. Vilk said his responsibility is to remind them to pay. He said he is not responsible for payment at that point.

Mr. Vilk said the tenants should pay the bill. He said if they do not pay the bill, the City can collect it through an assessment of the property owner. He said the property owner should have a security deposit. Mr. Vilk said when the lease terminates, he has thirty days to return that deposit. He said he requires each tenant to provide a receipt showing the account is paid in full. He said he does not know what Kent does. Mr. Vilk said if his tenants pay, they get their deposit back. He said if they short pay the bill, he deducts the difference. He said this covers a lot of Mr. Bargerstock's comments about a tenant in good standing. He said the City still has to do final readings. He said he liked Mr. Kuhar's comments about Medina, adding he has been a landlord for twenty years and has not seen that process.

MOTION TO CHANGE THE POLICY WITH THE UTILITY BILL PAID BY THE LANDLORD, WITH

ALLOWABLE EXCEPTIONS TO ADDRESS ISSUES RAISED; AND TO DO FINAL READINGS AT THE PROPERTY OWNER'S REQUEST.

Motion made by Mr. Schultz, seconded by Mr. Wilson.

Mr. Schultz said it may be a little inconvenient for the landlords, but not too inconvenient. He said that people who own property will get the bill, and can notify the tenant to pay it with their rent. He said it will be a little more pencil work, but will save the City money. He said for those not wanting to raise taxes, this allows the streamlining of two departments. Mr. Schultz said it is a cost savings, adding since they do not plan to raise taxes, any move to allow the reduction in costs are valuable.

Mr. Bargerstock said there is a lot of merit to what was just said, and a lot of merit to the change. He said there are still some problems overlooked, adding a lot of cities do it both ways. He said if Council would be favorable to the amendment, he would suggest a duplicate bill sent to the tenant, with the only extra cost being the mailing. He said this would save those dilemmas. Mr. Bargerstock said the landlord is responsible for the payment and associated costs. He said if the tenant and the landlord have an agreement, the tenant can pay on behalf of the landlord, who can negotiate those actions with the tenant. Mr. Bargerstock said this would take care of retail, industrial, and residential, and the City would not be in the middle of the argument. He said normal negotiations could continue without interference.

MOTION TO AMEND TO INCLUDE SENDING A DUPLICATE BILL, AT THE LANDLORD'S REQUEST, TO THE TENANT IN THE LANDLORD'S NAME.

Motion made by Mr. Bargerstock, seconded by Mr. Ferrara.

Mr. Schultz said it is reasonable, adding they send duplicates now.

The motion carried by a voice vote of 8-0-1, with Ms. Oswitch abstaining.

Mr. Kuhar said he is opposed to the main motion, especially with single family nits. He said they are not giving an adult the right to manage their own finances because they are the tenant. He said these are discretionary circumstances, and questioned if they were opening the door to discrimination. Mr. Kuhar said that under the Ohio Tenant Landlord law, the landlord has no remedies other than eviction to collect a water bill. He said the landlord cannot shut off the water, and the only they can do is give the tenant notice to pay the bill. Mr. Schultz said it is a three-day notice, adding that all issues dealing with deficit finances are three days. Mr. Kuhar said the next option is to spend four to six weeks to get to court. He said that Judge O'Neil will not grant the eviction because the tenant says they are going to pay the bill. He said if it is granted, another twenty-eight days have to pass before the eviction process can occur. He said half of Kent's properties are rentals, and they are penalizing the owners. He said the owner's cannot shut off the water, and the tenant does not have to pay the bill for three or four months. He said in a one or two unit, the tenants should be responsible for their own actions. Mr. Kuhar said they heard the average loss is \$75.00, adding they can make it a deposit or an agreement. He said it can be handled by operating it like a business, whether it is the City or the landlord.

Ms. Gavriloff said she supports the motion, adding if they are not paying their water bill, they probably are not paying the electric and/or rent anyway. Mr. Kuhar suggested they make the landlord responsible for the electric bill also. Ms. Gavriloff said Mr. Kuhar is assuming they will pay their rent and their water bill. Mr. Kuhar asked Ms. Gavriloff how many rental properties she owns, adding he is assuming from experience.

Mr. Bargerstock empathized with Mr. Kuhar. He said that ultimately in Ohio, the property owner's is responsible. He said if the landlord wants to negotiate that without the City's interference, they can allow it to continue. He said the City will bill the property owner, and if the landlord requests it, the tenant can get a duplicate bill. He said the landlord will know if the bill is paid, and will get the delinquency notice when it is not paid. He said that the City will not have to pay extra services to have the water turned on or off. He said that the landlord will know faster than anyone if the tenant is a deadbeat. Mr. Bargerstock said it is a win/win situation, adding it allows control and is a good cost saving method.

Mr. Ferrara said he would vote against the motion. He said he appreciated the work done by the staff, adding it would be a cost savings. He said with online access, there must be some other way to reduce the work load for the staff, without a huge burden for the landlords and property owners. Mr. Ferrara said the property owners are vilified in Kent, adding this is "another piling on", Mr. Ferrara said he would vote against it, adding there are other alternatives that can be viewed.

The motion carried by a voice vote of 6-2-1, with Mr. Kuhar and Mr. Ferrara dissenting. Ms. Oswitch abstained.

Ms. Oswitch said the final item on her agenda dealt with voluntary deed restrictions.

Mr. Silver said they were asked for comments on deed restrictions and their implications in September. He said he raised a few questions as to what they wanted to do. He said they can do the program, adding it is "not that big of a deal", but they were unsure how many would partake in it. He asked if it would be citywide or just the four areas where rooming/boarding houses are permitted. He asked what they wanted to offer as money, adding they had to offer something, because they are giving the City a property right. He said it can be any amount, adding they need to set a number. Mr. Silver asked what type of restrictions they wanted, adding it can be money, fines, etc. He asked if they wanted to shut down the house for one year, or have the owner surrender ownership of the property. He concluded they needed direction.

Mr. Wilson said he did not want to spend any money on it for now. He said he did not think anyone would do it voluntarily. Mr. Wilson said he did not see people putting a restriction on their property if it is going to be a problem they sell the house.

Mr. Bargerstock said this is the result of neighborhood meetings, adding it is a vehicle or mechanism for volunteerism. He said no one would be forced to do anything. He said that this would be the neighborhoods that are adjacent to the rental areas. He said that North Willow Street is one neighborhood where they are protective of their property and friendly with each other. He said a lot of them like the idea to offer the City a deed restriction. He said this would protect their neighborhood from someone buying a home in an estate sale and converting it illegally to a rooming or boarding house. He said a good example was when the City bought back property on Vine Street.

Mr. Bargerstock suggested the cost could be \$1.00, which is no great expense. He said there would be a monetary penalty to allow control. He said if there was some sort of zoning change down the road, the City could be instrumental in changing it. Mr. Bargerstock said there are areas that are non conforming uses, adding that fraternities and boarding houses are non conforming. Mr. Bargerstock said there could be a fire, and the property cannot be rehabbed. He said if a neighbor wanted to be sure his house does not become a boarding house, they should be allowed to do this. He said the only cost is the cost for preparing the deed.

Mr. Silver said it is almost the same court process, whether it is a deed restriction or the code. Mr. Bargerstock said the difference is that it is a Property right, and not a policing action. He said when they are in Common Pleas Court, they have more authority with property rights. Mr. Silver suggested he must have talked to the judge.

Mr. Schultz agreed with Mr. Bargerstock. He said it should be around the rental areas and around the campus. He said he thought people would voluntarily do it, as they believe in their neighborhoods and want to protect them. He said he would gladly do it. Mr. Schultz said it is a good idea, and is voluntary. He said all they have to do is advertise it, and allow people to come to them.

Mr. Schultz agreed that the courts look unkindly on the taking of property rights. He said a monetary fine is good one, adding the courts enforce those much better than trying to take properties. He said they will assess the fines. He said they will generally not take property, as it is too severe.

Mr. Kuhar said that he thought it was 1987 when Mr. Silver was teaching a real estate law class. He said he brought to his attention that any Property owner can put on deed restrictions without a city ordinance or law. He said one example is Hartville, adding that no alcohol is used on the property and it is a deed

restriction. He said that availability is still there under the Ohio Real Estate Law. He suggested they can offer it as a public notice, and let people know they can do that if they are so community minded. He said they can do that as a realtor, adding he is unsure he would recommend it to anyone. He suggested they look at the consistency of the homes in the community, they need more residential homes. He suggested they build more developments.

Mr. Hawksley said he is intrigued by the idea, adding they should not write it off too quickly. He said they have a list on their website for licensed boarding and rooming houses, adding they could have a list of deed restricted houses. He said in his experience, people invest in Kent. He said they care about it and would consider doing it. He suggested they try it if they do not pay a lot of money for deed restrictions.

There was no audience comment at this time.

MOTION TO AUTHORIZE VOLUNTARY DEED RESTRICTIONS.

Motion made by Mr. Schultz, seconded by Mr. Bargerstock, and carried by a voice vote of 6-2-1, with Mr. Kuhar and Mr. Wilson dissenting. Ms. Oswitch abstained.

Hearing no further comment, Vice Chair Oswitch adjourned this meeting at 8:40 p.m.

Linda M. Copley, Clerk of Council

ACTION RECOMMENDED:

- 1) **MOTION TO CHANGE THE POLICY WITH THE UTILITY BILL PAID BY THE LANDLORD, WITH ALLOWABLE EXCEPTIONS TO ADDRESS ISSUES RAISED; AND TO DO FINAL READINGS AT THE PROPERTY OWNER'S REQUEST; WITH A DUPLICATE BILL SENT TO THE TENANT, IF THEY REQUEST IT.**
- 2) **TO AUTHORIZE VOLUNTARY DEED RESTRICTIONS**