

Attorney explains 9-1-1, ETSB stance

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Attorney John Kelly cleared up questions, concerns and false statements at a special jointly called I-Com/ETSB meeting.

First, there was question on whether last night's meeting was a legal meeting, as per posting 48 hours in advance.

The meeting's agenda was posted on the door of the 9-1-1 Center, which is in the administrative center. He said the notice has to be placed at the location of the meeting, which was in the county board room in the administrative center.



KELLY

"There's no issue of whether it's a legal meeting," Kelly said.

Kelly has been an attorney specializing in 9-1-1 law for 35 years and has worked at the local, state and national level, he said. He has also been part of putting some legislation into

place.

He is the attorney for both I-Com and ETSB (Emergency Telephone Systems Board or 9-1-1).

As for the question on whether the two boards could hire legal council, he said they can.

I-Com, which was formed by Iroquois County, the city of Watseka and the ETSB board as a separate entity through an inter-governmental cooperation, has the power of any agency that makes it up, he said. Since the city can hire an attorney, I-Com can hire an attorney. He also said the state statute does not limit its ability to hire an attorney.

ETSB is a function of county government, he said. The states attorney is the attorney of all county government, but the states attorney can appoint assistant states attorneys when there might be a conflict with the county, he said.

Kelly is an assistant states attorney representing Kane, Will, Boone and Kankakee counties in 9-1-1 matters. States attorney offices, he said, "don't have the manpower to represent something as specific as ETSB."

The ETSB has to exist. It allows the local community to set up its own 9-1-1 system. "It was never intended to be run out of Springfield or Chicago," Kelly said. He said it's a system created by state statute and county ordinance, and by law a board has to exist to collect a surcharge and spend the surcharge.

The citizens of Iroquois County voted to establish a resolution to establish a surcharge of \$2 to fund the county's 9-1-1 system. In the '90s the state established a

Please see **ATTORNEY**, page 5

>>Attorney, from page 1

Wireless surcharge of 73 cents per phone, of which just 7 cents was given to ETSB to spend.

The ETSB board is the only body that has the authority to spend the surcharge money.

An Illinois Attorney General opinion has stated it's the right of county government. "It's not county government," he said. The county cannot control its money or make its rules. "The county has no authority to spend surcharge funds."

By state statute the ETSB money can only be used on dressing, the 9-1-1 system, maintenance and upgrade of 9-1-1 systems and employees. He said there's conditions put on the spending of money on employees; these employees cannot dispatch.

The 9-1-1 system or ETSB is the recipient and the tributator of all calls for emergency service, Kelly said. ETSB is not a dispatching agency, he said.

I-Com was formed as a cost-cutting measure by both county and city. This consolidation is done all across the state and, in fact, is encouraged by the state. "Exactly what you should do," he said.

"We have to be able to provide the equipment," said ETSB Coordinator Nita Dubble.

Dubble said that is a way ETSB can contribute in an intergovernmental cooperative such as I-Com. He said it's the responsibility of ETSB to have the proper technology to use the system to transfer calls.

There's no reason we can't continue the way we are," Dubble said.

Dubble said. She said entities need to step up to the plate to fund dispatching until ETSB can get back on its feet. "It doesn't have to be different. It doesn't have to be destroyed."

Another question repeatedly brought up is whether the county can enter into contracts without approval of the city, city of Watseka or ETSB approval.

The 2011 I-Com has charged every fire department in the county \$900, every volunteer ambulance agency and charged local police departments based on the number of hours an officer is on duty. These charges are to help pay for the dispatchers' salaries, benefits, policies and procedures. Dubble said the cost to the county for the telecommunicators per call is \$25, and that doesn't include equipment costs.

In, he said, I-Com was formed by the county, the

city of Watseka and the ETSB board as a separate entity through an intergovernmental cooperation and has the power of any agency that makes it up. Saying I-Com cannot enter into contracts, he said, is "simply wrong".

When it's questioned on whether the county knew of such contracts, he said, the agreements were ratified by the approved actions of the I-Com board, of which the county has a representative. The 2011 contracts were approved at that time by the county continuing to be part of I-Com.

He said every where there are agencies billing for dispatching and why should Iroquois County be any different. He knows of counties which charge \$30-75 per call. "You have to expect to pay for that service," he said. The salaries are paid by the users of the system.

He said each emergency department must have some sort of dispatching, and they could set up their own. Or, as an example, if police departments and fire departments agree to step up and fund dispatching, and the sheriff was unable to get funding to contribute, legally the entities could decide to not dispatch for the county.

And in it all, ETSB can decide whether it wasn't to partner with a dispatching agency, he said.

"Someone in this room needs to step up and fund this," said Watseka Mayor Bob Harwood.

"How are you going to get the calls?" asked Kelly. He said it's easiest to have a central location, rather than each agency to have its own dispatch service. And the county and city would see a bigger expense if it went on their own. If the sheriff took on dispatch, he said, he would also have to charge the emergency departments for the services.

"You have to decide what's best for your residents," he said.

Kelly addressed whether the telecommunicators are employees of the county. He said the telecommunicators are employees of I-Com. Their payroll and benefits are services provided by the county through the intergovernmental cooperative.

As for recent legislation, there's fears the state is going to control 9-1-1 service. "Nothing could be farther from the truth."

"I helped put the plan in place. I know of no plan to centralize that money," Kelly said. "There are points that have been brought up that have not been accurate."

The plan he's referring to is Public Act 098-0634, which establishes a central authority — a 9-1-1 administrator and board to separate 9-1-1 from the Illinois Commerce Commission, which also works with the telephone carriers, which are in debate with 9-1-1 as to funding amounts.

The state police will help provide oversight, he said. An audit will be required and if one is not submitted, the monies will be held, said Dubble.

"The audits are to show how much money 9-1-1 needs to operate and to show it's being spent appropriately," she said. The audit has no relationship on the amount of money the county will receive.

In fact, state has admitted to 9-1-1 being underfunded by 20 percent, yet the carriers don't agree with the numbers. Dubble said it would take an additional \$1.08 per line to match her 2009 budget.

Kelly said in the days of everyone having a cell phone and paying hundreds of dollars in costs, fees and apps, the carriers are saying their customers won't pay for an increased tax, which could be as little as \$6 a year.

Kelly said there's been talk of establishing federal funding, but the state is against taking it. "The problem with taking it is the money comes with strings attached." He said there will be a 9-1-1 office established in Washington D.C. to allocate \$200 million in grant monies to be distributed to local 9-1-1 agencies to set up its broadband network.

It all comes down to the fact that Iroquois County must have 9-1-1 and the calls must be dispatched.

I-Com has had a heavy burden, Kelly said.

Iroquois County Board Chairman Rod Copas was not at last night's meeting.

County board member and the county's I-Com representative Jed Whitlow said after Copas' remarks about attending outside meetings and being educated on issues, "Did he come to find out what an expert has to say?"