

VALENCIA COUNTY BOARD OF COMMISSIONERS

Emergency Meeting

March 27, 2009

PRESENT	ABSENT
Pedro G Rael, Chairman	
Donald E. Holliday, Vice-Chairman	
David R Medina, Member	
	Ron Gentry, Member
Georgia Otero-Kirkham, Member	
Eric Zamora, County Manager	
Adren Nance, County Attorney	
Sally Perea, County Clerk	
Press and Public	

1. The meeting was called to order by Chairman Pedro Rael at 3:00 P.M.

2. Pledge of Allegiance led by Chairman Rael

3. Approval of Agenda

Chairman Rael; We have an agenda, it's one action item, any changes fellow Commissioners.

Commissioner Kirkham; Mr. Chairman, I make a motion to approve – make a motion to approve the agenda.

Commissioner Holliday; Second.

Chairman Rael; All in favor of approving the agenda as presented, please say yes.

Commissioner Kirkham; Yes

Commissioner Medina; Yes

Commissioner Holliday; Yes

Chairman Rael; Yes

Chairman Rael; Okay, we have an agenda.

Chairman Rael; First and only item today is ,uh, the Approval of Emergency Ordinance Amending Ordinance 2008-06 Countywide Emergency Communications and Emergency Medical and Behavioral Health Services Tax Ordinance.

But before we do that, let me make sure that we have an emergency because we have to declare that this is an emergency or we will be turned into the Attorney General again, by Ms. Dendinger – who does that regularly every chance she gets and creates atmosphere which is very uncomfortable, quite frankly . And I would request somebody else would be here from the newspaper, besides you from now on. Now uhm.

News Reporter Julia Dendinger; Excuse me?

Chairman Rael; I said, I requested that someone else from the newspaper be here beside yourself. Because this creates very uncomfortable atmosphere – you are turning us into the Attorney General every chance you get, that's why, mam. Yes, that is the only chances you've gotten. Now, uh - I would like to discuss that with you privately if you like to, but that's my personal request. Now - why is this an emergency - let's discuss that a little bit, and I would ask our county manager - uh, okay counsel.

County Attorney Adren Nance; I would like to comment – I wanted to - sorry, I did not mean to interrupt.

Chairman Rael; No, no go ahead, I just want to make sure we have an emergency before we proceed with the meeting.

County Attorney Nance; Anyways, pursuant to the open meetings act and accordance to the pursuant to the 4-37-7 statue, to declare an emergency issue, and I believe it to be so; my recommendation is that you do. What happened is and why we are here, basically is that you all recall in September, the county had a public hearing for a "countywide" gross receipts tax, this was for, for emergency communications, emergency medical and behavior health tax. Uhm - the county published it as a 'countywide tax", and there was a public hearing held on the "county wide tax". A "countywide tax" means everyone in the county, including the municipalities and the cities. It was all issued as "countywide tax" and deferred to "county wide tax" and it was then voted on to go to the voters, (as on the

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agenda) as a "countywide tax", and it did so. Everyone in the county, I mean - every area county voter - who is eligible to vote - voted on it. It passed as the "county wide tax". This means that - jurisdiction in Belen, jurisdiction in Los Lunas and everyone else - they all - they all voted on this, not just the people in the "county area". Uhm, so, it's sent to Tax and Revenue and after that we actually had a budget hearing the other day - and we were sitting here discussing and going through everything and we are looking at it and said, "wow", do we want to look at taxing the "county area" and that is how we saw the red flag. We called Tax and Revenue and they said, is - "what we have is "county area". As the intent was to have "county wide tax" and I think it is perfectly clear by record and the minutes. We have actually asked Tax and Revenue what it would take to correct it we are going into an emergency meeting because it is going to cost us, it will cost the tax payers or citizens a big difference in what we can fund as far as an emergency center goes and it would really harm the welfare of the citizens, if we do not collect what we intended to do. Uhm -Tax and Rev. said they would accept an emergency ordinance, and the reason is - an emergency rather than wait till the next meeting which of course normally would be what we want it to be. Tax and Rev has to have to have this, as they implement this tax on Tuesday, or Monday , uhm -Tuesday. It's in the books come Tuesday and if not changed - then we would have to wait another six months to do it and we would be out the amount of that money for another six months. I think it is for the health, safety and the welfare that it is an emergency. (asked county manager) do you know the exact numbers are?

County Manager Eric Zamora; Roughly, i believe our estimates, Mr. Chairman and Commission are projected 1.8 million dollars a "county wide tax" would generate. Uh -The difference of a "county area tax" would fall near four hundred thousand dollars.

Chairman Rael; We would lose about \$1.4 million. How - What would this do to the E911 center?

Director of E911 Center Shirley Valdez; This would be strenuous and with man power we could not operate or function properly and we could not do that.

Chairman Rael; Okay, that would be for a period of at least six months if we waited till the meeting of April 1st. I want to put dates in here, because April 1st is our next regular schedule meeting.

County Attorney; That is correct, and the thirty - Tuesday, 31st is when the tax rates are set in stone for six months according to Tax and Rev.

Chairman Rael; So we would miss that deadline, if we waited for our next regular schedule meeting.

County Attorney Nance; That is correct, and apparently that deadline can not be - that's the deadline that is unchangeable, from my understanding.

Chairman Rael; Okay , uhm - and Shirley Valdez Director said it would really affect her and the E911 center. Please come forward, so we can talk to you for a little bit. I wanted to ask you, have you relied upon the fact that this tax would produce approximately 1.8 million in running your operation and in planning for the future?

Director of E911 Center Shirley Valdez - Yes sir, I have - uhm - this is something that is very much needed. Not only to the citizens but to all the governing bodies that pay into it. This is something that would be a detriment if we did not make a decision today and get to Tax and Rev.

Chairman Rael - Okay, So, you have already taken steps in planning for the future based upon the anticipated tax of a "countywide tax" rather the just "county area tax", is this correct.

Shirley Valdez - I definitely have as far as man power goes and trying to remodel and get extra positions for us to be able to handle the call volume that we have here in Valencia County, yes.

Chairman Rael - Okay, are there any other elements to this, I know that this tax was divided into two different segments. Wasn't it 60/40, if I remember right - 60% percent for E911, 40% for behavior center and the County EMS. Do we have anyone here from the County EMS folks? (Fire Chief Charles Eaton raised his hand) Can you tell us Mr. Eaton what it would do. Why don't you come up, so we can get you in the record as well -

because we have to make sure we have an emergency, before we proceed with the meeting on the ordinance.

Fire Chief Charles Eaton; Mr. Chairman, I am going to back up with Shirley's seniorio on the 911 board - three weeks ago, actually adopted a preliminary budget for her department based on 1.8. So – you know, if this does not take place today then we would have to go back and amend that - that budget that was approved by the 911 board. I can quite say it would have a negative impact on her service. As far as EMS, we have had a growth pattern we have to meet the needs of the community – in terms of public safety. And being that we are prominently volunteer system – the volunteer system is not really keeping up with the needs with the community based on emergency services needs. So if we do not do this it would set us back a six months period and it would definitely affect the emergency medical services that are being provided to the county from our services.

Chairman Rael; Okay, so you also, like Shirley, also agreed planned ahead of time with relying upon the 40 % of the amount as if it were a "countywide tax".

Fire Chief Charles Eaton; Mr. Chairman and Commissioners - Yes, and this was discovered actually as of earlier this week when we were actually preparing the budgets, and putting those final figures together for the next fiscal year, based on our road plan – that addresses the needs of the community. And if we do not do this, we are going have to go back and seriously, seriously is going to affect our system.

Chairman Rael; Okay, alright any further questions.

Commissioner Medina; Mr. Chairman, I guess in what that counsel is telling us, it looks like it is an emergency on it, so – you know - I just would like to go on record – and say that we do approve this – as an emergency.

Chairman Rael; Okay,uhm – lets –okay, then – then is there anything else that anyone wants to say regarding the emergency nature of the meeting?

No Response.

Chairman Rael; Alright, Commissioner Medina are you making a formal motion to declare an emergency?

Commissioner Medina; Just one second, I did not see the second sheet here – I'm just going over this.

Chairman Rael; Alright.

Commissioner Medina; On an emergency situation, yes, Mr. Chairman, I do say it is – you know - a financial impact on Valencia County and the municipalities and so forth. So, I do go on record that it is an emergency, I think.

Chairman Rael; Okay, Is that in a form of a motion, Commissioner?

Commissioner Medina; Yes, sir, I make a motion.

Chairman Rael; Is there a second.

Commissioner Holliday; Second.

Chairman Rael; Okay, all in favor of declaring an emergency to continue this meeting please say yes.

Commissioner Kirkham; Yes

Commissioner Holliday; Yes

Commissioner Medina; Yes

Chairman Rael; Yes.

Chairman Rael; The motion carried unanimously. Even though, going through the merits of what we need to do and now we can go to our - thank you very much - appreciate that – we just needed to get that matter clarified. Mr. Zamora can you tell us the - what we need to fix here, to get this thing back on track.

County Manager Eric Zamora; Mr. Chairman and members of the Commission what we are looking at is a minor word change – in the title of this ordinance. This will not be "county

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wide" emergency communications, an emergency medical and behavior health services tax. And the key word being "county wide" verses "county area" which was previously approved. That minor word change has very significant financial impact and that is the only change in these documents.

County Attorney Adren Nance; What we are changing and replacing is the word "area" because "wide" would be where the "area" of the topic. This would supplant the documents that they have and it just completely replaces the previous ordinance and Tax and Revenue has account for it, and Tax and Rev said that they would accept as the change.

Chairman Rael; Okay, so if we wrote on it and changed the word – "area" to "wide" that takes care of basically the whole problem.

County Attorney Adren Nance; That is correct. Actually once this commission makes a motion to approve this ordinance we will be giving a different ordinance number – one before you - by the County Clerk has, and approve that and they will accept that as a amended ordinance.

Chairman Rael; Okay, I want to make sure – that we have uh- on the way it was put on the ballot to the tax payers was it broad enough to authorize – a "county wide tax"?

County Attorney Nance; Yes, and as part of the record I would like to state - and make sure that it is in the minutes. We have here the agenda of course, where this ordinance is considered – where it says "countywide". The minutes from that meeting – where it states "countywide" and as well as a certification from the County Clerk that all precincts focus on that, including the precincts that are solely municipalities, uhm, that is a certification from County Clerk and a copy of another resolution, as well as a copy of the language, how the "wide" language was voted on by every citizen who was eligible to vote and wanted to vote in the county.

Chairman Rael; Okay, the written language presented to the public on the ballot and it is broad enough to include the entire county.

County Attorney Nance; It came from the items – the legit items, that "county wide" pacifically there was no mentions in the qualification in the "county area".

Chairman Rael; Okay.

Commissioner Medina; Mr. Chairman, I have a question, I am looking at the ballot itself, right here.

Chairman Rael; Yes.

Commissioner Medina; and it says – "Valencia County impose a one-quarter percent gross receipts tax" - but where does it supposed to show, you said – "county wide".

Chairman Rael; Well, the taxpayers – the question to the taxpayers is broad enough that we could pass an ordinance allowing the "countywide tax" – as well as the "county area tax". The "county area tax" would exclude the municipalities, so we could do either one – the way the tax payers were presented the question – that is my understanding.

County Attorney Nance; That is correct, and the one for the public hearing – for the ordinance was for a "countywide" rather than "county area". That's all it is.

Chairman Rael; Some how the language – in the actual ordinance just got little more restricted then what we were trying to do.

County Attorney Nance; My guess, Mr. Chairman is that when we were drafting the ordinance – we have these language references from Tax and Rev and the publications C-120 thought this would work. The one that was presented and the one that was signed – was from the right side page rather than the left side of the page of the ordinance produced and they are laid out in the Tax and Rev. The Tax and Rev publications give you both ordinances and one next to another – that would be my guess.

Chairman Rael; Okay.

Commissioner Holliday; Do they mean the same thing "county wide" and "county area"?

produced and they are laid out in the Tax and Rev. The Tax and Rev publications give you both ordinances and one next to another – that would be my guess.

Chairman Rael; Okay.

Commissioner Holliday; Do they mean the same thing "county wide" and "county area"?

County Attorney Nance; "County area" means. Mr. Chairman and Commissioner – "County area" means – unincorporated, the unincorporated portion unfortunately is the county. So, just the outlined areas are not in the municipalities. "Countywide" – means municipality as well. They are two different terms, too. Everyone would be serviced by this E911 center that is created by all these entities - so everyone can put their hands on it, other than just the county which would have not been affective.

Commissioner Medina; So counsel is advising us, it looks like everything is in order here.

County Attorney Nance; I do I believe it is, - yes - and I believe it is an emergency – and I believe this is in order.

Chairman Rael; Okay, any further questions or comments by anyone on this issue. Is there a motion to approve the emergency ordinance to allow the imposition of a gross receipt tax, which would be a "countywide area" instead of "county areas" is there a motion to approve that ordinance?

Commissioner Kirkham; So moved, Mr. Chairman. Chairman Rael – Is there a second.

Commissioner Holliday; Second.

Chairman Rael; All in favor of approving the ordinance – say yes.

Commissioner Holliday; Yes

Commissioner Kirkham; Yes

Commissioner Medina; Yes

Chairman Rael; Yes

Chairman Rael; Okay, we have a unanimously agreement on that and-

County Attorney Nance; Mr. Chairman, just for FYI - by law it would repeal the change of the ordinance it would replace the old ordinance.

Chairman Rael; Automatically. Okay. And uh- do we have an ordinance number for this emergency ordinance?

County Clerk Sally Perea; 2009-01.

Commissioner Medina; What was that again, Mr. Chairman?

County Clerk Sally Perea; 2009-01.

Chairman Rael; Okay, Well, our apologies to anybody who may have suffered a little consternation, because we thought maybe we were not going to get all the taxes imposed that we agreed. That is clear – that a publication error –that's all it was. The whole thing was published, campaigned for, and everybody recognized and understood it was going to include all the municipalities – including the municipalities.

Chairman Rael; Is there a motion to adjourn?

Commissioner Kirkham; So moved.

Commissioner Medina; Second.

Chairman Rael; All those in favor say yes.

Commissioner Medina; Yes

Commissioner Holliday; Yes

Commissioner Kirkham; Yes

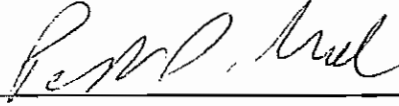
Chairman Rael; Yes.

Chairman Rael; Okay, We are adjourned. Time 3:20:44 P.M.

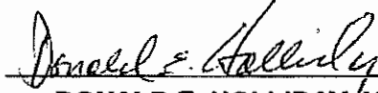
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NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the, March 27, 2009 Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

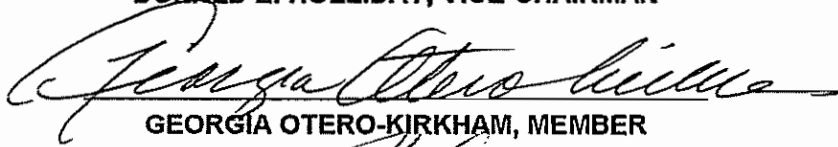
VALENCIA COUNTY BOARD OF COMMISSIONERS



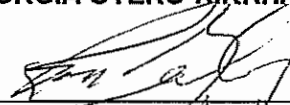
PEDRO G RAEI, CHAIRMAN



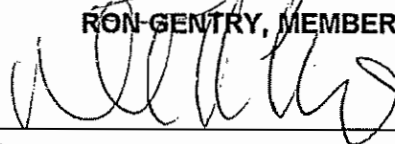
DONALD E. HOLLIDAY, VICE-CHAIRMAN



GEORGIA OTERO-KIRKHAM, MEMBER

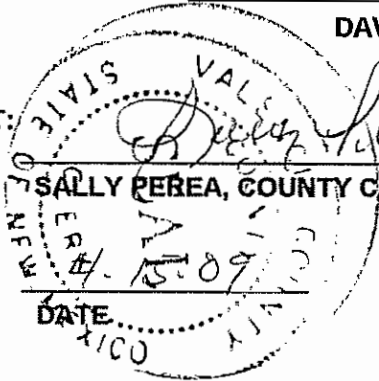


RON GENTRY, MEMBER



DAVID MEDINA, MEMBER

ATTEST:



SALLY PEREA, COUNTY CLERK