

THE COUNTY COMMISSION
OF
STONE COUNTY, MISSOURI
November 15, 2018

STATE OF MISSOURI |
COUNTY OF STONE |

Be it remembered that a session of the County Commission of Stone County was held in the courthouse at Galena, on November 15, 2018. Those in attendance today were Presiding Commissioner Dennis Wood, Southern Commissioner Hank Smythe and Northern Commissioner Mark Maples.

Morning Session:

10:00 AM

Presiding Commissioner Dennis Wood opened the meeting with the pledge of allegiance to the flag. Those present for this meeting today are as follows: Scott Williams, 911 Director; Steve Seaton; County Counsel William McCullah; Denise Dickens, Commission Administrative Assistant and Tena Foster, Stone County Clerk's office.

Approval of Commission Minutes

The matter to approve the minutes for Stone County Commission meetings dated November 13, 2018 was brought to decision by a roll call vote: Smythe – yes; Maples – absent; Wood – yes. Minutes ordered approved.

Schedule of Bills - 1

Presiding Commissioner Dennis Wood presented a schedule of bills that have been submitted to him from the County Clerk's office in the amount of \$50.00. This matter to accept the bills for payment was brought to decision by a roll call vote: Smythe – yes; Maples – absent; Wood - yes. Order to pay carried.

Schedule of Bills - 2

Presiding Commissioner Dennis Wood presented a schedule of bills that have been submitted to him from the County Clerk's office in the amount of \$32,456.80. This matter to accept the bills for payment was brought to decision by a roll call vote: Smythe – yes; Maples – absent; Wood - yes. Order to pay carried.

Schedule of Bills - 3

Presiding Commissioner Dennis Wood presented a schedule of bills that have been submitted to him from the County Clerk's office in the amount of \$172,003.68. This matter to accept the bills for payment was brought to decision by a roll call vote: Smythe – yes; Maples – absent; Wood - yes. Order to pay carried.

Scott Williams 911 Director-discuss 911 Surcharge/Sales Tax

Scott Williams came before the Commission discussing an ordinance of the Stone County Commission, Stone County, Missouri, concerning revised statute of Missouri RSMo 190.460, paragraph 6, regarding Stone County's Opting out of RSMo 190.460.

Based on 911 Director Scott William's, his attorney's recommendation and Stone County Counsel William McCullah's review of the ordinance, they are requesting to the have the County opt-out of RSMo 190.460. The

matter to accept the recommendation's and opt-out of RSMo 190.460 was brought to decision by a roll call vote: Smythe – yes; Maples – absent; Wood - yes. Matter carried.

ORDINANCE NUMBER _____

AN ORDINANCE OF THE STONE COUNTY COMMISSION, STONE COUNTY, MISSOURI, CONCERNING REVISED STATUTE OF MISSOURI 190.460, PARAGRAPH 6, REGARDING STONE COUNTY'S "OPTING OUT" OF 190.460.

BE IT HEREBY ORDAINED by the Stone County Commission as follows:

Whereas, the funding for the entire 911 Emergency Communication operation in Stone County is dependent upon revenue generated by a sales tax, voted by the citizens of Stone County in November, 1998 under RSMo 190.335; and

Whereas, the loss of that revenue would immediately cripple and jeopardize Stone County 911 Emergency Communication's ability to continue to operate, thereby jeopardizing the lives of citizens, visitors, and emergency responders alike and cause a rapid insolvency of said emergency communications operation; and

Whereas, there has not been unequivocal clarity from either the State of Missouri or the Missouri Department of Revenue regarding the interpretation of RSMo 190.460 paragraph 5 "in lieu of" as to whether that will be applied at a transaction level on sales of Prepaid Wireless Emergency Telephone Service Charge (PWETSC) instead of county-wide sales level; and

Whereas, Stone County and Stone County 911 Emergency Communications Board are desirous of staying "in" RSMo 190.460 in order to benefit from potential grants and loans from the Missouri 911 Service Board, yet cannot in good conscience jeopardize the financial viability of such a critical public service as 911 emergency communications by failing to act to ensure the continued collection and receipt of the county-wide 911 Emergency Communication sales tax enacted by a vote of the citizens of Stone County under RSMo 190.335; and

Whereas, there is the widespread speculation that the "in lieu of" meaning referenced above in RSMo 190.460 will be eventually resolved either by clarifying statute, a decision by a court of competent jurisdiction, or by Missouri Regulation and since the legislative intent was to apply the "in lieu of" at a transactional level, i.e. on Prepaid Wireless Emergency Telephone Service Charge (PWETSC) ONLY; and

Whereas, in the event that such regulatory or judicial certainty would protect and ensure the continued collection of our 911 Emergency Sales tax enacted under RSMo 190.335 EXCEPT with regard to sales of Prepaid Wireless Emergency Telephone Service Charge (PWETSC) and make Stone County's 911 Emergency Communications Sales Tax no longer at risk by our continuing to participate (opting "in") to RSMo 190.460, yet that certainty seems nebulous at present;

NOW, THEREFORE BE IT HEREBY ORDAINED by the Stone County Commission, Stone County, Missouri, as follows:

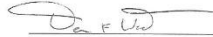
OPTING OUT OF PARTICIPATION IN RSMo 190.460

Stone County is hereby exercising its option to OPT OUT of RSMo 190.460 under paragraph 6, and thereby preclude and prevent the imposition of the 3% sales tax on Prepaid Wireless Emergency Telephone Service Charge (PWETSC) (referenced in RSMo 190.460, paragraph 2) sold in Stone County.

NO EFFECT UPON CURRENT COUNTY 911 SALES TAX

Clarification: Nothing in this ordinance should be construed to have any effect, alteration, or reduction in the 0.25% sales tax authorized by a vote of the citizens in November, 1998, under RSMo 190.335 currently being imposed upon any retail sale including any Prepaid Wireless Telecommunication Service or Prepaid Wireless Emergency Telephone Service Charge (PWETSC).

Approved ~~on~~ on November 15 2018


Dennis Wood, Presiding Commissioner


Hank Smythe, Southern Commissioner

Mark Maples, Northern Commissioner

ATTEST:


Cindy Elmore, Stone County Clerk

Information and Directions for Opting-Out of the 3% Service Charge on Prepaid Wireless Devices as per 190.460 RSMo
COMPLETE AND RETURN THESE MATERIALS ONLY IF OPTING-OUT!

To opt-out of the program, a city or county must pass an ordinance, order, rule, or resolution by no less than **TWO-THIRDS OF THE GOVERNING BODY 190.460.7 RSMo**. Vacancies cannot be subtracted from the number of full members of the governing body to reach this two-thirds mandatory threshold. *Bradley v. Zyrts*, 702 S.W.2d 491 (Mo. App. E.D. 1985). The voting threshold is **NOT** two-thirds of the members present but rather two thirds of the full membership size of your governing body including any vacancies or absentee members.

In order to give the Department of Revenue and retailers sufficient notice time to act, the opt-out action can be no later than 45 days prior to January 01, 2019 (November 16, 2018) per **190.240.7 RSMo**. Consequently, any opt out action will have to have been taken prior to 12:00 A.M. November 16, 2018. Any opt out action taken after that date or effective after that date shall be deemed void by operation of law.

Documents to be returned prior to 12:00 A.M. November 16, 2018:

- This page with all information completed including original signatures.
- A copy of the ordinance, order, rule, or resolution to opt-out of the 3% Service Charge on Prepaid Wireless Devices as per 190.460 RSMo.
- Official Minutes from the meeting at which the motion was adopted. (Draft minutes will be accepted for the November 16, 2018 deadline, however, an officially approved copy is to be submitted before January 1, 2019.)
- Mail the required items to the address below on or before **November 16, 2018**:

The 911 Service Board
Attn: Ann Harris
1101 Riverside Drive, PO Box 749
Jefferson City, MO 65102-0749

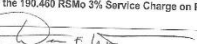
Governing Body: (Mail Merge to match addressee at the top of the memo)

The afore mentioned governing body, has been fully advised of 190.460 RSMo as a funding mechanism for 911 Emergency Communications. As required, this governing body has voted by a majority of no less than two-thirds of our full membership to Opt-Out of this program. We acknowledge that for the duration of this program and/or our legislative prohibition, any local emergency communication services in jurisdictions governed by this body will be ineligible for direct funding via loans or grants from the Missouri 911 Service Trust Fund.

Total number of members in the Governing Body including absences and vacancies: 3

Total number of members in attendance at the time of voting: 2

Number of members voting to Opt-Out of the 190.460 RSMo 3% Service Charge on Prepaid Mobile Devices: 2

Presiding Chair or Executive's Signature: 

Date: 11-15-18

Recess: 10: 15 AM to R&B at Noon

Announcements

Presiding Commissioner Dennis Wood and Southern Commissioner Hank Smythe attended the TAC meeting held at the Library Station in Springfield on Wednesday November 14, 2018. Presiding Commissioner Dennis Wood also served as a subcommittee at the TAC meeting at noon.

Friday November 16, 2018 at 8:30 am, Presiding Commissioner Dennis Wood and Southern Commissioner Hank Smythe will attend the Legislative Affairs meeting held at the Branson/Lakes Area Chamber of Commerce & CVB office, in Branson.

No scheduled Commission meetings next week due to the County Commissioners and several Elected Officials out of town for the MAC Conference in Jefferson City. Next meeting will be November 27 at 10:00 AM. Stone County Clerk Cindy Elmore wants everyone to know all bills need to be turned in by December 18th, last day to pay bills will be December 20th.

Public Time:

Time was extended to anyone who wanted to speak to the commission at this time.

Adjournment:

The adjournment of the Stone County Commission meeting was brought to decision by roll call vote: Smythe – yes; Maples – absent; Wood – yes. Meeting adjourned at 10:25 AM.

Dennis Wood, Presiding Commissioner

Hank Smythe, Southern Commissioner

Mark Maples, Northern Commissioner

Adjournment:

Following the adjournment of the Highway Commission, the adjournment of the Stone County Commission meeting was brought to decision by roll call vote: Smythe – yes; Maples – absent; Wood – yes. Meeting adjourned at 12:39 PM.

