

**RECORD OF PROCEEDINGS
BOARD OF COMMISSIONERS
MARION COUNTY, KS**

April 22, 2019

Commission met in regular session at 9:00 a.m. in the Commission chambers at the Marion County Courthouse with Chr. Kent Becker, Comm. Randy Dallke, and Comm. Dianne R. Novak present. Also present was Co. Clerk Tina Spencer. Present for portions of the meeting were Co. Counselor Brad Jantz, Marcy Hostetler, Henry Ethem, Tom Britain, Carl Stovall, Gene Winkler, Amy Stutzman, Jonah Gehring, Dave Crofoot, Becki Yoder, James Loewen, Ron White, Charles Loewen, Robert Sellers, Randy Eitzen, Evan Yoder, Eddie Coover, Blair Tharp, Nancy Tharp, Terry Eberhard, Bob McFadden, Pat Pelstring, Joel Suderman, Michelle Butts, David Marsh, Cheryl Marsh, and others.

ADMINISTRATIVE: Becker moved to approve the minutes of April 15th as written. Dallke seconded. Motion carried 3-0.

- A change order affecting the 2018 tax roll was reviewed and signed by the Board.
- Early checks were approved for processing: ck#47976 to Summit Truck Group in the amount of \$2,288.25 for truck rental – Transfer Station Fund; ck#47977 to US Bancorp in the amount of \$517.88 for copier agreement – General/Co. Attorney; ck#47978 to Midway Motors in the amount of \$63,970.00 for two 2019 Dodge Durango’s – General/Sheriff and Lake Patrol Funds.
- Salary sheets were signed: Susan Berg, Motor Vehicle Supervisor – five year longevity raise from \$2,828.00/mo. to \$2,884.00/mo. effective 4/14/2019 and Sharon Omstead, Planning/Zoning/Environmental Health Director – six month position review from \$3,120.00/mo. to \$3,728.00/mo. effective 4/15/2019.
- An inspection report of County facilities from Kansas Workers Risk Cooperative for Counties was reviewed. All items have been corrected. Chr. Becker initialed the report.
- The five year Solid Waste Plan was provided to the Board for review and future discussion.
- Video recording of the Commission meetings was discussed. Novak stated opposition to the camera being operated by a County staff member. Becker reiterated that the intent of the previous vote was for the County to take over the process.

FIRE CHIEFS: Lester Kaiser, Matt Voth, and Mike Regnier reported on activities of the Marion County Wildland Firefighting Task Force (on which several Marion County volunteers serve), presented a letter with concerns affecting the fire service in Marion County, and encouraged the Board to consider additional County funding toward the 800 MHz radios. The Board also signed a certification regarding the structure of Fire District #5, so that they can apply for grant funding.

MARION CO. FAIR ASSOCIATION FUNDING REQUEST: Myron Regier, Dan Bernhardt, and Brandi Barney requested County funding in the amount of \$6,000.00 toward a project that would add a roof over the east and west bleachers at the show pavilion. The project cost is \$16,653.22. Becker moved to approve \$6,000.00 County funding to be paid from Sales Tax Fund. Dallke seconded and motion carried 3-0.

Other topics discussed included future improvement projects and the potential to allow groups to utilize the arena for riding horses. No decisions were made.

HEALTH DEPT.: Admin. Diedre Serene provided a quarterly update and discussed upcoming training for staff.

PICTOMETRY: Christian Stitz of Pictometry presented a product overview and pricing options. Also present were Co. Appraiser Lisa Reeder, Deputy Appraiser Brian Frese, Mapping/GIS Manager Debbie Bowman, Planning / Zoning / Environmental Health Dir. Sharon Omstead, and Emergency Management Dir. Randy Frank. All proposals were for two flights over a six year period, with the second flight optional. Each may be paid in three annual installments.

Option 1 – 3” imagery in Hillsboro and Marion and 9” imagery in remainder of the County	\$96,904.00 /flight
Option 2 – 3” imagery in Hillsboro and Marion and 6”ortho/9”oblique in remainder	\$105,525.00/flight
Option 3 – 6” ortho and oblique imagery of entire County including Marion and Hillsboro	\$166,144.00/flight

After discussion, Novak moved to contract with Pictometry for Option 2. Dallke seconded and motion carried 3-0.

RECYCLING DISCUSSION: Dir. Bud Druse and Chris Otto of Fort Riley Recycling were present to discuss the possibility of Marion County recyclables being accepted by Fort Riley. Otto suggested a two month trial period to determine the amount and quality of the recyclables before entering into any type of agreement. After discussion, Dallke moved to enter a trial period with Fort Riley as long as there is no existing agreement in place with Waste Connections that would prohibit the change. Novak seconded and motion carried 3-0.

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April 22, 2019, Continued

CO. COUNSELOR: Co Counselor Brad Jantz presented resolutions for review and approval of the Board. Becker moved to adopt Resolution 2019-03 directing the enforcement of the prohibition on placement of private property on or interference with public right of way or easement in Marion County, Kansas. Dallke seconded and motion carried 3-0.

Becker moved to adopt Resolution 2019-04 establishing and confirming authorization for the construction and maintenance of floating docks at the Marion County Park & Lake by property owners and confirming the intention of Marion County to share liability for the use of such docks by the public and as outlined in the regulations adopted for their use by Marion County. Novak seconded and motion carried 3-0.

A resolution establishing rules and regulations for utility vehicle use at the County Lake was discussed. The consensus of the Board was that an annual fee of \$50.00 be charged. Jantz will finalize the language and bring the resolution back for adoption in the future.

Jantz requested a five minute executive session for contract negotiation. Becker moved to recess into executive session to discuss contract negotiation pursuant to K.S.A. 75-4319b (2) for attorney/client business with the Board, Jantz, and Spencer present for five minutes (from 12:21 p.m. to 12:26 p.m.) with open session to resume in the Commission chambers following the closed session. Dallke seconded and motion carried 3-0. Open session resumed with a motion by Becker to recess into executive session for contract negotiation pursuant to K.S.A. 75-4319b (2) for attorney/client business with the Board, Jantz, and Spencer present for five minutes (from 12:27 p.m. until 12:32 p.m.) with open session to resume in the Commission chambers following the closed session. Dallke seconded and motion carried 3-0. Open session resumed with a motion by Becker to allow Pat Hughes to consult with the Road & Bridge Department in regard to wind energy projects. Novak seconded and motion carried 3-0. The meeting recessed until 1:00 p.m.

CO. ZONING REGULATIONS – ARTICLE 27 DISCUSSION: Becker called the meeting back to order. Novak was absent. Dallke questioned whether the timing for evaluating the regulations is appropriate. Omstead gave a brief overview of the most recent changes. Novak and Jantz joined the session at approximately 1:10 p.m.

Novak requested that a moratorium be implemented and indicated that the procedures that were followed to amend the zoning regulations may not be correct. Novak requested the moratorium to allow enough time to fully review the process and clean up any issues with the zoning regulations.

After further discussion, the Board directed Spencer to schedule attorney Pat Hughes to meet with the Board to discuss any concerns and review the information to determine whether any errors were made. Dallke and Jantz left the meeting.

PUBLIC COMMENT:

- Nancy Tharp expressed that any review of Article 27 should be non-biased. She indicated that she supports the project and sees it as a tool for economic development and a financial benefit to the County.
- Amy Stutzman questioned the liability waiver at the bottom of the open record request form. At Chr. Becker's request, Spencer explained the process and the reason for the waiver.
- Joel Suderman encouraged the Board to resist imposing a moratorium, and to instead allow the established zoning process to work.
- Pat Pelstring indicated that National Renewable Solutions has withdrawn its current CUP application and plans to resubmit with additional information within the next 30 days. Pelstring reiterated that any issues can be corrected through the established zoning process and he believes that a moratorium is simply a delay tactic.
- David Marsh expressed that tax credits for wind energy development expire at the end of the year, thus the sense of urgency on behalf of the project.
- Blair Tharp mentioned that the project has been in development for 15 years, not just recently.
- Stutzman said the zoning regulations need to be proper and legally taken care of prior to allowing another wind farm. And as a landowner within the boundaries of the project, she wants the moratorium for her own protection.
- Tom Britain commented that there are more important things than money.
- N. Tharp commented that money is necessary to keep businesses going.
- Jonah Gehring noted that it would be helpful if those in support of the project were attending County Commission meetings as often as those opposed to the project.
- Randy Eitzen said he understands why one property owner is upset, since the wind energy project decided to come to town shortly after she began building a new home.

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Becker moved to adjourn. Novak seconded and motion carried 2-0. Meeting adjourned at 2:00 p.m.

Kent Becker, Chairman

ATTEST: _____
Tina D. Spencer, County Clerk

RESOLUTION NO. 2019-03

A RESOLUTION OF THE COUNTY OF MARION DIRECTING ENFORCEMENT OF THE PROHIBITION ON PLACEMENT OF PRIVATE PROPERTY ON OR INTERFERENCE WITH PUBLIC RIGHT OF WAY OR EASEMENT IN MARION COUNTY, KANSAS.

WHEREAS, Marion County, Kansas has the responsibility for and is authorized to undertake any maintenance, repair, or improvement of public property within the jurisdictional limits of Marion County, Kansas excluding any property of various municipalities within said County, and

WHEREAS, from time to time, private citizens desire to preempt public property and convert such property to place, store, or otherwise utilize such public property for private benefit within the County, and

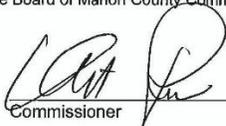
WHEREAS, Marion County Commission desires to confirm the prohibition on such private use and to direct that such prohibition be enforced in those instances where private uses of any public right of way or easement are being maintained or undertaken.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MARION COUNTY COMMISSIONERS:

1. That, absent express approval given in advance, no private citizen may use or attempt to use public property of any kind or character for personal benefit including, but not limited to, storage or placement of any personal property on such public property.
2. That with such approval, if given, the County assumes no additional responsibility for further maintenance or repair necessitated by the actions undertaken by the private citizen.
3. Absent such advance approval, any such use shall be considered trespass and a notice provided by personal service or certified mail shall be provided of the prohibited act(s) with ten (10) days from the date of such notice to remedy the trespass.
4. That, absent such approval, the Marion County Commission reserves the right and, at its discretion, will pursue any and all civil or criminal remedies, including damages available to it under the laws of this State.
5. That given the existing prevalence of such uses being undertaken by private property owners adjacent to public right of way or easement, the County Commission hereby states its intent and directs that enforcement of this prohibition be undertaken to address and correct the unauthorized uses of public right of way and easements by all legal means.

Motion to approve the above Resolution was made by Chr. Becker, Commissioner, seconded by Danke, Commissioner, and upon roll call was passed by the following vote this 22 day of April, 2019.

ADOPTED AND APPROVED by the Board of Marion County Commissioners on April 22, 2019.


Commissioner


Commissioner


Commissioner



ATTEST:


County Clerk

RECORD OF PROCEEDINGS
BOARD OF COMMISSIONERS
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April 22, 2019, Continued

RESOLUTION NO. 2019-04

A RESOLUTION OF THE COUNTY OF MARION ESTABLISHING AND CONFIRMING AUTHORIZATION FOR THE CONSTRUCTION AND MAINTENANCE OF FLOATING DOCKS AT THE MARION COUNTY PARK AND LAKE BY PROPERTY OWNERS AND CONFIRMING THE INTENTION OF MARION COUNTY TO SHARE LIABILITY FOR THE USE OF SUCH DOCKS BY THE PUBLIC AND AS OUTLINED IN THE REGULATIONS ADOPTED FOR THEIR USE BY MARION COUNTY.

WHEREAS, Marion County, Kansas has the responsibility for and is authorized to regulate the all aspects of and related to the use of Marion County Park and Lake, and

WHEREAS, construction and use of various docks along the shore of the lake, including those private constructed and owned by citizens owning property along the shore, and

WHEREAS, Marion County Commission requires that such docks be available to the public when not in use by the property owner, and desires to provide vehicles for the use of such public safety officers and establish and articulate a clear and unequivocal intention to have such vehicles designated ad used as qualified nonpersonal use vehicles excluded from the employee's income as a working condition fringe benefit.

WHEREAS, Marion County Commission desires to confirm its intention to maintain insurance coverage for liability related to public use of such docks.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MARION COUNTY COMMISSIONERS:

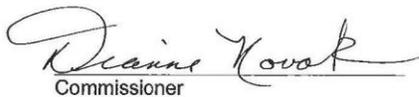
1. That, given the requirement for public accessibility to private docks maintained along the shore of Marion County Park and Lake, Marion County will maintain liability coverage in amounts at the discretion of the County for public use of docks maintained along the shore of Marion County Park and Lake.
2. That, private property dock owners shall be responsible for any liability and attendant insurance coverage for private uses and those specifically authorized or endorsed by the private owner of and for such docks.

Motion to approve the above Resolution was made by Chr. Becker, Commissioner, seconded by Navak, Commissioner, and upon roll call was passed by the following vote this 22 day of April, 2019.

ADOPTED AND APPROVED by the Board of Marion County Commissioners on April 22, 2019.


Commissioner


Commissioner


Commissioner



ATTEST:


County Clerk