

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

August 19, 2019

Commission met in regular session at 9:00 a.m. in the Commission chambers at the Marion County Courthouse with Chr. Kent Becker, and Comm. Dianne R. Novak present. Comm. Randy Dallke joined the session at 9:06 a.m. Also present was Co. Clerk Tina Spencer. Present for portions of the meeting were Co. Counselor Brad Jantz, Tom Britain, Henry Ethem, Trayce Warner, Dave Crofoot, Kade Warner, Jonah Gehring, Larry Fine, Michelle Butts, Charlie Loewen, Randall Eitzen, Mary Crabb, Shawn Crabb, Amy Stutzman, Daniel Stuchlik, other members of the public, and members of the press.

2020 COUNTY BUDGET HEARING: Scot Loyd of Swindoll, Janzen, Hawk & Loyd was present for the 2020 Marion County budget hearing. Chr. Becker opened the floor for public comment. Henry Ethem asked whether a final decision has been made for funding the transfer station project, and whether the County is operating its funds “in the black”. (No final decision has been made regarding the funding, and there were no funds with a cash violation in the previous year.)

Chr. Becker closed the public hearing and opened the floor for Commission discussion. After Commission discussion, Becker moved to approve the 2020 Marion County budget. Dallke seconded and motion carried 3-0.

ADMINISTRATIVE: Becker moved to approve the August 12th minutes as written. Dallke seconded. Motion carried 3-0.

- Supplements affecting the 2019 tax roll were reviewed by the Board. Change orders affecting the 2018 and prior years’ tax rolls were reviewed and signed by the Board.
- Early checks were approved for processing: #48960 to Cooperative Grain & Supply in the amount of \$16,722.93 for transport fuel – R&B Fund, and #48961 to Eagle Communications in the amount of \$149.94 for cable/internet – Park & Lake Fund.
- Resolution 2019-12 (approved on August 12th) was presented for signature and was signed by the Board.
- Spencer reported that Co. Engineer Brice Goebel has submitted a copy of his Professional Engineer License for the State of Kansas to the County, as required.

ROAD & BRIDGE: Co. Engineer Brice Goebel presented transport fuel bids for review:

	Tank #3 4,000 gals.	Tank #1 1,500 gals.	Unleaded 2,500 gals.	Total
Epp’s Service, Elbing	2.1190	1.8630	1.9275	\$16,089.25
Coop Grain, Hillsboro	2.1490	1.8900	1.9540	\$16,316.00

Becker moved to accept the low bid from Epp’s Service in the amount of \$16,089.25. Dallke seconded. Motion carried 3-0.

- Novak reported that trains have been blocking the roadway in Ramona for hours at a time, cutting off citizens’ access to and from the town. After discussion, the Board agreed to ask Co. Counselor Brad Jantz for advice.

ADMINISTRATIVE: The Board agreed to have Spencer proceed with dimensions, pricing and sample finishes for a modular table for the Commission room, which will be brought back for approval.

PUBLIC COMMENT: Trayce Warner asked why the tree south of the Courthouse was removed. (It died and was removed). Session recessed until 10:30 a.m.

DIAMOND VISTA ROAD DISCUSSION: Co. Counselor Brad Jantz, Co. Engineer Brice Goebel, Planning/Zoning/Environmental Health Dir. Sharon Omstead, and Tanner Yost and Dave Prater of Kirkham Michael Engineering joined the session. The contractor in charge of road maintenance and repairs for the Diamond Vista project and the project’s parent company, Enel Green Power (EGP), claim that they are not responsible for fixing road issues caused by recent heavy rains and/or flooding, citing “force majeure”. The County has not accepted the roads back post-construction, and no post-construction inspection has been completed as required by the Road Maintenance Agreement (RMA). Therefore, the County contends that EGP is still required to maintain the roads.

Jantz noted that the County can take steps to enforce the RMA, up to and including revocation or suspension of the Conditional Use Permit. The County (with proper notification and communication) could also move forward with immediate repairs on certain road issues that are a threat to public safety and bill the cost of those repairs to EGP. After additional discussion, Becker moved to direct Co. Counselor Brad Jantz to correspond with Enel in regard to the road situation that we have and the need for immediate attention. Novak seconded and motion carried 3-0.

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August 19, 2019, Continued

CO. COUNSELOR: The Board asked Jantz what options are available to keep the railroad from allowing trains to block the road in Ramona. Jantz suggested a phone call, then additional contact if the situation is not resolved. The Board agreed to have Jantz address the situation by contacting the railroad and corresponding through whatever means he deems appropriate.

Becker moved to adjourn. Dallke seconded and motion carried 3-0. Meeting adjourned at 11:15 a.m.

Kent Becker, Chairman

ATTEST: _____
Tina D. Spencer, County Clerk

RESOLUTION NUMBER 2019-12

A RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO ESTABLISH A WIRELESS COMMUNICATIONS TOWER ON CERTAIN PROPERTY GENERALLY LOCATED AT 1181 HIGHWAY K-15, NEWTON, KANSAS.

WHEREAS, application has been made by US Cellular, Kole Talbott, agent, on behalf of Duane and Karen Unruh, owners, requesting a Conditional Use Permit to establish a wireless communications tower on property zoned "A" Agricultural District, in Section 8, Township 21 South, Range 1 East, Marion County, Kansas; and

WHEREAS, following proper notification in the official County newspaper of a public hearing, on July 3, 2019, the Marion County Planning Commission held a public hearing on Case No. PC-19-02 on July 25, 2019, to consider the above said proposed conditional use; and,

WHEREAS, the Marion County Planning Commission has recommended approval of a conditional use permit for the establishment of a wireless communications tower, subject to certain conditions; and,

WHEREAS, the Board of County Commissioners of Marion County, Kansas, having reviewed the record of such hearing and the recommendation of the Marion County Planning Commission and determining the protest time has expired for such case declares it has proper jurisdiction to act upon said recommendation.

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

1. The following described property is hereby granted a Conditional Use Permit to establish a wireless communications tower, subject to the conditions and restrictions listed herein:

S8 T21 R01, ACRES N/2 N/2 S/2 NE/4 & PRT N/2 NE/4 BEG SW/C N/2 N/2 S/2 NE/4 N ON W LI NE/4 896.32' TO SW/C E 447.47' TO SW/C HARVEST MEADOW ADDN E 903.05' TO SE/C HARVEST MEADOW ADDN E 1167.76' S 892.62' W 2525.05' TO POB.

2. The Conditional Use Permit herein granted shall be subject to the following conditions and restrictions:


- A) If unused for a period of twelve (12) months or more, the structure shall be declared abandoned and the applicant shall be required to remove the tower and appurtenances. Affected ground shall be restored to a use compatible with surrounding use;
- B) Strict adherence to the development plan of record;
- C) Compliance with all applicable federal, state, and local regulations is required, and;
- D) Proper drainage, as determined by County staff, shall be installed by US Cellular and approved by County staff.

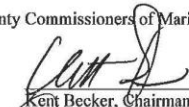
3. This resolution shall be in full force and effect from and after publication in the official county newspaper.

BE IT FURTHER RESOLVED, that it is hereby directed that the Marion County Zoning District Maps be amended to reflect above said conditional use.

This Resolution is made by the Board of County Commissioners of Marion County, Kansas on this 12th day of August, 2019.

Attest:


Tina Spencer, County Clerk


Kent Becker, Chairman, District 1


Dianne Novak, Commissioner, District 2


Randy Dallke, Commissioner, District 3

