

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

July 1, 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 Marcy Hostetler, Co. Counselor Brad Jantz, Henry Ethem, Tom Britain, Shawn Crabb, Mary Crabb, Jonah Gehring, Angie Mendoza, Gerado Mendoza, Amy Soyez, Joel Suderman, Michelle Butts, Larry Fine, Randall Eitzen, Robert Sellers, Amy Stutzman, Yvonne Cushenbery, Dave Crofoot, Trayce Warner, Patrick Pelstring, Trish Blankenship Voth, other members of the public, and members of the press.

ADMINISTRATIVE: Novak moved to approve the minutes of June 24th as written. Dallke seconded. Motion carried 3-0.

- Dallke moved to approve the minutes of June 28th as written. Becker seconded and motion carried 3-0.
- A salary sheet was signed for new part-time Corrections Officer Travis Pohlman at \$13.08/hour effective 5/29/2019.
- The Board reviewed the Universal Contract for local aid between Kansas Department of Health and Environment (KDHE) and the Marion County Health Department, and Chr. Becker signed the documents.
- Becker moved to adopt Resolution 2019-09 establishing the service fees for the 2020 budget year (2019 tax year) for solid waste facilities. Dallke seconded and motion carried 3-0.
- After discussion, Becker moved to grant permission for a five kilometer running race to be held on 290th (in conjunction with a family reunion) on Saturday, July 6th, subject to the approval of the Co. Counselor. Dallke seconded and motion carried 3-0.

ROAD & BRIDGE: Co. Engineer Brice Goebel presented salary sheets for part-time summer help for the department: Layne Nienstedt at \$10.00/hour effective 7/8/2019, Aidan Svoboda at \$10.00/hour effective 7/1/2019, and Kyle Wanger at \$10.00/hour effective 7/8/2019.

- The Board agreed that Goebel may advertise a mechanic position which will be vacant in two weeks.
- The Board consented to Goebel having a booth at the County Fair to discuss road issues with patrons.
- Goebel indicated that a section of Kanza east of the reservoir needs emergency repairs, which will require the road in that area to be closed for about a week.
- The Board directed Goebel to look at several road issues that were reported to them by constituents.
- Goebel asked the Board to consider the purchase of a different skid steer for the department. No decision was made.

PLANNING/ZONING/ENVIRONMENTAL HEALTH – EXPEDITION WIND CUP PROCEDURAL DISCUSSION:

Dir. Sharon Omstead, Attorney Pat Hughes, and Consultant Russ Ewy joined the session to update the Board on the current status and next steps for the Conditional Use Permit (CUP) application for Expedition Wind. Co. Counselor Brad Jantz also joined the session at this time. The Board asked several clarifying questions in regard to procedure of addressing the CUP application and the Planning Commission's recommendation. Ewy reported that the protest petition which was filed on June 24th does not contain signatures of enough landowners to be considered sufficient. Therefore, the procedure for the County Commission to either approve, modify, deny, or send back to the Planning Commission is not altered.

- Hughes indicated that Expedition Wind may request some slight modifications or seek clarification in regard to the recommended conditions for approval voted on by the Planning Commission.
- The next step for the Board of County Commissioners is to approve, modify, deny, or send the application back to the Planning Commission for further review of specific items.
- Hughes noted that the ancillary agreements (road maintenance, PILOT, etc.) are to be negotiated only if the CUP is approved, and that the Board of Commissioners are to address the land use question as they review the application and the recommendation of the Planning Commission (not any related tax issues).
- Existing agreements on the Doyle projects were discussed, and will be provided to Hughes and the Board for review prior to the potential negotiation of any ancillary agreements for the current CUP application.

CO. COUNSELOR: After discussion about the road race discussed earlier in the session, Jantz noted that the Board can grant permission, but there are certain safety concerns. After additional discussion the Board agreed that a Special Events Permit application should be utilized. Becker moved to waive the \$50.00 special events permit fee. Dallke seconded and motion carried 3-0.

- Jantz agreed to provide a check list to the Board for the July 8th meeting to be utilized in the review of Expedition Wind's CUP application.
- The general consensus of the Board was to receive no additional public comment in regard to the application UNLESS new information is submitted by the applicant for review. If changes are requested by the applicant, the Board generally agreed that public comment would be allowed on the proposed changes.

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PUBLIC COMMENT: There were no public comments.

Becker moved to adjourn. Dallke seconded and motion carried 3-0. Meeting adjourned at 10:26 a.m.

Kent Becker, Chairman

ATTEST: _____
Tina D. Spencer, County Clerk

**MARION COUNTY, KANSAS
RESOLUTION 2019- 09**

**A RESOLUTION ESTABLISHING A SERVICE FEE FOR 2020 FOR SOLID WASTE
FACILITIES, ASSESSING THE FEE ON REAL PROPERTY, AND ESTABLISHING THE
MANNER OF COLLECTION OF THE SOLID WASTE FEE**

WHEREAS, K.S.A. 65-3410, as amended, authorizes a schedule of solid waste fees to be imposed on real property within a county; and

WHEREAS, K.S.A. 19-101a grants Home Rule powers to the County to enact nonconflicting laws on the same subject matter as state laws; and

WHEREAS, it is deemed in the best interest of Marion County, Kansas, for solid waste disposal fees to be imposed on all real property within Marion County on which solid waste is or may be generated. Such fees shall not be for purpose of collection of solid waste or its transportation to a solid waste facility.

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

Section 1. The following definitions shall apply throughout this Resolution:

“Business” shall mean any building, structure or place, whether in commercial, industrial, institutional, governmental or other non-residential use, that generates or may generate solid waste.

- a. Each hotel or motel shall be a business.
- b. A retirement home without independent living units shall be a business.
- c. Home occupations or other home-based businesses shall be businesses upon determination by the County Sanitarian that the generation of solid waste by such use routinely exceeds the volume of solid waste generated by similar nearby residences.
Note: If a business is in a separate building from the home, then a \$132.00 Commercial Fee and a \$100.00 Residential Fee will apply.

“Collection fee or charges” means any fees or charges imposed by solid waste collectors, public or private, for providing the service of collection of solid waste at the site of its generation, and transportation of such waste to a solid waste facility.

“Construction and demolition waste” means lumber, masonry, concrete, other building materials and the resultant mixture with soil or other solid waste resulting from construction, remodeling, repair or demolition of buildings, structures, pavements, bridges and similar projects.

“Disposal fee” means the solid waste assessment paid by residential and business real property owners to the Marion County Treasurer in accordance with this Resolution. Such assessment shall be utilized to pay for the costs associated with the handling of solid waste at the Marion County transfer station or any other solid waste facility designated by the Board of County Commissioners, and for the costs of transportation to and final disposition at a disposal area. The

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disposal fee established by this resolution does not encompass collection fees or charges for the collection of solid waste at its site of generation or its transportation to the Marion County transfer station or other solid waste facility.

"Garbage" means the animal and vegetable waste or the mixture thereof, resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, produce, and other foods and shall include unclean containers. The definition is intended to include all material defined as "garbage" in K.S.A. 12-2101(1).

"Generator" means the person actually bringing into existence, generating or producing solid waste and includes its point of generation of origin.

"Hazardous wastes" means solid and liquid wastes which require special handling and/or disposal to avoid illness or injury to persons or damage to property and to protect and conserve the environment and shall include, but not be limited to: pesticides, acids, caustics, other dangerous chemicals, pathological wastes, radioactive materials, flammable or explosive materials, oils, solvents and similar chemicals, and materials that are significantly contaminated with one or more of the above enumerated wastes, and shall also include containers, materials and solid wastes that have been contaminated with hazardous wastes. Hazardous wastes include materials or substances which, by reason of their composition or characteristics, are:

- a. Hazardous waste as defined in the Solid Waste Disposal Act, 42 U.S.C. 6901, et seq., or the regulations thereunder, Resource Conservation and Recovery Act, Subtitle D, and applicable Kansas statutes or the regulations thereunder, and any similar or substituted legislation or regulations or amendments to the foregoing.
- b. Any other materials which any governmental agency or unit having appropriate jurisdiction shall determine from time to time are harmful, toxic or dangerous.

"Person" means any individual, firm, trust, partnership, company, association, corporation, institution, or government department or agency.

"Residence" shall mean any living quarters designed for occupancy by a single family that generates or may generate solid waste. For purposes of calculating the monthly disposal fee:

- a. Each manufactured home/mobile home shall be one residence.
- b. Each of the living quarters in an apartment building shall be one residence, provided however, that each living quarter in an apartment building or other multi-family residential structure that: (1) has 10 or more living quarters, (2) uses a dumpster or other common solid waste collection system, and (3) is operated by a public housing authority shall be assessed at one-half the assessment for residences as set out in Section 2.a of this resolution.
- c. Each independent living unit in a retirement center shall be one residence.

"Sewage" means sewage as defined by K.S.A. 65-164, which includes any substance that contains any of the waste products or excrementitious or other discharges from the bodies of human beings or animals, or chemical or other wastes from domestic, manufacturing or other forms of industry.

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"Solid waste" means garbage, trash, commercial garbage, commercial trash, and all other discarded materials (including recyclable materials), but is not limited to, useless, unwanted, or discharged solid or liquid (other than sewage) material relating to or produced by agricultural, commercial, domestic, industrial or manufacturing activities and other containers, packing materials, vegetation, ashes, furniture, manure, street sweepings and mud trap accumulations. The term "solid waste" does not include any uncontaminated earth, stone, or minerals or junk vehicles or hazardous wastes, although "solid waste" may include small amounts of non-regulated and spent or empty containers of hazardous wastes mixed with regular refuse. The term "solid waste" also does not include construction and demolition waste in volumes in excess, per residence and per business, of one cubic yard per pickup.

"Solid waste service area" means the unincorporated and incorporated areas comprising Marion County, Kansas.

"Trash" means non-putrescible materials, including all materials defined as "trash" in K.S.A. 12-2101(2).

"Unit of solid waste" shall mean two (2) cubic yards or less of solid waste collection one (1) time per week over a period of one (1) year.

Section 2. The owners of real property in the Marion County solid waste service area, on whose property solid waste is or may be generated, shall pay the following per unit disposal fee for each residence and/or business located on their real property:

- a. Residences
For each residence located in Marion County, as defined in Section 1 above, the assessed fee shall be \$8.33 per month, to be billed at the annual rate of \$100.00, for one (1) unit of solid waste.
- b. Businesses
Each business located in Marion County, as defined in Section 1 above, shall be assessed a minimum of one (1) unit of solid waste annually, at the rate of \$11.00 per month, to be billed at the annual rate of \$132.00, per unit. Businesses that generate more than one (1) unit of solid waste, as the result of more than one dumpster collection per week, shall be classified, assessed and billed as follows:

Classification	# of Units	Annual Assessment
A	1	\$132.00
B	2	\$264.00
C	3	\$396.00
D	4	\$528.00
E	5	\$660.00
F	6 or more	*

*The annual assessment for any business that generates six (6) or more units of solid waste per week shall be fixed by the Board of County Commissioners.

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Section 3. The County Sanitarian or his or her designee is hereby authorized to determine the number of units of solid waste each business generates above the one (1) unit minimum, by contacting the City Clerk if collection is by municipal waste collection service or the private collection service if otherwise, to determine the number of two (2) cubic yard dumpsters serviced at each business and the number of times per week the solid waste is collected. The County Clerk shall then impose the proper solid waste assessment fee on the real property of each business as provided herein.

Section 4. All solid waste assessments shall be collected on an annual basis, and shall be billed with the ad valorem property tax statements. Owners of tax exempt real property on whose property solid waste is generated shall be sent a notice of assessment by the County Clerk at the same time that the ad valorem property tax statements are issued.

Section 5. Solid waste assessments which accompany the ad valorem tax statements are for the calendar year – January 1 to December 31 – following the year in which the solid waste statement is dated and mailed. For example, the assessments mailed in the last quarter of the year 2019 are for the calendar year 2020. Solid waste assessments are due and payable at the office of the County Treasurer at the same time that the general property tax bill is due and payable. Delinquent solid waste assessments shall be subject to the same penalties, interest, and procedure and sale in case of delinquency as provided for ad valorem property taxes. All laws applicable to the levy, collection, and enforcement of County ad valorem property taxes shall be applicable to solid waste assessments.

Section 6. Refunds for solid waste assessments may be authorized for the current year and the year immediately preceding. Should it be verified by the County Clerk or her designee that a business has been under-assessed, Marion County may collect the proper fee for the current year and the preceding year from the owner of real property on which the solid waste was generated. The services of the County Sanitarian may be utilized to assist in verification.

Section 7. If at any time prior to the mailing of the solid waste assessments, a real property owner on whose property solid waste is generated believes that a classification error has occurred, such owner shall supply the County Clerk or her designee with a verified application for re-classification. Upon review of and agreement with the request, the County Clerk or her designee shall re-classify the subject property and certify to the Marion County Board of Commissioners the correct classification and assessment.

Section 8. For new residences or businesses, solid waste assessments shall go into effect at a time and rate set by current resolution.

Section 9. In accordance with K.S.A. 65-3410, the County Clerk or her designee shall cause to be mailed annually a schedule of the solid waste assessment fees to each owner of real property on which solid waste is or may be generated in Marion County. Said schedule of fees may be mailed with the annual solid waste assessments.

Section 10. In accordance with K.S.A. 65-3410, on or before September 30th of each year the Board of County Commissioners shall prepare a report of delinquent owners of real property on which solid waste is generated.

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Section 11. This Resolution shall be effective from and after its adoption by the Board of County Commissioners. The County Clerk is hereby authorized, ordered and directed to cause publication of this Resolution one time in the official County newspaper.

ADOPTED by the Board of County Commissioners of Marion County, Kansas, this 1st day of July, 2019.

BOARD OF COUNTY COMMISSIONERS OF
MARION COUNTY, KANSAS

Ken Becker
Ken Becker, Chairman

Randy Dalko
Randy Dalko, Commissioner

Dianne R. Novak
Dianne R. Novak, Commissioner



ATTEST:

Tina D. Spencer
Tina D. Spencer, Marion County Clerk

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