

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

April 29, 2019

Commission met in special 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 Henry Ethem, Marcy Hostetler, Yvonne Cushenbery, Tom Britain, Joel Suderman, Amy Stutzman, Jim Gillmore, Rob Titus, Ron White, James Loewen, Charles Loewen, Larry Coover, Mark Pankratz, Nick Peter, Becki Yoder, Michelle Butts, Robert Sellers, David Marsh, Lorrie Peter, Randy Eitzen, Cheryl Marsh, Shawn Crabb, and members of the press.

EMPLOYMENT INTERVIEW: Consultant Norm Bowers and an applicant for the County Engineer position joined the session. Becker moved to recess into executive session to conduct an employment interview pursuant to K.S.A. 75-4319b (1) for personnel matters of non-elected personnel with the Board, Bowers, and the applicant for 45 minutes (from 9:03 a.m. to 9:48 a.m.) with open session to resume in Commission chambers following the closed session. Novak seconded and motion carried 3-0. Open session resumed with a motion by Becker to recess into executive session to continue an employment interview pursuant to K.S.A. 75-4319b (1) for personnel matters of non-elected personnel with the applicant, the Board and Bowers present for 15 minutes (from 9:49 a.m. to 10:04 a.m.) with open session to resume in Commission chambers following closed session. Dallke seconded and motion carried 3-0. Open session resumed with no action.

Becker moved to recess into executive session to discuss the County Engineer position and applicants pursuant to K.S.A. 75-4319b (1) for personnel matters of non-elected personnel for 10 minutes (from 10:06 a.m. to 10:16 a.m.) with the Board and Bowers present with open session to resume in 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 to discuss applications for the County Engineer position pursuant to K.S.A. 75-4319b (1) for personnel matters of non-elected personnel with only the Board present (for 12 minutes) until 10:30 a.m. with open session to resume in Commission chambers following the closed session. Novak seconded and motion carried 3-0. Open session resumed with no action. Session recessed briefly.

TRANSFER STATION PROJECT UPDATE: Dir. Bud Druse joined the session. Dallke reported on the pre-planning meeting for Phase 2 of the transfer station project. Dallke suggested several proposed changes to the engineering firm for inclusion in the plans. Dallke mentioned several areas of concern and/or suggested changes:

- Width of overhead doors for commercial haulers adequate?
- Drain system adequate?
- Height of walls (in relation to barrel-dump vehicles) adequate?
- Bathroom required? If so, suggestion: move office (and bathroom, if required) to northwest corner, possibly even outside existing proposed structure.
- Floor around pit may need to be changed from metal grating to a solid surface such as concrete or metal.
- Entrance access for the public and employees in correct location?
- Should an additional overhead door area be added for public drop off of trash?
- Should the walls have panels to allow natural light in the facility?

Modified drawings were reviewed. After discussion, the Board agreed to make the following proposed changes:

- Change width of overhead doors to 18'.
- Add a second 9' overhead door for public access (two total).
- Move the adjoining office outside the initial footprint on the northwest corner.

Other items the Board would like cost estimates for:

- Adding light panels on the side walls.
- Cost to change grating around pit to concrete and cost to change to solid metal.
- Cost to increase wall height by 3' to 5'.
- Cost to add metal push walls around pit (3'-4' high).

NATIONAL RENEWABLE SOLUTIONS ROAD RIGHT OF WAY REQUEST: Pat Pelstring of National Renewable Solutions (NRS) requested that a resolution be passed, granting permission to include County rights-of-way (ROW) in an upcoming conditional use permit application. Pelstring indicated that allowing the ROW to be included does not grant approval of the conditional use permit, nor does it have any effect on road crossing permits or the future road maintenance agreement, and that the request is being made in order to submit a more complete application, as required by the County. The Board tabled any action pending consultation with Attorney Pat Hughes.

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April 29, 2019, Continued

Becker moved to recess until 1:00 p.m. for lunch. Dallke seconded and motion carried 3-0.

ATTORNEY/CLIENT BUSINESS: Attorney Pat Hughes and Planning/Zoning/Environmental Health Dir. Sharon Omstead joined the session. Becker moved to recess into executive session to discuss wind project contracts and attorney advice pursuant to K.S.A. 75-4319b (2) for attorney/client business with the Board, Hughes, and Omstead present for 30 minutes (from 1:05 p.m.) until 1:35 p.m. with open session to resume in 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 to discuss legal matters relating to a wind farm pursuant to K.S.A. 75-4319b (2) for attorney/client business with the Board, Hughes, Omstead, and Spencer present for 15 minutes (from 1:38 p.m. to 1:53 p.m.) with open session to resume in Commission chambers following the closed session. Dallke seconded and motion carried 3-0. Open session resumed with no action.

Chr. Becker read aloud a proposed resolution addressing the inclusion of Marion County roads and road rights-of-way within the land area of a proposed wind energy conversion system for Expedition Wind, LLC. Commission and public comments were accepted. Several of those in attendance encouraged tabling the issue and / or implementing a moratorium. Novak preferred seeing a list of the proposed affected rights-of-way before making a decision. After discussion, Dallke moved to adopt Resolution 2019-05, addressing the inclusion of Marion County road rights-of-way within the land area of a proposed wind energy conversion system for Expedition Wind, LLC. Becker seconded and motion carried 2-1. Novak opposed, and requested that a moratorium be implemented. Novak declined to sign the Resolution.

Article 27 – Zoning Regulations: Novak expressed concerns about the transition of Article 27 from a prior version to the current version, and the process utilized. In addition she expressed concern about the wording on how Article 27 is interpreted in relation to other articles (specifically Article 19 and Article 12).

Dallke noted that if there are problems in the regulations, they will need to be addressed. He also questioned whether there is a statute of limitations if mistakes were made. Dallke noted that other projects may also be submitting applications in the future. Novak expressed concern regarding the number of wind projects that could be allowed in the County.

PUBLIC COMMENT:

- Charlie Loewen spoke about a friend who built a new home and now might have windmills on every side.
- David Marsh said that if it's a good deal today, it will be a good deal tomorrow, and encouraged the Board not to rush the process, but to do it right.

Becker moved to adjourn. Dallke seconded and motion carried 3-0. Meeting adjourned at 2:37 p.m.

Kent Becker, Chairman

ATTEST: _____
Tina D. Spencer, County Clerk

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April 29, 2019, Continued

RESOLUTION 2019-05

A RESOLUTION ADDRESSING THE INCLUSION OF MARION COUNTY ROAD RIGHTS-OF-WAY WITHIN THE LAND AREA OF A PROPOSED WIND ENERGY CONVERSION SYSTEM FOR EXPEDITION WIND, LLC

WHEREAS, pursuant to Marion County zoning regulations, the definition of a wind energy conversion system ("WECS") includes within it all components of the project including the transmission lines, without respect to whether those lines would be within a road right-of-way;

WHEREAS, Marion County zoning regulations contain no exception which would permit the use of a road right-of-way for the transmission line component of a WECS without being within the conditional use permit ("CUP") area for the WECS;

WHEREAS, the CUP application area must include any road rights-of-way which will be used as a part of the WECS, which in turn, will result in the mandatory notification of public hearing to those landowners in the unincorporated area within 1,000 feet of the road right-of-way of issue;

WHEREAS, Expedition Wind must have the County's permission to use the road rights-of-way and to include in the CUP application or must have Marion County join as applicant as to the road rights-of-way;

NOW THEREFORE BE IT RESOLVED, that Marion County consents to Expedition Wind LLC's inclusion of any County roads and rights-of-way within the land area that might be included in a Conditional Use Permit application for a Wind Energy Conversion System that Expedition Wind LLC submits in the next 90 days to the extent only that such road rights-of-way are reasonably necessary to the development plan as presented with the CUP application. This consent does not serve as an approval of the CUP, and does not grant road and right-of-way crossing permit rights.


This resolution, upon motion duly made and seconded, passed this 29th day of April, 2019.

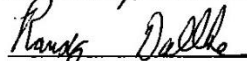


ATTEST:


Tina D. Spencer, County Clerk

**BOARD OF COUNTY COMMISSIONERS
MARION, KANSAS**


Kent Becker, Chairman


Randy Dallke, Member

Dianne R. Novak, Member - *Refused to sign.*