

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

June 21, 2021

Commission met in regular session at 12:30 p.m. in Commission chambers at the Marion County Courthouse with Chr. Randy Dallke, Comm. Dave Crofoot, Comm. Kent Becker, Comm. Jonah Gehring, and Comm. David Mueller present. Also present were Co. Clerk Tina Spencer, Co. Counselor Brad Jantz, County staff, members of the public, and members of the press.

PUBLIC COMMENTS: None.

ADMINISTRATIVE: A public comment provided at the previous meeting by Brian Jones was resubmitted by mail and was included in the Commission packets. No return address was provided. Mueller moved that for any public comments to be included in the official record, the individual must disclose their name, address, and phone number. Becker seconded and motion carried 5-0-. The Board directed Co. Counselor to draft a written policy.

- Information on upcoming and ongoing Road & Bridge projects was provided in the Board's packet for review.
- Gehring moved to approve the minutes of June 14th. Mueller seconded and motion carried 5-0.
- Becker moved to approve the minutes of June 15th. Gehring seconded and motion carried 5-0.
- Dallke moved to adopt Resolution 2021-13 establishing a service fee for 2021 for solid waste facilities, assessing the fee on real property, and establishing the manner of collection of the solid waste fee. Becker seconded and motion carried 5-0.

PLANNING/ZONING/ENVIRONMENTAL HEALTH: Planning/Zoning/Environmental Health Dir. Sharon Omstead was present for a project update on the Expedition Wind project. Also present were Jesse Hopkins-Hoel with National Renewable Solutions (NRS) and the following staff from Orsted Onshore North America: Jonathan Vasdekas, Project Development Manager, D.J. Worth – Project Development Manager, Claire Dittrich, Project Developer, and Jake Woolard, Project Manager. It was noted that the project has been acquired from NRS by Orsted. Vasdekas gave a brief overview of Orsted. Hopkins-Hoel thanked the Board for their support of the project.

- Omstead outlined the next steps for potential solar regulations that are currently in discussion phase with the Planning Commission. Before any regulations are adopted, a public hearing will be held, and notice of that meeting must be published. Omstead noted that the Planning Commission has also began discussions regarding whether or not the County will regulate feeding operations. Gehring suggested that consideration also be given to solar/geothermal energy.

ADMINISTRATIVE, CONTINUED: The emergency culvert replacement project #C-5046-01 has been bid out by KDOT. The low bidder was Ebert Construction Co., Inc. & Subsidiary of Wamego, KS at a cost of \$222,617.00. The County's portion is \$60,000.00. Gehring moved to accept the bid amount of \$222,617.00 from Ebert Construction Co., Inc. & Subsidiary with the County's portion not to exceed \$60,000.00. Mueller seconded and motion carried 5-0.

- Mueller moved to pay the invoice for the project to KDOT in the amount of \$60,000.00. Gehring seconded and motion carried 5-0.
- Gehring moved to approve Payment #1 in the amount of \$37,584.00 to Nelson-Fowles (for the Hillsboro EMS Station building project). Mueller seconded and motion carried 5-0.
- No bids were received for contract hauling of solid waste for the transfer station.
- Dallke moved to approve payment of business and event listings in the Kansas Travel Guide (for communities that do not have their own economic development directors) from Transient Guest Tax funds if the County can receive an extension for updating the listings. Crofoot seconded and motion carried 5-0.
- Mueller moved to accept an access easement for Evergy Kansas Central, Inc. (to have access to the Marion substation located next to the transfer station). Becker seconded and motion carried 5-0. An agreement was signed by Chr. Dallke (Tract Number MND12, Project Name MRFH-MARC 34kV, Project Number 20-215).
- Flagpole bids for a 40' flagpole, installation, and removal were reviewed:
 - Heartland Sign & Lighting, Lenexa Kansas \$ 9,466.90 (45' pole adds \$683.10)
 - Banner Marketing, Sutherlin Oregon \$15,144.52

After discussion, Mueller moved to approve the purchase and installation of a new 45' flagpole from Heartland in the amount of \$10,150.00 to include removal of the old pole. Gehring seconded and motion carried 4-1 with Becker opposed.

EMERGENCY MANAGEMENT: Dir. Randy Frank presented bids for radios to be purchased from CESF grant funds:

TBS Electronics	\$28,497.00
Mobile Radio Service, Inc.	\$29,374.80

Mueller moved to purchase the radios from TBS in the amount of \$28,497.00 utilizing CESF grant funds. Gehring seconded and motion carried 5-0.

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AMBULANCE: Dir. Travis Parmley presented run statistics for the second quarter.

- A comparison of Marion County rates with surrounding counties' rates was reviewed. After discussion, Gehring moved to accept Parmley's recommendation and approve proposed rate increases of \$50.00 on base charge BLS-Emergent, \$50.00 on base charge ALS-Emergent, \$100.00 on base charge ALS II, and the loaded mile rate to \$3.00 per mile from \$12.00 to \$15.00. Mueller seconded and motion carried 5-0.
- Becker moved to charge off \$15,288.44 (in uncollectable accounts). Dallke seconded and motion carried 5-0.
- Parmley reported that he plans to purchase three Zoll monitors before the end of 2021 at an approximate cost of \$100,000.00.
- Dallke moved to recess into executive session for contract negotiation pursuant to K.S.A. 75-4319b (2) for consultation with our attorney on matters deemed privileged under attorney/client privilege with the Board, Jantz, Parmley and Spencer present for 10 minutes until 1:57 p.m. Gehring seconded and motion carried 5-0.
- Open session resumed with a motion by Dallke to recess into executive session for contract negotiation pursuant to K.S.A. 75-4319b (2) for consultation with our attorney on matters deemed privileged under attorney/client privilege with the Board, Jantz, Parmley and Spencer present for 10 minutes until 2:10 p.m. Gehring seconded and motion carried 5-0.
- Open session resumed with a motion by Dallke to recess into executive session for contract negotiation pursuant to K.S.A. 75-4319b (2) for consultation with our attorney on matters deemed privileged under attorney/client privilege with the Board, Jantz, Parmley and Spencer present for 10 minutes until 2:23 p.m. Gehring seconded and motion carried 5-0. Open session resumed with no action. Dallke indicated that Counselor Jantz would negotiate further on the Board's behalf.

PUBLIC COMMENTS: Lloyd Meier asked why the County still hasn't received payment from the wind farm when Comm. Dallke stated six weeks ago that the check is in the mail. Counselor Jantz indicated that the matter is still being finalized. Meier said that the Board members shouldn't make statements if they can't stand behind them. Meier asked about the progress on the (heated) fishing dock and expressed great concern about the amount of money that has been spent to date and the lack of progress. Meier thanked the Board for recent roadwork that has been done in the County.

- Byron Lange commented that he agreed with the action the Board took earlier in the meeting to request basic identifying information from individuals who wish to make a public comment. Lange suggested that US citizenship and being alive be included as requirements.

APPRAISER/HIRING DISCUSSION: Dallke moved to recess into executive session to discuss personnel/hiring pursuant to K.S.A. 5-4319b (1) for personnel matters of non-elected personnel with the Board, Jantz, and Spencer present for 10 minutes (until 2:42 p.m.) Gehring seconded and motion carried 5-0. Open session resumed with no action.

- Dallke moved to recess into executive session to discuss personnel/performance/hiring pursuant to K.S.A. 5-4319b (1) for personnel matters of non-elected personnel with the Board, Jantz, Carl Miller, and Spencer present for 10 minutes (until 2:55 p.m.) Becker seconded and motion carried 5-0. Open session resumed with no action.
- Dallke moved to recess into executive session to discuss personnel/performance/hiring pursuant to K.S.A. 5-4319b (1) for personnel matters of non-elected personnel with the Board, Jantz, Nicole Reid and Spencer present for 10 minutes (until 3:07 p.m.) Gehring seconded and motion carried 5-0. Open session resumed with no action.

FMLA REQUEST: Dallke moved to recess into executive session to discuss personnel/FMLA leave request pursuant to K.S.A. 75-4319b (1) for personnel matters of non-elected personnel for 10 minutes (until 3:21 p.m.). Becker seconded and motion carried 5-0. Open session resumed with a motion by Dallke to approve intermittent FMLA leave for a qualified employee and to deny a shared leave request for that same employee. Gehring seconded and motion carried 5-0.

COMMISSION COMMENTS: None.

Dallke moved to adjourn. Gehring seconded and motion carried 5-0. Meeting adjourned at 3:25 p.m.

Randy Dallke, Chairman

ATTEST: _____
Tina D. Spencer, County Clerk

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**MARION COUNTY, KANSAS
RESOLUTION 2021- 13**

**A RESOLUTION ESTABLISHING A SERVICE FEE FOR 2021 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:

<u>Classification</u>	<u># of Units</u>	<u>Annual Assessment</u>
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 2021 are for the calendar year 2022. 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 21st day of June, 2021.

**BOARD OF COUNTY COMMISSIONERS
MARION COUNTY, KANSAS**

<u><i>Randy Dallke</i></u> Randy Dallke, Chairman – District 3	<input checked="" type="checkbox"/> Yea <input type="checkbox"/> Nay <input type="checkbox"/> Abstain
<u><i>Kent Becker</i></u> Kent Becker, Member – District 1	<input checked="" type="checkbox"/> Yea <input type="checkbox"/> Nay <input type="checkbox"/> Abstain
<u><i>David Mueller</i></u> David Mueller, Member – District 2	<input checked="" type="checkbox"/> Yea <input type="checkbox"/> Nay <input type="checkbox"/> Abstain
<u><i>Dave Crofoot</i></u> Dave Crofoot, Member – District 4	<input checked="" type="checkbox"/> Yea <input type="checkbox"/> Nay <input type="checkbox"/> Abstain
<u><i>Jonah Gehring</i></u> Jonah Gehring, Member – District 5	<input checked="" type="checkbox"/> Yea <input type="checkbox"/> Nay <input type="checkbox"/> Abstain

ATTEST:

Tina D. Spencer
Tina D. Spencer, County Clerk



