

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

January 31, 2022

Commission met for payday and other business at 9:00 a.m. in Commission chambers at the Marion County Courthouse with Chr. David Mueller, Comm. Kent Becker, Comm. Randy Dallke, Comm. Dave Crofoot, and Comm. Jonah Gehring present. Also present was Co. Clerk Tina Spencer. Present for portions of the meeting were Co. Counselor Brad Jantz, County staff, members of the public, and members of the Press.

SALES TAX: Sales tax for the month of November, 2021 has been received in the amount of \$78,331.58.

PAYDAY: A detailed list of expenditures by fund was reviewed. The monthly comp time report was reviewed. Gehring moved to approve payments to Western Associates in the amount of \$221.20. Becker seconded and motion carried 5-0 with Crofoot abstaining due to conflict of interest (abstention counted with majority prevailing).

- Mueller moved to approve the grand total payday in the amount of \$1,494,655.52 (including payroll at \$578,378.02). Dallke seconded and motion carried 5-0. (Checks #50329-50555; voided checks #50353, 50494.)

ROAD & BRIDGE WORK SESSION: Co. Engineer Brice Goebel joined the session to work with the Board on developing road project priorities.

- David Arteberry, Public Finance Director, Stifel, Nicolaus & Company joined the session to discuss the process and timeline for issuing bonds for road projects.
- Most immediate priorities discussed included Indigo Road, 1.5 miles on Kanza, and 190th between Marion and Hillsboro. 290th (D&L Road) is another high priority and funding discussions are underway with State officials.
- No action was taken during the work session.

AMERICAN RESCUE PLAN (ARP) WORK SESSION: Commissioners discussed potential project / categories for with to use ARP funds. The top funding areas agreed upon by the Board were: COVID ambulance, employee premium pay, water projects, public health/storage building, and reserve for future short-term projects.

Session recessed for lunch until 12:30 p.m.

PUBLIC FORUM: There were no public comments.

ADMINISTRATIVE: Co. Counselor Brad Jantz joined the meeting. An executive session for attorney/client business was added to the end of the agenda.

- Dallke moved to approve the minutes of January 24th. Crofoot seconded and motion carried 5-0.
- Change orders affecting 2021 and prior years' tax rolls were reviewed and signed by the Board.
- Transport and area fuel bids were reviewed:

Area Fuel bid:	Area 1	Area 2	Area 3
	<u>1,400 gals.</u>	<u>1,950 gals.</u>	<u>1,950 gals.</u>
Epp's Service, Elbing	3.138 = \$4,393.20	3.228 = \$6,294.60	3.138 = \$6,119.10
Transport Fuel bid:	Tank #3	Tank #1	Unleaded
	<u>4,000 gals.</u>	<u>1,500 gals.</u>	<u>2,500 gals.</u>
MFA Oil, Lincolnville	3.3195	3.0616	2.6972
			<u>Total</u>
			\$24,613.40

Gehring moved to award the area fuel bid to Epp's Service for a total of \$16,806.90 and the transport fuel bid to MFA Oil in the amount of \$24,613.40. Becker seconded and motion carried 5-0,

- **Fairplay Township Treasurer Appointment:** Gehring moved to appoint Rhonda Curry as Fairplay Township Treasurer. Becker seconded and motion carried 5-0.
- Gehring moved to approve the Prairie View budget request for 2022. It was noted that they will be present at the next meeting to discuss service levels and funding. Gehring rescinded his motion.
- **Road Bond Issue:** Dallke moved to work with David Arteberry of Stifel, Nicolaus & Company to issue a \$5 Million bond issue for road infrastructure. Crofoot seconded and motion carried 5-0.
 - Mueller moved that the County Clerk work with Arteberry and bond counsel and (if appropriate) develop a charter resolution for potential adoption. Gehring seconded and motion carried 5-0.
- **ARP Funding:** Mueller moved to utilize ARP funding for employee premium pay in the amount of \$750,000.00 and other categories of: COVID ambulance, Public Health / storage building, water projects, and other short-term future projects. Becker seconded and motion carried 5-0.

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January 31, 2022, Continued

ATTORNEY/CLIENT BUSINESS: Mueller moved to recess into executive session to discuss pending litigation pursuant to K.S.A. 75-4319b (2) for consultation with our attorney on matters deemed privileged under attorney/client privilege for 10 minutes with the Board, Jantz, and Spencer present (from 12:50 p.m. to 1:00 p.m.). Gehring seconded and motion carried 5-0. Open session resumed with no action.

PLANNING/ZONING:

- **PC Case #2021-03 – Harmoni Towers:** Counselor Jantz' legal opinion supported the recommendations of the Planning Commission, which was for approval with five conditions. Gehring moved to approve the application for 21-03 based on the Planning Commission's recommendations with the five conditions. Dallke seconded and motion carried 5-0.
 - Gehring moved to adopt Resolution 2022-06 (approving a conditional use permit to establish a 385' guy wire tower and associated equipment on certain property generally located at 1856 Hwy 56, Marion, KS). Becker seconded and motion carried 5-0.
- Discussion ensued regarding moving the P/Z office into the annex building after the Extension Office is relocated. Omstead was directed to work with EMS Dir. Travis Parmley to have electrical, plumbing, and HVAC assessed to see if any improvements are needed. Gehring moved that planning and zoning move into the space previously occupied by the Extension office after they move, and in a time frame that allows for any necessary repairs/improvements to be made. Becker seconded and motion carried 5-0 with Crofoot abstaining due to conflict of interest (abstention counted with majority prevailing). Mueller expressed gratitude toward the landlord at the current Planning/Zoning location.
- Omstead provided an update on the progress of the Expedition wind project, which is being re-branded and will be called the Sunflower project. The expected timeline for different project milestones was provided by Omstead.
- **PC Case #2022-01 – Wiebe:** Omstead presented the staff report and recommendations pertaining to a conditional use permit application filed by Calvin Wiebe to operate a trash collection business from his property. The Planning Commission recommended approval with one condition. After discussion, Becker moved to approve as recommended with one condition. Gehring seconded and motion carried 5-0.
 - Gehring moved to adopt Resolution 2022-07 (granting a conditional use permit to establish a trash service company on certain property located at 3171 Alamo, Durham, KS). Becker seconded. Motion carried 5-0.

PARK & LAKE: Supt. Isaac Hett presented tree trimming bids:

Sunny Slope Lawn Service & Greenhouse, Durham	\$14,750.00
Esthetic Tree Service, LLC, Peabody	\$ 9,675.00
BP Tree Company, Hillsboro	\$ 6,410.00
Tipton's, Inc., Williamsburg	\$ 5,600.00

After discussion, Dallke moved to approve the bid from Tipton's in the amount of \$5,600.00. Crofoot seconded and motion carried 5-0.

- **Heated Dock:** Hett indicated that there have been multiple requests to move the heated dock further out into the lake. Officials at Kansas Department of Wildlife, Parks, and Tourism have offered to cover the estimated expense of \$6,000.00 to move the dock. This does not include the cost of extending the gas and electrical service, which is estimated and \$1,500.00 and would be at the County's cost. KDWPT proposed adding the \$6,000.00 to the County's Community Fishery Assistance Program (CFAP) payments in 2022. Crofoot moved to accept the offer from KDWPT and proceed. Gehring seconded and motion carried 5-0.
 - An amendment to the existing CFAP agreement was presented for approval. Gehring moved to approve the amendment and authorize the Chairman to sign. Becker seconded and motion carried 5-0. Dallke suggested that a letter of appreciation be sent to KDWPT.
- The Board had no objections to Hett holding a spring clean-up event at the lake.

TAX SALE RFP INTERVIEWS: Co. Treasurer Susan Berg joined the session. Keyta Kelly of Kelly Law Office was present to discuss the proposal she submitted to work as Tax Sale Attorney for Marion County. Kelly's typical process and timeline were reviewed. No action was taken by the Board.

- Michelle Brenwald and Chris McElgunn of Klenda Austerman, LLC were present via teleconference to discuss the proposal submitted for tax sale work for Marion County. The firm's typical process and timeline were reviewed. No action was taken by the Board.

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January 31, 2022, Continued

HEALTH DEPARTMENT: Dir. Krista Schneider requested an executive session to discuss personnel/performance. Mueller moved to recess into executive session to discuss personnel/performance pursuant to K.S.A. 75-4319b (1) for personnel matter of non-elected personnel with the Board, Schneider, Jantz, and Spencer present for 10 minutes (until 3:30 p.m.). Gehring seconded and motion carried 5-0. Open session resumed with no action.

CO. COUNSELOR: Mueller moved to recess into executive session to discuss potential litigation 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, and Spencer present for 10 minutes (from 3:31 p.m. until 3:41 p.m.). Gehring seconded and motion carried 5-0. Open session resumed with no action.

PUBLIC FORUM: There were no public comments.

COMMISSION COMMENTS: It was noted that a work session will be scheduled for the morning of February 14th.

- County Day at the Capitol is February 16th.

Dallke moved to adjourn. Gehring seconded and motion carried 5-0. Meeting adjourned at 3:49 p.m.

ATTEST:

Tina D. Spencer, County Clerk

David Mueller, Chairman

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

January 31, 2022

RESOLUTION NUMBER 2022-06

A RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO ESTABLISH A 385-FOOT GUY WIRE TOWER AND ASSOCIATED EQUIPMENT ON CERTAIN PROPERTY GENERALLY LOCATED AT 1856 HIGHWAY 56, MARION, KANSAS.

WHEREAS, application has been made by Harmoni Towers, LLC, Mike Nuckols, Agent/B+T Group, on behalf of Greg & Mitch, LLC, owners, requesting a Conditional Use Permit to establish a 385-foot guy wire tower and associated equipment on property zoned "A" Agricultural District, in Section 25, Township 19 South, Range 3 East, Marion County, Kansas; and

WHEREAS, following proper notification of a public hearing in the official County newspaper on November 10, 2021, the Marion County Planning Commission held a public hearing on Case No. PC-21-03 on December 2, 2021, 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 385-foot guy wire tower and associated equipment, 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 385-foot guy wire tower and associated equipment, subject to the conditions and restrictions listed herein:

S25, T19, R03, ACRES 74.25, W/2 SE/4 LESS BEG SE/C W/2 SE/4 N 660' W 264' S 660' E 264' POB LESS ROW

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. All above ground improvements must be removed and the underground improvements must be removed to a depth of three (3) feet. Affected ground shall be restored to a use compatible with surrounding use;
 - B) Strict adherence to the development plan of record is required;
 - C) Tower and associated infrastructure shall be built and/or installed according to manufacturer's recommendations.
 - D) Adherence to all applicable federal, state, and local regulations is required, and;
 - E) Mitigation for the interference or obstruction of existing local communications towers shall be the responsibility of the applicant.
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.

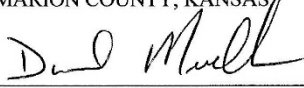
(Signature page follows)

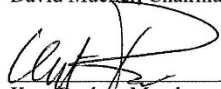
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MARION COUNTY, KS**

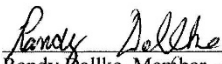
January 31, 2022


ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS of Marion County, Kansas on this
31st day of January, 2022.

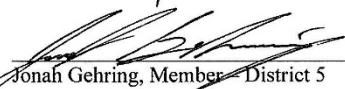
BOARD OF COUNTY COMMISSIONERS
MARION COUNTY, KANSAS

 ☒ Yea
[] Nay
[] Abstain
David Mueller, Chairman – District 2

 ☒ Yea
[] Nay
[] Abstain
Kent Becker, Member – District 1

 ☒ Yea
[] Nay
[] Abstain
Randy Dalke, Member – District 3

 ☒ Yea
[] Nay
[] Abstain
Dave Crofoot, Member – District 4

 ☒ Yea
[] Nay
[] Abstain
Jonah Gehring, Member – District 5



ATTEST: 
Tina D. Spencer, County Clerk

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

January 31, 2022

RESOLUTION NUMBER 2022-07

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ESTABLISH A TRASH SERVICE COMPANY ON CERTAIN PROPERTY LOCATED AT 3171 ALAMO, DURHAM, KANSAS.

WHEREAS, application has been made by Calvin D. Wiebe, owner, requesting a Conditional Use Permit to establish a trash service company on property zoned "A" Agricultural District, in the Northeast Quarter of Section 31, Township 17 South, Range 1 East, Marion County, Kansas; and,

WHEREAS, following proper notification in the official County newspaper of a public hearing, on December 22, 2021, the Marion County Planning Commission held a public hearing on Case No. PC-22-01 on January 13, 2022, 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 trash service company on certain property within the unincorporated portion of Marion County, Kansas, 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 trash service company, subject to the conditions and restrictions listed herein:

S31, T17, R01, ACRES 40.93, PT NE/4 BEG 769.13'S NE/C NE/4 ; TH SWLY 1333.24'; SWLY 1301. 79'; TO A PT 803.8'S NW/C NE/4 S 651.27'; E 2632.03' TO E LI NE/4 TH N 724.52' TO POB LESS ROW

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

If future expansion will exceed five trash trucks, the applicant must return to the Planning Commission to request an amendment to the Development Plan.

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.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS of Marion County, Kansas on this 31st day of January, 2022.



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

David Mueker ☒ Yea
☐ Nay
☐ Abstain
 David Mueker, Chairman – District 2

Kent Becker ☒ Yea
☐ Nay
☐ Abstain
 Kent Becker, Member – District 1

Randy Dulke ☒ Yea
☐ Nay
☐ Abstain
 Randy Dulke, Member – District 3

Dave Crofoot ☒ Yea
☐ Nay
☐ Abstain
 Dave Crofoot, Member – District 4

Jonah Gehring ☒ Yea
☐ Nay
☐ Abstain
 Jonah Gehring, Member – District 5

ATTEST:

Tina D. Spencer
 Tina D. Spencer, County Clerk