

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

June 20, 2022

Commission met in regular session at 12:30 p.m. in Commission chambers at the Marion County Courthouse with Chr. David Mueller, Comm. Jonah Gehring, Comm. Kent Becker, and Comm. Dave Crofoot present. Comm. Randy Dallke joined the session at 12:57 p.m. 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.

PUBLIC FORUM: There were no public comments.

ADMINISTRATIVE: A salary sheet was signed for Nina Carr, new Administrative Specialist I in the Planning / Zoning / Environmental Health Department at \$2,399.00/mo. effective 6/8/2022.

- Mueller moved to authorize Vice Chr. Dave Crofoot to sign all documents pertaining to the closing of the two properties recently approved for purchase by the County. Gehring seconded and motion carried 4-0.
- Gehring moved to approve early checks in the amount of \$185,610.49 (ck #'s 51530-51531). Crofoot seconded and motion carried 4-0.
- Gehring moved to approve pay application #10 for the EMS Station in the amount of \$8,931.71. Becker seconded and motion carried 4-0.
- Gehring moved to adopt Resolution 2022-19 Establishing a Service Fee for 2022 For Solid Waste Facilities Assessing the Fee on Real Property, and Establishing the Manner of Collection of the Solid Waste. Crofoot seconded and motion carried 5-0.
- An amended Premium Pay Policy was presented, to update the due date for forms and to include premium pay eligibility for the family of a full-time employee deceased from COVID-19. as applicable. Crofoot moved to approve the amended Premium Pay Policy. Mueller seconded and motion carried 4-0.
- Becker moved to go with the IRS rate for mileage effective July 1, 2022 in the amount of 62.5 cents/mile. Gehring seconded and motion carried 4-0.
- Gehring moved to increase pay for the Co. Coroner to \$200.00/call and Assistants to \$150.00/call. Crofoot seconded and motion carried 5-0.

MARION COUNTY CONSERVATION DISTRICT 2023 BUDGET ALLOCATION REQUEST: Lori Siebert, Greg Bowers, Lisa Suderman, Coffman Liggett and Bruce Schroeder were present to discuss the district's 2023 allocation request in the amount of \$39,500.00. Becker moved to approve the budget allocation in the amount of \$39,500.00 for the 2023 year. Gehring seconded and motion carried 4-0.

BID OPENING- SECURITY CAMERA PROJECT: Comm. Dallke joined the session at 12:57 p.m. Lloyd Davies joined the session. Three companies submitted bids for the security camera project. One vendor provided two sets of bids (one for the equipment specified and another with alternate equipment). The Board was not in favor of reviewing the bids with alternate specifications. Only the bids submitted according to specifications were read:

	<u>Courthouse</u>	<u>R&B South Shop</u>
Convergent Technologies	\$155,783.07	\$52,876.26 plus \$43.60/mo. connection fee
4PC Security Technologies	\$115,773.57	\$35,428.94 plus \$37.85/mo. connection fee
INA Alert, Inc.	\$129,686.06	\$43,820.45 plus \$85.00/mo. connection fee

Gehring asked whether access control cabling could be added to the bids. Davies will look into it and will also review the current bids and provide a potential recommendation on June 27th. No action was taken.

PROPERTY ACQUISITION: Mueller moved to recess into executive session to discuss property acquisition pursuant to K.S.A. 75-4319b (6) for preliminary discussion of acquisition of real estate with only the Board present for 15 minutes until 1:30 p.m. Gehring seconded and motion carried 5-0. Open session resumed with no action.

PERSONNEL DISCUSSION: Mueller moved to recess into executive session to discuss personnel/performance pursuant to K.S.A. 75-4319b (1) for personnel matters of non-elected personnel with the Board and Spencer present for 25 minutes until 2:00 p.m. Gehring seconded and motion carried 5-0. Open session resumed with no action.

AMBULANCE: Dir. Travis Parmley presented quarterly statistics and write-off's for review. Becker moved to write offs in the amount of \$14,465.06. Dallke seconded and motion carried 5-0.

- Parmley noted that the annex remodel has been delayed because one of the contractors has not yet submitted the requested insurance documents to the Co. Clerk's Office.

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Co. Counselor Brad Jantz joined the session at 2:03 p.m.

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

	Tank #3	Tank #1	Unleaded	Total
	4,500 gals.	1,000 gals.	2,500 gals.	
MFA Oil, Lincolnville	4.6790	4.4246	3.9296	\$35,304.10
Epp's Service, Elbing	4.9140	4.6540	4.0940	\$37,002.00

Becker moved to accept the bid from MFA in the amount of \$35,304.10. Gehring seconded and motion carried 5-0.

- The Board agreed to accept a trade-in allowance of \$5,500.00 for the County's old White tractor at G&R Implement.
- Ongoing and upcoming projects and department activities were discussed with no action.
- Goebel requested an executive session to discuss personnel/hiring. Mueller moved to recess into executive session to discuss personnel/hiring pursuant to K.S.A. 75-4319b (1) for personnel matters of non-elected personnel with the Board, Goebel, Jantz, and Spencer present for 10 minutes until 2:45 p.m. Gehring seconded and motion carried 5-0. Open session resumed with no action.

CO. COUNSELOR: Draft policies and resolutions presented by Co. Counselor Brad Jantz at the last meeting were reviewed and discussed. Gehring moved to adopt Resolution 2022-20 Directing Enforcement of the Prohibition on Recreational Use Resulting in the Damage to Public Right of Way or Easement in Marion County, Kansas. Becker seconded and motion carried 5-0.

- Planning/Zoning/Environmental Health Dept. Dir. Sharon Omstead joined the session. 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, Omstead, Jantz, Goebel, and Spencer present for 15 minutes. Gehring seconded and motion carried 5-0.
- Open session resumed with a motion by Mueller to recess back 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, Omstead, Jantz, Goebel, and Spencer present for 10 minutes until 3:27 p.m. Dallke seconded and motion carried 5-0. Open discussion resumed with no action.
- Mueller moved to recess into executive session to discuss property acquisition pursuant to K.S.A. 75-4319b (6) for preliminary discussion about acquisition of real estate with the Board, Jantz, and Spencer present for 10 minutes until 3:40 p.m. Gehring seconded and motion carried 5-0. Open session resumed with a motion by Mueller to delay the closing for the property located at 1240 Commercial Drive, Marion in light of new information. Becker seconded and motion carried 5-0.
- Mueller moved to approve the property inspection agreement and invoice from Harder Certified Home Inspections in the amount of \$425.00. Becker seconded and motion carried 5-0.

PUBLIC FORUM: Pam Maag shared concerns regarding the EMS transfer policy and asked the Board to consider she and her husband's side of the story in regard to their recent experience waiting for a transfer from St. Luke Hospital to another facility.

COMMISSION COMMENTS: Comm. Mueller suggested that himself and Comm. Dallke meet with the EMS Dir. and health care providers in the near future.

Dallke moved to adjourn. Gehring seconded and motion carried 5-0. Meeting adjourned at 3:52 p.m.

David Mueller, Chairman

ATTEST: _____
Tina D. Spencer, County Clerk

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**MARION COUNTY, KANSAS
RESOLUTION 2022- 19**

**A RESOLUTION ESTABLISHING A SERVICE FEE FOR 2022 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 2022 are for the calendar year 2023. 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.

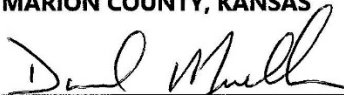
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Section 11. This Resolution shall be effective from and after its adoption by the Board of County Commissioners. The County Clerk is hereby authorized, ordered and directed to cause publication of this Resolution one time in the official County newspaper.


ADOPTED by the Board of County Commissioners of Marion County, Kansas, this 20th day of June, 2022.

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



David Mueller, Chairman – District 2

☒ Yea
☐ Nay
☐ Abstain

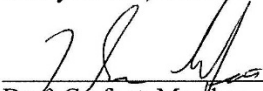


Kent Becker, Member – District 1

☒ Yea
☐ Nay
☐ Abstain


Randy Dallke, Member – District 3

☐ Yea
☐ Nay
☐ Abstain



Dave Crofoot, Member – District 4

☒ Yea
☐ Nay
☐ Abstain




Jonah Gehring, Member – District 5

☒ Yea
☐ Nay
☐ Abstain



ATTEST:



Tina D. Spencer, County Clerk

**RECORD OF PROCEEDINGS
BOARD OF COMMISSIONERS
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June 20, 2022, Continued

RESOLUTION NO. 2022-20

**A RESOLUTION OF THE COUNTY OF MARION DIRECTING ENFORCEMENT OF THE
PROHIBITION ON RECREATIONAL USE RESULTING IN THE DAMAGE TO PUBLIC RIGHT
OF WAY OR EASEMENT IN MARION COUNTY, KANSAS.**

WHEREAS, Marion County, Kansas has the responsibility for and is authorized to undertake any maintenance, repair, or improvement of public property within the jurisdictional limits of Marion County, Kansas excluding any property of various municipalities within said County, and

WHEREAS, from time to time, private citizens desire to utilize public property for recreational purposes with the unauthorized use of certain recreational vehicles causing damage to the public right of way and necessitating repair thereof by the County and other governmental entities, and

WHEREAS, Marion County Commission desires to confirm the prohibition on such recreational usage when the same results in damage to public property, hereby direct that such prohibition be enforced and prosecution be undertaken in those instances where unauthorized recreational uses of any public right of way or easement are encountered.

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

1. That, absent express approval given in advance, no private citizen may use or attempt to use public property of any kind or character for unauthorized recreational use which can reasonably be anticipated to result in damage to public property necessitating repair.
2. That the County, will, when encountering such prohibited activity, direct the same be prosecuted to the fullest extent of the law
3. That restitution for any resultant costs of repair shall be vigorously pursued by the County in the interest of protecting taxpayer assets and resources.
4. That, the Marion County Commission reserves the right and, at its discretion, will pursue any and all civil or criminal remedies, including damages available to it under the laws of this State.
5. That given the existing prevalence of such unauthorized recreational uses being undertaken by private citizens on public right of way or easement, the County Commission hereby states its intent and directs that enforcement of this prohibition be undertaken to address and correct the unauthorized uses of public right of way and easements by all legal means.

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Motion to approve the above Resolution was made by Gehring,
Commissioner, seconded by Becker, Commissioner, and upon roll call
was passed by the following vote this 20 day of June, 2022.

ADOPTED AND APPROVED by the Board of Marion County Commissioners on
June 20, 2022.

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

David Mueller

David Mueller, Chairman – District 2

☒ Yea
☐ Nay
☐ Abstain

Kent Becker

Kent Becker, Member – District 1

☒ Yea
☐ Nay
☐ Abstain

Randy Dallke

Randy Dallke, Member – District 3

☒ Yea
☐ Nay
☐ Abstain

Dave Crofoot

Dave Crofoot, Member – District 4

☒ Yea
☐ Nay
☐ Abstain

Jonah Gehring

Jonah Gehring, Member – District 5

☒ Yea
☐ Nay
☐ Abstain



ATTEST:

Tina Spencer

Tina Spencer, Marion County Clerk