

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

July 13, 2020

Commission met in regular session in Commission chambers at the Marion County Courthouse at 9:00 a.m. with Chr. Jonah Gehring, Comm. Kent Becker, Comm. Randy Dallke, Comm. Dave Crofoot, and Comm. Dianne R. Novak present. Also present was Co. Clerk Tina Spencer. Present for portions of the meeting were County Counselor Brad Jantz, County staff, members of the public and members of the press.

**PUBLIC COMMENTS:** Henry Ethem commented (regarding face masks) that government should not have the authority to mandate what people should wear, and that citizens need to take personal responsibility for their actions.

- Mike Beneke questioned why the County is paying for a storage building for Emergency Management equipment, but leaving a truck and trailer worth over \$50,000.00 sitting outside.

**COVID-19 UPDATE:** Health Officer Diedre Serene provided an update regarding COVID-19. A graph showing the cases was reviewed. Marion County has reported 24 positive cases. Commissioners suggested adding active cases, deaths, and negative tests to the graph. Also discussed were procedures if an outbreak happens within a facility, contact tracing, and the need for additional staffing.

- Crofoot moved to approve to hire two part time people (part time RN's) at \$20.00/hour to \$25.00/hour through 12/31/2020. Novak seconded and motion carried 5-0.

**ADMINISTRATIVE:** Supplements affecting the 2020 tax roll were reviewed.

- Change orders affecting 2019 and prior years' tax rolls were reviewed and signed by the Board.
- Becker moved to approve the minutes of June 30<sup>th</sup> as written. Dallke seconded. Motion carried 5-0.
- Dallke moved to approve the minutes of July 2<sup>nd</sup>. Crofoot seconded and motion carried 5-0.
- Becker moved to approve the minutes of July 6<sup>th</sup>. Gehring seconded and motion carried 5-0.
- Dallke moved to approve the minutes of July 8<sup>th</sup>. Crofoot seconded and motion carried 5-0.
- Dallke moved to place the Legal Assistant position in pay band five. Crofoot seconded and motion carried 5-0.
  - The previously signed salary sheet for Kaitlyn Christensen from \$10.35/hour to \$2,486.00/mo. (part time to full time Legal Assistant) effective 6/21/2020 was approved for implementation.
- Gehring moved to appoint Nathan Fish as Lehigh Township Treasurer. Becker seconded and motion carried 5-0.
- Gehring moved to adopt the Data Breach Incident Response Plan (with removal of footnotes). Dallke seconded and motion carried 5-0.
- Gehring moved to adopt Resolution 2020-22, (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). Becker seconded and motion carried 5-0.
- Dallke moved to approve Pay Estimate #5 for the transfer station project in the amount of \$280,006.58 and to authorize the Chairman to sign. Crofoot seconded and motion carried 5-0.
- Gehring moved to not require a request for proposals (for SPARK administrative services) through 12/31/2020. Novak seconded and motion carried 5-0.
- Gehrig moved to authorize the SPARK task force to hire a part time administrative assistant at \$12.00/hour. Dallke seconded and motion carried 5-0.
- Gehring moved to hire Scot Loyd for administrative services, but then withdrew his motion. Crofoot moved to allow the SPARK task force to make a decision on hiring an accounting firm. Dallke seconded. Motion carried 5-0.

**AMBULANCE:** Dir. Travis Parmley provided information regarding ALS and BLS calls in the County.

- Gehring moved to approve a budgeted purchase for two Lucas 3 version 3.1 mechanical chest compression devices in the amount of \$29,505.88. Becker seconded and motion carried 5-0.
- Parmley noted that potential needs supported by SPARK funding could be transport ventilators and I.V. pumps.

**ROAD & BRIDGE:** Co. Engineer Brice Goebel notified the Board that the County was approved for cost share funding through KDOT for Nighthawk and 330<sup>th</sup>. Goebel indicated that the project will be bid and a notice of award could occur in late July or early August.

- The overlay on 90<sup>th</sup> is complete, and Goebel asked whether the Board wishes to accept the final project or prefers for him to offer acceptance. The consensus was for Goebel to offer acceptance of the completed project.

Co. Counselor Brad Jantz joined the session.

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July 13, 2020, Continued

**PARK & LAKE:** Supt. Isaac Hett presented bids for roof repairs/replacement due to recent storm damage:

Sunflower State Exteriors:	\$23,485.13
Flory Roofing & Construction, Inc.:	\$17,700.00
Eaton Roofing & Exteriors:	\$36,150.00

Gehring moved to accept the bid from Flory in the amount of \$17,700.00. Becker seconded and motion carried 5-0.

Hett requested additional guidance with the Lake Hall regarding COVID-19 recommendations. The consensus of the Board was to have Co. Counselor Brad Jantz draft a waiver to be posted on the door indicating that social distancing is recommended, and that individuals entering the facility do so at their own risk.

- An agreement between dock owners and the County was requested by Hett. Jantz will work with Hett to develop the language.
- The heated dock was discussed. It may be necessary to seek liquidated damages if the project cannot be completed soon. No decisions were made.

**COUNTY POOR FARM CEMETERY:** Nancy Marr requested that the County prepare a sign to post in the cemetery explaining the circumstances of one of the historic headstones. No decision was made.

**EGP (DIAMOND VISTA) CONDITIONAL USE PERMIT AND LETTER OF CREDIT:** Planning/Zoning/Environmental Health Dir. Sharon Omstead and Attorney Pat Hughes joined the session. Gehring moved to recess into executive session to discuss potential litigation pursuant to K.S.A. 75-4319b (2) for consultation with our attorney – attorney/client privilege with the Board, Jantz, Hughes, and Omstead present for 30 minutes until 12:00 p.m. Dallke seconded and motion carried 5-0.

Open session resumed with a motion by Gehring to recess into executive session to discuss potential litigation pursuant to K.S.A. 75-4319b (2) for consultation with our attorney – attorney/client privilege with the Board, Jantz, Hughes, and Omstead present for 20 minutes until 12:22 p.m. Open session resumed with a motion by Gehring to direct staff to formulate a procedural outline of steps to review a CUP for possible suspension / revocation and in addition to assess / make a recommendation regarding drawing on security (letter of credit) as applies to the RMA, and to assess and make a recommendation regarding the filing of an action to enforce the road maintenance agreement. Novak seconded and motion carried 5-0.

Gehring moved to retain Pat Hughes to assist for the issues pertaining to Planning & Zoning and the development of the items included in the staff directive. Novak seconded and motion carried 5-0.

**PUBLIC COMMENTS:** None.

**COMMISSIONER COMMENTS:** Dallke indicated that the Board would like better communication from all department heads, whether elected or appointed, when big events or issues occur within their department. Jantz indicated that he would assist with the preparation of a memo.

- Masks were discussed with no action / changes.
- Novak commented that she does not support “surveillance” of citizens in regard to contact tracing.
- Becker encouraged school administrators to get kids back in school.

Session recessed until 1:00 p.m.

**CDBG-CV GRANT APPLICATION REVIEW/DISCUSSION:** Gloria McDowell of SCKEDD was present to discuss grant applications. Clarification is needed on several applications. McDowell indicated that newer guidance does not allow farmers to apply for CDBG funding, but rather they should apply through USDA. McDowell noted that she will follow up with individual businesses for missing information and/or clarification as needed and that a list for potential awards (including amounts) will be presented next week for Board approval. Any remaining funds could be offered in a second round of applications.

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July 13, 2020, Continued

Gehring moved to adjourn. Crofoot seconded and motion carried 5-0. Meeting adjourned at 1:33 p.m.

\_\_\_\_\_  
Jonah Gehring, Chairman

ATTEST: \_\_\_\_\_  
Tina D. Spencer, County Clerk

**MARION COUNTY, KANSAS  
RESOLUTION 2020- 22**

**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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July 13, 2020, Continued

(Resolution 2020-22, Continued)

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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July 13, 2020, Continued

(Resolution 2020-22, Continued)

**“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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July 13, 2020, Continued

(Resolution 2020-22, Continued)

**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 2020 are for the calendar year 2021. 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 30<sup>th</sup> 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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July 13, 2020, Continued

(Resolution 2020-22, Continued)

**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 13th day of July, 2020.

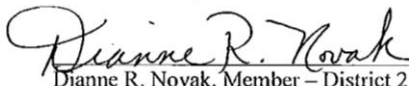
**BOARD OF COUNTY COMMISSIONERS  
MARION COUNTY, KANSAS**

  
Jonah Gehring, Chairman – District 5

☒ Yea  
☐ Nay  
☐ Abstain

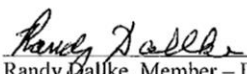
  
Kent Becker, Member – District 1

☒ Yea  
☐ Nay  
☐ Abstain

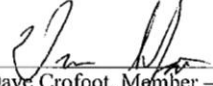
  
Dianne R. Novak, Member – District 2

☒ Yea  
☐ Nay  
☐ Abstain




  
Randy Dallke, Member – District 3

☒ Yea  
☐ Nay  
☐ Abstain

  
Dave Crofoot, Member – District 4

☒ Yea  
☐ Nay  
☐ Abstain

ATTEST:

  
Tina D. Spencer, County Clerk