

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

February 3, 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. Dave Crofoot, and Comm. Dianne R. Novak present. Comm. Randy Dallke joined the session at 9:45 a.m. Also present were Co. Clerk Tina Spencer, members of the public and members of the press. Present for portions of the meeting was Co. Counselor Brad Jantz.

PUBLIC COMMENT: Robert Sawyer indicated that he sent a letter to the Commissioners offering to haul rock for \$4.00/loaded mile.

ADMINISTRATIVE: Change orders affecting 2019 and prior years' taxes were reviewed and signed by the Board.

- Becker moved to approve the engagement letter for Swindoll, Janzen, Hawk and Loyd to prepare the budget for 2021 for \$22,050.00. Crofoot seconded and motion carried 4-0. Chr. Gehring signed the document.
- Gehring moved to remove the times on agenda items except for public hearings and others required by law. Novak seconded and motion carried 4-0.
- Gehring moved to recess into executive session to review employment applications pursuant to K.S.A. 75-4319b (1) for personnel matters of non-elected personnel (for 15 minutes) until 9:30 a.m. with only the Board present. Becker seconded and motion carried 4-0. Open session resumed with no action.

EMERGENCY MANAGEMENT: Dir. Randy Frank presented a lease for office space in the St. Luke clinic (where the Health Department is located). Novak moved to accept the lease and authorize the Chairman to sign. Crofoot seconded and motion carried 4-0. Chr. Gehring signed the lease.

- Other topics discussed were upcoming training opportunities and Continuation of Operations planning.

TRANSFER STATION PROJECT: Randy Purdue of Kaw Valley Engineering indicated that the contractor requested a March 2nd start date for the project. Comm. Dallke joined the session. Gehring moved to approve a March 2nd start date for the project. Dallke seconded and motion carried 5-0.

- Gehring moved to approve the Notice to Proceed for Nelson Fowles, LLC with a begin date of March 2nd for Phase II and Phase III of the transfer station project. Dallke seconded and motion carried 5-0.
- Gehring moved to adopt the Construction Agreement as it applies to the contract amount already ordered. Becker seconded and motion carried 5-0.

ROAD & BRIDGE: Co. Engineer Brice Goebel joined the session. Culvert bids were presented for review:

J&J Drainage Products Co., Hutchinson	\$50,543.28
Welborn Sales, Inc. Salina	\$45,433.38

Goebel recommended accepting the bid from Welborn Sales. Gehring moved to accept Goebel's recommendation and approve the bid from Welborn Sales. Novak seconded and motion carried 5-0.

- Goebel requested an executive session to discuss personnel performance. Gehring moved to recess into executive session to discuss personnel performance for 10 minutes until 10:12 a.m. with Goebel and the Board present pursuant to K.S.A. 75-4319b (1) for personnel matters of non-elected personnel. Dallke seconded and motion carried 5-0. Open session resumed with no action.
- Goebel provided a packet of information and written comments in response to the road proposal agenda item from January 27th.

Public Comments – R&B: Gayland Martens asked why the County has spent money on Chisholm Trail between 310th and 320th. He indicated that no one lives on that section of road, and drainage changes are causing damage to his land.

- Linda Peters commented about the information provided by Goebel and questioned the relationship between Harshman Quarry and the County.
- Dinah Vogel noted that her road has received harder rock and is a better road now. She indicated that she assisted Novak with figuring out how to save money on rock.
- Tom Britain told the Board to look at his truck to see all the mud and rock on it.
- Randy Eitzen said the department should work better with landowners in regard to tree removal, maintenance, etc.
- Robert Sawyer noted that in the past the County used to stockpile rock.

Novak suggested that the Board adopt a policy that school bus routes should be high priority for gravel.

Novak moved to recess into executive session to discuss personnel/performance with Goebel, the Commission, and Jantz present for five minutes pursuant to K.S.A. 75-4319b (1) for personnel matters of non-elected personnel. Gehring seconded and motion carried 5-0. Open session resumed with no action. Goebel left the session.

**RECORD OF PROCEEDINGS
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February 3, 2020, Continued

CO. TREASURER: Co. Treasurer Jeannine Bateman provided a quarterly update to the Board.

ROAD & BRIDGE, CONTINUED: Goebel returned to the session. Dallke moved to let Goebel bid hard rock to include trucking to be distributed around all parts of the County to see what the County can save. Crofoot seconded and motion carried 5-0.

CO. COUNSELOR: Co. Counselor Brad Jantz requested an executive session to discuss pending litigation. Gehring moved to recess into executive session to discuss pending litigation pursuant to K.S.A. 75-4319b (6) for attorney/client business with Jantz and the Board present for 15 minutes (from 11:15 a.m. to 11:30 a.m.). Becker seconded and motion carried 5-0. Open session resumed with no action.

- Planning/Zoning/Environmental Health Dir. Sharon Omstead joined the session. Gehring moved to recess into executive session to discuss pending litigation pursuant to K.S.A. 75-439b (6) for attorney/client business with Jantz, Omstead and the Board present for 15 minutes. Becker seconded and motion carried 5-0. Open session resumed with no action.

TRANSFER STATION LEASE PURCHASE DOCUMENTS: David Arteberry of Stifel, Nicolaus & Co., and Mitch Walter of Gilmore Bell joined the session to discuss the lease purchase process, federal tax requirements, and documents. Gehring moved to adopt Resolution 2020-06 authorizing Marion County, Kansas to enter into a lease purchase agreement to finance the acquisition, construction, furnishing and equipping of solid waste transfer station improvements; and to approve the execution of certain documents in connection therewith. Becker seconded and motion carried 5-0. Chr. Gehring signed the pages necessary to execute the lease purchase documents.

Dallke moved to approve the engagement of Gilmore Bell in the amount \$16,500.00 and to authorize the Chairman to sign the engagement letter. Crofoot seconded and motion carried 5-0.

PUBLIC COMMENT: Mike Beneke said that the new County Engineer is probably ready to resign.

Gehring moved to adjourn. Becker seconded and motion carried 5-0. Meeting adjourned at 12:09 p.m.

Jonah Gehring, Chairman

ATTEST: _____
Tina D. Spencer, County Clerk

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

February 3, 2020, Continued

Gilmore & Bell, P.C.
01/28/2020

RESOLUTION NO. 2020-[06]

A RESOLUTION AUTHORIZING MARION COUNTY, KANSAS, TO ENTER INTO A LEASE PURCHASE AGREEMENT TO FINANCE THE ACQUISITION, CONSTRUCTION, FURNISHING AND EQUIPPING OF SOLID WASTE TRANSFER STATION FACILITY IMPROVEMENTS; AND TO APPROVE THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, under the constitution and statutes of the State of Kansas, particularly K.S.A. 10-1101 *et seq.* (the "Kansas Cash Basis Law") and K.S.A. 19-101 *et seq.*, Marion County, Kansas (the "County") is empowered to enter into certain leases, lease purchase agreements and installment purchase agreements for the lease and/or acquisition of property; and

WHEREAS, K.S.A. 10-1116b provides in pertinent part that nothing in the provisions of the Kansas Cash Basis Law shall prohibit a municipality from entering into a lease agreement, with or without an option to buy, or an installment-purchase agreement, if any of such agreements specifically state that the municipality is obligated only to pay periodic payments or monthly installments under the agreement as may lawfully be made from (a) funds budgeted and appropriated for that purpose during such municipality's current budget year or (b) funds made available from any lawfully operated revenue producing source; and

WHEREAS, the Board of County Commissioners of the County (the "Governing Body") has considered the need of the County and its residents acquiring, constructing, furnishing and equipping improvements to the solid waste transfer station facility in the County and all improvements appurtenant thereto, (collectively the "Improvements"), and has found and determined that acquiring and making the Improvements is in the public interest; and

WHEREAS, the County proposes to finance the costs of the Improvements and has considered various means of such financing, and has found and determined that it would be in the public interest to finance the costs of the Improvements through the execution and delivery of a lease purchase agreement; and

WHEREAS, the Governing Body has heretofore adopted Resolution No. 2019-22 on November 25, 2019, declaring the intent of the County to enter into a financing arrangement involving a lease purchase agreement, and such Resolution was published in the *Marion County Record* on November 27, 2019, and subsequently on December 4, 2019, as provided by K.S.A. 10-1116c, and no sufficient protest was filed with the County election officer in opposition to the lease purchase agreement or the Improvements; and

WHEREAS, the County has heretofore issued certain obligations and anticipates future issuances of additional obligations by the Issuer or another governmental entity on behalf of the Issuer, the interest on which is intended to be excluded from gross income for federal income tax purposes or which is subsidized by the federal government (e.g. build America bonds) (the "Tax-Advantaged Obligations"); and

WHEREAS, the Internal Revenue Code of 1986, as amended and regulations promulgated thereunder (collectively, the "Code"), impose ongoing requirements related to the investment, use and expenditure of proceeds of Tax-Advantaged Obligations and related funds and restrictions on use of the facilities financed by such Tax-Advantaged Obligations; and

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

February 3, 2020, Continued

(Resolution 2020-06 continued)

WHEREAS, the County is committed to full compliance with all such requirements with respect to the Tax-Advantaged Obligations and deems it necessary and advisable to adopt a Tax and Securities Compliance Procedures, dated as of February 3, 2020 (the "Compliance Procedures"); and

WHEREAS, in order to facilitate the foregoing and to pay the cost thereof, it is necessary and desirable for the County to take the following actions:

1. Enter into a Site Lease (the "Site Lease") with the County, as lessor, and Central National Bank, Marion, Kansas (the "Bank"), as lessee, pursuant to which the County will lease certain real property (the "Real Property") to the Bank on the terms and conditions set forth therein, a form of which has been submitted to the Governing Body for review.
2. Enter into an annually renewable Lease Purchase Agreement (the "Lease") with the Bank, as lessor, and the County, as lessee, pursuant to which the County will lease the Improvements and the Real Property (collectively the "Project") on a year-to-year basis from the Bank with an option to purchase the Bank's interest in the Project, a form of which has been submitted to the Governing Body for review.
3. Enter into an Escrow Agreement with the Bank, as Escrow Agent, pursuant to which the proceeds of the Lease will be held in Trust by the Escrow Agent and used to pay Project costs (the "Escrow Agreement"), a form of which has been submitted to the Governing Body for review.
4. Execute and enter into such closing documents and agreements (the "Closing Documents") as may be necessary to accomplish the intent of this Resolution, the Site Lease and the Lease.
5. Execute and adopt the Compliance Procedures.

The Site Lease, the Lease, the Escrow Agreement, the Closing Documents and the Compliance Procedures are referred to together herein as the "County Documents"; and

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF MARION COUNTY, KANSAS, AS FOLLOWS:

Section 1. Authorization and Approval of County Documents.

(a) The County Documents are hereby approved in substantially the forms submitted to and reviewed by the Governing Body on the date hereof, with such changes therein as shall be approved by the Chairman, with the Chairman's execution of the County Documents to be conclusive evidence of such approval.

(b) The obligations of the County to pay Basic Rent Payments (as defined in the Lease) under the Lease are subject to annual appropriation and shall constitute a current expense of the County and shall not in any way be construed to be an indebtedness or liability of the County in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness or liability by the County, nor shall anything contained in the Lease constitute a pledge of the general tax revenues, funds or moneys of the County, and all provisions of the Lease shall be construed so as to give effect to such intent.

(c) The Chairman (or the Vice Chairman in the Chairman's absence) is hereby authorized and directed to execute and deliver the County Documents on behalf of and as the act and deed of the County.

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

February 3, 2020, Continued

(Resolution 2020-06 continued)

The County Clerk (or the Deputy Clerk in the Clerk's absence) is hereby authorized to affix the County's seal to the County Documents and attest said seal.

Section 2. Further Authority. The County shall, and the officials and agents of the County are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the County with respect to the County Documents, the other documents authorized or approved hereby and the Project. Counsel to the County, Stifel Nicolaus & Company, Incorporated, the County's financial advisor, Gilmore & Bell, P.C., the County's special tax counsel; and other consultants are authorized to take such actions as may be necessary or desirable to carry out and comply with the intent of this Resolution.

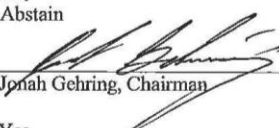
Section 3. Effective Date. This Resolution shall take effect and be in full force from and after its adoption by the Governing Body.

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This resolution, upon motion duly made and seconded, passed this 3rd day of February, 2020.

**BOARD OF COUNTY COMMISSIONERS
MARION, KANSAS**

Yea	<input checked="" type="checkbox"/>
Nay	<input type="checkbox"/>
Abstain	<input type="checkbox"/>


Jonah Gehring, Chairman

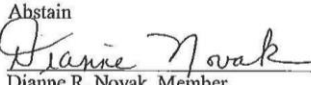
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Nay	<input type="checkbox"/>
Abstain	<input type="checkbox"/>


Randy Dalke, Vice-Chairman

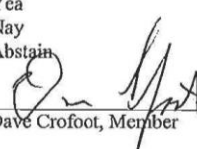
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Abstain	<input type="checkbox"/>


Kent Becker, Member

Yea	<input checked="" type="checkbox"/>
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Abstain	<input type="checkbox"/>


Dianne R. Novak, Member

Yea	<input checked="" type="checkbox"/>
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Abstain	<input type="checkbox"/>


Dave Crofoot, Member

ATTEST:


Tina D. Spencer, County Clerk

