

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

November 25, 2019

Commission met in regular session in Commission chambers at the Marion County Courthouse at 9:00 a.m. with Chr. Kent Becker, Comm. Dianne R. Novak, 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, Deputy Co. Clerk Ashley Herpich, Election Clerk Marcy Hostetler, members of the public and members of the press.

CANVASS OF 2019 GENERAL ELECTION, TIE BREAKER: Commission recessed briefly, and the Board of Canvassers for the 2019 General Election was reconvened with Chr. Kent Becker, Comm. Randy Dallke and Canvassing Board Member Jo Ottensmeier present. A tie-breaker between David Terrell and Kendall Unrau for the fifth position on the Lehigh City Council was conducted. Unrau's name was drawn as the official elected council person.

Becker moved to adjourn the Canvass. Dallke seconded and motion carried 3-0. Canvass adjourned at 9:03 a.m.

ADMINISTRATIVE: Commission reconvened. Becker moved to approve the minutes of November 15th as written. Gehring seconded and motion carried 5-0. Novak moved to approve the minutes of November 18th as written. Gehring seconded and motion carried 5-0.

- The Board agreed to reimburse Marion County EMS Medical Director Don Hodson \$375.00 for an annual subscription fee used for EMS related research.
- Information regarding the electrical engineering on the transfer station project was reviewed. An agenda time will be scheduled with City personnel and the engineering firm(s) present.
- County cash and budget balances were reviewed.

LEASE PURCHASE DISCUSSION – TRANSFER STATION PROJECT: After a lengthy discussion, Becker moved to seek a 15 year lease purchase in the amount of \$1,875,000 for the transfer station building project. Dallke seconded and motion carried 4-1. Novak opposed. Spencer indicated that a resolution would be presented for adoption later in the meeting.

PARK & LAKE: Supt. Isaac Hett reported that KCAMP will pay \$177,020 to replace the heated dock. After discussion, Hett was directed to ask all three contractors to re-bid from the project with demolition, electrical and heating as alternates.

- Hett will seek bids for tree trimming/removal.
- Engineer Darin Neufeld of EBH Engineering presented the final retainage payment request to Ditch Diggers for the utility upgrade project for approval. Becker moved to approve the final payment of \$5,924.72. Gehring seconded and motion carried 5-0.

Co. Counselor Brad Jantz joined the session at 10:31 a.m.

ROAD & BRIDGE: Co. Engineer Brice Goebel presented information from Doyle Creek Watershed. The district is interested in becoming a mitigation bank holder in order to receive federal credits to offset the cost of installing additional watershed dams. The district is requesting that the County replace several culverts and agree to otherwise support their endeavor. After discussion, the Board agreed that Goebel should draft a letter of support on behalf of the County for Board approval.

- The Board agreed that Goebel should seek bids for replacing culverts on Nighthawk in preparation for a possible rebuild / resurfacing project.

Area fuel bids were reviewed:	Area 1	Area 2	Area 3
	<u>1,400 gals.</u>	<u>1,950 gals.</u>	<u>1,950 gals.</u>
Coop Grain, Hillsboro	2.4020 = \$3,362.80	2.4100 = \$4,699.50	2.4220 = \$4,722.90
MFA Oil, Tampa	2.5650 = \$3,591.00	2.5650 = \$5,001.75	2.5650 = \$5,001.75
Epp's Service, Elbing	2.4900 = \$3,486.00	2.5900 = \$5,050.50	2.4800 = \$4,836.00

Dallke moved to accept the bid from Cooperative Grain for all three areas. Crofoot seconded and motion carried 5-0.

Transport fuel bids were reviewed:	Tank #3	Tank #1	Unleaded	
	<u>4,500 gals.</u>	<u>1,500 gals.</u>	<u>2,000 gals.</u>	<u>Total</u>
Epp's Service, Elbing	2.5905	2.3480	1.9140	\$19,007.25
Coop Grain, Hillsboro	2.6200	2.3630	1.8960	\$19,126.50

Becker moved to accept the bid from Epp's Service in the amount of \$19,007.25. Crofoot seconded and motion carried 5-0.

**RECORD OF PROCEEDINGS
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November 25, 2019, Continued

ROAD & BRIDGE, CONTINUED: Culvert bids were reviewed:

Welborn Sales, Salina	\$15,880.80
Welborn Sales, Salina (alternate)	\$14,947.20
J&J Drainage Products, Hutchinson	\$17,928.90

Gehring moved to accept the bid from Welborn Sales in the amount of \$14,947.20. Dallke seconded. Motion carried 5-0.

- Goebel asked for direction regarding repairs on a road leading south out of Florence. It is unclear which agency is responsible for the repairs. After discussion, Goebel indicated he would contact the city to see if the road could be repaired cooperatively between the City and the County and he will continue to research the issue for future maintenance. The Board stated no objections.
- Gehring indicated that he is getting complaints about Burdick Road (330th).

RESTRICTED BURNING: Restricted burning in the County was discussed. Novak moved to implement a Countywide burn ban and review conditions weekly. Dallke seconded and motion carried 5-0. The burning conditions will be reviewed at each upcoming Commission meeting to determine the appropriate time to lift the ban.

CO. TREASURER: Co. Treasurer Jeannine Bateman presented a monthly report to the Board and provided a copy of the reconciliation of the 2018 tax roll.

ACTION ITEMS RELATED TO EXPEDITION WIND PROJECT: Co. Counselor Brad Jantz presented Resolution 19-20 for consideration. After discussion, Becker moved to adopt Resolution 2019-20 (Re-affirming) approving a conditional use for a Wind Energy Conversion System for a certain lands located within the unincorporated area of Marion County, Kansas, under the authority granted by the Marion County Zoning Regulations Articles 12, 19, 24 and 27. Dallke seconded and motion carried with Becker, Crofoot and Dallke in favor, Gehring abstaining, and Novak opposed.

A revised development agreement was reviewed. Novak stated that not all requested changes were addressed in the document. After discussion, Becker moved to adopt Resolution 2019-21 approving a comprehensive development agreement for a wind energy conversion system for certain lands located within the unincorporated area of Marion County, Kansas, under the authority granted by the Marion County Zoning Regulations articles 24 and 27. Dallke seconded. Motion carried 3-2 with Becker, Crofoot and Dallke in favor, and Gehring and Novak opposed. The agreement was signed by Chr. Becker.

Novak referenced a settlement offer from Expedition Wind to project non-participants and / or plaintiffs in a lawsuit opposing the project. Novak questioned whether the language included was appropriate because it referenced Marion County and the Marion County Planning Commission. She read a portion of the document and requested a legal opinion from Jantz. After discussion, Jantz indicated that the language is not illegal, but if the County has concerns, he could draft and send a letter to the recipients of the offers indicating that the County is not involved in the offer. The Board directed him to do so.

COMMISSION DISCUSSION – PLANNING COMMISSION REORGANIZATION: The reorganization of the Planning Commission following the change to a five-member Board of County Commissioners was discussed. No decisions were made, but it was noted that action will need to be taken prior to the end of the year to allow for new member appointments.

ADMINISTRATIVE: Dallke moved to approve Resolution 2019-22, declaring the intent of the Board of County Commissioners of Marion County Kansas to enter into a lease purchase agreement for the purpose of financing a portion of the costs for the acquisition, construction, improvement, remodeling and equipping of new and existing solid waste disposal facilities. Crofoot seconded and motion carried 4-1. Novak opposed.

DEPARTMENT HEAD EVALUATIONS: Dallke moved to finish the department head evaluations on payday, November 27th. Gehring seconded and motion carried 5-0.

Chr. Becker opened the floor to public comments. There were none. Becker moved to adjourn. Crofoot seconded and motion carried 5-0. Meeting adjourned at 12:49 p.m.

Kent Becker, Chairman

ATTEST: _____
Tina D. Spencer, County Clerk

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

November 25, 2019, Continued

BURN BAN PROCLAMATION

The Board of Marion County Commissioners hereby implement a burn ban in the following area(s) in Marion County: **COUNTY WIDE**

THE BURN BAN IS ISSUED DUE TO IMMINENT THREAT OF DISASTER THROUGH FIRE AND SHALL REMAIN IN PLACE UNTIL RESCINDED.

EFFECTIVE IMMEDIATELY, ALL CITIZENS AND VISITORS IN MARION COUNTY, KANSAS, ARE PROHIBITED FROM:

1. Careless use of smoking materials, including cigarettes, cigars and smoking pipes. Discard shall be in a manner to preclude threat from smoldering remains.
2. Building, maintaining, attending or using an open fire or campfire except in permanent stove or fireplaces or barbecue grills in developed recreation sites or residential lawns.
3. Burning of all fencerows, fields, pastures, grasslands, ravines, trash and debris, except that trash and debris may be burned in permanent stoves or permanent enclosures.
4. Using welding and / or torch equipment without fire protection equipment on site.

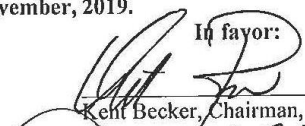
ALL LAW ENFORCEMENT AND FIRE DEPARTMENT AGENCIES IN MARION COUNTY ARE HEREBY DIRECTED TO ENFORCE THIS ORDER. KNOWING AND WILLFUL VIOLATION OF THIS ACT SHALL CONSTITUTE A CLASS A MISDEMEANOR AND ANY PERSON CONVICTED OF SUCH VIOLATION SHALL BE PUNISHED AS PROVIDED BY LAW K.S.A. 48-939, WHICH MAY RESULT IN UP TO ONE YEAR IN COUNTY JAIL AND/OR UP TO A \$2,500.00 FINE.

The Marion County Clerk shall notify County Departments and each City Clerk. The Emergency Management Director shall notify the Kansas Division of Emergency Management (KDEM) and Emergency personnel. The Marion County Public Information Officer will contact the media for public information.

So proclaimed by the Board of County Commissioners of Marion County, Kansas on this 25th day of November, 2019.

In favor:

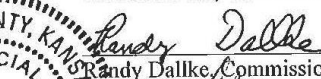
Opposed:


Kent Becker, Chairman, District 1

Kent Becker, Chairman, District 1


Dianne Novak, Commissioner, District 2

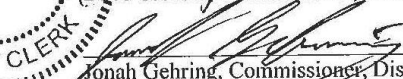
Dianne Novak, Commissioner, District 2


Randy Dallke, Commissioner, District 3

Randy Dallke, Commissioner, District 3

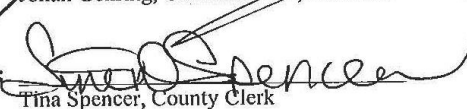

Dave Crofoot, Commissioner, District 4

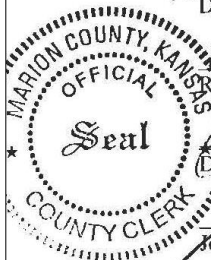
Dave Crofoot, Commissioner, District 4


Jonah Gehring, Commissioner, District 5

Jonah Gehring, Commissioner, District 5

ATTEST:


Tina Spencer, County Clerk



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

November 25, 2019, Continued

**MARION COUNTY, KANSAS
RESOLUTION NO. 2019-- 20**

A RESOLUTION APPROVING A CONDITIONAL USE FOR A WIND ENERGY CONVERSION SYSTEM FOR CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF MARION COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE MARION COUNTY ZONING REGULATIONS ARTICLES 12, 19, 24 AND 27.

WHEREAS on November 4, 2019 the Board of County Commissioners of Marion County, Kansas reviewed the recommendations of the Marion County Planning Commission and, after due consideration of the factors set out in Section 24-105 (2) of the Marion County Zoning Regulations, by majority vote, to approve the recommendation of Marion County Planning Commission by approving a Conditional Use and accompanying development plan, through Resolution No. 2019-15, for the reasons set forth in the Zoning Administrator's and Expedition Wind LLC's analysis of Section 24-105 (2) of the Marion County Zoning Regulations presented to the planning Commission;

WHEREAS no protest petition was filed sufficient to trigger a 3/4th supermajority vote requirement as necessitated by K.S.A. 12-757(f)(1).

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, KANSAS, because a protest petition was not filed sufficient to trigger a 3/4th supermajority vote requirement, the Conditional Use authorized by the Board of County Commissioners of Marion County, Kansas Resolution numbered 2019-15 is hereby confirmed and ratified.

[Signature Page Follows]

This Resolution shall be in full force and effect from and after its publication in the official county newspaper.

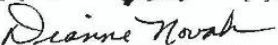
ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS of Marion County, Kansas, this ____ day of November, 2019.

BOARD OF COUNTY COMMISSIONERS MARION
COUNTY, KANSAS

☒ Yea ☐ Nay ☐ Abstain


Kent D. Becker, Chairman

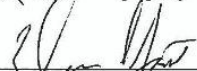
☐ Yea ☒ Nay ☐ Abstain


Dianne R. Novak, Member

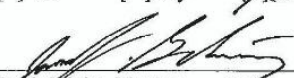
☒ Yea ☐ Nay ☐ Abstain



Randy Dallke, Member

☒ Yea ☐ Nay ☐ Abstain


David Crofoot, Member

☐ Yea ☐ Nay ☒ Abstain


Jonah Gehring, Member

ATTEST: 
Tina D. Spencer, Marion County Clerk



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

November 25, 2019, Continued

**MARION COUNTY, KANSAS
RESOLUTION NO. 2019- 21**

A RESOLUTION APPROVING A COMPREHENSIVE DEVELOPMENT AGREEMENT FOR A WIND ENERGY CONVERSION SYSTEM FOR CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF MARION COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE MARION COUNTY ZONING REGULATIONS ARTICLES 24 AND 27.

WHEREAS, Expedition Wind LLC ("Expedition Wind") is the holder of the following existing Conditional Use Permits: Marion County Commission Resolutions Numbered 2010-19; 2011-22; 2014-13; 2014-22; 2015-5; 2019-11; and 2019-15 (collectively, the "CUPs"); and

WHEREAS, in accordance with the CUPs, Expedition Wind desires to construct and operate a wind energy conversion system on the real property subject to the CUPs, with an expected total gross nameplate capacity of approximately two hundred (200) megawatts, subject to total size and configuration in Expedition Wind's discretion; and consisting of wind turbine generators, meteorological towers, substations, collection and transmission lines (overhead and underground), access roads, temporary construction areas, operation and maintenance facilities, and other infrastructures relating thereto (all collectively referred to as the "Project"); and

WHEREAS, it is in the best interest of the public health, safety and welfare of Marion County, Kansas ("County") that Expedition Wind and County reach an agreement to address possible issues that may arise pertaining to the design, construction, development, use, operation, maintenance, and decommissioning of the Project, including potential issues that may arise pertaining to the roads in, around and near the Project; and

WHEREAS, in accordance with the CUPs, and to effectuate the foregoing, County and Expedition Wind desire to enter into that certain Development Agreement, presented in the form as attached hereto as Exhibit "A" and incorporated herein (the "Development Agreement"), a copy of such agreement is available for public inspection at the Marion County Planning and Zoning Department, 203 S. 3rd Street, Marion, Kansas, during normal business hours; and

WHEREAS, the Board of County Commissioners of Marion County, Kansas (the "Governing Body") desire to authorize Kent. D. Becker, as Chairman of the Governing Body, in the name and on behalf of the Governing Body, to execute and deliver the Development Agreement and all such further documents, agreements, and instruments necessary or advisable to carry out the intent and accomplish the purpose of the Development Agreement and the transaction contemplated thereby.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, KANSAS, that the Development Agreement, as provided in Exhibit A, is approved and is the current and only Development Agreement in effect regarding any of the CUPs.

FURTHER RESOLVED, that Kent. D. Becker, as Chairman of the Governing Body, in the name and on behalf of the Governing Body, is hereby authorized to execute and deliver the Development Agreement and all such further documents, agreements, and instruments necessary or advisable to carry out the intent and accomplish the purpose of the Development Agreement and the transaction contemplated thereby.

This Resolution shall be in full force and effect from and after its publication in the official county newspaper.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS of Marion County, Kansas, this 25 day of November, 2019.

BOARD OF COUNTY COMMISSIONERS MARION
COUNTY, KANSAS

☒ Yea ☐ Nay ☐ Abstain

Kent D. Becker, Chairman

☐ Yea ☒ Nay ☐ Abstain

Distanc R. Novak, Member

☒ Yea ☐ Nay ☐ Abstain

Randy Ballke, Member

☒ Yea ☐ Nay ☐ Abstain

David Crofton, Member

☐ Yea ☒ Nay ☐ Abstain

Joan Gehring, Member

ATTEST: Tina D. Spencer
Tina D. Spencer, Marion County Clerk



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

November 25, 2019, Continued

RESOLUTION NO. 2019-22

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, KANSAS, DECLARING ITS INTENT TO ENTER INTO A LEASE PURCHASE AGREEMENT FOR THE PURPOSE OF FINANCING A PORTION OF THE COSTS FOR THE ACQUISITION, CONSTRUCTION, IMPROVEMENT, REMODELING AND EQUIPPING OF NEW AND EXISTING SOLID WASTE DISPOSAL FACILITIES.

WHEREAS, the Board of County Commissioners (the "Board") of Marion County, Kansas (the "County"), has considered the needs of the County and its residents for certain equipment and property, including the acquisition, construction, improvement, remodeling and equipping of new and existing solid waste disposal facilities owned and operated by the County in accordance with plans and specifications therefor on file in the office of the County Clerk (the "Improvements"), and has found and determined that undertaking and making the Improvements is in the public interest; and

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

WHEREAS, pursuant to K.S.A. 19-15,115 and subject to the conditions set forth in K.S.A. 10-1116b and K.S.A. 10-1116c, the County has legal authority to authorize the Improvements and financing a portion of the costs of therefor through the execution and delivery of a lease purchase agreement.

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

Section 1. Authorizing the acquisition, construction, improvement, remodeling and equipping the Improvements. The County is hereby authorized to complete and finalize plans and specifications and to contract for the Improvements a portion of the costs for which are to be financed by the County in an amount not to exceed \$1,875,000.

Section 2. The Board shall commence negotiations to enter into a certain lease purchase agreement (the "Lease") to provide financing for a portion of the cost of the Improvements, containing such terms, conditions and provisions as shall be acceptable to the Board.

Section 3. Conditions to Execution and Delivery of the Lease. The execution and delivery of the Lease is subject to the publication and protest period requirements of K.S.A. 10-1116c, adoption of a resolution approving the forms and authorizing the execution of the Lease and a site lease, if necessary, and execution and delivery of such legal documents as may be necessary in connection therewith, the terms of which shall be satisfactory to the Board and to the lessor named in said Lease.

Section 4. Expenditure of Funds in Anticipation of Financing. In order to permit and expedite the acquisition, construction, improvement, remodeling and equipping of the Improvements and realization of the public benefits to be derived therefrom, the County may expend lawfully available funds prior to execution and delivery of the Lease, which expenditures are expected to be reimbursed upon execution and delivery of the Lease.

Section 5. Declaration of Official Intent. It is the intent of the Board that this Resolution No. 2019-22 shall constitute a declaration of official intent in accordance with U. S. Treasury Regulation § 1.150-2.

Section 6. Lease Payment Total; Publication of this Resolution No. 2019-22. The expected total of all payments to be made by the County pursuant to the Lease (excluding amounts required for

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

November 25, 2019, Continued

(Resolution 2019-22 Continued)

maintenance, taxes or insurance on the Improvements) is \$2,529,593, of which \$1,875,000 represents the estimated principal amount of the Lease and \$654,593 represents the estimated total interest payments on the Lease. The Clerk of the Board is hereby authorized and directed to publish this Resolution No. 2019-~~22~~ once each week for two (2) consecutive weeks in a newspaper of general circulation within the boundaries of the County. If a protest petition signed by not less than five per cent (5%) of the qualified voters of the County, as determined by the vote for secretary of state at the last general election, is filed with the County Election Officer within thirty (30) days following the last publication of this Resolution No. 2019-~~22~~, the proposed Lease shall not take effect unless approved by a majority of the qualified voters of the County voting at an election to be held thereon as prescribed in K.S.A. 10-1116c.

Section 7. Further Authority. The officials and officers of the County, financial advisor, Stifel, Nicolaus & Company, Incorporated, 4801 Main St., Suite 530, Kansas City, Missouri 64112, the County's special tax counsel with regard to the financing described herein, Jonathan P. Small, Chartered, Topeka, Kansas, and other consultants are authorized to proceed with the planning and document preparation of and for the Improvements, the Lease and other legal documents necessary in order to comply with the intent of this Resolution No. 2019-~~22~~, subject to final approval of such documents by the Board.

ADOPTED by the Board of County Commissioners of Marion County, Kansas, on November 25, 2019.

Voting in Favor:


Kent Becker, Chairperson


Randy Dallke, Commissioner

Dianne R. Novak, Commissioner


Dave Crofoot, Commissioner


Jonah Gehring, Commissioner

Voting Opposed:

Kent Becker, Chairperson


Randy Dallke, Commissioner


Dianne R. Novak, Commissioner

Dave Crofoot, Commissioner

Jonah Gehring, Commissioner

ATTEST:


Tina D. Spencer
County Clerk
Marion County, Kansas

