BOARD OF COUNTY COMMISSIONERS
MONTGOMERY COUNTY, KANSAS
OFFICIAL MINUTES

October 12, 2021

The Board of County Commissioners, three members and the Deputy County Clerk present, met in regular session at 9:00 AM.

CALL TO ORDER: Commissioner Bever.

INVOCATION: Commissioner Bever.

PLEDGE OF ALLEGIANCE: Commissioner McManus.

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AGENDA APPROVAL:

ACTION: *A motion was made by Commissioner McManus to approve the agenda as presented.. The motion was seconded by Commissioner Cordray.*

ROLL CALL VOTE - Commissioner Bever - Yes
Commissioner McManus - Yes
Commissioner Cordray- Yes

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APPROVAL OF PAYMENT OF INVOICES:

ACTION: *A motion was made by Commissioner McManus to approve invoices in the amounts of $124,663.70, and $238,995.46 as presented by the County Clerk's Office. Motion was seconded by Commissioner Cordray.*

ROLL CALL VOTE - Commissioner Bever - Yes
Commissioner McManus - Yes
Commissioner Cordray- Yes

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APPROVAL OF MINUTES:

ACTION: *A motion was made by Commissioner Cordray to approve the minutes of October 4,, 2021 as presented by the County Clerk. The motion was seconded by Commissioner McManus.*

ROLL CALL VOTE - Commissioner Bever - Yes
Commissioner McManus – Yes
Commissioner Cordray- Yes

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PUBLIC HEARING – ISSUANCE OF IRB'S FOR BARTLETT GRAIN COMPANY COMMERCIAL FACILITY (the PROJECT):

Chairman Bever recessed the meeting to open the Public Hearing at 9:15 AM.

Those present for the Hearing were Montgomery County Action Council Interim Director Jim Kelly and Sarah Steele representing Gilmore & Bell, P.C.

Mr. Kelly reviewed the Cost Benefit Analysis and Ms Steele explained the steps for issuing IRB's and the benefits to Bartlett Grain Company.

Mr. Bill Webster, Duncan Wilson, Chip Buckner and Dustin Bever were present to Bartlett Grain Company. Mr. Webster gave a presentation about the history of the company and the project for which they are requesting the IRB's. The IRB's are in the amount of $325,000.000.

PUBLIC HEARING (Continued):

Public input and questions presented from the public and the media was opened .

Questions were on jobs, wages and benefits. Mr. Webster answered the question with Construction workers 125 to 150 and wage above the county average Permanent work force will start at 50.

A question was asked if there is a connection between Bartlett Elevator and Bartlett Grain, The answer is "no, a standalone business".

Question were presented on infrastructure transportation and rail access to the facility and explained by Mr. Webster stating , "the $325,000 is for the new system only".

The Chairman concluded the Public Hearing at 9:50 AM and returned to regular session.

The resolution was presented by the Chairman to the Board for discussion. The following action was taken:

ACTION: *A motion was made by Commissioner McManus to adopt the following resolution and it shall become effective upon adoption by the governing body and all required documents completed. Motion was seconded by Commissioner Cordray.*

A RESOLUTON OF THE GOVERNING BODY OF MONTGOMERY COUNTY, KANSAS DETERMINING THE ADVISABILITY OF ISSUING TAXABLE INDUSTRIAL REVENUE BONDS FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION AND WQUIPPING OF A COMMERCIAL FACILITY TO BE LOCATED IN THE COUNTY; AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS.. (THE COMPLETE RESOLUTION IS ATTACHED.)

ROLL CALL VOTE – Commissioner Bever – Yes
Commissioner McManus – Yes
Commissioner Cordray- Yes

RES. NO. 21-131

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Recess at 10:00 AM for 15 minutes.
Returned at 10:15 AM.

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ENVIRONMENTAL HEALTH/ZONING – ON-SITE DISPOSAL OF BUILDING DEMOLITION WASTE PERMIT:

Environmental Health/Zoning Administrator Matt Debo and Brent and Rosemary McElroy met with the Board to present an application for on-site disposal of building demolition waste without a permit authorized by K.S.A. 65-3407c (a)(3).

ACTION: *A motion was made by Commissioner McManus to approve the request as presented for on-site disposal of building demolition waste without a permit authorized by K.S.A. 65-3407c (a)(3) as requested by Brent and Rosemary McElroy. Motion was seconded by Commissioner Cordray.*

ROLL CALL VOTE – Commissioner Bever – Yes
Commissioner McManus – Yes
Commissioner Cordray- Yes

RES. NO. 21-136

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MONTGOMERY COUNTY COMMERCIAL INSURANCE FOR 2021/2022:

Mr. Harvey Felzke with KCAMP met with the Board to discuss the recent bids provided to the Board on the Commercial Insurance for 2021/2022. The following action was taken:

ACTION: *A motion was made by Commissioner Bever to approve and accept the low bid for Commercial Insurance and Workmen's Compensation Insurance from KCAMP and Workmen's Compensation from KWORKS. Bids were as follows:*

Commercial Insurance - $354,119.00 for 13 months
Workmen's Compensation - $139,926 for 13 months
Motion was seconded by Commissioner Cordray.

ROLL CALL VOTE – Commissioner Bever – Yes
Commissioner McManus – Yes
Commissioner Cordray- Yes

RES. NO. 21-132

KCAMP – APPROVING COMMERCIAL INSURANCE COVERAGE:

ACTION: *A motion was made by Commissioner Cordray to approve the entering into an agreement with KCAMP to provide Commercial Insurance Coverage for Montgomery County beginning December 1, 2021 and for 2022 with the premium cost of $327,120 plus $27,019 for 13 months coverage for December 2021 and the 12 months of 2022 Motion was seconded by Commissioner McManus.*

ROLL CALL VOTE – Commissioner Bever – Yes
Commissioner McManus – Yes
Commissioner Cordray- Yes

RES. NO. 21-133

ACTION: *A motion was made by Commissioner Cordray to approve the entering into an agreement with KWORKs to provide Workmen's Compensation Insurance Coverage for Montgomery County beginning December 1, 2021 and for 2022 with the premium cost of $139,926 for 13 months coverage for December 2021 and the 12 months of 2022. Motion was seconded by Commissioner McManus*

ROLL CALL VOTE – Commissioner Bever – Yes
Commissioner McManus – Yes
Commissioner Cordray- Yes

RES. NO. 21-134

ACTION: *A motion was made by Commissioner Cordray to enter into an agreement for KCAMP to provide Commercial Insurance Coverage for Montgomery County for the remainder of 2021 and 2022 as outlined in the bid submitted to Montgomery County discontinuing further coverage with our present provider. Motion was seconded by Commissioner McManus.*

ROLL CALL VOTE – Commissioner Bever – Yes
Commissioner McManus – Yes
Commissioner Cordray- Yes

RES. NO. 21-135

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OTHER COUNTY BUSINESS:

1. Neowallah Kiddie Parade – October 29, 2021 – 2:00 PM –

ACTION: *A motion was made by Commissioner McManus to close the County offices at 2:00 PM for the employees to attend the Kiddie Parade on October 29, 2021. Motion was seconded by Commissioner Cordray.*

ROLL CALL VOTE - Commissioner Bever - Yes
Commissioner McManus – Yes
Commissioner Cordray- Yes

2. EXECUTIVE SESSION – HR – NON-ELECTED PERSONNEL:

ACTION: *A motion was made by Commissioner Bever to recess to Executive Session at 11:10 AM to return at 11:40 AM with the Board and HR Director present to discuss the Job Status of a non-elected personnel. Motion was seconded by Commissioner McManus.*

ROLL CALL VOTE – Commissioner Bever – Yes
Commissioner McManus – Yes
Commissioner Cordray- Yes

Returned to session at 11:40 AM stating no decisions made and no action to be taken.

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ADJOURNMENT: 11:41 AM

ACTION: *Motion by Commissioner Bever, seconded by Commissioner Cordray.*

ROLL CALL VOTE - Commissioner Bever - Yes
Commissioner McManus – Yes
Commissioner Cordray- Yes

BOARD OF COUNTY COMMISSIONERS
MONTGOMERY COUNTY, KANSAS

ROBERT BEVER, Chairman

LARRY McMANUS, Member

MIKE CORDRAY, Member

ATTEST:

Montgomery County, Kansas SEAL COUNTY COMMISSIONERS

County Clerk

RESOLUTION NO. 21-131

DATED at Independence, Montgomery County, Kansas this 12th day of October, 2021.

WHEREAS: *A motion was made by Commissioner McManus to adopt the following resolution and it shall become effective upon adoption by the governing body and all required documents completed. Motion was seconded by Commissioner Cordray.*

A RESOLUTON OF THE GOVERNING BODY OF MONTGOMERY COUNTY, KANSAS DETERMINING THE ADVISABILITY OF ISSUING TAXABLE INDUSTRIAL REVENUE BONDS FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION AND WQUIPPING OF A COMMERCIAL FACILITY TO BE LOCATED IN THE COUNTY; AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS.. (THE COMPLETE RESOLUTION IS ATTACHED.)

ROLL CALL VOTE – Commissioner Bever - Yes
Commissioner McManus – Yes
Commissioner Cordray – Yes

BOARD OF COUNTY COMMISSIONERS
MONTGOMERY COUNTY, KANSAS

Robert E. Bever
Robert Bever, Chairman

Larry McManus
Larry McManus, Member

Mike Cordray
Mike Cordray, Member

ATTEST:

Montgomery County, Kansas SEAL COUNTY COMMISSIONERS

Charlotte Schmidt
Charlotte Scott Schmidt, County Clerk

Gilmore & Bell, P.C.
09/27/2021

RESOLUTION NO. 21-131

A RESOLUTION OF THE GOVERNING BODY OF MONTGOMERY COUNTY, KANSAS DETERMINING THE ADVISABILITY OF ISSUING TAXABLE INDUSTRIAL REVENUE BONDS FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A COMMERCIAL FACILITY TO BE LOCATED IN THE COUNTY; AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS

WHEREAS, Montgomery County, Kansas (the "Issuer") desires to promote, stimulate and develop the general economic welfare and prosperity of the Montgomery County, Kansas, and thereby to further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas; and

WHEREAS, pursuant to the provisions of the Kansas Economic Development Revenue Bond Act, as amended and codified in K.S.A. 12-1740 *et seq.* (the "Act"), the Issuer is authorized to issue revenue bonds for such purposes, and it is hereby found and determined to be advisable and in the interest and for the welfare of the Issuer and its inhabitants that revenue bonds of the Issuer in a principal amount not to exceed $325,000,000 be authorized and issued, in one or more series, to provide funds to pay the costs of the acquisition, construction and equipping of a commercial facility (the "Project") to be located in the Issuer and to be leased by the Issuer to Bartlett Grain Company, L.P., a Missouri limited partnership, or another legal entity to be formed by the principals of Bartlett Grain Company, L.P. (the "Tenant").

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF MONTGOMERY COUNTY, KANSAS:

Section 1. **Public Purpose**. The governing body of the Issuer hereby finds and determines that the Project will promote, stimulate and develop the general economic welfare and prosperity of the Issuer, and thereby further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas.

Section 2. **Authorization to Acquire Project; Intent to Issue Bonds**. The Issuer is hereby authorized to proceed with the acquisition, construction and equipping of the Project and to issue its revenue bonds, in one or more series, in a principal amount not to exceed $325,000,000 (the "Bonds") to pay the costs thereof, subject to satisfaction of the conditions of issuance set forth herein.

Section 3. **Conditions to Issuance of Bonds**. The issuance of the Bonds is subject to: (a) the adoption of a resolution authorizing the issuance of the Bonds; (b) the successful negotiation of a Trust Indenture, Site Lease, Project Lease, Bond Purchase Agreement or other legal documents necessary to accomplish the issuance of the Bonds, the terms of which shall be in compliance with the Act and mutually satisfactory to the Issuer and the Tenant; (c) the successful negotiation and sale of the Bonds to a purchaser or purchasers yet to be determined (the "Purchaser"), which sale shall be the responsibility of the Tenant and not the Issuer; (d) the receipt of the approving legal opinion of Gilmore & Bell, P.C. ("Bond Counsel") in form acceptable to the Issuer, the Tenant and the Purchaser; (e) the obtaining of all necessary governmental approvals to the issuance of the Bonds; and (f) the commitment to and payment by the Tenant or Purchaser

of all expenses relating to the issuance of the Bonds, including, but not limited to: (i) expenses of the Issuer and the Issuer Attorney; (ii) any underwriting or placement fees and expenses; (iii) all legal fees and expenses of Bond Counsel; and (iv) all recording and filing fees, including fees of the Kansas Board of Tax Appeals.

Section 4. **Property Tax Exemption**. The Issuer hereby determines that pursuant to the provisions of K.S.A. 79-201a *Twenty-Fourth,* the Project, to the extent purchased or constructed with the proceeds of the Bonds, should be exempt from payment of ad valorem property taxes for ten years commencing with the year following the year in which the Bonds are issued, provided proper application is made therefor; provided no exemption may be granted from the ad valorem property tax levied: (a) by a school district pursuant to the provisions of K.S.A. 72-53,113, and amendments thereto; and (b) for the uses restricted pursuant to the provisions of K.S.A. 79-201a, *Second* and *Twenty-Fourth*. In making such determination the governing body of the Issuer has conducted the public hearing and reviewed the analysis of costs and benefits of such exemption required by K.S.A. 12-1749d. The Tenant is responsible for preparing such application and providing the same to the Issuer for its review and submission to the State Board of Tax Appeals.

Section 5. **Sales Tax Exemption**. The Governing Body hereby determines that pursuant to the provisions of K.S.A. 79-3601 *et seq.* (the "Sales Tax Act"), particularly 79-3606(b) and (d) and other applicable laws, sales of tangible personal property or services purchased in connection with construction of the Project and financed with proceeds of the Bonds are entitled to exemption from the tax imposed by the Sales Tax Act; provided proper application is made therefore. In the event that the Bonds are not issued for any reason, the Tenant will not be entitled to a sales tax exemption under the terms of the Sales Tax Act and will remit to the State Department of Revenue all sales taxes that were not paid due to reliance on the sales tax exemption certificate granted hereunder.

Section 6. **Reliance by Tenant; Limited Liability of Issuer.** It is contemplated that in order to expedite acquisition of the Project and realization of the benefits to be derived thereby, the Tenant may incur temporary indebtedness or expend its own funds to pay costs of the Project prior to the issuance of the Bonds. Proceeds of Bonds may be used to reimburse the Tenant for such expenditures made not more than 60 days prior to the date this Resolution is adopted. The Bonds herein authorized and all interest thereon shall be paid solely from the revenues to be received by the Issuer from the Project and not from any other fund or source. The Issuer shall not be obligated on such Bonds in any way, except as herein set out. In the event that the Bonds are not issued, the Issuer shall have no liability to the Tenant.

Section 7. **Execution and Delivery of Bond Purchase Agreement**. At such time as the Tenant has demonstrated compliance with the provisions of this Resolution, the Mayor and City Clerk are authorized to execute a bond purchase agreement with the Purchaser and the Tenant for the sale of the Bonds in a form satisfactory to the City Attorney and Bond Counsel.

Section 8. **Further Action**. The Clerk is hereby authorized to deliver an executed copy of this Resolution to the Tenant. The Chairman, Clerk and other officials and employees of the Issuer, including the Issuer's counsel and Bond Counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Resolution, including, but not limited to: (a) cooperate with the Tenant in filing an application for a sales tax exemption certificate with the Kansas Department of Revenue with respect to Bond-financed property; and (b) execution on behalf of the Issuer of the information statement regarding the proposed issuance of the Bonds to be filed with the State Board of Tax Appeals pursuant to the Act.

Section 9. **Effective Date**. This resolution shall become effective upon adoption by the Governing Body.

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ADOPTED by the governing body of Montgomery County, Kansas on October 12, 2021.

[SEAL]

Chairman

Commissioner

Commissioner

Attest:

Clerk

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of the Resolution of the Issuer adopted by the governing body on October 12, 2021, as the same appears of record in my office.

DATED: 10-12 2021.

Clerk

RESOLUTION NO. 21-132

DATED at Independence, Montgomery County, Kansas this 12th day of October, 2021.

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Motion was seconded by Commissioner Cordray.

ROLL CALL VOTE – Commissioner Bever - Yes
Commissioner McManus – Yes
Commissioner Cordray – Yes

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Robert E Bever
Robert Bever, Chairman

Larry McManus
Larry McManus, Member

Mike Cordray
Mike Cordray, Member

ATTEST:

Montgomery County, Kansas SEAL COUNTY COMMISSIONERS

Charlotte Schmidt
Charlotte Scott Schmidt, County Clerk

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Charlotte Scott Schmidt, County Clerk

RESOLUTION NO. 21-136

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WHEREAS: *A motion was made by Commissioner McManus to approve the request as presented for on-site disposal of building demolition waste without a permit authorized by K.S.A. 65-3407c (a)(3) as requested by Brent and Rosemary McElroy.*

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ROLL CALL VOTE – Commissioner Bever - Yes
Commissioner McManus – Yes
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