THE SHELBY COUNTY COUNCIL NOVEMBER 17, 2020

The Shelby County Council met on Tuesday November 17, 2020 at 6:30 p.m., present was council members, Smith, Claxton, Caldwell, Titus, Sanders, Compton, County Council Attorney Jody Butts, and the County Deputy Auditor.

MINUTES:
Motion to approve minutes from October 20, 2020 meeting was made by Caldwell, seconded by Smith, approved 6-0

TRANSFERS:

At this time, a motion was made to approve all transfers by Claxton, seconded by Caldwell, approved 6-0

CLERK:

Request to transfer $3,000.00 FROM 1000-15000-0001 (Clerk Part-time) to 1000-16000-0062 (Election Overtime)

PROBATION:

Request to transfer $901.37 from 9173-21100 (Supplies) to 9173-31102 (Contractual)

SHERIFF:

Request to transfer $1,000.00 from 1170-16180-0005 (Shift Differential) to 1170-16000-0005 (Overtime)
Request to transfer $2,302.00 from 1000-11560-0380 (Correctional Officer) to 1000-11300-0380 (Cpl. Correctional Officer), $2,434.00 from 1000-12340-0005 (Deputy) to 1000-12143-0005 (Communication Officer)

SUPERIOR COURT II.:

Request to transfer $500.00 from 1000-33004-0202 (Interpreters) to 1000-24103-0202 (Photocopy Supplies)

ADDITIONALS:

CUM CAP DEVELOPMENT/SHERIFF:

Request for an additional appropriation in fund 1135-41100-0000 (Equipment) in the amount of $9,850.00, motion to approve was made by Caldwell, seconded by Sanders approved 6-0

PROSECUTOR / PRETRIAL:

Request for an additional appropriation in fund 2504-31202-0000 (Special Trail) in the amount of $10,000.00, motion to approve was made by Sanders, seconded by Caldwell, approved 6-0

COMMISSIONERS / LOCAL ROAD & STREET:

Request for an additional appropriation in fund 1169-36522-0000 (Community Crossing Grant) in the amount of $180,000.00, motion to approve was made by Sanders, seconded by Caldwell, approved 6-0

MISCELLANEOUS:

INTERLOCAL AGREEMENT / ORDINANCE WITH CITY/INSPECTOR:

Titus presented the Council with an interlocal agreement between the City of Shelbyville and Shelby County regarding the Building Inspectors. Motion to approve was made by Sanders, seconded by Compton, approved 6-0

Titus also presented the Council with Ordinance 2020-23 approving the interlocal agreement between Shelby County and the City of Shelbyville, Indiana regarding Building Commission Conflicts of Interest and Unavailability of Staff. Motion to approve was made by Sanders, seconded by Smith, approved 6-0

EMERGENCY MANAGEMENT / COVID SUPPLIES REQUESTS:

Ryan Hansome presented the Council with a request from Judge Riggins to order supplies for the new Magistrate Court, this request is for $1,500.00, motion to approve was made by Sanders, seconded by Caldwell, approved 6-0

HUMAN RESOURCE / 2021 SALARY ORDINANCE:

Donna presented the Council with Ordinance 2020-24 the 2021 Salary Ordinance. Motion to approve was made by Caldwell, seconded by Claxton, approved 6-0

HUMAN RESOURCE / EMPLOYEE REPLACEMENT:

Clerks Office: Request to replace an employee that will be retiring at the end of the year. Motion to approve was made by Claxton, seconded by Caldwell, approved 6-0

KYLE BARLOW / SOLAR FARM:

The last few weeks our group has learned of a 3rd solar company out in our county working aggressively soliciting land east of Shelbyville and the Little Marion area, that company's name is Hecate. We have had landowners reach out to us and complain about Hecate consistent and relentless contact. People in this county are becoming aware of this solar blitz and the tactics these solar companies are using. Some of the neighbors must names of landowners being cornered by Hecate. Some of these names are cause for alarm to the citizens of this county. Why is Shelby County being harassed for industrial solar and why is it being allowed? Switching gears to what more of what you people on the board do, tax abatement concerns. I recently read a paper by Dr. Michael Hicks from Ball State titles The Fiscal Impact of Local Property Tax Abatements in Indiana. I first heard his name when first given an article by Dr. Hicks from our County Government Officials, some sitting on this board speaking favorably on solar. He said and I quote "There is not a strong relationship between abatement and the growth of assessed value over time. The implication is that on average the use of abatements as a tool for growing a property tax base is not particularly affected, these findings cast doubt on the ability of Indiana systems of property tax abatements to increase the tax base or control property tax rates." Nowhere in the Indiana Law concerning tax abatement are the words Lessee, Lessor or Tenant. The word owner is mentioned 119 times. Are Tax Abatements even available to tenants as they do not own the land? How can an individual property owner be given a tax abatement? How can a company that is only a tenant or lessor be given a tax abatement? Titus and Jody Butts advised you can not get an abatement on the land only personal property. In the copy of the Ranger Power Lease that we have there is a clause that states, Ranger Power can still argue the arrangement of their abatement in court, if they choose to. So, they can try to change the terms after the fact. They can try I did not say they could, but that is in their lease that we have a copy of. Titus asked Jody if they could change the tax abatement that the Council gave. Jody advised no. It states in the lease that the landowners are still supposed to apply for AG Tax Credits if available, because they are still the landowner, not Ranger Power or Speedway Solar. These companies will not receive the tax bills for the real property (that you have clarified with me), but the landowner will, so the landowner did not apply for any abatements Speedway Solar did. So, I guess our concern as a group is that and I guess you have clarified that for me. These companies are applying for abatements or coming into our county asking for abatements and they can potentially change that (but you are telling me they cannot), but that is what their lease states. Another concern is prime farmland developed and producing crops does not meet the legal definition of an economic revitalization area under Indiana Code 6-1-12.1. To define an era for you, it is an area in a city or county which has become an undesirable for or impossible of normal development an occupancy because of lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard building or other factors which have impaired values or prevent a normal development of property or us of property. Titus ask by that ordinance it is not legally possible, Barlow advised by the way he reads it. Barlow advised he had the two documents here that are the declaratory final ERA of resolution of our county with Speedway Solar/Ranger Power.

The documents are the process that are used to claim that Speedway Solar/Ranger Power applied for an ERA. In section 2.5 of that code: after the completion of materials described in that sub-section, the designated body shall pass a resolution declaring the area an ERA, the resolution must contain a description of the affected area and be filed with the County Assessor. The only things are neither of these documents describe the affected area. The only thing that these talk about are the jobs it is going to bring. Farmland cannot be deemed undesirable land. As farmers we fight over it, we go to auctions we try to buy it, it is not under-developed, it increases its value every year. Why are we designating this land an ERA? Why did we? Jody advised there are other factors to look at in giving abatements, and the whole purpose of a tax abatement is to stimulate Economic Development. Barlow- so jobs, but these things do not bring jobs. Titus – well tax rates there will be the Real Property that the Personal Property sits on will go from AG to Commercial Land. Barlow – but why would we make it an ERA? What is the purpose of that? Titus – it would have to be to go thru abatement process. Barlow- its for abatement to get abatements for these companies. These two documents touch on construction jobs, salaries of construction workers, benefits that will bring to our community which are negligible which we have proven that. The truth is these companies are begging to be here, they want to be here. So why are we giving them an abatement to be here. Titus – we look at abatements for all people that want to come to the county not just solar companies. Anymore it is almost the cost to do business. So, if you continue not to give abatements companies, you will not get any type of development. Barlow – In Madison County they just had their abatement overturned, but that energy company is there doing the project, they do not have to have the abatement. So, in my opinion our county is missing out on 5-7 million dollars by giving them an abatement. They want to be here because of the high transmission power lines. We have been told this by representatives of many solar plants. So, if we have them, why give them abatements. Titus- we have not given anyone an abatement yet; we have Ranger Power one. Barlow – I just do not think what was done was right, this truly is not an ERA. I do not believe we followed it right by giving the description of the area because it is not in these two documents. All is talked about are the jobs, construction jobs, the salary. The guys from what I have been told are going to install these are going to be out of Indianapolis. They aren't going to stay in our hotels, they might eat lunch in our town, there money is not going to stay here, like other jobs like when the pipeline came through and all of the guys did. So why are we giving these companies abatements. Titus – we gave Ranger Power an abatement and we have not even heard from SPOWER or if they are going to even want one. Barlow- but the presence has been set that we gave Ranger Power one. Titus- things change, I cannot say we will, and I cannot say we will not. Barlow- I guess as a farmer if I can buy a piece of property come in and declare an ERA and get a tax abatement from you guys on the property. But you cannot. Titus – you cannot abate property; you can abate personal property, but you cannot abate the land. I will tell you if this tactic is used in future project, there is a 10 day appeal period and after that it can be appealed and from what I have been advised on, is the only thing a Judge would rule on is whether the land meets the description of an ERA. In closing the BZA has to approve a special exemption to allow prime farmland to be used for commercial or industrial project and then the County Council turns around and declares it an ERA so we can get a tax abatement. Does anyone else see the problem here? It just seems that we

jump thru hoops to give these companies what they want. It would be different if these companies were bringing hundreds of jobs to this county, but they are not. So, we are not getting the jobs, were not getting the power, we are getting some tax incentives by the company going to the schools, but at what cost down the road. Does anyone know? There is not a solar plant that has been around longer then 10 years to see how the decommissioning process is going to go if they are toxic. Nobody knows these answers. We are being targeted heavily in the county for industrial solar. I am worried that these companies do not have the interest for what is best for this county. They are worried about their bottom line. I read thru a transcript last night. Indiana Solar got brought up in this conversation along with Bank of America, JP Morgan Chase, all these people are talking about Indiana Solar and I think it is because our laws are lacked, I don't think they are doing their research, they are wondering what this is going to bring down the road. We have been told we are panicking. I asked the Commissioners last Monday, we have Hecate here, we have SPOWER here trying to get land, or now they are going to slow down, Speedway Solar/Ranger Power already happening all in a year and a half. So, I asked Mr. Nigh are the people in Little Marion panicking now are we panicking now at what point to this panic become a reality? We are being awfully risky. If you build places like POET, Bunge, these companies bring jobs, they are not leaving. These solar companies can sell you lease whenever they want to, file bankruptcy. I will get you a copy of the lease if you want it. One last thing I would like to share with you this is from a Madison County Councilmen and what he said. Sorry I did not have time to get the video it to the Auditor, but it is a minute and a half. This Madison County Councilman was threatened to change the vote for the solar farm.

Blake Newkirk:

I have a couple clarifying questions. So, the property use will change from agriculture to commercial, so they do not get the abatement off that. Titus – yes, we have told you guys this many times. Blake – I just wanted to clarify this. Blake- how many years did you think this contract was when you gave them the abatement? Titus – 25 to 30 years. Blake – you will see in the lease agreement, the only thing they guaranteed these landowners is five years. Titus- do they renegotiate after five years? Blake – no, it is a 5 years, they give them their payment upfront for the first 5 years and then if the company decides to construct a facility there and produce it then automatically rolls the first extension and so in lease years you have years 1 thru 5 guaranteed and then years 6-10 if extended and then 11-15, 16-20 so on and so forth. It is subject to 7 extension terms of 5 years each totaling up to 40 years of production term if all options and extensions are exercised. So realistically they can bail out before the tax abatement even runs out. There is a clause in here that says no guarantee of construction or production. There is also another clause in here on taxes and how the owner must try and gain those agriculture exemptions. Another clause that is in there, say the landowner must do whatever it takes to get this project passed. Blake continues to read other clauses and said she would send it to the Council to read.

SUPERIOR COURT II. / COVID EXPENSE REQUEST:

Judge Riggins is requesting to purchase a fingerprint machine- this machine will allow convicted felons to be able to do their fingerprints after they leave court instead of having to go over to the jail and really this is to help with the spread of COVID also. This machine is approximately $18,000. Motion to approve and not to exceed $19,000.00 was made by Claxton, seconded by Caldwell, approved 6-0

There being no further business a motion to adjourn was made by Caldwell, seconded by Smith approved 6-0

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ATTEST:

AMY L. GLACKMAN
SHELBY COUNTY AUDITOR