

JANUARY 10, 2022

REGULAR SESSION

PULASKI COUNTY COUNCIL

The Pulaski County Council met in regular session Monday January 10, 2022 7:06pm EST at the Pulaski County Highway Garage training room. Councilmembers present were Ken Boswell, Adam Loehmer, Ron DeSabatine, Mike Tiede, Kathi Thompson, Brian Young, Tim Overmyer (by telephone) with County Auditor Laura Wheeler and County Attorney Kevin Tankersley.

Also present were Nathan Origer, Jeff Richwine, Scott Straw, Judge Mary Welker, Derek Buczek, James Buczek, Ally Sexton, Robert Barger, Franna Barger, Kaila Stukofski, Dennis Bope, Magaly Bope, Kathy Bope, Harold Johnson, Carol Johnson, Steve Eberly, Thomas ?, Gery Welker, Ed Baptista, ?, Brianna Schroeder, Andrew Fritz, Cheryl Podell, Doug Podell, Brenda Krulik, Joe Krulik, Chris Shelmon, Ed Gudas, Patti Gudas, Connie Ehrlich, Jerry Ehrlich, Gail Lambert, Conner Hickman, Larry Lambert, Terry Young, Kathy Sierzputowski, Steve Sierzputkowski, Jonathan Kopp, Nick Cohen, Randy Davis, Chris Brucker, PJ Brucker, Jared Brown, Josh Brown, David Busch, Scott Leman, Jim Gould, Diane Cervenka, Mark Cervenka, Dale Chu, Mark Kolish, Kevin Wyatt, E Allen Cotner, Joy Cosgray, Suzanne Hill Morrow, Bruce McDonald, Shelby Lopez, Joseph Brandt, Annette Brandt, Riley Tiede, Dennis Collins, Deb Rogers, and Norman Welker.

President Boswell opened the meeting with the Pledge of Allegiance.

IN RE: BOARD ORGANIZATION

Kathleen Thompson made a motion to retain the same officers as in 2021: Ken Boswell as President and Adam Loehmer as Vice-President. Mike Tiede seconded and motion carried unanimously.

IN RE: MINUTES

Kathleen Thompson made a motion to approve the December 13, 2021 regular meeting minutes as presented, Adam Loehmer seconded and motion carried unanimously.

IN RE: BOARD APPOINTMENT

Kathleen Thompson made a motion to reappoint Brian Young to the K-IRPC board for 2022, Michael T. Tiede seconded and motion carried unanimously.

IN RE: SALE OF COUNTY PROPERTY

On December 20, 2021, the Pulaski County Commissioners adopted Executive Order 2021-03 approving the sale of 2.289 acres east of the County Home building. The property has a current survey and Council now holds the responsibility of setting the terms of the sale.

Kathleen Thompson made a motion to recommend Commissioners sell at auction, Ronald DeSabatine seconded and motion passed with Brian Young opposed. After further discussion, Kathleen Thompson made a motion to have the property appraised, Ronald DeSabatine seconded and motion carried unanimously.

IN RE: MAMMOTH SOLAR

Economic Development Payment vs. Abatement explained and discussed. Further discussion continued on the Economic Development/Starke Solar agreement, specifically, payments in the year of decommission which is addressed for the first 5 years in the agreement. In addition, building permits will not be issued until all other agreements (i.e. road use, etc.) are addressed. ERA qualification questioned but ultimately the determination is up to the seven Councilmembers. More questions about insurance and jobs presented and discussed. A 5% inflation factor every three years is included in the agreement. The entire documents reads as follows:

**PULASKI COUNTY RESOLUTION NO. 2021-15/2022-01
BY
THE COUNTY COUNCIL OF PULASKI COUNTY, INDIANA.**

WHEREAS, PURSUANT TO INDIANA CODE (I.C.) 6-1.1-12.1, THE COUNTY COUNCIL OF PULASKI COUNTY, INDIANA (THE "COUNCIL"), DID, ON 9 AUGUST 2021, BY ADOPTING PULASKI COUNTY RESOLUTION #2021-09 (THE "PRELIMINARY RESOLUTION"), PRELIMINARILY DESIGNATE PARCELS DESCRIBED IN EXHIBIT A, LOCATED AT LOCATIONS WITHIN PULASKI COUNTY DESCRIBED BY THE MAPS INCLUDED AS EXHIBIT B, AND COMPRISING APPROXIMATELY 9,205.33 ACRES (THE "AREA"), AS AN ECONOMIC REVITALIZATION AREA FOR A PERIOD OF 40 YEARS, UPON A REQUEST FROM STARKE SOLAR, LLC, A/K/A MAMMOTH SOLAR (THE "APPLICANT"), FOR THE PURPOSE OF ACHIEVING A DEDUCTION TO ASSESSED VALUATION (PROPERTY-TAX ABATEMENT) IN CONNECTION WITH REDEVELOPMENT ACTIVITY and the installation of new manufacturing equipment (all as defined in I.C. 6-1.1-12.1-1 and permitted under I.C. 6-1.1-12.1-3 and I.C. 6-1.1-12.4.5) OCCURRING ON THE AFFECTED PROPERTIES;

WHEREAS the Applicant has advised the Council it intends to construct a solar-energy generation facility, which will consist of approximately nine hundred (900) megawatts of new nameplate capacity and involve significant investment in real property redevelopment or rehabilitation and new manufacturing equipment (the "Equipment") in the Area;

WHEREAS the Applicant submitted to the Council a Form SB-1/UD, Statement of Benefits, attached as Exhibit C, in connection with the Project (the "Statement"), and provided all information and documentation necessary for the Council to make an informed decision; and

WHEREAS such redevelopment activities and such manufacturing equipment, as described above, are limited strictly to investments made for the purpose of generating electricity from solar energy for the public grid and to activities and equipment in direct support of such efforts, or to other purposes related thereto and fully compliant with the Pulaski County Unified Development Ordinance, as amended, and any actions taken by the Pulaski County Advisory Plan Commission or Pulaski County Board of Zoning Appeals in their efforts to enforce and to interpret aforesaid ordinance;

WHEREAS THE APPLICANT HAS REQUESTED A 100-PERCENT, TWENTY-YEAR ENHANCED PROPERTY-TAX ABATEMENT FOR ELIGIBLE UTILITY-DISTRIBUTABLE SOLAR-ENERGY-MANUFACTURING EQUIPMENT PURSUANT TO I.C. 6-1.1-12.1-18, AS SET FORTH IN THE STATEMENT, AND as outlined in Exhibit D, A DEDUCTION PHASE-IN SCHEDULE, WHICH ARE ATTACHED HERETO AND MADE A PART OF THIS RESOLUTION;

WHEREAS the Council has considered the following factors under I.C. 6-1.1-12.1-17 in connection with the Project: (i) the total amount of the Applicant's investment in real and personal property; (ii) the number of new full-time equivalent jobs to be created as a result of the Project; (iii) the average wage of the new employees resulting from the Project compared to the state minimum wage; and (iv) the infrastructure requirements for Applicant's investment under the Project (collectively, the "Deduction Schedule Factors");

WHEREAS, in compliance with IC 6-1.1-12.1-2.5, the Council published notice (the "Notice") describing the adoption and substance of the Preliminary Resolution and stating that, on the date hereof, the Council would hold a public hearing (the "Public Hearing") at which it will receive and hear all remonstrance and objections from interested persons, with respect to the Preliminary Resolution;

WHEREAS in compliance with IC 6-1.1-12.1-2.5, the Council filed, with each taxing unit that has authority to levy property taxes in the ERA, a copy of the Notice and the Statement;

WHEREAS in compliance with *IC* 6-1.1-12.1-2.5, on the date hereof, the Council held the Public Hearing at which it received, heard, and considered evidence concerning the Preliminary Resolution and any remonstrance or objections with respect to the Preliminary Resolution;

WHEREAS THE COUNCIL HAS RECEIVED AND CONSIDERED EVIDENCE CONCERNING THE DESIGNATION OF AN ECONOMIC REVITALIZATION AREA AND THIS APPLICATION FOR TAX ABATEMENT, and hereby finds that the Project as described in the Statement will be of public utility and will be to the benefit and welfare of all citizens and taxpayers of the County; and

WHEREAS pursuant to *IC* 6-1.1-12.1-2.5, the Council desires to take final action confirming the Preliminary Resolution.

NOW THEREFORE BE IT FOUND, DETERMINED, AND RESOLVED BY THE COUNCIL THAT:

1. the Area is within the County and the Area has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values and prevented a normal development of property and use of property;

2. THE AFORESAID PARCELS, DESCRIBED IN EXHIBIT A AND LOCATED AT LOCATIONS WITHIN PULASKI COUNTY DESCRIBED BY THE MAPS INCLUDED AS EXHIBIT B, ARE DESIGNATED AN ECONOMIC REVITALIZATION AREA FOR A PERIOD OF 40 YEARS COMMENCING THIS DAY, CONFIRMING THE PRIOR RESOLUTION;

3. THIS ECONOMIC REVITALIZATION AREA ALLOWS ABATEMENT OF PROPERTY TAXES ATTRIBUTABLE TO REDEVELOPMENT OR REHABILITATION ACTIVITIES AND the installation of new manufacturing equipment, all as defined in *I.C.* 6-1.1-12.1-1 and permitted under *I.C.* 6-1.1-12.1-3 and *I.C.* 6-1.1-12-4.5;

4. such redevelopment or rehabilitation activities and such manufacturing equipment as described in part 3, above, are limited strictly to investments made for the purpose of generating electricity from solar energy for the public grid and to activities and equipment in direct support of such efforts, or to other purposes related thereto and fully compliant with the Pulaski County Unified Development Ordinance, as amended, and any actions taken by the Pulaski County Advisory Plan Commission or Pulaski County Board of Zoning Appeals in their efforts to enforce and to interpret aforesaid ordinance;

5. based on the information in the Statement of Benefits describing the Project:

(a) the estimate of the cost of the Equipment is reasonable for equipment of that type;

(b) the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the Equipment;

(c) the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the Equipment;

(d) the other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of the Equipment;

(e) the totality of benefits is sufficient to justify the granting of personal property tax deductions to the Applicant pursuant to *IC* 6-1.1-12-4.5;

6. based on the information in the Statement and the foregoing findings, the Council, pursuant to *IC* 6-1.1-12.1-4.5 and *IC* 6-1.1-12.1-18, hereby approves and allows State-assessed distributable and locally assessed personal property tax deductions for the Equipment by the Applicant with respect to the Project, and based on the Statements, the foregoing findings, and the Deduction Schedule Factors, pursuant to *IC* 6-1.1-12.1-17, that such personal property deductions shall be provided in accordance with the schedule set forth as Exhibit D hereto;

7. notwithstanding anything contained herein to the contrary, the granting of the tax deductions described herein is conditioned on and subject to the terms set forth in the Agreement for Economic Development Agreement (the "Agreement"), between the Applicant and the County, presented on the date hereof. The President of the Council is authorized to execute the Agreement, in the name and on behalf of the County, and the Auditor of the County is hereby authorized to attest the execution of such agreement, with such changes and modifications as such persons deem necessary or appropriate to effectuate this Resolution, said persons' execution thereof to be conclusive evidence of the approval of such changes;

8. HAVING MADE ITS FINDINGS IN THE AFFIRMATIVE, THE COUNCIL APPROVES THE AFORESAID TAX ABATEMENT AND CONFIRMS THE PRELIMINARY RESOLUTION;

9. PURSUANT TO PULASKI COUNTY RESOLUTION #2021-06, WHICH IS ATTACHED HERETO AS EXHIBIT E AND MADE A PART OF THIS RESOLUTION, PROVISIONS 1A, 1B, 2A, 2B, AND 3 OF PULASKI COUNTY RESOLUTION #2021-06 ARE INCORPORATED INTO THE AFORESAID TAX-ABATEMENT APPROVAL AS PART OF THE "OTHER LIMITATIONS OR CONDITIONS" PERMITTED BY LINE G OF THE SECOND PAGE OF EXHIBIT C, FORM SB-1/UD, AND THE APPLICANT, SHALL SIGN AN INSTRUMENT AGREEING TO THESE PROVISIONS AS REQUIRED BY AFORESAID PROVISION 3 IN ORDER FOR THIS RESOLUTION TO BE IN EFFECT;

10. THE ESTIMATED DATES OF CONSTRUCTION OUTLINED IN SECTION 2 OF THE FIRST PAGE OF EXHIBIT C, FORM SB-1/UD, AND THE ASSESSMENT AND PAYMENT YEARS OUTLINED IN EXHIBIT D ARE SUBJECT TO CHANGE WITHOUT PENALTY TO STARKE SOLAR, LLC, A/K/A MAMMOTH SOLAR, AND/OR ANY SUCCESSOR IN SUCH INSTANCE WHEN THE DELAY IS ATTRIBUTABLE TO LEGAL PROCEEDINGS CONCERNING ANY CHALLENGES TO THE PULASKI COUNTY BOARD OF ZONING APPEALS' GRANTING OF A SPECIAL EXCEPTION TO THE APPLICANT, FOR THE PURPOSES OF DEVELOPING THIS PROJECT IN AN A-1, AGRICULTURAL, ZONING DISTRICT;

11. A COPY OF THIS RESOLUTION SHALL BE FILED WITH THE COUNTY ASSESSOR; AND

12. this Resolution shall be in full force and effect from and after its adoption.

Michael T. Tiede made a motion to approve the Mammoth Solar Resolution 2021-15/2022-01 as presented, Kathleen Thompson seconded and motion carried with Brian Young opposed.

The Economic Development agreement with Starke Solar presented for review and approval. The entire document can be found at <http://gov.pulaskionline.org/mammothdocs/>

Michael T. Tiede made a motion to approve Economic Development Agreement with Starke Solar LLC (Mammoth Solar), Kathleen Thompson seconded and motion carried with Brian Young opposed.

Regular meeting adjourned and the public hearing opened.

IN RE: MOSS CREEK SOLAR PUBLIC HEARING

Public Hearing procedure rules read as follows:

PULASKI COUNTY COUNCIL
PUBLIC HEARING PARTICIPATION RULES AND PROCEDURES

The Pulaski County Council has set forth their procedure rules for participation at a public hearing as follows:

1. If you wish to speak at the public hearing, you must sign in on a "Council Public Hearing Request to Speak Form". You will be required to give your full name, address, phone number, email address and designate whether you are a Pulaski County resident or not.
2. Each person that signs up to speak at the public hearing will be required to speak into a designated microphone and state your name and all comments in a manner that can be heard by the Board.
3. Each person will be called up in order in which you signed in.
4. Each person that signs up will be given 3 minutes to convey their thoughts. (those with concerns, they will allow 1 speaker 15 minutes and someone from the Moss Creek group 15 minutes to speak.)
5. You may not assign or designate your 3 minutes to another person to speak on your behalf, it will be your opportunity alone to speak.

The time designated during the public hearing for public comment is only a time for citizens of the County to share their views. It is NOT a time for discussion or an exchange between the public and the members of the Pulaski County Council. The members of the Pulaski County Council will not be responding to questions or debating the issues with the citizens of Pulaski County. The members of the Pulaski County Council will not be engaging in conversations with those addressing the Council. The public comment portion of the public hearing is just for the public to voice their opinions. You will not be allowed to disrupt the business of this governing board or this County.

If you fail to follow the rules set forth above, you will be asked to leave the public hearing.

An economic impact study presented by Baker-Tilly presented assumes a 10-year 100% abatement. 20-year property taxes are estimated at \$17,195.10 and assumes a 3% annual tax rate increase. Economic Development Payments are proposed at \$6,000,000.00 and Estimated Property Tax Abatement Savings are \$10,417,520.

Moss Creek Solar representatives Ally Sexton and attorney Kyle ? reported that Moss Creek Solar has operations in 38 states (26 with solar specific projects). This project is a \$200,000,000.00+ Investment on a 200 MGW project. 95% is utility distributable property and 5% real property improvements. Agriculture assessment per acre for 2022 is \$1500.00 but commercial property (underneath the solar panels) is assessed at almost \$13,000.00 per acre and not abatable. Moss Creek will pay back 58% of their abatement savings and pay County expenses of fees and studies up to \$105,000.00. An estimated 300 construction jobs created for 1 ½-2 years with two permanent jobs at \$65-70,000.00 pay.

Meeting opened for public comment.

Connie Ehrlich spoke on behalf of those against the project with the following objections:

- 1---Preliminary Statement. Landowners intend that these objections, together with any exhibits submitted to the Pulaski County Council, constitute the "written remonstrance" as contemplated by Ind. Code %6-1.1-12.1-2.5 for purposes of any subsequent appeal before the circuit or superior Court from the final action taken with respect to Moss Creek's Preliminary Resolution, request for Final Resolution, and Moss Creek's request for tax abatement.
- 2---The real estate does not properly qualify as an "Economic Revitalization Area" as defined by I.C. %6-1.1-12.1-1(1)
- 3---Moss Creek lacks standing to affirmatively seek "Economic Revitalization Area" status for any real estate in which it possesses no interest.
- 4---The process is plagued by a lack of transparency and lack of information necessary for proper review. Landowners requested but have not received Moss Creek's application and/or tax abatement.
- 5---Moss Creek fails to otherwise qualify for a real property tax deductions pursuant to the tax abatement statutes. They maintain that documents presented are skewed, unsupported, are erroneous, unreliable and conflict with one another.

Robert Barger thinks the abatement should not be given as they will receive federal money and recommends looking at road damage to SR 10 in Starke County from solar projects.

Kaila Stukofski, Beaver Township Trustee wants to know the affect/benefit for Township residents?

Gail Lambert says tax abatement is being considered on inaccurate data, BakerTilly has a disclaimer that they will not stand behind their study, only seven permanent jobs will be created between the two solar projects, and properties will be devalued.

Larry Lambert said that Economic Development payments will not benefit schools or libraries and the solar companies will receive 26% federal tax credits plus state and local incentives.

Jonathan Kopp, Field Operations Director of Indiana Land and Liberty Coalition, which is a conservative grass root organization focused on protecting private property rights, increasing economic development, lowering taxes. He believes the tax abatement and economic development payments is the best way to increase the tax base and allow County flexibility.

Steve Eberly, Executive Director of Hoosiers for Renewables spoke in favor of the project.

Nick Cohen of Mammoth Solar offered his support to Moss Creek, saying there is no risk to the County.

Randy Davis lives in the middle of Moss Creek's project. He does not support the abatement nor the project and is concerned about property values and wildlife corridors.

Chris Brucker is concerned about jobs lost, benefits to Beaver Township, and catastrophic events.

David Busch representing his family, who is part of the project, approves the abatement, which he considers a Win-Win situation for Pulaski County. Most of the ground in the project is marginally productive with irrigation and will allow for the ground to rest. This is considered better than other types of energy production, such as coal, nuclear, turbine, and fracking.

Dale Chu commented on oppositions claim that Baker-Tilly used incorrect numbers.

Kevin Wyatt is against the project and the abatement.

Riley Tiede lives in Beaver Township, does not want solar in her back yard, and believes property values will be cut in half. Bruce McDonald lives in Rich Grove Township and is against the project. The Unified Development Ordinance (UDO) states that panels are not to be visible and wants that ordinance enforced.

Harold Johnson has lived in Beaver Township all of his life, is fine with solar panels and believes it is the landowners' prerogative on what he wants on his property.

Gery Welker says the targeted ground is sandy loam that requires tiling and irrigation. There is over 7,000 acres in CRP and nobody complains about that.

Dennis Collins is worried about conflict between company and County. County should receive some of the energy that is produced.

Suzanne Morrow concerned that jobs will go away after a few years.

Moss Creek's representatives explained why this property qualifies for an ERA.

Public hearing closed and regular session reconvened.

Discussion continued on solar equipment, which is purchased from many countries, including the United States and it depends on who can meet the demand at the time needed. Much of the material is recyclable and panels are encapsulated for safety. Local employment, battery storage, and longevity also discussed.

Michael T. Tiede motioned to approve and sign the Moss Creek Solar Abatement Resolution and Economic Development Agreement as presented, Kathleen Thompson seconded and motion carried with Brian opposed. Both documents can be found at <http://gov.pulaskionline.org/moss creek-docs/>

IN RE: CDC

The following additional appropriation requested to be advertised for Professional Services to insure funding is available for professional services related to the courthouse rehabilitation project prior to the bond issuance.

31801	Professional Services	\$576,000.00
--------------	------------------------------	---------------------

These expenditures will be reimbursable by the proceeds from the sale of the bonds. Kathleen Thompson made a motion to approve the additional request for advertising as presented, Brian Young seconded and motion carried unanimously.

The following additional request was made to cover the cost of a full-time employee for the CDC office:

10200	Project Coordinator (FT)	\$18,534.00
12200	PERF	5,790.00
12300	Group Insurance	23,000.00

Kathleen Thompson made a motion to approve the additional for advertising as requested. Nathan was reminded that he does not work for the Commissioners but works for the CDC so when he does all the work for the Commissioners, he is volunteering his time. Brian Young seconded the motion. After some discussion, the vote tied 3 to 3 with Kathleen Thompson, Brian Young, and Michael T. Tiede in favor; Ronald DeSabatine, Tim Overmyer, and Adam Loehmer opposed. Kenneth Boswell opposed to break the tie.

The Community Foundation of Pulaski County and its resident steering committee have selected housing as one of the three issues to be addressed as part of the Aspirations in Action project stemming from their ongoing Forward thinking Leadership program. A proposal from Housing Resource Hub presented for two years of housing-programming services, which will cost approximately \$60,000.00 and an additional requested to cover that cost.

Michael T. Tiede made a motion to advertise \$60,000.00 for Economic Development Housing project and Kathleen Thompson seconded. After further discussion and objection to approving an additional in January, the motion did not pass with Kathleen Thompson, Michael T. Tiede in favor and Ronald DeSabatine, Tim Overmyer, Brian Young, and Adam Loehmer Adam opposed.

IN RE: OTHER BUSINESS

Further clarification made on the 2022 MATRIX and the 3% raise. It was agreed that any position that did not receive a wage increase during the 2021 calendar year would get a 3% increase in 2022.

The following additional requested to complete the Phase 2 IT updates:

1000-0068	County General/Commissioners	18,486.75
------------------	-------------------------------------	------------------

Kathleen Thompson made a motion to advertise the additional as requested, Brian Young seconded and motion carried unanimously.

Kathleen Thompson motioned to reappoint Brian Young to the KIRPC board, Michael T. Tiede seconded and motion carried unanimously.

With no other business to discuss, the meeting adjourned at 11:03pm.

Approved and signed this 14th day of March 2022 by the **Pulaski County Council**.

KEN BOSWELL

ADAM LOEHMER

RON DESABATINE

MIKE TIEDE

KATHI THOMPSON

BRIAN YOUNG

TIM OVERMYER

ATTESTED BY: _____
LAURA WHEELER, AUDITOR, PULASKI COUNTY, IN,