

AUGUST 12, 2024

JOINT SESSION

**PULASKI COUNTY COMMISSIONERS
PULASKI COUNTY COUNCIL**

The Pulaski County Commissioners and Pulaski County Council met in Joint Session Monday August 12, 2024 6:00 PM at the Pulaski County Highway Garage training room. Commissioners present were Charles Mellon, Maurice Loehmer, Michael McClure and Councilmembers present were Kenneth Boswell, Michael Tiede, Jeffrey Richwine, Sheila Hazemi-Jimenez, Tim Overmyer, Bradley Bonnell, Jerry Locke with County Auditor Laura Wheeler and County Attorney Kevin Tankersley.

Others present were Teresa Bryant, Joe Moyer, Logan Wuetrich, Dr. Carrie Cadwell, Judge Crystal Kocher, Jamie Murray, AJ Gutwein, Jenny Knebel, Gail Lambert, Connie Ehrlich, MacKenzie Pierie, Norm Welker, Michelle Frees, Christopher Shelmon, Ed Baptista, Chris Brucker, Mike Spiegla, Nathan Origer, Megan Galbreath, and Chris Schramm.

President Mellon opened the meeting with the Pledge of Allegiance.

IN RE: 4C HEALTH

The 2023 report of services provided to Pulaski County given by Dr. Cadwell of 4C Health. Of the 439 total employees, 21 are located in Pulaski County using the office across from Pulaski Memorial Hospital. There were 31 inpatient admissions from Pulaski County, accounting for 165 bed days. 4C Health has a direct contract to service Braun employees.

IN RE: CDC

General demolition/deconstruction work has continued on courthouse renovation project and removal of the rest of the slab has begun following recently approved change order. Some contractors have started early-stage construction work; all under-slab utilities have been installed with the plumbing and HVAC subcontractors doing layout work for core drilling to run mechanicals into the lower level. HVAC team has been hanging mini-splits in various quadrants and masons will be installing lintels this week in places where cuts into load-bearing walls require additional support. Electricians will soon be on-site and utilities subcontractor will begin interior excavation for the slab next week.

The third disbursement request sent to First National Bank last week for \$531,315.83, which covers billing from Tonn & Blank and Luminaut as well as recurring cost for rent, copier lease, internet services and document digitization. Current balance of \$1,712,386.29 are in funds held directly by First National Bank. Our current owner’s contingency balance is just less than \$421,000.00.

Tonn & Blank submitted Change Order Request #14 for the replacement of the existing hydronic system piping with new branch piping. HVAC subcontractors determined it would be better to invest in new longer lasting materials rather than adding life to the existing piping. Estimated cost is around \$65,000.00 but there is a \$20,000.00 allowance for the bandage approach that will be applied to this, reducing Change Order to \$45,383.80. Maurice Loehmer made a motion to approve Change Order #14, Michael McClure seconded and motion carried unanimously.

Tonn & Blank is repairing the Firestone roofing used on the Justice Center and Highway garage. Firestone has had nationwide problems with their materials and the repairs are at no cost to the County. A light fixture in Circuit Court sustained water damage from a leak, also replaced at no cost to the County.

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Ordinance 2024-06 establishing certain copying/duplication/certification fees presented for review and approval. Jeffrey Richwine made a motion on behalf of Council to approve Ordinance 2024-06, Michael Tiede seconded and motion carried 5-2 with Bradley Bonnell and Tim Overmyer opposed. Maurice Loehmer made the same motion on behalf of Commissioners, Michael McClure seconded and motion carried unanimously.

ORDINANCE 2024-06

**ORDINANCE ESTABLISHING CERTAIN
COPYING/DUPLICATION/CERTIFICATION FEES TO BE IMPOSED BY
PUBLIC AGENCIES FORMING A PART OF THE PULASKI COUNTY
GOVERNMENT**

WHEREAS the Board of Commissioners of the County of Pulaski as the legislative body and the Pulaski County Council as the fiscal body has undertaken a review of copying practices, procedures, and fees affecting the various public agencies forming a part of Pulaski County Government pursuant to Ind. Code 5-14-3-8; and

WHEREAS it is clear and necessary that a uniform schedule of copying/duplication/ certification fees needs to be established for imposition by the various public agencies forming a part of Pulaski County Government except as hereinafter set forth; and

NOW, THEREFORE, BE IT ORDERED, ESTABLISHED, AND ORDAINED BY THE BOARD OF COMMISSIONERS OF PULASKI COUNTY AND THE PULASKI COUNTY COUNCIL AS FOLLOWS:

1. **Copying/Duplication Fee Schedule.** There is hereby established the following copying/duplication fee schedule for all public agencies forming a part of Pulaski County Government, except as excluded from these provisions by Sections 2, 4, and 5 below:

(a) **Fees for Paper Copy.** The copy fee for producing paper documents shall be Ten Cents (\$0.10) for each page of any public record which is not a color copy and Twenty-Five Cents (\$0.25) for each page of any public record which is a color copy.

(i) **Page Definition.** A page shall be one (1) side of a sheet of paper or one (1) side of a record or document. Thus, a sheet with writing on two (2) sides that is copied (both sides) would be treated as two (2) pages.

(ii) **Reassessment Copying.** All provisions hereof to the contrary notwithstanding, no fee shall be charged a property owner or the agent thereof requesting a copy of a Property Record Card when said copy is requested and required as part of the appeals process pertaining to an assessment or reassessment on such property.

(b) **Fees for Electronic or Digital Copy.**

(i) There will be no fee to provide an electronic copy of a public record by electronic mail; provided, however, there is no requirement that a public agency change the format of a public record.

(ii) **Reassessment Copying.** All provisions hereof to the contrary notwithstanding, no fee shall be charged a property owner or the agent thereof requesting an electronic or digital copy of a Property Record Card when said copy is requested and required as part of the appeals process pertaining to an assessment or reassessment on such property.

(iii) **Media Charges.** Electronic or digital copies shall be provided via email; the person requesting the electronic or digital copy shall provide an accurate email address for sending the requested documents. If the person requesting electronic or digital copies requests that the copies be provided on a compact disc (CD) or other media, the person making the request shall either supply Pulaski County Government with the media to be used or pay to Pulaski County Government One Dollar (\$1.00) for each compact disc utilized to provide the option of the person making the request for the public record.

(iv) **Law Enforcement Recordings.** A copy of any body-worn camera videos, dashboard camera videos, or other law enforcement recordings shall follow Section 32.01 of the Pulaski County Ordinances which may be found online.

(c) **Packaging and Shipping Fees.** Packaging and shipping fees shall be charged at cost.

(2) Court Records. Pursuant to Ind. Code 33-37-5-1, there will be a document fee for preparation of a transcript or copy of any court record from the Pulaski County Courts and Pulaski County Clerk's Office. The Clerk of the Court shall collect a fee of One Dollar (\$1.00) per legal size or letter size page including a page only partially covered in writing.

(3) Procedure for Processing of Copy Requests. All requests for copying of public records must identify with reasonable particularity the record being requested and, at the discretion of each public agency serving Pulaski County Government, be in writing and on the standard form provided by the public agency. Thus, each public agency of Pulaski County Government shall be entitled to establish its own written request form or other means by which requests for the inspection and/or copying of public records shall be processed; provided, however, that each procedure so established by each public agency must be uniformly applied and be free of discrimination. Further, no request for inspection or copying of public records may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by operation of law. For a public record that is in an electronic format, a public agency shall provide an electronic copy or a paper copy of the public record, at the option of the person making the request for the public record. Each public agency shall be expected to provide copies of public records, as herein requested, within a reasonable time period after the request is properly made. A reasonable time period may vary from a few minutes to a few weeks, depending upon the scope of the request, the time involved in honoring it, the ability of the particular public agency to respond to the request given its other duties and responsibilities, and the availability of copying or duplicating equipment (if any).

(4) Absence of Machine Capable of Mechanically Duplicating the Public Record. No public agency of Pulaski County Government shall be required to copy or duplicate a public record requested to be copied or reproduced which is within its possession unless it has reasonable access to a machine capable of mechanically reproducing the public record. In the absence of reasonable access to such a machine, the requesting person is only entitled to inspect and manually transcribe the record.

(5) Certification Fees. Pursuant to Ind. Code 5-14-3-8(d), the fee for certifying any document as a true, accurate, and complete copy of the original public record shall be Five Dollars (\$5.00) for each document.

(6) Statutory or Other Prescribed Fees. Nothing contained within this Ordinance shall alter, expand, or interfere with the collection of any copying, search, or other fee by a public agency or official of Pulaski County Government that is specified by other law or is ordered by a Court to be paid. It is specifically provided that the fees associated with producing documents or maps from the Pulaski County GIS system are governed by separate Ordinance.

(7) Exclusion of Certain Public Agencies of Pulaski County Government. Any public agency of Pulaski County Government, governed by a separate board, commission, or other governing body, to the extent permitted by law, may independently of this Ordinance, establish its own copying and/or duplication fee schedule or schedules. In the absence of any such separate fee schedule, this Ordinance shall pertain to public agencies otherwise empowered to establish their own schedules

(8) Duplication of Computer Tapes, Computer Discs, Microfilm, Etc. Each public agency of Pulaski County Government shall be entitled to establish its own procedures and standards for providing a duplicate of any computer tape, computer disc, microfilm, or similar or analogous record system containing information owned by the public agency or entrusted to it. Any public agency of Pulaski County Government, as part of its standard policy relative to such materials, shall charge a fee therefore, which fee shall not exceed the public agency's direct cost of supplying the information in that form. In determining the public agency's direct cost of supplying such information, the public agency shall compute one hundred five percent (105%) of the sum of the cost of:

- a. The initial development of a program, if any;
- b. The labor required to retrieve electronically stored data; and
- c. Any medium used for electronic output; for providing a duplicate, or for reprogramming the computer system under Ind. Code §5-14-3-6 to separate disclosable information from non-disclosable information.

As to such computer tapes, computer discs, microfilm, or similar or other analogous record systems containing information owned by a public agency, each public agency shall be entitled to establish its own uniform, nondiscriminatory procedure for the requesting of a duplicate or copy, and the timeliness of any response thereto.

(9) Payment and Accounting for Fees.

- a. Each public agency of Pulaski County Government may, at its discretion, require the payment of any fees under this Ordinance to be made in advance to insure payment and reimbursement to Pulaski County for the expense involved in providing the requested service.
- b. All proceeds from the fees arising from this Ordinance shall be deposited by the applicable public agency in the General Fund of Pulaski County no less frequently than annually. Unless the public agency in question chooses to do otherwise, a public agency imposing and collecting fees pursuant to this Ordinance shall be under no obligation to keep records as to the types of documents or records copied. Rather, the only recordkeeping required shall be to keep track of the number of pages copied in the various categories for which the various fees have been imposed, any media supplied, and the number of documents certified.
- c. The various public agencies forming a part of Pulaski County Government shall not impose the fees established under this Ordinance when the services performed are for other public agencies forming a part of Pulaski County Government.

10. Not Applicable to State Records or Vital Records. This ordinance does not apply to documents considered state records or vital records that have separate copying and certification fees set by Indiana Statute.

11. Effective Date. This Ordinance shall be effective on the date this Ordinance is signed.

Amendments to Mammoth Solar and Moss Creek Solar Economic-Development Agreements discussed because of a public complaint that there was not proper advertising and Attorney Tankersley said that this was a public meeting and notice of all of the Joint sessions were made public the first of 2024. The documents do not need to be signed tonight but receiving payment is dependent on when agreements are signed. Agreements executed in early 2022 by Mammoth Solar and Moss Creek Solar. In both cases, the developers are seeking to adjust the construction schedules outlined in their original agreement due to uncertainty surrounding litigation and grid-access approval.

Mackenzie Pierie, representing Moss Creek Solar, said they would commence construction no later than June 30, 2026 and complete no later than December 31, 2027. The first 2024 payment of \$100,000.00 shall be paid within 45 days of the signed Amendment and second payment of \$100,000.00 shall be paid 30 days prior to start of construction. Developer shall remit an additional \$25,200.00 with the first installment as a good faith payment to account for the delay.

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Chris Shelmon, representing Mammoth Solar, said they would commence construction no later than December 31, 2024 and complete no later than December 2028. First payment of \$35,000.00 shall be paid within 45 days of this amendment and second installment of \$315,000.00 shall be paid prior to December 15, 2024. Developer will also remit an additional \$25,000.00 with the first installment as a good faith measure to account for the delay caused by litigation.

Citizen Connie Ehrlich asked to speak before voting. She says that both Moss Creek and Mammoth are in default of their Economic Development Agreements due to delays in project start and the amendment was not properly identified on the agenda, which was only available on Facebook on Saturday before the meeting (not 10 days). She asked that they table the amendment to give proper notification and be on Council's next meeting. IC code pertaining to amending contracts discussed. When the original lawsuits were filed, Judge ruled against County and told both companies to reapply. Both companies filed appeals instead and these were just resolved this spring. Boards do not need to vote tonight and they can take more time if needed. They can also have a special meeting if wanted but it is not a legal requirement for amending an agreement. Kevin said there have been 11+ court proceedings not including appeals but all have been resolved in County's favor and the County

has spent \$300,000.00 defending their actions in court. Connie disagreed as she had made a public request for invoices pertaining to the litigation. She received invoices of \$239,851.61 but they also include other matters besides litigation. She found that only \$27,479.00 was related to Mammoth Solar and then another \$18,000.00 for appeal and one duplicate payment. Connie and Kevin disagreed if the case was still pending or dismissed.

Michael Tiede made a motion to approve amendments for Mammoth Solar and Moss Creek Solar, Jeffrey Richwine seconded and motion carried with 4 in favor, Bradley Bonnell and Tim Overmyer opposed and Jerry Locke abstained.

Michael McClure made a motion to move forward with amendment, Charles Mellon seconded and motion carried with Maurice Loehmer abstaining. Charles Mellon then made motion to approve amendments for Mammoth Solar and Moss Creek Solar, Michael McClure seconded and motion carried with Maurice Loehmer recusing. Amendments read as follows:

**AMENDMENT TO AGREEMENT FOR ECONOMIC DEVELOPMENT BETWEEN
STARKE SOLAR, LLC AND PULASKI COUNTY, INDIANA**

This Amendment to Agreement for Economic Development Between Starke Solar, LLC and Pulaski County, Indiana is made on this 12th Day of **August 2024**, by and between Starke Solar, LLC (also known as Mammoth Solar) (“Developer”) and Pulaski County, Indiana (the “County”), acting through the Board of Commissioners of Pulaski County, Indiana (the “Commissioners”) and agreed to by the Pulaski County Council in its capacity as “Designating Body” under Ind. Code § 6-1.1-12.1-1(7) (the “Council” and, together with the Commissioners, the “Governing Bodies”).

RECITALS:

Developer and County are parties to a certain Agreement for Economic Development between Starke Solar, LLC and Pulaski County, Indiana dated October 10, 2022 (the “Agreement”).

Developer and County were parties to litigation relating the Council’s designation of an Economic Revitalization Area and award of a tax abatement for the Development. On January 10, 2022, the Pulaski County Council passed a Confirmatory Resolution that designated certain farmland in Pulaski County as an Economic Revitalization Area and approved a tax abatement. On January 20, 2022, a group of Pulaski County landowners (the “Remonstrators”) filed a petition for judicial review in the Pulaski Superior Court to challenge the Confirmatory Resolution. On June 30, 2022, the trial court issued an order confirming County’s determination to pass the Confirmatory Resolution. The Remonstrators then appealed the trial court’s ruling to the Court of Appeals. On September 7, 2023, the Court of Appeals of Indiana found that the farmland at issue met the statutory definition required to be declared an Economic Revitalization Area and affirmed the judgment of the trial court and the actions of the Council. The Remonstrators then filed a Petition to Transfer to the Indiana Supreme Court in an attempt to overturn the decisions of the Council, Trial Court, and Court of Appeals. The litigation was not resolved until spring of 2024. While there was no legal injunction preventing the installation of personal property subject to the abatement, the parties made reasonable determinations to preserve the economic rights and benefits for the County and Developer to delay such installation and the Development in parts.

Upon the resolution of said litigation, Developer and County desire to amend the Agreement to account for the delay caused by the litigation as hereinafter provided.

For and in consideration of the premises, covenants, and agreements hereinafter contained and set forth, and the performance thereof by the respective parties hereto, the parties hereto agree as follows:

1. Amendment to Section 1(a). Section 1(a) shall be deleted and replaced as follows:
“Pursuant to the Statement of Benefits, Developer shall commence construction of the Project not later than December 31, 2024 and complete the Project not later than December 31, 2028. Notwithstanding any other provision hereof, the County acknowledges that Developer has no obligation to build the Project.”

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2. Amendment to Exhibit A. Exhibit A shall be deleted and replaced with Exhibit A on this Amendment.

3. The first payment for 2024 shall be payable in two installments of \$35,000.00 (the “First Installment”) and \$315,000.00 (the “Second Installment”), respectively. The First installment shall be payable within 45 days of this amendment and the second prior to December 15, 2024. Developer shall also remit an additional \$25,200.00 (the “Additional Consideration”) with the First Installment as a good faith measure to account for the delay caused by the litigation and the payment schedule for 2024. For clarity, the initial payment will include the First Payment and the Additional Consideration, for a total of \$60,200.00.

4. In all other respects, the Agreement remains in effect.

The parties have executed this Amendment by their duly authorized representatives effective as of the date first set forth above.

**AMENDMENT TO AGREEMENT FOR ECONOMIC DEVELOPMENT BETWEEN
MOSS CREEK SOLAR, LLC AND PULASKI COUNTY, INDIANA**

This Amendment to Agreement for Economic Development Between Moss Creek Solar, LLC and Pulaski County, Indiana is made on this ____ day of August, 2024, by and between Moss Creek Solar, LLC (“Developer”) and Pulaski County, Indiana (the “County”), acting through the Board of Commissioners of Pulaski County, Indiana (the “Commissioners”) and agreed to by the Pulaski County Council in its capacity as “Designating Body” under Ind. Code § 6-1.1-12.1-1(7) (the “Council” and, together with the Commissioners, the “Governing Bodies”).

RECITALS:

Developer and County are parties to a certain Agreement for Economic Development between Moss Creek Solar, LLC and Pulaski County, Indiana dated January 18, 2022 (the “Agreement”).

Developer and County were parties to litigation relating the Council’s designation of an Economic Revitalization Area and award of a tax abatement for the Development. On January 10, 2022, the Pulaski County Council passed a Confirmatory Resolution that designated certain farmland in Pulaski County as an Economic Revitalization Area and approved a tax abatement. On January 20, 2022, a group of Pulaski County landowners (the “Remonstrators”) filed a petition for judicial review in the Pulaski Superior Court to challenge the Confirmatory Resolution. On June 30, 2022, the trial court issued an order confirming County’s determination to pass the Confirmatory Resolution. The Remonstrators then appealed the trial court’s ruling to the Court of Appeals. On September 7, 2023, the Court of Appeals of Indiana found that the farmland at issue met the statutory definition required to be declared an Economic Revitalization Area and affirmed the judgment of the trial court and the actions of the Council. The Remonstrators then filed a Petition to Transfer to the Indiana Supreme Court in an attempt to overturn the decisions of the Council, Trial Court, and Court of Appeals. The litigation was not resolved until November of 2023 in regards to Moss Creek Solar, LLC. While there was no legal injunction preventing the installation of personal property subject to the abatement, the parties made reasonable determinations to preserve the economic rights and benefits for the County and Developer to delay such installation and the Development in parts.

Upon the resolution of said litigation, Developer and County desire to amend the Agreement to account for the delay caused by the litigation as hereinafter provided.

For and in consideration of the premises, covenants, and agreements hereinafter contained and set forth, and the performance thereof by the respective parties hereto, the parties hereto agree as follows:

1. Amendment to Section 1. Section 1 shall be amended as follows:
Pursuant to the Statement of Benefits, Developer shall commence construction of the Project not later than June 30, 2026 and complete the Project not later than December 31, 2027.
2. Additional Consideration. Section 1 shall be further amended as follows:
The first payment for 2024 shall be payable in two installments of \$100,000 (the “First Installment”) and \$100,000 (the “Second Installment”), respectively. The First Installment shall be payable within forty-five (45) days of this Amendment and the second prior to thirty (30) days prior to the commencement of construction. Developer shall simultaneously with the First Installment payment, also remit an additional \$25,200.00 (the “Additional Consideration”) as a good faith payment to account for the delay caused by the litigation noted above and the prior payment schedule for 2024.
3. Affirmation of the EDA Payments under Section 1. The total EDA Payments of \$6,000,000 as set out in the Agreement shall be paid in eight (8) equal installments of \$750,000 with the first installment to be paid no later than sixty (60) days after COD as currently set out in Section 1 of the Agreement. For clarity, the total EDA Payments of \$6,000,000 shall not be reduced by Developer’s payment of the First Installment, Additional Consideration, or Second Installment.
- In all other respects, the Agreement remains in effect and is hereby ratified and affirmed.

IN RE: HUMAN RESOURCES

A Human Resource Administrator discussed and a job description provided to both Boards. This matter was tabled due to meeting running long.

IN RE: OTHER BUSINESS

Maurice Loehmer made a motion on behalf of Commissioners to approve and sign June 10, 2024 Joint Session minutes as written, Michael McClure seconded and motion carried unanimously.

Sheila Hazemi-Jimenez made same motion on behalf of Council, Jerry Locke seconded and motion carried unanimously.

With no other business to discuss, Maurice Loehmer made a motion to adjourn at 7:15PM, Michael McClure seconded and motion carried unanimously.

Council adjourned meeting.

Approved and signed this 14th day of October 2024.

PULASKI COUNTY COMMISSIONERS

PULASKI COUNTY COUNCIL

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CHARLES MELLON

KENNETH BOSWELL

MAURICE LOEHMER

MICHAEL TIEDE

MICHAEL MCCLURE

JEFFREY RICHWINE

SHEILA HAZEMI-JIMENEZ

TIM OVERMYER

JERRY LOCKE

BRADLEY BONNELL

ATTEST: LAURA WHEELER, AUDITOR, PULASKI COUNTY, IN