

SHELBY COUNTY BOARD MEETING
May 9, 2024 – 7:00 P.M.

Video archive of this board meeting at shelbycounty-il.gov under You Tube

The Shelby County Board met on Thursday, May 9, 2024, at 7:00 P.M. in Courtroom A of the Shelby County Courthouse in Shelbyville, Illinois.

Chairman Robert Orman called the meeting to order. Those present said the Pledge of Allegiance and the prayer was given by board member Don Tate.

County Clerk Jessica Fox called the roll. Martin and McCormick were absent. Martz was tardy entering the meeting at 7:50 PM.

Minutes for the April 11, 2024, meeting were presented for approval. Nelson made motion to approve the minutes. Firnhaber seconded said motion, which passed by voice vote (18 yes, 0 no).

Minutes for the April 22, 2024 emergency meeting were presented for approval. Tate made motion to approve the minutes. Hardy seconded said motion, which passed by voice vote (18 yes, 0 no).

Orman reminded board members to only speak when recognized and informed the public in attendance that if anyone became disruptive, unruly, vulgar, or loud, he would call the vote to have those persons removed from the meeting.

Chairman Orman announced a vacancy in the office of Shelby County State's Attorney due to the resignation of Robert Hanlon effective May 10, 2024 at 4:00 PM.

Shelby County resident and Board of Appeals member Sandra Earp addressed those in attendance about concerns folks should be aware of related to wind energy, solar energy, and CO2 pipelines. Earp shared her views on wind/solar energy, said many easements for wind/solar have already been recorded in Shelby County, and discussed problems associated with these types of energy systems which can impact health, agriculture, roads, and have potential negative financial impacts to the local taxing districts and property owners. Earp shared a Facebook page called Protect Shelby County IL folks can ask to join to learn more facts on the impact of wind/solar energy. (Information from Earp attached to these minutes). Earp also encouraged the board to combine the planning commission and zoning board of appeals.

Scott McKee, Zoning Administrator requested approval for a resolution to amend portions of the Zoning Ordinance as recommended by the board of appeals following their meeting on April 25, 2024. These three changes include no permit fees for agricultural purposes, no fees shall be assessed for permits to repair property damaged because of a disaster, and the final amendment deals with road use agreements.

Firnhaber made motion to approve the resolution. Williams seconded said motion, which passed by voice vote (18 yes, 0 no).

Due to a communication error U of I Cooperative Extension Director Jesse McCluskey was not in attendance to give her report on the services offered. Wallace made motion to approve the annual U of I extension agreement for FY 2025 in the amount of \$79,618. Mayhall seconded said motion, which passed by roll call vote (18 yes, 0 no). Ayes: Amling, Bennett, Boehm, Brown, Cole, Edwards, Firnhaber, Hardy, Keenan, Mayhall, Morse, Nelson, Orman, Ross, Shuff, Tate, Wallace, and Williams. Nay: none.

At this time, Chairman Orman called for the County Highway Engineer's report.

County Highway Engineer Michael Tappendorf reviewed his monthly department report previously emailed to the board members on what the department has been busy with the past month. (Dept. report attached to these minutes).

Tappendorf presented for board approval a resolution to approve an engineering agreement with Gonzalez Companies, LLC to provide engineering, design, and other items for the reconstruction of railroad crossings at roads 1975E, 1900E, 1750E intersecting Union Pacific Rail in Okaw Township. Estimated design costs are \$70,500. Construction and design costs will be 100% reimbursable by the ICC post construction.

Brown made motion to approve the resolution. Williams seconded said motion, which passed by roll call vote (18 yes, 0 no). Ayes: Amling, Bennett, Boehm, Brown, Cole, Edwards, Firnhaber, Hardy, Keenan, Mayhall, Morse, Nelson, Orman, Ross, Shuff, Tate, Wallace, and Williams. Nay: none.

A 50/50 petition from the Penn Township Road Commissioner was presented for approval to construct drainage improvements at County Road 1700 W, 1/2 mile north of Co Hwy 21. Estimated costs are \$4,992.56 and will be shared equally between the Township and the County.

Brown made motion to approve the petition. Firnhaber seconded said motion, which passed by roll call vote (18 yes, 0 no). Ayes: Amling, Bennett, Boehm, Brown, Cole, Edwards, Firnhaber, Hardy, Keenan, Mayhall, Morse, Nelson, Orman, Ross, Shuff, Tate, Wallace, and Williams. Nay: none.

The final 50/50 petition presented for approval was from the Lakewood Township Road Commissioner to construct drainage improvements on County Road 1650E, just south of 700N. Estimated costs are \$8,894.52 and will be shared equally between the township and the county.

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Brown made motion to approve the petition. Wallace seconded said motion, which passed by roll call vote (18 yes, 0 no). Ayes: Amling, Bennett, Boehm, Brown, Cole, Edwards, Firnhaber, Hardy, Keenan, Mayhall, Morse, Nelson, Orman, Ross, Shuff, Tate, Wallace, and Williams. Nay: none.

A resolution to amend the Circuit Clerk's budget for the Technology Grant Expense line item in the amount of \$46,530.05 was presented for approval. Edwards made motion to approve the resolution, Firnhaber seconded said motion. Judge Ade-Harlow spoke about the budget amendment request and what this grant can be used for. The AOIC is offering these technology modernization grants so Courts can make upgrades to equipment in Courtrooms. This money has a specific purpose and can only be spent on AOIC approved expenditures. The grant money is tracked to the specific item and to the specific penny, these expenditures are approved by the AOIC, and what isn't spent must be returned. This grant is being used to update computers for various Zoom related issues in the Sheriffs, Public Defenders, Probation, as well as the Circuit Clerk's offices. The money comes in after the budget year has been approved, so this line item in the budget needs to be amended for payment of the expenditures that have been made. The money was received by the County in April and must be put towards expenditures by July. It was suggested to the Judge by Chairman Orman to put the money in the budget if they think they will get grant funds. Judge Ade-Harlow said she was hesitant to do that as she does not know what she will receive, or what she will need, and there is no way for her to predict or what she will spend, and she doesn't feel this would be clear for people who are looking at the budget to see and she doesn't want the budget to be questioned.

Edwards motion, Firnhaber's second to amend the Circuit Clerk's budget passed by roll call vote (17 yes, 1 no). Ayes: Amling, Bennett, Boehm, Brown, Cole, Edwards, Firnhaber, Hardy, Keenan, Mayhall, Morse, Nelson, Ross, Shuff, Tate, Wallace, and Williams. Nay: Orman.

A resolution for the downstate operating assistance agreement was presented for approval. This is a new item just added by the state for grant approval, which the board previously approved. Edwards made motion to approve the resolution. Brown seconded said motion, which passed by voice vote (18 yes, 0 no). (Orman read the resolution to those in attendance, and it is attached to these minutes).

Other items on the agenda related to public transportation were not available to be presented at this time.

Edwards made motion to approve a 5-year lease agreement between CEFS and Shelby County for the Maintenance facility located at 1505 W. S. 1st St. in Shelbyville. This lease agreement will run from July 1, 2024 – June 30, 2029. Firnhaber seconded said motion, which passed by voice vote (18 yes, 0 no).

At this time, Chairman Orman informed those present he would skip to #19 on the agenda, which was the farm sale resolution, and bypass other farm related items on the agenda. Williams made motion to approve the resolution to authorize the sale of the county farm. Bennett seconded said motion. A very lengthy discussion on the sale of the county farm was held. (Full discussion can be found at the county website under You Tube).

A summary of the discussion included:

Brown speaking in support of not selling the farm ground, once it is gone, it's gone and this farm has future opportunities it can be used for. Brown said he felt the county would squander the cash and that cash deflates, dirt inflates. Brown stated he felt selling the farm ground was "not a good idea." Cole asked Williams if this was the same resolution previously tabled at a farm committee meeting in September 2023. Williams said it was not the same, but similar. It was asked why the farm committee was being circumvented? Chairman Orman said any board member can put items on the agenda they choose to, the committee is a managerial committee and an opinionated thing, Orman said the argument of the committee could be "debunked" fairly quickly.

Martz entered the meeting at 1950.

Williams stated he would like to speak to some things Brown had said. Williams stated the board has not fought over the 4.2 million in ARPA funds the county has received. Williams stated this board has a history of not fighting over money. Williams stated he was probably on more acres in a year than anyone in the room. Less than 1% of acres he has on have power lines running through them. Since this ground already has a power line running through the idea that another line could go through is insignificant in his opinion. Williams also addressed the timing of the resolution is due to the best time to part with farm ground is late July or August and there is a process that will have to take place in time for the most ideal season to sell farm property. Williams was asked if legal counsel had reviewed the resolution. Williams said he had legal review in August of 2023 and again recently to make sure everything in the resolution was entirely legal. Boehm stated since we will have new legal counsel at 4:01 PM on May 10 why we wouldn't have our new legal counsel review this document? Boehm asked why we are in such a big hurry to push this through? She also asked why the board didn't hold a referendum and let the voters decide and let the people who elect the board speak about the future of the farm. Boehm also said she didn't think anyone on the board had the legal knowledge of how this should proceed, and she felt it should be given to the new State's Attorney for review instead of trying to hurry up and push this through. Orman stated attorney's can "render opinions on the legality of an action, the term of "seller convey is completely in black and white and a one liner in statute," and ILCS 1049.1 & 2 is 2 paragraphs, a point 1 and a point 2 and both of them are there and an attorney will tell you, you can act on both of them because they are there. Orman said we have discussed for 4 years now the constitutionality of this whole situation. Both 1049.1 and 2 have lease in them and must still meet a public purpose. Orman had said several times that public transportation is a classic example of public funds for public purpose. Orman

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said crop share and custom farm and are fundamentally the same. Neither of these options meet the requirements of the investments act and that is right up front. They do not meet any of those criteria. However, funds being put into an interest-bearing account do meet the investment act criteria. Orman also said he appreciated the words of wisdom the board receives in emails, but the board did not declare this unconstitutional, the AG did in an opinion rendered in the 1970's. The State sets forth an investments act which tells us how to invest money. Income being a public purpose was struck out of the language of the bill before it hit the Senate floor for 1049.1/2. Since this farm ground is not tax exempt that makes it clear it is not public purpose. Orman said the board can't take everything to the ballot that the board doesn't clearly see the constitutionality of. Orman said his vote is to end it, be done with it, move the funds into a legal investment and move on. Bennett said he agreed with Orman, but he wanted to express on the business side of things. This ground would sell for approximately 2 million and those funds put into an interest-bearing fund (Bennett asked Treasurer Firnhaber what the current interest rate was - 4.5 for a 3 year CD). Bennett figured on a 4% and said the county could collect \$40,000 a year in interest. In the past when this ground was leased, it brought \$200.00/acre, although it realizes cash rents have gone up. Bennett asked those how many present owned farm ground, how many are of the opinion the farm ground should not be sold, how many people that sell farm ground after they receive the funds from the sale, still have an income from that farm ground. The county will still receive tax dollars if we sell the ground, when the county farms themselves, they have to pay the taxes. Bennett again asked Treasurer Firnhaber what the taxes were per acre, Firnhaber responded taxes were approximately \$8,000 on the county farm. Bennett said the taxes equated to about \$40.00 an acre, plus the county would generate \$88,000 a year from interest. Bennett said by the time the ground is farmed the county we will not be receiving an income from the farm due to expenses, and from a business sense, it is not the same.

Boehm made motion to table, seconded by Morse, which failed by roll call vote (8 yes, 11 no).
Ayes: Boehm, Brown, Cole, Edwards, Martz, Mayhall, Morse and Wallace. Nays: Amling, Bennett, Firnhaber, Hardy, Keenan, Nelson, Orman, Ross, Shuff, Tate and Williams.

Orman reminded the public this is a discussion of the board and the next person to speak out of line, he would call the vote to have them removed.

Williams stated this was a business decision and discussed the various stream of revenue that would benefit the county if this ground is sold, by means of sales tax, real estate tax and the ability of the county to invest the funds the sale would bring. Orman stated wages in this county are rising and were covered by ARPA but will be coming out of the General Fund shortly. The county has already been warned by 2025 they could be insolvent. The interest the county could receive on this fund investment will help stretch out the revenue stream. The county would accept sealed bids for the sale of this ground, which would be difficult to manipulate. Any and all bids can be rejected by the county board and the board has the right to refuse the sale of the ground to a foreign national. Brown reminded the board they were elected to represent their constituents and he has never received one phone call telling him the county needs to sell the farm. Mayhall said he was also called by a Shelby County voter from his district informing him of a conversation that had taken place that several board members have been discussing the sale of the farm. Much of what Mayhall was told, is information that has been repeated at this meeting this evening. Mayhall also questioned if the county would be responsible for capital gains. The Department of Revenue doesn't have enough information to be able to provide him an answer. Mayhall said the board's roll is not to determine what is constitutional or legal. Mayhall stated the board does have the responsibility to seek legal advice and base decisions on that guidance or let the courts tell us what is legal and not rush to sell a treasured part of county history unnecessarily. Mayhall said no other county in Illinois has had to endure this contentious topic regarding their farm ground. Mayhall is asking for a declaratory judgement from the new State's Attorney. Orman said many board members have done much research on this issue regarding the farm ground. Nothing can meet the muster of what it takes for the county to operate a farm. Orman stated they have had discussions with auditors, and they can find nothing that we would have to pay taxes on the income from the sale of the farm. Orman doesn't have that in writing, however. Mayhall is asking for definitive answers and is asking for a pause. Orman said he has given it 4 years. Mayhall said there is no rush for this just because some people think we can't farm it, let the new SA give us a judgement but we do not have to rush to that today.

Mayhall made motion to table based on new information about potential capital gains. Boehm seconded said motion. Motion to table once again failed (9 yes, 10 no). Ayes: Boehm, Brown, Cole, Edwards, Hardy, Martz, Mayhall, Morse and Wallace. Nays: Amling, Bennett, Firnhaber, Keenan, Nelson, Orman, Ross, Shuff, Tate and Williams.

Cole said she was opposed to sealed bids and this ground should be sold at a live auction so this ground can be sold for what it is worth. Williams said he would like the Chairman to start calling the vote for disruption from the public. Williams also said he was told by legal counsel that the county would not be subject to capital gains, or property tax if we are using the property for tax exempt purpose, but we don't know about the income tax. Williams said the board has struggled with this issue since February 2020 and did a visual aid with strips of paper.

Orman made motion to have Jake Cole removed, approved by voice vote (15 yes, 4 no – Boehm, Cole, Mayhall and Morse).

Boehm once again said this board has a responsibility to do what they were elected to do, and once again asked why the new State's Attorney could not look this over and why the decision must be made tonight.

Bennett said a few of his constituents were here and a lot of his constituents have contacted him and asked why so much time was spent on the farm and they disagree with farming the ground, but they

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won't show up and speak because they are tired of those who do speak being badgered and ridiculed. Bennett said he takes into consideration that his rural area is not in favor of this continuing.

Morse thanked Brown for this support of keeping the farm. Morse said this was part of our history and we should be stewards of it and make it work. Morse said we need to keep the ground. Williams said he thought the history point might come up, and as a student of history and he has done a little research on the history of the farm. Orman said once again asked the gallery to not speak over members of the board. Williams said he has read horrible things that happened at the poor farm, living conditions were deplorable and horrific, the old house for the insane and all its abominable remained. A report was made to the General Assembly after a change in management and things in the house for the insane were still abominable. Williams said the history of the poor farm is not tied to whose name is on the title and the history is not tied to growing corn, beans, and wheat.

Calls for the vote were made. Williams asked for disruptive influences to be removed. Cole asked if the board could change nothing on the resolution before it's voted on and said they sealed bids should be changed to live auction. Cole said she thinks the resolution should be amended to call for a live action instead of sealed bids. There was something on the resolution about the cemetery that should also be discussed. Boehm asked why the board doesn't go through the resolution. Calls from the public were made to table the resolution which Orman said failed twice. Ross and Williams asked Orman to get the gallery in order and remove disruptive influences from the meeting. It was asked if the resolution could be gone through the resolution line by line.

Hardy spoke about the dying man who talked him into running for county board who was one of his customers. Hardy said his parents used to drive him past the poor farm on Sunday drives in the 60's and his mom would tell him stories about the poor farm. Hardy also spoke about the constitutions of the USA and the State of Illinois, which tell people of the boundaries the government. Hardy said the rights of the people are under attack by the Governor of Illinois. Hardy said he hoped that local people who don't want to see the farm sold can go together and buy it. Hardy said he hoped the poor farm could be much more beneficial than it is now and showed pictures of the Christian County poor farm. Hardy said private people do a lot better than the government at taking care of things. Hardy repeated a quote from James O'Keefe that ask what is your price, if your price is not your life, you are for sale.

Ross made motion to call the vote. Bennett said he also called the vote before Cole made any amendments to the resolution. Orman said he was going to read the entire resolution and then call the vote. Orman read the resolution, which is attached to these minutes.

Williams motion to sell the county farm, seconded by Bennett passed by roll call vote (12 yes, 7 no). Ayes: Amling, Bennett, Firnhaber, Hardy, Keenan, Martz, Nelson, Orman, Ross, Shuff, Tate and Williams. Nay: Boehm, Brown, Cole Edwards, Mayhall, Morse and Wallace.

Williams made motion to approve the board to allow the farm committee to receive bids for a cover crop for the farm. Mayhall seconded said motion, which passed by voice vote (19 yes, 0 no). Discussion was held regarding the cover crop. The costs involved, the purchase of the cover crop, the hiring of a farmer to plant the cover crop, it will still cost the county money to plant a cover crop. Appointments to the Farm committee were also discussed. Point of order was called by Ross, as the discussion of a cover crop. Mayhall asked why the Farm Committee can't just be given the power to accept bids, since the farm resolution had not gone back through the committee? William's motion, seconded by Mayhall passed by voice vote (19 yes, 0 no).

A vote was taken to remove Beleena Boehm from the meeting. Majority voted aye by voice. The Sheriff asked Boehm to exit the courtroom due to the use of profanity, being disruptive, it was also stated she threatened elected officials.

Tate made motion to accept bids for mowing the county farm cemetery. Tate seconded said motion. Williams stated at the April farm meeting had submitted a bid to mow the cemetery, that was below the threshold, but Williams was hesitant to accept due to the person being related to a sitting elected official and he didn't want to give the appearance of nepotism. The ditches and waterways will also need to be mowed. It was asked if the Sheriff would be in charge of this item since he is in charge of county maintenance. Orman made motion to table and send back to committee. Williams seconded said motion, which passed by voice vote (19 yes, 0 no).

Chairman Orman called for committee reports. (Committee reports are attached to these minutes). Reports were given and items presented for follow-up are as follows:

Airport committee member Cole reported a fly in/drive in/pancake breakfast was held at the Airport on May 4. They had 30 airplanes come in and served about 250 people. A commemorative airplane was flown to the Airport from a museum in St Louis. It was a great event and well attended.

Public Safety Chair Mayhall said the Sheriff had signed the contract for the windows and the project was underway. Centrica had been at the courthouse a few times to look things over as they prepare for the project. The Dive Team had a recovery mission a couple of weeks ago, unfortunately for a recovery. Mayhall stated our team has such skill sets and compassion for the victim's family and Mayhall said it was very emotional to see it firsthand. The Effingham Dive Commander said our team exhibits a great amount of compassion for all involved in these difficult circumstances.

Legislative Chair Williams asked why the time keeping policy didn't make the agenda. Clerk Fox explained she was out of the office the day the agenda and policy were sent and didn't realize it was to be added to this month's agenda.

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Under Chairman updates, Orman stated a draft audit report should be received either tomorrow May 10, or Monday, May 13. Orman stated the full board should receive the draft report but reminded everyone until it is approved and ratified by the board the draft audit cannot be FOIA'd.

Chairman Orman requested approval of the following appointments:

Ruth Woolery, as Shelby County State's Attorney. Boehm said she wanted a roll call vote taken for this appointment. Roll call vote (19 yes, 0 no). Ayes: Amling, Bennett, Boehm, Brown, Cole, Edwards, Firnhaber, Hardy, Keenan, Martz, Mayhall, Morse, Nelson, Orman, Ross, Shuff, Tate, Wallace, and Williams. Nay: none.

Woolery will be sworn in at 4:01 on May 10. Cole presented a letter presented written by Woolery apologizing for not attending tonight's meeting and thanking the board for appointing her to fill the unexpired term of the State's Attorney position. Woolery also stated she would be happy to give a legal opinion regarding the county farm once she is sworn into office.

Ross called for point of order and expressed concern that there was not a motion and a second for the appointment of Woolery as Shelby County State's Attorney, as the appointment of an office head is not normally an appointment of the Chairman. Tate asked if this appointment wasn't the duty of the Republican Central Committee Chairman to make the appointment. Orman stated the appointment was the responsibility of the board chair with advice and consent of the board. Williams reiterated that the board rules state the Chair shall appoint all committees with advice and consent of the board.

Ross made motion to approve the appointment of Woolery as Shelby County State's Attorney. Morse seconded said motion, which passed by voice vote (19 yes, 0 no).

Tim Brown to the Farm Committee. Motion by Williams, seconded by Cole, passed voice (19 yes, 0 no).

Doug Keenan to the Legislative Committee. Motion by Firnhaber, seconded by Williams, passed by voice vote (19 yes, 0 no).

Wallace made a motion to approve the payment of claims. Martz seconded said motion. Finance Chair Bennett said he would like to amend the claims to include a payment of \$1,040 to ColorArt for 6,500 AP checks, and a payment of \$87.13 (less tax of 3.54) to Full Throttle for the Rescue squad for a chain saw repair. Ross seconded said motion to amend the claims, which passed by voice vote (19 yes, 0 no).

A bill for payment to Denise Amborziak in the amount of \$1,073 for lodging and training from September 2023 was held from payment until receipts are submitted on a motion by Bennett, seconded by Ross, with all voting aye by voice (19 yes, 0 no).

Wallace's motion to approve payment of claims, with Martz's second, passed by roll call vote (19 yes, 0 no). Ayes: Amling, Bennett, Boehm, Brown, Cole, Edwards, Firnhaber, Hardy, Keenan, Martz, Mayhall, Morse, Nelson, Orman, Ross, Shuff, Tate, Wallace, and Williams. Nay: none.

Cole wished to discussion item #16 (Stu Fox farming the county farm). A cover crop was not approved last month but sent back to committee. Cole stated the county would receive revenue from the sale of seed beans which have been donated, but once those beans are sold, that creates revenue for the county. Insurance would be roughly \$800, but if the crop fails, the county is still guaranteed \$100,000. Chairman Orman said the county would still have to pay \$23,468.71 for the chemicals. Orman said item 19 to sell the farm negates item number 16, Fox to farm the farm.

At this time Chairman Orman called for Public Body Comment:

Wallace left the meeting at 9:50 PM.

Public comments/opinions expressed are summarized as follows:

Agenda not being followed in order as per Robert's Rules
Much public input/comments regarding board action to sell the County Farm
Request for legal opinion and ISP investigation into county issues
Why the State's Attorney does not attend meetings

There was no further business to come before the Shelby County Board.

Brown made motion to adjourn until the next regular meeting to be held on June 13, 2024. Nelson seconded said motion, which passed by voice vote (19 yes, 0 no) and the meeting was adjourned at 10:50 PM.