

**PROCEEDINGS  
OF THE  
MACON COUNTY BOARD**

**JANUARY 13, 2022**

**Kevin Greenfield  
Chairman**

**Josh Tanner  
Clerk**

The Chairman called the meeting to order at 6:00 p.m. with the Sheriff and State's Attorney present.

The Roll Call showed all members present with the exception of Ms. Buckner, Mrs. Dawson, Mrs. Kraft, and Mrs. Taylor.

Mr. Entler led the members in Prayer.

All led in the Pledge of Allegiance.

#### **A. APPROVAL OF THE MINUTES OF THE DECEMBER 9, 2021 MEETING**

##### **MOTION**

Mrs. Little moved, seconded by Mr. Hogan to approve the minutes of the December 9, 2021 meeting.

There were no questions or comments from the board floor.

##### **ROLL CALL.**

Ayes: Coleman, Comer, Entler, Greenfield, Gresham, Hogan, Holman, Horve, Kreke, Lerner, Little, Mattingley, Noland, Oliver, Rood

Nays: (None)

Abstain: Edwards

**AYES = 15**

**NAYS = 0**

**ABSTENTION = 1**

##### **MOTION CARRIED.**

There were no zoning or subdivisions presented at the meeting.

Ms. Buckner was now present at the meeting.

#### **B. CORRESPONDENCE**

A letter from David M. Drobisch resigning from the Macon County Board effective December 15, 2021.

A letter from Lori Guebert, Principal of Meridian Elementary School, in support of the fiber optic project.

A letter from Blake Noland of Birddog Workforce Scouting in support of the fiber optic project.

A letter from Andy Pygott, Superintendent of Meridian Schools in support of the fiber optic project.

A letter from Dove, Inc. Executive Director, Tamara Wilcox in support of the fiber optic project.

A letter from Julie Miller, Village Administrator for Mt. Zion in support of the fiber optic project.

A letter from Tim Stocks, Executive Vice President of the Macon County Farm Bureau in support of the fiber optic project.

A Notice of Application for Permit to Manage Waste from the IL EPA regarding Advanced Disposal Services Valley View Landfill's permit application for Gas Construction Quality Assurance Report.

A letter from Comcast regarding a programming advisory.

An e-mail from U-verse regarding notification of U-verse pricing increases.

Three Compliance Review copies for 2020 from Illinois Department of Transportation regarding disbursement of Motor Fuel Tax Funds by Macon County, and Macon County road districts, and disbursement of Township Bridge funds by Macon County.

A letter from Decatur Public Building Commission regarding a certificate of Ending Fund Balance – Fiscal Year 2021 Multiple Facilities Operational Lease Account.

## **REPORTS**

Sheriff's Report – December 2021

Treasurer's Fund and Investment Report – December 2021

Collector's Report – November 2021

Coroner's Report – October & November 2021

## **MOTION**

Mr. Edwards moved, seconded by Mr. Hogan to approve the Correspondence and Reports by prior roll call vote.

There were no questions or comments from the board floor.

**MOTION CARRIED. (BUCKNER & EDWARDS SHOWED THEIR VOTE AS YES)**

## **1. CLAIMS**

### **MOTION**

Mrs. Little moved, seconded by Mr. Gresham to approve the claims by prior roll call vote.

There were no questions or comments from the board floor.

### **MOTION CARRIED.**

## **C. APPOINTMENTS**

2. Mr. Greenfield presented Resolution G-5356-01-22 which is approving appointment to the Rural Transit Advisory Group.

Teresa Smith, 609 W. Pauline St., Taylorville, IL 62568  
Term Expires: November 30, 2023

### **MOTION**

Mr. Greenfield moved, seconded by Mr. Hogan to approve Resolution G-5356-01-22 by prior roll call vote.

### **QUESTION:**

Mr. Holman: Mr. Holman said he saw where this person is from Taylorville. He asked how big the area is.

Mr. Edwards: Mr. Edwards said this is a vacant position on the Macon County Rural Transit Advisory Group. It is actually the position his wife had. She resigned because she is doing another job. On that advisory board there has always been a representative from the Macon County Health Department that deals with senior citizen transport. That is the person that replaced his wife on the board. She manages transportation of seniors and makes sure they have access in rural areas for services. Teresa Smith lives outside the area, but has that position working for the county.

Mr. Holman: Mr. Holman said he didn't know how big the area was and if it was more than Macon County, or just the county itself if they didn't have anybody local.

Mr. Greenfield: Mr. Greenfield said he did not have any other names.

Mr. Edwards: Mr. Edwards said she was selected because that is her role being in charge of senior transportation, but it's a good question.

**MOTION CARRIED.**

There was nothing presented on the Consent Calendar.

**JUSTICE COMMITTEE**

3. Mr. Mattingley presented Resolution G-5357-01-22 which is approving appropriation of funds for equipment purchases for the Law Library FY 22.

**MOTION**

Mr. Mattingley moved, seconded by Mr. Hogan to approve Resolution G-5357-01-22 by prior roll call vote.

There were no questions or comments from the board floor.

**MOTION CARRIED.**

**EEHW COMMITTEE**

4. Mrs. Little presented Ordinance O-139-01-22 which is modifying the sunset date of the Cannabis Business Establishment Ordinances (Section 155.008, 155.300 and 155.301 of the Macon County Code).

**MOTION**

Mrs. Little moved, seconded by Mr. Hogan to approve Ordinance O-139-01-22.

Mr. Holman: Mr. Holman asked if in the event that opinion changes can they revisit this issue and make changes as needed.

Mrs. Little: Mrs. Little said it comes up every January.

Mr. Holman: Mr. Holman said he thought he read that the sunset provisions are wiped out.

Mr. Baggett: Mr. Baggett said what the sunset provision means is that if the county board takes no action that night then the ordinance will expire under its own terms and there will be no more prohibition as is currently imposed by the ordinance. He believed that would be effective tomorrow. If the board adopts the resolution at the meeting then prohibition as it currently stands will continue for one more year. The board would reconsider it in January of next year and decide whether or not to extend the sunset again or allow it to finally sunset. That is always the board's call. Mr. Baggett said Mr. Holman's original question was, does adopting the resolution prevent the board from reconsidering this at any point before next year, if he understood it correctly. He said the answer to that question is no. The board would always have the ability to revisit this

issue prior to January of next year. The problem is that the cannabis law that passed several years back had a provision in it that said any local governments that wanted to prohibit these types of businesses had to do so within a finite period of time. If they did not to do it within that time frame, then they would no longer be allowed to do it in the future. So, the county at that time adopted the prohibitions. It was more expansive at that point. Last year when the sunset came up they elected to only continue the prohibition as it applies to dispensaries. The rest of the cannabis establishments would be allowed to locate within unincorporated Macon County if they so desired. That provision is the only one remaining that the county is prohibiting. He said again if the board does nothing at the meeting or does not approve the resolution, then that prohibition would also expire. Mr. Baggett said there is nothing that prevents the board from revisiting this at any time within the next year.

Mr. Edwards: Mr. Edwards just wanted to be clear. He asked if this prohibition is only a prohibition against placing a dispensary in unincorporated areas of Macon County. It is only a provision for the unincorporated areas; and if any village, township or city's board voted to allow it, it would be allowed despite what the board decided on the unincorporated area. He asked if that is correct.

Mr. Baggett: Mr. Baggett said the county does not have the jurisdiction or authority to prohibit any cannabis establishment within a village, municipality, city, however they want to term that.

Mr. Greenfield: Mr. Greenfield said a township doesn't qualify.

Mr. Baggett: Mr. Baggett said a township does not have that authority. He said it would be a municipality, city or village. He said basically all the municipalities, not necessarily all local governments.

Mr. Edwards: Mr. Edwards said, so if they (municipalities, cities, villages) decided they could, we're just simply prohibiting it in unincorporated areas where it would be very difficult for the county to have roadways to support the traffic, additional law enforcement for security and traffic safety.

Mr. Baggett: Mr. Baggett said the board only has the authority to prohibit these establishments in unincorporated Macon County, and why the board would choose to do it is entirely up to the board.

Mr. Greenfield: Mr. Greenfield said a yes vote would be to keep it like it is and a no vote would be to change it.

Mr. Coleman: Mr. Coleman said at the EEHW Committee he spoke about the fiscally regressive nature of this decision. Obviously, they know as was articulated by Mr. Edwards, that it is unlikely they would have a dispensary in the unincorporated parts of the county. Nevertheless, it just breeds a negative environment for anyone in that industry trying to do something there. As they did say, which are allowed, businesses

that are not dispensaries, infusions, transportation and all of those other businesses that would be there could be within the unincorporated parts of the county. But, the board passing an ordinance saying that at the end of the day they couldn't sell their final product there if there was an opportunity to be provided, is just a negative decision and fiscally regressive and also incentivizes crime.

## **MOTION TO TABLE**

Mr. Coleman moved, seconded by Mr. Oliver to table Ordinance O-139-01-22.

## **QUESTION:**

Mrs. Little: Mrs. Little asked if the motion to table passes, then ultimately they were approving the sale at dispensaries. She asked if that was correct.

Mr. Rueter: Mr. Rueter said yes because if it is not acted on at the meeting then it kicks in tomorrow. So, if they vote to table it they are not actually voting nay against the original motion which would enable the dispensary to be in the unincorporated areas. The sunset provision would drop off.

Mr. Edwards: Mr. Edwards said it says January 15<sup>th</sup>. He asked if it actually technically dropped off on January 15, 2022 or does it go by the board meeting. The previous one said January 15, 2021. He asked if it goes to today's date, or does it actually drop off immediately.

Mr. Baggett: Mr. Baggett said he would have to find a copy just to be certain of Ordinance O-137. He said he did not have that in front of him. He might be able to pull it up on his computer.

Mr. Edwards: Mr. Edwards said it is not that big of a deal. It just basically will drop off fairly close, either today or tomorrow. There is not going to be any chance to go back.

Mr. Baggett: Mr. Baggett said there will not be another regular board meeting before.

Mr. Greenfield: Mr. Greenfield said they will be voting on whether to table it or not. If they vote to table it, you are voting to do away with the sunset and it would go into effect.

## **ROLL CALL.**

Ayes: Buckner, Coleman, Gresham, Holman, Oliver, Rood

Nays: Comer, Edwards, Entler, Greenfield, Hogan, Horve, Kreke, Lerner, Little, Mattingley, Noland

**AYES = 6**

**NAYS = 11**

**MOTION FAILED. (TO TABLE O-139-01-22)**

Mr. Rueter: Mr. Rueter said now they needed to act on the original motion. They just acted on tabling it and they did not table it, so they need to vote on the original motion.

Mrs. Little: Mrs. Little said a yes vote would be to continue.

Mr. Rueter: Mr. Rueter said a yes will continue the sunset provision and no vote would mean there is no longer a sunset provision, and a dispensary could be built in the unincorporated areas.

**ROLL CALL.**

Ayes: Comer, Edwards, Entler, Greenfield, Hogan, Holman, Horve, Kreke, Larner, Little, Mattingley, Noland

Nays: Buckner, Coleman, Gresham, Oliver, Rood

**AYES = 12**

**NAYS = 5**

**MOTION CARRIED. (MAIN MOTION FOR ORDINANCE O-139-01-22)**

The Operations and Personnel Committee had nothing to submit at the meeting.

The Legislative Committee had nothing to submit at the meeting.

**FINANCE COMMITTEE**

Mr. Greenfield: Mr. Greenfield said Resolution G-5358-01-22 was moved to new business.

**NEGOTIATIONS COMMITTEE**

5. Mr. Greenfield presented Resolution G-5359-01-22 which is approving an agreement between Macon County and the American Federation of State, County and Municipal Employees Council 31 AFL-CIO Local 612 Circuit Clerk employees.

**MOTION**

Mr. Greenfield moved, seconded by Mr. Hogan to approve Resolution G-5359-01-22.

There were no questions or comments from the board floor.

**ROLL CALL.**

Ayes: Buckner, Coleman, Comer, Edwards, Entler, Greenfield, Gresham, Hogan, Holman, Horve, Larner, Little, Mattingley, Noland, Oliver, Rood

Nays: (None)

Abstention: Kreke

**AYES = 16**

**NAYS = 0**

**ABSTENTION = 1**

**MOTION CARRIED.**

### **TRANSPORTATION COMMITTEE**

6. Mr. Kreke presented Resolution H-2273-01-22 which is approving and appropriating funds for a survey agreement for right-of-way.

#### **MOTION**

Mr. Kreke moved, seconded by Mr. Hogan to approve Resolution H-2273-01-22 by prior roll call vote.

There were no questions or comments from the board floor.

**MOTION CARRIED. (KREKE SHOWED HIS VOTE AS YES)**

7. Mr. Kreke presented Resolution H-2274-01-22 which is approving and appropriating a funding agreement for the CH 38 Washington Street Bridge.

#### **MOTION**

Mr. Kreke moved, seconded by Mr. Hogan to approve Resolution H-2274-01-22 by prior roll call vote.

There were no questions or comments from the board floor.

**MOTION CARRIED.**

8. Mr. Kreke presented Resolution H-2275-01-22 which is approving and appropriating a funding agreement for the CH 24 Reas Bridge Road Project.

#### **MOTION**

Mr. Kreke moved, seconded by Mr. Hogan to approve Resolution H-2275-01-22 by prior roll call vote.

**QUESTION:**

Mr. Oliver: Mr. Oliver asked if there is going to be any bridge work done as well as road work.

Mr. Greenfield: Mr. Greenfield said Reas Bridge is the new bridge.

Mr. Oliver: Mr. Oliver asked if it will be surfacing and bridge.

Mr. Edwards: Mr. Edwards said it talks about the roadwork approaches and the bridge itself. He thought it was engineering in nature.

Mr. Bird: Mr. Bird said this is the funding agreement to construct the bridge. It is two bridges and also the approach roadway comes up. The entire length of the project is about  $\frac{3}{4}$ 's of a mile long.

Mr. Oliver: Mr. Oliver asked if all the property had been acquired.

Mr. Bird: Mr. Bird said yes. They are ready to go.

Mr. Greenfield: Mr. Greenfield said it will go to letting in March.

**MOTION CARRIED.**

9. Mr. Kreke presented Resolution H-2276-01-22 which is approving and appropriating additional funds for the Turpin Road CIR Project.

**MOTION**

Mr. Kreke moved, seconded by Mr. Hogan to approve Resolution H-2276-01-22 by prior roll call vote.

There were no questions or comments from the board floor.

**MOTION CARRIED.**

The Executive Committee had nothing to submit at the meeting.

The Siting, Rules & Ordinance Sub-Committee had nothing to submit at the meeting.

The Building Sub-Committee had nothing to submit at the meeting.

There were no citizens' remarks presented at the meeting.

## **OFFICEHOLDERS' REMARKS:**

Mr. Tanner: Mr. Tanner said the nomination packets are in front of all of the board members. They include a map and all of the paperwork they would need to file to run again for office. He said if they needed any additional paperwork they could get it in his office.

There was no old business presented at the meeting.

## **NEW BUSINESS:**

### **MOTION TO SUSPEND THE RULES**

Mr. Hogan moved, seconded by Mr. Edwards to suspend the rules to consider Resolution G-5360-01-22 by prior roll call vote.

There were no questions or comments from the board floor.

### **MOTION CARRIED. (TO SUSPEND THE RULES TO CONSIDER RESOLUTION G-5360-01-22)**

10. Mr. Greenfield presented Resolution G-5360-01-22 which is authorizing a funding plan for CH 24 Reas Bridge Road project under the American Rescue Plan Act.

### **MOTION**

Mr. Greenfield moved, seconded by Mr. Hogan to approve Resolution G-5360-01-22 by prior roll call vote.

There were no questions or comments from the board floor.

### **MOTION CARRIED.**

11. Mr. Greenfield presented Resolution G-5358-01-22 which is authorizing a plan to execute a fiber optic project within Macon County with Shelby Electric as provider and Finley Engineering as support that falls under the American Rescue Plan Act guidance.

### **MOTION**

Mr. Greenfield moved, seconded by Mr. Hogan to approve Resolution G-5358-01-22.

## **QUESTIONS:**

Mr. Coleman: Mr. Coleman wanted to verify that the reason they were presenting this under New Business and suspending the rules is because it was not brought forth by committee and voted on formally. He asked if that was correct.

Mrs. Little: Mrs. Little said it was discussed in committee but was not formally sent to the board.

Mr. Oliver: Mr. Oliver asked if this was a biddable project. He asked if they only had one company that wanted to do this work.

Mr. Coleman: Mr. Coleman said there are competitors in this area for this industry.

Mr. Jackson: Mr. Jackson said initially this went with the ARPA Fund Committee which was dissolved. He said they started this discussion in about May. This is the only bidder for true fiber optic. Mr. Jackson said he believes it was emailed out to the providers.

Mr. Edwards: Mr. Edwards said he didn't want to take Mr. Oliver's question, but asked if it was sent out by the county.

Mr. Jackson: Mr. Jackson said yes the county did.

Mr. Oliver: Mr. Oliver asked if it was published in a local newspaper.

Mr. Jackson: Mr. Jackson said it was not published in a local newspaper.

Mr. Oliver: Mr. Oliver asked who it was sent to.

Mr. Jackson: Mr. Jackson said different providers.

Mr. Edwards: Mr. Edwards asked if he meant like Verizon and Comcast.

Mr. Jackson: Mr. Jackson said it was not sent to Comcast.

Mr. Edwards: Mr. Edwards had some follow-up questions. He said if he understood from what he read that the proposal is \$4,300,000.00 of the ARPA which have to be used within 3 years, of which they have \$10,100,000.00 that has been received. He said it is a pretty sizeable chunk but they are willing to do it over a couple year period.

Mr. Jackson: Mr. Jackson said a 3 year period.

Mr. Edwards: Mr. Edwards said it is still \$4,300,000.00. There is a reason for the rush which is that they want to secure...?

Mr. Jackson: Mr. Jackson said to secure pricing.

Mr. Edwards: Mr. Edwards said it will cover 678 potential...

Mr. Jackson: Mr. Jackson said it will cover 1100. There have 688 that have committed to this.

Mr. Edwards: Mr. Edwards said originally it only talked about 678. Mr. Jackson said it does. It talks about that's hard customers now that would go. Mr. Edwards asked if that was how many people now that would take it.

Mr. Jackson: Mr. Jackson said that was correct, but the infrastructure would cover more area than that. He said they could tap on schools and lots of things that aren't covered now.

Mr. Edwards: Mr. Edwards thought it talked about in the document that 56% of the people have the availability for some service now but it might not be up to speed or up to par. Mr. Jackson said that was correct. Mr. Edwards said so 56% have something, but 44% either don't have it or have dish satellite or something. Mr. Jackson said or possibly they have a hotspot off their phone. Mr. Edwards said he figured things based on the 678. He said it talked about 15% of the households don't have computers at all and another 5% or 20% didn't have internet service. Mr. Edwards asked if that is because maybe they have something through a dish satellite.

Mr. Jackson: Mr. Jackson said they could. He said he wouldn't even say dish satellite. He thinks it is mainly like... There is an internet provider that has it and you have line of sight, like if you have an antenna on the side of your house that points to a tower somewhere. But if you don't have those options there is none at all.

Mr. Edwards: Mr. Edwards asked if it is 1100 households.

Mr. Jackson: Mr. Jackson said it is 1100 customers on the network.

Mr. Edwards: Mr. Edwards asked if the cost to do it is \$3,900.00 per hook up.

Mrs. Little: Mrs. Little said this also impacts schools and businesses that are in that jurisdiction. This isn't just houses.

Mr. Jackson: Mr. Jackson said their entire network grid could get services off of it and they could expand their network.

Mr. Edwards: Mr. Edwards asked if Mr. Jackson could tell them about the land easement. Mr. Edwards said Shelby Electric Cooperative is a power provider. They are not in the fiber optics or communication business. He said that to utilize their poles there were a couple issues mentioned in the agreement, #1 they have to be 40 inches below the neutral wire because they are not qualified or want to avoid the labor costs of working within the high energy field. So, they have to be 40 inches down. Every residential household, or they have to negotiate with all of the individuals that have easements now that have poles, they have to negotiate with them bringing fiber communications across.

Mr. Jackson: Mr. Jackson said from his understanding they don't have to negotiate with all of those. There was just some varied aspects of the easements that they would have to get an easement on that, to add that to it.

Mr. Edwards: Mr. Edwards read from page 6: Shelby Electric Cooperative intends to utilize existing pole infrastructure where available. The existing easements of Shelby Electric as for electric purposes do not necessarily support a fiber communication network such as the one being proposed within the framework of this document. The proposal is contingent upon Shelby Electric's ability to obtain all necessary easements. It later talks about how they are hoping that most easements the residents will allow it for free of charge. But, if they read through the rest of the document it says, the easement cost will be split between the county and Shelby Electric. Mr. Edwards said if he is a homeowner or a residential then he would have a pole and would be getting power from Shelby Electric and they are bringing fiber optics across, then he has to agree to it. If he doesn't agree to it, then they would have to negotiate with him on what his fee will be for them to run the fiber optics across his pole. If he said \$1,000 then that cost would get split between the county, that extra cost that is not included in this \$4,300,000.00, will get split between the county costs and Shelby Electric's. Mr. Jackson said that was correct. Mr. Edwards said they don't really have any idea what those costs are.

Mr. Jackson: Mr. Jackson said they don't, but they did clarify that if it's on the pole they own the pole and they have the easement, and they can put it on there. He said where it will come into play is when they have to go underground for a new area. As far as the pole, the cost on some of this project is for the poles. They have to upgrade some of their infrastructure to make that height work.

Mr. Edwards: Mr. Edwards said yes because they can't have a combine going underneath a 40 inch drop between the...

Mr. Jackson: Mr. Jackson said Shelby Electric does not see it being a problem on the easement side.

Mr. Edwards: Mr. Edwards said he says that to himself too, but he doesn't know what that is because they don't until those land owners agree. Mr. Edwards said if he was a landowner there he would also say he would make an agreement with them if they give free cable or free internet broadband fiber optic for five years and they could run it across his property or run it across his pole. The poles that are on his property, and then it is something that comes back to the county that ends up getting the pay, which they are not involved in that negotiation. He was just asking the questions to try and decipher out what the total cost is. He said the cost for the county is potentially about \$3,900 per hookup, and any additional costs for easements at 50% of what that cost is. Mr. Jackson said that was correct on the easement side. Mr. Edwards said the county would tie up close to \$4,300,000.00 of \$20,100,000.00 ARPA for this one project.

Mr. Jackson: Mr. Jackson said that is correct and they just spent \$6,000,000.00 on the bridge too.

Mr. Edwards: Mr. Edwards \$6,000,000.00 on the bridge and there would be some money for the east side bypass and some additional cost for that probably as well to kind of tie everything together.

### **MOTION TO AMEND**

Mr. Coleman moved, seconded by Mr. Oliver to amend Resolution G-5358-01-22 so there is a cap of \$1,000.00 on the non-fixed costs outside of the \$4,300,000.00 that the county is agreeing to pay already.

### **COMMENT:**

Mr. Coleman: Mr. Coleman said obviously it is not a huge project but they are going to want to get it done. So, if there is someone that is being... He said specifically in the room they would know from people of certain landowners being a little difficult when it comes to trying to get large projects done where they have quick takes and things like that. Instead of leaving it open ended and someone being able to argue several thousand dollars, they could put a cap on it at \$1,000.00 of expense on behalf of the county.

Mrs. Little: Mrs. Little asked if they could amend a contract on the board floor.

Mr. Edwards: Mr. Edwards asked if there was even a contract.

Mr. Jackson: Mr. Jackson said there is a contract.

Mr. Baggett: Mr. Baggett said there is a proposed contract. There is not a contract.

Mr. Edwards: Mr. Edwards said the rush to get it done soon has been requested by Shelby Electric.

Mr. Jackson: Mr. Jackson said only because of the price increase due to the time period they bid this last year.

Ms. Rood: Ms. Rood said she is in favor using ARPA funds for broadband. But, she has been told that A.C.T.S. is in Moweaqua, Metro Communications is in Sullivan and Rise Broadband is starting to lay fiber in Maroa. She is just concerned that they are covering an area of the county that is going to be served by these other companies. There might be other parts of the county that really needs fiber optics.

Mr. Edwards: Mr. Edwards said it talks about in the document, and he understands it is slow, but 56% have some access it might just be rather poor currently. He asked if they know if any of the other major companies that handle broadband or fiber optics as the

core of their business, what they are actually doing within the next few months or years, which are not asking for government funds. He asked if that made sense.

Mr. Jackson: Mr. Jackson said no. He asked if Mr. Edwards was asking if someone in the area is looking for ARPA Fund money too.

Mr. Edwards: Mr. Edwards said he was asking if they had any idea of what the plans are for the Comcasts, the Verizons, the AT&Ts, and the other corporations that their hardcore entire business is this, versus a company whose business is electric and is getting into this as a side business.

Mr. Jackson: Mr. Jackson said it is actually not a side business. They provide internet also with the power. As far as anyone else in the area, there have been lots of lettings over a \$100,000,000 letting in 2018 or 2019 that almost went away to nothing. People bid on it and they couldn't meet the demand and that is why they don't have anything out there now. They promised a wire network and never performed.

Mr. Mattingley: Mr. Mattingley said he has concerns about the time frame and the amount of money, not negating that this is a good idea to work on broadband access, but one of their selling points is running their fiber optic on their poles versus an AT&T or somebody running it in the ground. Mr. Jackson said it is \$100,000.00 a mile. The numbers make it where they are probably the only likely source unless they gave easements to some big company to run their fiber optic over there poles.

Mr. Noland: Mr. Noland said he could speak to some of Ms. Rood's comments about say, Direct TV. He said Direct TV and AT&T together were used by his businesses initially as a provider and they were unable to use TeamSpeak, Zoom anything like that. So, they moved to A.C.T.S. They have been an A.C.T.S. client and were an A.C.T.S. proponent, but the quality of that product is line of site and is very problematic. So, they struggle with some of their business operations based off of using A.C.T.S. The challenge is that fiber, for instance Metro, is unwilling to go everywhere; so if there is a creek they will not cross over the creek. If there is a drainage district that has a large ditch they can control whether they can do it or not. So, the challenge is largely in that southern part of the county. There aren't a lot of really good options. Shelby has come in, and he sees this for his area that he represents, that is the thing he is dealing with all the time. Their kids have been forced back home and they have connectivity issues, and now he is working from home and can't Zoom any of his meetings. It has been a big challenge for them. He is supportive of this because they haven't really had a good, viable option up to this point. This is actually legitimate fiber that they can tap into. Also, this is kind of the conduit that is going to get it elsewhere. So, to look at those southern portions of the county, and the 1100 households and add in the businesses and add how that can elevate up north through the county, he feels there is an opportunity to elevate this all the way to the northern side of the county in the rural areas.

Mr. Edwards: Mr. Edwards asked if they have any way to know if the A.C.T.S. company has any plans to do anything. Part of it is they are going to provide government funds to

a private business who is a, for profit business to compete against another business that's a, for profit business, within the same community.

Mr. Noland: Mr. Noland said he would say for clarification that Shelby Electric is a cooperative and A.C.T.S. is a private business, so that is not necessarily apples to apples.

Mr. Edwards: Mr. Edwards said not necessarily a, for profit.

Mr. Noland: Mr. Noland said A.C.T.S. is 100% for profit. Shelby Electric is a cooperative, so they actually have internet services and they are horrible. Mr. Noland says he pays it monthly on one of their accounts and it is horrible. He said they can actually look at the speeds and times on that and it is just not a good product. Mr. Noland said he didn't say it, but they have had that product. They have had AT&T and they have A.C.T.S. There just aren't good options and a lot of people don't grasp that because they might not live in a rural area. Some things, people choose to live out there and they just accept the fact that it is always windy, there are no street lights so it is dark and the internet is horrible. It's just what it is, and this is an opportunity to address that southern portion of the county, which could essentially allow them to move this up through the other portions of the county.

Mr. Edwards: Mr. Edwards asked if there are other places within the county that are similar to Mr. Noland's that have the same problem.

Mr. Jackson: Mr. Jackson said all of them do.

Mr. Edwards: Mr. Edwards said if all of those areas ask, do they have enough ARPA funds to cover them?

Mr. Jackson: Mr. Jackson said the engineering firm here is part of the federal advisory board. They say that once the county steps off into a project and they make the tap to where they can go north, they already are liaising with the other cooperatives to provide those areas.

Mr. Mattingley: Mr. Mattingley said it should also open the door to further federal grants over and above ARPA funds.

Mr. Edwards: Mr. Edwards asked what the capability, and he understood Mr. Coleman tried to make a motion that was not able to be done because it is a contract. He asked what they can do to try and alleviate, minimize, mitigate or completely get out of being responsible for easement costs. The county will get a benefit because they will get residences and businesses to be able to have access and come into the world like others. He asked if they can go back on this and say they would be responsible for this part, but are not going incur additional liability or additional costs for whatever the easements are. They did easements before as the electrical cooperative to get poles or to do poles on property. He asked if they can go back and limit their liability or costs.

Mr. Rueter: Mr. Rueter said as he understands it, he asked Mr. Jackson to make sure he understood it correctly, if this is the proposal they have given to the county. Mr. Jackson said that was correct. Mr. Rueter said that is the contract as it stands now and they can adopt, for example, Mr. Coleman's motion or adopt any further contract negotiation position they want to take. The county can take that back to them and say this is what the board wants as far as the county's end of it they want to address the issue of easements. But, they could say no they were not going to do that because it is a contract negotiation. Mr. Rueter said the problem right now is the current contract bid expires in a very short period of time, so if they do that they won't get the same price that they currently have. He asked if that is correct.

Mr. Jackson: Mr. Jackson said they may not, but it is an opportunity. Mr. Jackson said he agreed.

Mr. Edwards: Mr. Edwards said they may also get somebody else that says they are going to give \$4,300,000.00 to Shelby Electric and they are in this business so they would apply for \$3,000,000.00 if they decide to say no. There is the competitive side of any business opportunity that somebody else recognizes the county is going to give that much ARPA funds so maybe they should try to apply for it. It's a cost to them if they say no and say they will go back and take that chance.

Mr. Rueter: Mr. Rueter said the other side of it is the county may not get a lower cost. This may be the best they can do. That is what they have to consider. It is probably appropriate to throw in the other factor that Mr. Baggett addressed regarding Mr. Oliver's issue from earlier.

Mr. Baggett: Mr. Baggett said that Mr. Oliver had asked about the bidding and Mr. Jackson indicated that the project was solicited by email sometime in the spring of last year. Mr. Baggett said he would inform the board because they have a duty to advise them, that the county's code does require in the competitive bidding statute that solicitations for bids be published in a newspaper of general circulation within the county, not by email. There is an argument that could be made if this were challenged in court that if the county board were to vote to go through with this, that the email solicitation is substantial compliance with the statute in the sense that bids were solicited and they had one responsive bidder. That is the bidder that was ultimately chosen, but there is not strict compliance with the statute because there was no solicitation made in the Herald & Review or the Decatur Tribune, which are the two newspapers of general circulation within Macon County. There is a risk if the board votes to go through with this and adopt the resolution and agree to the contract, regardless of whatever action it takes with respect to the amendment that is on the floor. There is a risk that the county would be exposed to some type of liability for violating the competitive bidding statute. He thinks there is a defense. He doesn't know and can't advise on what the likelihood of success would be on that defense. Mr. Baggett said he feels he has an obligation to tell them that there is a potential monkey wrench that they need to think about.

Mr. Edwards: Mr. Edwards asked if the potential risk is that the county could be liable to another competitive company to the same price or expense, maybe as this whole thing is.

Mr. Baggett: Mr. Baggett said potentially yes.

Mr. Coleman: Mr. Coleman wanted to verify that Mr. Jackson had said that Comcast was not contacted with an email. Mr. Jackson said that was correct. Mr. Coleman asked if they are the largest provider of fiber optic service in Macon County. Mr. Jackson said he did not know that.

Mrs. Little: Mrs. Little said they are not the largest out there.

Mr. Coleman: Mr. Coleman said with them being the largest provider they might be a little disgruntled.

Mr. Edwards: Mr. Edwards asked who provides the 56% of coverage right now. Is it A.C.T.S., and then Consolidated Communications or Metro Communications which he thought were the same?

Mr. Noland: Mr. Noland asked if Mr. Edwards was asking who the current providers are.

Mr. Edwards: Mr. Edwards said yes. He said it mentioned that 56% of the area has service but it is just really inadequate, is what they talked about.

Mr. Noland: Mr. Noland said a person could use Direct TV, AT&T, or HughesNet. The challenge is that they have to initially think about how the area got power in the first place. He said what truly happened is they went out there and looked down a road and counted how many houses there were. If there were four houses on this road, which outside of town the road is a section. So, it is a mile on each grid. They looked down that mile to see how many houses were there and say there was five. Ameren then said they would run a line down that road with five houses. They looked down the next one and saw there was only one house and said they were not running a line down that road. That is where this whole cooperative thing came about. So the whole idea of options he fully understands where they are coming from, but it is a completely different environment because there just aren't options. It was just based off of population density and financial payback. So Comcast is not there and they are not there because it doesn't make sense. The whole reason this is a cooperative is because it is not a money making business. It is people who are owners who have banded together to try to get a better quality of product. The cooperative mindset is completely different from where many of the board members are coming from. It is not a, for profit endeavor necessarily. He said the cooperative needs to make money, but ultimately it is doing a service for its members. So it is a little unique in that regard.

Mr. Edwards: Mr. Edwards said if they didn't vote for this at the meeting that night and didn't do anything that day and would address it in February, how much notice do they

have to provide to say they published it in the paper and requested some action and then still be able to act on this at the next meeting.

Mr. Baggett: Mr. Baggett said if they solicit bids and then assuming this company were to bid exactly the same proposal that was currently before the board, and assuming they have other bidders that suddenly become interested for the reasons that were set out previously, the statute is silent as to how long a bid has to be outstanding and how long bidders have to reply to the bid. He said he thought in the best practice realm he has advised various officeholders who do this on a more regular basis that they need to issue a solicitation, give bidders at least 2, 3 weeks or more preferably, but 2 or 3 somewhere in that neighborhood to submit their proposals. Once the proposals are submitted the committee that reviews or many office heads that review these can make a decision as to who the lowest responsible bidder is, prepare a resolution, get the contract work together and present it to the board at its next meeting. Mr. Baggett generally advised that they didn't want to do less than two weeks for bidders to respond. That stays within the spirit of the statute. But he thinks 2, 3, 4 is in the neighborhood minimum.

Ms. Rood: Ms. Rood asked if it would be open to the entire county to receive service.

Mr. Baggett: Mr. Baggett said the bid has to be published in a newspaper of general circulation within the county. In Macon County it would be the Herald & Review or the Decatur Tribune.

Mr. Mattingley: Mr. Mattingley said if they are going to do it he thinks they are still looking at the southern third of county with the problem. The whole county, to bid that when there is a potential for federal funding if they're correct, would be foolish.

Mr. Baggett: Mr. Baggett said the request for proposal would specify what they were looking for. In this case they would specify the southern portion of Macon County. They have to have responsive bids. If a bidder came in and wanted to do Forsyth, that would be a problem and wouldn't be responsive to the bid. It would be specified in the solicitation what portion of Macon County they are wanting to cover during this particular transaction.

Ms. Rood: Ms. Rood asked if it could state any portion of Macon County.

Mr. Baggett: Mr. Baggett said that is certainly an option, but it would be up the board or the negotiation team in terms of what they believe is practicable to solicit at this time.

Mr. Comer: Mr. Comer asked if the bid was received last year and Mr. Jackson affirmed. Mr. Comer said they should keep in mind of when the numbers came in because since then labor has gone up, the cost of goods has gone up, and so it could come back five million dollars more. So there is possibly a small risk that there could be some issues because they did not post this in the newspaper.

Mr. Mattingley: Mr. Mattingley said more than small. Mr. Edwards agreed.

Mr. Baggett: Mr. Baggett said he agreed with Mr. Mattingley and Mr. Edwards. The risk of exposure is pretty substantial and the amount of exposure would be very significant. They are talking hundreds of thousands minimum and six figures as a settlement figure and multiple millions as a possible worst case scenario.

Mrs. Little: Mrs. Little said she just wanted a point of clarification on the purpose of this resolution. She asked if it is to accept the contract as presented or is it to approve the use of ARPA funds up to \$4,337,661.91. (Mr. Jackson responded but the static noise from the microphone prevented it from being heard clearly)

Mr. Rueter: Mr. Rueter said what Mrs. Little was asking was if the resolution was to adopt the contract or authorize the spending of the money.

Mrs. Little: Mrs. Little said that was correct but added “authorize the spending of the money, for that purpose.” But, not to necessarily approve the contract because if it is just to approve the use of ARPA funds up to this amount for this purpose, then it seems to her that they still have a couple of weeks to work through issues. (Static again made hearing difficult)

Mr. Baggett: Mr. Baggett agreed that would be a correct interpretation of language of the resolution as it currently sits. The Chair, who is authorized to sign contracts on behalf of the board and whoever the negotiator whether he does it himself or delegates it would be able to negotiate the final terms of that contract up to the proposal as it exists. The board is essentially saying, up to this point this is what we are agreeable to because of the way the resolution is phrased.

Mrs. Little: Mrs. Little said she is perfectly ok with the expenditure for this purpose, but she is a huge fan of not putting one more dime into it other than this \$4,300,000.00. If they need an easement, they need to get the easement. If they need new stamps for their new letterhead then they need to buy their own stamps.

Mr. Jackson: Mr. Jackson said what Mrs. Little was saying would force their hand.

Mrs. Little: Mrs. Little said she is pretty sure if the county agreed to this money they are not going to ask the county to pay for other things.

Mr. Edwards: Mr. Edwards said that in the proposal it says, Whereas Macon County wishes to invest in stand up rural fiber optic network via Shelby Electric. That is what the concern is because it specifically lists the company they would be using. It doesn't say necessarily this, but would probably be very easily inferred that it was what this document said.

Mr. Baggett: Mr. Baggett said his advice would be that if the board adopts this resolution, it is agreeing to a contract with Shelby Electric, not any other company but Shelby up to the dollar amount. He would diverge a bit from what Mrs. Little was saying. He does

think that because the draft proposal that Shelby has submitted, the bid essentially, does include an unknown variable cost as to future easement purchases, that despite the dollar amount of \$4,337,661.91 being here the board is aware of cost overruns related to easements. It would still be a point of negotiation that could be negotiated before a final contract is executed, but he doesn't know if the board or the Chair would be limited to \$4,337,661.91. He thinks the board would be limited to that amount as a base plus what is proposed in the bid.

Mr. Edwards: Mr. Edwards said that approving this at the meeting could potentially, legally, or could make the county liable because it was not mailed out or published.

Mr. Baggett: Mr. Baggett said because it wasn't published in a newspaper of general circulation, yes. There is no way around that exposure.

Mr. Rueter: Mr. Rueter said he saw one potential avenue they could amend the resolution.

Mr. Mattingley: Mr. Mattingley said they could strike it out so it is just the monetary appropriation and then they could open the bidding.

Mr. Rueter: Mr. Rueter said they could take out the part referring specifically to making this contract with Shelby Electric. They could indicate they wish to stand up a rural fiber optic network encompassing the current south 1/3 of Macon County with Macon County oversight for perspective recipients of service and authorize that amount.

Mr. Edwards: Mr. Edwards said they could put the dollar amount down and see who comes back and bids.

Mr. Rueter said they could put it in the paper that is required and go from there.

Mr. Edwards: Mr. Edwards asked in order to do that if they need an amendment to amend this.

Mr. Baggett: Mr. Baggett said they have an amendment on the floor now.

Mr. Rueter: Mr. Rueter said they have to deal with the amendment on the floor first and then after that they could move to amend.

Mr. Oliver: Mr. Oliver asked if that would take away the problem that this was not done with open request for bidding. That it was chosen by individuals and sent to certain other individuals and that was all done on the internet and not in the newspaper.

Mr. Rueter: Mr. Rueter said all they were doing at this point was authorizing the money and then they could put it out for appropriate publication as required. So, they are not accepting any particular bid from any individual. He said they are hoping that Shelby Electric will come back with the same bid they have already done. They would be

submitting it out appropriately with publication. They are just authorizing money to be spent. They are not picking a particular bidder.

Mr. Baggett: Mr. Baggett said that while they are required to publish in a newspaper of general circulation, they can also solicit bids directly from known potential bidders. That can be by email, phone, however. They are required to do it in a newspaper, but there is nothing in the law that says they can't solicit bids directly from particular vendors that they are aware of and familiar with.

Mr. Oliver: Mr. Oliver said other vendors should be given an opportunity, other than those chosen by the people who are setting it up.

Mr. Baggett: Mr. Baggett said the newspaper of general circulation is what the law requires in terms of making it available to anybody who wants to. Hopefully, they are following the local newspaper. He didn't know. This is an old statute. That doesn't prevent the county from reaching out to particular vendors and soliciting bids from them directly.

Mr. Oliver: Mr. Oliver said the biggest thing that is on his mind now is that this is still taxpayer's money and because it is not local funding he thinks they are getting a blasé effect on how they are going to spend it. He doesn't think they should do that.

Mrs. Little: Mrs. Little said she takes offense to that statement, but she understands what he is saying.

Mr. Rueter: Mr. Rueter asked what Mr. Coleman's specific amendment was. Several members responded that he wanted a cap of \$1,000 on the easements.

Mr. Coleman said he withdrew his motion to amend. Mr. Oliver agreed to allow Mr. Coleman to withdraw his motion to amend.

Mr. Rueter: Mr. Rueter said they were now back to the original motion which they would need to amend to not refer to the bid by Shelby Electric, but to just authorize the spending of the money.

Mr. Mattingley: Mr. Mattingley said they would need to strike more than just the reference to Shelby Electric. They need to strike the references that, even though it does not say Shelby Electric, relate to the contents of their bid such as the 50%, the timing, the payment schedules, and the second whereas from the bottom.

Mr. Edwards: Mr. Edwards said in his opinion, in the event of new easement resolutions, sharing in the cost.

Mr. Rueter: Mr. Rueter asked if they wanted to leave the total expenditure the same.

Mr. Kreke: Mr. Kreke said before they get too far into this, he asked if the whole point of voting on this tonight was that if they were going to approve it, it was because Shelby Electric's proposal was only good through the 20<sup>th</sup>. If they are just approving the amount and they are going to put it out for bid then what is the point of approving any of this? Shouldn't they just table it and put it out for bid? There is no point in voting if they are going to put it out for bid, then they don't need this.

### **MOTION TO TABLE**

Mr. Edwards moved, seconded by Mr. Mattingley to table Resolution G-5358-01-22 which is authorizing a plan to execute fiber optic with Shelby Electric.

### **QUESTION:**

Mrs. Little: Mrs. Little had a question regarding clarification. She asked if this is tabled, then the next time this comes up does that mean it comes up unchanged or should it be sent back to committee? Should it be pulled from the agenda by the chairman's authority?

Mr. Baggett: Mr. Baggett said his expectation is that if it is tabled it will die and the next resolution that comes before the board will simply be a new resolution. The board could move to take from the table and if they did that it would be the resolution they have here.

Mrs. Little: Mrs. Little said so they could just come back with a new resolution and this one could just die.

### **ROLL CALL.**

Ayes: Buckner, Coleman, Comer, Edwards, Entler, Greenfield, Gresham, Hogan, Holman, Horve, Kreke, Larner, Little, Mattingley, Noland, Oliver, Rood

Nays: (None)

**AYES = 17**

**NAYS = 0**

**MOTION CARRIED. (TO TABLE RES. G-5358-01-22)**

### **MOTION TO ADJOURN**

Mrs. Little moved, seconded by Mr. Edwards to adjourn until Thursday, February 10, 2022 at 6:00 p.m.

**MOTION CARRIED.**

Meeting adjourned at 7:08 p.m.