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FILED
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Jessica Jerc
SHELBY COUNTY CLERK

Gina,

According to the County Code. 55 ILCS 5/3-9005(3) you are to commence and prosecute all actions and proceedings brought by any county officer in their official capacity.

55 ILCS 5/3-9005(3) To commence and prosecute all actions and proceedings brought by any county officer in his official capacity.

On behalf of the below listed County Officers in their official capacity, we are asking you to recuse yourself and request a Special Prosecutor for the purpose of establishing a criminal investigation and prosecuting Alan Spesard for alleged Official Misconduct 720 ILCS 5/33-3(a)(2) and (a)(3), violations of Article VIII Section 1(a) of the Illinois State Constitution, and violations of the Illinois Governmental Ethics Act (5 ILCS 420/4A-107). Mr. Spesard has used County property for personal gain to his private partnership Shelby Engineering LLC and failed to disclose his partnership on his Statements of Economic Interest filings. Such action violates the statutes referenced.

(720 ILCS 5/33-3) (from Ch. 38, par. 33-3)

Sec. 33-3. Official misconduct.

(a) A public officer or employee or special government agent commits misconduct when, in his official capacity or capacity as a special government agent, he or she commits any of the following acts:

- (1) Intentionally or recklessly fails to perform any mandatory duty as required by law; or*
- (2) Knowingly performs an act which he knows he is forbidden by law to perform;*
or
- (3) With intent to obtain a personal advantage for himself or another, he performs an act in excess of his lawful authority; or*
- (4) Solicits or knowingly accepts for the performance of any act a fee or reward which he knows is not authorized by law.*

(b) An employee of a law enforcement agency commits misconduct when he or she knowingly uses or communicates, directly or indirectly, information acquired in the course of

employment, with the intent to obstruct, impede, or prevent the investigation, apprehension, or prosecution of any criminal offense or person. Nothing in this subsection (b) shall be construed to impose liability for communicating to a confidential resource, who is participating or aiding law enforcement, in an ongoing investigation.

(c) A public officer or employee or special government agent convicted of violating any provision of this Section forfeits his or her office or employment or position as a special government agent. In addition, he or she commits a Class 3 felony.

(d) For purposes of this Section, "special government agent" has the meaning ascribed to it in subsection (l) of Section 4A-101 of the Illinois Governmental Ethics Act.

(Source: P.A. 98-867, eff. 1-1-15.)

Article VIII SECTION 1. GENERAL PROVISIONS

(a) Public funds, property or credit shall be used only for public purposes.

(5 ILCS 420/4A-107) (from Ch. 127, par. 604A-107)

Sec. 4A-107. Any person required to file a statement of economic interests under this Article who **willfully files a false or incomplete statement shall be guilty of a Class A misdemeanor.**

The provisions for requesting a Special Prosecutor are found in the County Code. 55 ILCS 5/3-9008 (a-15) – "Notwithstanding subsections (a-5) and (a-10) of this Section, the State's Attorney may file a petition to recuse himself or herself from a cause or proceeding for any other reason he or she deems appropriate and the court shall appoint a special prosecutor as provided in this Section."

The undersigned Officials hereby formally ask you to comply with our request for an Appellate Prosecutor to handle this matter.

Sincerely,

