

**JUSTICE COMMITTEE MEETING**  
**February 26, 2015**  
**3:00 P.M.**

**MEMBERS PRESENT**

Greg Mattingley  
Jon Baxter  
Merv Jacobs  
Dave Drobisch  
Jay Dunn  
Bill Oliver (arrived @ 3:02 p.m.)

**MEMBERS ABSENT**

Matt Brown

**COUNTY PERSONNEL PRESENT**

Jerry Lord, DPBC  
Mike Baggett, State's Attorney's Office  
Rodney Forbes, Public Defender  
Jay Scott, State's Attorney  
Lois Durbin, Circuit Clerk  
Carol Reed, Auditor  
Pat Berter, Probation Director  
Lt. Jon Butts – Sheriff's Dept  
Judge Webber – Courts  
Ralf Pansch – Specialty Courts Admin  
Gary Minich – County Board member  
Dianna Heyer – Health Dept Admin  
Laura Lents – County Board Office  
Jeannie Durham, County Board Office

The meeting was called to order by Chair Greg Mattingley at the Macon County Office Building.

**APPROVAL OF MINUTES OF PRIOR MEETING**

Jay Dunn made a motion to approve the minutes from the January 22, 2015 meeting, seconded by Dave Drobisch and motion carried 5-0.

**CLAIMS**

Jay Dunn made a motion to approve the report of the claims as submitted, seconded by Dave Drobisch, and the motion carried 5-0.

**REPORTS**

***Circuit Clerk -***

Lois Durbin had no report

***Circuit Court –***

Judge Webber reported that they are carefully watching the funding for the court reporters. The time when the funding is going to run out could be as late as April 24, but it is uncertain. If that funding is not given supplemental appropriation, there is a lot of uncertainty as to what will happen. Certain courtrooms, such as Felony Courtrooms, Mental Health Courtrooms, and Juvenile Courtrooms, without a recorder present. It is the topic of much discussion and it is hopeful that a solution is reached in Springfield before the date the money runs out. Greg Mattingley asked how this issue came to be a problem. Judge Webber said he thought that as up to this present fiscal year, the court reporters were funded through the General Fund exclusively. This last year, the funding was split between the General Fund and the Personal Property Tax Replacement Fund. Apparently, the Property Tax Replacement Fund will run dry and that is where the problem comes from. It is going to take a supplemental appropriation to the General Fund for the Court Reporters

to carry them through the end of the fiscal year which is June 30. He said he believed that both the leaders in legislature as well as the Governor have recognized the problem and the need to fix it, but he did not know if there is a bill working its way through the legislature to do it.

***Coroner – No Report***

***Court Services / Probation –  
Macon County Board Resolution Approving Amendment to the FY15 Budget for the Probation  
Department***

Pat Berter reported that the reason for the amendment is that contract negotiations with FOP have been completed and in that contract, it was agreed upon that the line staff would receive a 2.75% increase. In working with the supervisors and some County Board members, Mr. Berter said he would like to do is not take the 2.75% for himself, but take his salary from \$78,000 to \$79,500. The reason for that is that the top supervisor would get a 2.75% increase while another supervisor will go from \$56,339 to \$60,000 because of the gap between supervisors and because that supervisor is taking on additional duties. She has 17 years of service and is currently switching duties to the investigations unit and is responsible for the Officer's safety training program, which Pat said he was responsible for before. Another supervisor position has just been filled by a transfer of the Community Service Officer stepping into that position. His current salary was \$52,000 and will go to \$55,000. The reason for that is because next year with the line staff's step increase, he would have staff with the same years of service making more than him. Pat said his past position is still open as a vacant supervisor position that was written in at \$50,000. We would like to leave that money in there just in case it is filled, but they are still watching what is going on with Juvenile Detention. Currently there are 3 individuals in there. That number has been kept down, but is being watched closely. Also, Mr. Berter said he had received an email from the Administrative Office of Illinois Courts indicating that they will be sending out additional supplemental funding, so there is a chance that we might be getting a little more money. That will cover us for full reimbursement and that is the first time that this has happened for quite a while. We're keeping our fingers crossed. That letter has been sent to the Chief Judge. Once it is received, Mr. Berter will be bringing that to the Justice Committee and the County Board. The last line item to be considered in this resolution is for the Administrative Assistant, Lori Norfleet who would get the 2.75% increase. The bottom line is still under the 1% that was asked of the departments when the budget process was started.

Jay Dunn made a motion to approve forwarding the resolution on to the finance committee with recommendation for approval, seconded by Jon Baxter and motion carried 6-0.

Ralf Pansch, Specialty Courts Administrator, addressed the group about the Drug Court Program and the evaluation. Mr. Pansch handed out information with year 3 evaluation results and explained that it came from reporting they have to give to the Bureau of Justice Administration.

All of the numbers look very favorable for year 3 of the Drug Court Implementation Grant.

Nationally 63% of people screened for Drug Court are found to be ineligible where in Macon County the rate is only 32%.

Nationally 51% of the people deemed eligible choose not to enroll in the program while in Macon County it is only 14%. The Hybrid Court Steering Committee feel this is because before people come into the Hybrid Court, they have to observe the court at least twice so they get an idea of what they have to go through. They are allowed to speak with Judge Little about the program so people know what the expectations are coming in.

Nationally 80% of people entering drug court are high risk/high need where Macon County pulls in 100% of those people.

Nationally 24% of Drug Court participants tested positive for presence of alcohol or illegal drugs while in Macon County the number is 17.7%.

The bottom line of all of this is that the Specialty Courts are much more cost effective for the public, the taxpayer, when you factor in how much it costs to go through a program like this versus incarceration. For the 3<sup>rd</sup> year of the Hybrid Court Program, taxpayers have been saved just under \$550,000.

***EMA- No Report***

***Public Building Commission –***  
Jerry Lord had no report

***Public Defender –***

Rodney Forbes presented the monthly report for January. The numbers are almost identical to the December numbers. 314 cases were opened and 318 were closed. The numbers have not moved up or down over the course of those two months. Mr. Forbes also presented a report that compiled all the information from the monthly reports for 2014. From January thru December, 2014, there was a total of 3,738 open cases and 3,976 were closed. That is closing 233 more cases than were opened.

There are two new hires in the department. Two attorneys have quit. They were two of the most recent hires. One moved to Colorado with his wife and two young children due to a job transfer his wife has taken. The other is moving to Madison County to be closer to his family where he has taken a position as a plaintiff lawyer in asbestos litigation. They were two good lawyers who did a good job for us and we hate to lose them. Both new attorneys are very experienced prosecutors and should be very good fits as defense counsel. David Fields started this week and Tiffany Williams starts next week. There should be limited interruption of service and the cases should move through the court system very efficiently.

A jail snapshot has been completed to determine how long defendant were held in jail and what they were held on. This was done in an effort to try to keep the jail population down. This was presented to the Macon County Justice Council and has been gone over with all the members of the Public Defender's Office in an effort to keep the cases moving and the jail population down. The jail population has gone down considerably and is now at about 270 on average. That is down from about 330 average previously. This week is a trial week and there have been a lot of trials this week. A number of trials have gone forward. The Courts are holding the attorneys to their trial

promises and the attorneys have been delivering and going to court. It has been a busy week and next week will be the 2<sup>nd</sup> week of the Jury Calendar and the expectation is that the same will happen next week. That should help reduce the jail numbers as well.

*Sheriff –*

**Macon County Board Resolution Recognizing April 2015 as “National Donate Life Month”**

Lt. Butts explained that this is an ongoing resolution that is done each year recognizing that 5,000 people in Illinois are on a waiting list for donated organs, acknowledges the efforts of the Life Goes On Committee in Macon County, and shows support of the County of the National Donate Life Month.

Jay Dunn made a motion to approve forwarding the resolution on to the full board with recommendation for approval, seconded by Merv Jacobs and motion carried 6-0.

**Macon County Board Resolution Approving a Contract between the Macon County Sheriff’s Department and the Decatur Public Building Commission**

Lt. Butts explained that this is for the ongoing contract with the Decatur Public Building Commission to split the cost for a Court Security Officer that is assigned to this building. The current agreement expires in April 5<sup>th</sup>. The new agreement would run from April 6, 2015 through April 5, 2016. The total expense would be \$19,411.98.

Bill Oliver made a motion to approve forwarding the resolution on to the finance committee with recommendation for approval, seconded by Dave Drobisch and motion carried 6-0.

**Macon County Board Resolution Dissolving the Rules and Regulations of the Macon County Merit Commission for Court Security Officers**

Lt. Butts explained that the hiring of Court Security Officers is currently under the Merit Board like it is for deputies, but they would like to dissolve the agreement that the Merit Board has for hiring the Court Security Officers. Lt. Butts explained that they feel it would be more efficient to hire Court Security Officers to fill positions that occur on a regular basis. There are currently a couple of openings vacated by retiring officers. They attend the same type of 5 week training as Correctional Officers. Being able to hire Court Security Officers as needed, as Correctional Officers are, allows retired policemen or State Troopers who already have the training to be hired. They still go through the backgrounds and fall under the required 5 week training if they don’t already have it from training as a previous officer. The Merit Commission is in agreement. Lt. Butts said this is something they’ve been wanting to do for several months and requested the resolution be passed on to the full board with recommendation for approval so Court Security Officers could be hired off of a list that is not overseen by the Macon County Merit Commission.

Jay Dunn made a motion to approve forwarding the resolution on to the full board with recommendation for approval, seconded by Dave Drobisch and motion carried 6-0.

Jay Dunn asked Lt. Butts to work with the Sheriff on a report that would give an idea of additional costs there might be for security at the library building after the move because the hours would be different.

*State's Attorney* – Jay Scott had no report

**CITIZEN REMARKS – PUBLIC COMMENT** – None

**OLD BUSINESS** - None

**NEW BUSINESS** –

Jay Dunn said that he had had some citizens questioning how the City Court has affected the County and if it is costing the County more money because of that process and said he'd like to hear from the Circuit Clerk, Circuit Court, Probation, Sheriff & State's Attorney as to how it affects them and if it is creating additional costs for the County.

Chair Mattingley said he had done some research about how the City's new Administrative Code Enforcement System through their own court, their own Hearing Officers and utilizing a City Attorney worked and asked Judge Webber if he could give a brief overview and some comments about how the system functions and how it ties to the County's Justice System.

Judge Webber said that the city's Administrative Court is totally separate from the Circuit Court and is something which no one in the Courthouse has any supervisory authority over. It is purely run by the city under City Ordinance. They make their own rules and have their own procedures and are not subject to any supervision by the Circuit Court.

He said his personal contact with it is limited, but what goes on is that for violations of City Ordinances, citizens would be given notice of violation and a notice to appear in Administrative Court, sometimes in person and sometimes by mail. A Hearing is conducted by a City Hearing Officer. He said he believed that the ones that conduct the Hearing are all attorneys. Some evidence is submitted in writing as opposed to live testimony. Typically, the Hearing Officer renders a decision. The penalties the Administrative Court can impose are limited to fines or directions to, for example, clean up property or bring a structure up to building code. The Administrative Court has no power to incarcerate anyone. There is an appeal right to the Hearing Officer. That is part of the paperwork given to anyone who comes before the Hearing Officer in the Administrative Court and the person further has the right, also, to appeal to the Circuit Court under the Administrative Procedure Act. If the appeal is to the Circuit Court, it is not a de novo review, it is not a retrial. It is simply to review the record of the Administrative Court to determine if there was an error made by the Hearing Officer. That is generally the way hearings are conducted in compliance with State Statutes which permit the establishment of Administrative Hearings in municipalities.

Greg Mattingley asked if before they adopted their Administrative Court and their hearings, were all of those cases brought before the County Circuit Court as ordinance violations if they wanted to pursue. Judge Webber confirmed. Greg asked that since they now have their own procedures, how are the total number of cases that were dealt with before compared with what is being dealt with now. Judge Webber said it is the same. It is the nature of the cases that have changed. The City is allotted one day per week, every Wednesday all day except for jury week is for City cases. Judge Webber said he has had the docket for 7 or 8 years. This week there were 111 cases which is about average and has been about the same for the last 7 or 8 years. The difference is in the nature

of the cases. Before the Administrative Court was established, it was exclusively ordinance violation cases filed as OV cases. OV cases range from building code violations to improper storage of machinery, illegally parked cars and things like that. There would be a handful of cases called MR – miscellaneous remedies which is how the city did then and does now file demolition of derelict properties. Until Admin Court was established, it was 100%, other than the hand full of MR demolitions, OV files. Once the Admin Court was established, a rapid changed from OV filings to MR filings was seen. The docket now, rather than 100% OV, is a vast majority MR filings and a handful of OV filings. The reason for this is that because it has different rules it operates under, the power of the City Administrative Court is limited. It has no independent enforcement powers. The Circuit Court has the Power of Contempt and so, if a person does not voluntarily comply with the ruling of the Hearing Office at the Administrative Court, the city will then bring that Administrative Court case to Circuit Court and under the Administrative Procedure Act, file a Petition to Enforce Administrative Judgment which registers the judgment of the Administrative Court with the Circuit Court. Then with the Circuit Court's Contempt Power, there is method to persuade compliance. Those cases that the individual has received an unfavorable result in Administrative Court from the person's point of view and has failed to comply with the order of the Hearing Officer, the City can then bring it over and register that with the Circuit Court for enforcement. So, the difference seen is not in the number of cases, but in the nature of cases, because now the docket is close to 90% MR as opposed to OV. The one final difference is that when it was all OV cases, it was exclusively basically property cases such as condition of property, overgrown weeds, garbage, illegal dumping, etc... Now, because the City has chosen to make a number of misdemeanor offenses also violations of City Ordinance, such as retail theft, possession of cannabis less than 2.5 gm, disorderly conduct, trespassing, public consumption of alcohol, misdemeanor battery, mob action, interfering with a police officer, curfew, possession of alcohol by a minor, etc... Those now, when persons receive citations and at City Court don't pay come to Circuit Court. So, the MR filings to enforce the City Court rulings are a mixture of Code Enforcement and these decriminalized misdemeanors. A large portion of the current MR filings are these formerly criminal offenses which are now prosecuted in the City's Administrative Court.

Jay Dunn asked if this has resulted in issuing more warrants. Judge Webber said he had not been able to check the number of OV's to MR's over the past few years. He said he thought the number of warrants has probably increased to some degree, but there were plenty of warrants issued when it was purely OV's. There may be some increase, but probably not a large or significant increase. Warrants are for failure to appear. These are for persons who have been given proper notice to appear in Circuit Court and have failed to appear. Jay asked if they are fined at City Court, don't pay it, if then they have to come to Circuit Court. Judge Webber confirmed saying if a person is fined in the City Administrative Court, does not pay in the time allotted, which usually 30 to 35 days, the City can then bring that order of the City Court's Hearing Officer to Circuit Court and have it acknowledged under the Administrative Procedure Act and then it becomes an enforcement judgment under the Circuit Court's rules, which again carry with it Contempt Powers. Jay asked if that usually ends in a warrant. Judge Webber said if they come to court no. If they do not come to court, yes. To bring the MR case to Circuit Court, the City must serve that person with a summons. When they are in City Court, the summons is not necessarily required. They will get a Notice to Appear from a police officer or sometimes the Neighborhood Standards Officer. To begin the case in Circuit Court, it has to follow the same procedure as any other case which means serving a summons on the individual who hadn't been in City Court and

there is a significant number of persons who are never served. The case then goes into limbo until the person is served. Lois added that there are quite a few that after they are not served after they've filed the case in the Circuit Clerk's Office, they will come in and vacate the judgment that had been enforced and then the case gets dismissed so the office has filed the files, they've gone to the courtroom, and then the City, if they can't get them served, vacate and dismiss the case. When they file an OV case, per the Clerk of the Courts Act, we cannot charge a government entity filing fees. So, we are out the filing fees and the cost of the folders. The small jackets for OV's are 31 cents each, but the MR jacket file folders are \$1.80 each. The numbers went down on OV cases. From December 2009 to November 30, 2010, there were 1,069 filed. The next year there were 1,132. The following year, it dropped to 839. From Dec 1, 2012 to Nov 30, 2013, it dropped to 129. Last year there were 269 OV cases. The ordinance in the City was filed & signed November 1<sup>st</sup>. The filing for MR cases, the Administrative Judgment cases, starting Dec 1, 2011 through November 30, there were 132 filed. The next year, there were 1,008 MR filed. Last year, from December 1 to August, there were 236 and from Sept to Nov there were 71. These were broken down because that is when the filing fee increase took effect. If someone else were to come in and file a case prior to Sept 1 of last year, it would have cost \$231. Beginning Sept 1, the filing fee is \$251. The city is not paying the filing fee. Lois said they have added on the filing fees if the judgment is enforced because they will collect for the City and will add the filing fee. So, if someone had a \$250 fine from the Municipal Court, the Circuit Clerk's Office will add the filing fee. When they come in and pay the \$250 fine, they will be paying \$481. Greg Mattingley added that the City has their own set of court costs that they tack on in addition to their fine. So, when a citizen goes through this, they essentially pay double. Judge Webber said he thought the City costs are \$140 for most cases.

Chair Mattingley said he had gone by yesterday and attended a Municipal Court session and he thought they had about a 90% default rate with one hearing running the gambit as Judge Webber had mentioned from trespass to retail thefts. He said that a lot of the things seemed like they would have qualified for the Diversion Program the State's Attorney operates. He asked for Jay Scott to explain how the new Municipal process had impacted his office. Jay Scott said he had gotten a complete list of the offenses and they include prostitution, gambling, discharge of a firearm, disorderly conduct, theft (not limited to misdemeanor or felony as no amount is listed), criminal damage, possession of cannabis under 2.5gm, possession of drug paraphernalia, resisting and / or obstructing a peace officer, criminal trespass, possession of burglary tools, mob action either felony or misdemeanor, assault, battery, reckless conduct, and truancy. Mr. Scott said he wasn't sure, but he thought they could be giving repeat offenders a City Ordinance Violation. If they are a first time offender, they would qualify for the Diversion Program. He said they have seen a decrease in the amount of cases they are getting on the first time offenders. He said they divert up to low level felonies for first time offenders. Crime has been down for the last couple of weeks because of the weather. When it gets cold, crime goes down. The jail population today was 267. The numbers over the last two years for Diversion have been over \$100,000 coming back to the General Fund, although 2014 was down from 2013. He said it may be related to that, but couldn't say anything definitely because he doesn't know and doesn't have access to what cases they are sending through. Lately, there has been very little coming through. A lot of first time offenders could go through, so it could potentially cut back on the amount collected on Diversion.

Greg Mattingley said that over the course of last year, on MRs that were booked into the jail, there were 63 white males, 148 black males, 1 Asian male, 1 Hispanic male, 41 white females, 55 black females and 1 Hispanic female. There was one docket entry where it looked like the man was in the jail for 2 months before the State's Attorney found it to be an uncollectable judgment and dismissed or discharged it. Judge Webber pointed out that he wasn't sure how the Chairman's figures were broken down, but MRs are also the way search warrants and arrest warrants are filed. He said it is possible that at least some of those numbers were for arrest warrants that were issued that were unrelated to City Court, but he was sure some were also for failure to appear in Circuit Court.

Lt Butts agreed with Judge Webber and said he thought it was probably ending up with the result that people are ending up in the County Jail as a result of initial City Administrative Hearings or violations, either traffic or criminal cases if they were filed by the State's Attorney's Office.

Chair Mattingley asked Judge Webber to explain what happens after the City enrolls their judgment with the County Court to enforce it and the person is served with a summons and the person does not appear. Judge Webber said there is a request for a warrant. Greg said that it has been brought to his attention that while the County serves a summons, the City does not necessarily have to. The City Ordinance provides for service by mail. Before June, 2013, the Ordinance required that the City use Certified Mail. He said he had been told that they are aware that they have failures in their service which is why in June, 2013, they changed it to allow just regular mail. Would that be a concern to the Court if they were bringing matters to you where they knew that their service was not in compliance with their order? Would it be something you could address requiring them to show the Certified Mail before taking the motion under advisement before issuing the warrant that would put the person in our jail? Judge Webber said he has no access to any part of the record from the Administrative Court except for the Order of the Hearing Officer, when the case first comes into court to enforce the Administrative Judgment. So, he explained that he does not have information as to how the person was notified. Whatever is required by State Statute would be what the Circuit Court would require.

Bill Oliver asked if a City with Home Rule would be different from one that did not. Judge Webber did not know the answer, but after having spent every Wednesday with this docket for several years, he said he has had somewhat of a guided tour of the various neighborhoods. There are many neighborhoods that suffer due to abandoned & dilapidated housing which is a magnet for criminal activity and other problems. There is also a large problem of absentee ownership. Sometimes owners will go to some lengths to conceal their location and identity. Typically what the City will do, if it has no other information available, is send notices to the address of the violation. This is because they have no other information on the owner. Sometimes it is a shell corporation and sometimes it is persons who live outside of the state. They don't know. That is something the City has to deal with; that is who owns the property and where that person or entity resides. He said he cannot speak for the City, but the Judge said that he feels that it is a continuing problem for many properties that are dilapidated, blighted, and need attention. It is very, very difficult to determine who or what owns it and where that person or entity is located.

Greg Mattingley asked, once it has been enrolled, and the County is involved, if the person does appear, at that point, is what transpires and the nature of the Citation to Discover Assets, if he

hasn't paid procedure entered into at any point in the City's process once they come to you. Judge Webber said he rarely sees any citations in these cases. The #1 concern will be, what is the plan to take care of the property, which will involve either repairing it up to code, selling it to a person or entity that acknowledges the violations and take it subject to those, or demolition. That is the City's first concern: remedying the problem. When it comes to the fine and payment, there are many options. Many times on these quasi-criminal offenses or decriminalized misdemeanors, a large majority of those persons will be sent to Community Service. Community Service personnel are kept very busy by referrals by the OV court. That is a very common option. The City will also time payments or so much per month on the fines. Otherwise, if persons are unemployed, indigent with no income, which is a common situation with this, the City will continue the case for a matter of a couple of months to see if the person has had any luck getting employment. Typically, there is not a formal citation proceeding as you might see in other cases where the individual comes to court and indicates whether he / she is / is not employed and what their overall economic situation is. The person will be asked if they want to do community service or a payment plan. They will be asked what can be reasonably afforded per month and most plans are in the range of \$25 to \$50 per month for most violations.

**CLOSED SESSION** – None

**NEXT MEETING** – Thursday, March 26, 2015

**ADJOURNMENT**

Motion to adjourn made by Bill Oliver, seconded by Jay Dunn motion carried 6-0, and meeting adjourned at 3:55 p.m.

Minutes submitted by Jeannie Durham, Macon County Board Office