

JUSTICE COMMITTEE MEETING
November 26, 2013
3:00 P.M.

MEMBERS PRESENT

Greg Mattingley, Chair
Gary Minich
David Williams
Merv Jacobs
Dave Drobisch
Bill Oliver

MEMBERS ABSENT

Jay Dunn
Jon Baxter

COUNTY PERSONNEL PRESENT

Jay Scott, State's Attorney
Judge A. G. Webber
Jerry Lord, DPBC
Mike Baggett, State's Attorney's Office
Rodney Forbes, Public Defender
Lori Long, Probation
Amy Stockwell, Auditor
Sheri Oleson, HR
Sergeant Matt Reynolds, Sheriff's Dept
Jeannie Durham, County Board Office

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

APPROVAL OF MINUTES OF PRIOR MEETING

Motion to approve the minutes of prior meeting (October 24, 2013) made by Bill Oliver, seconded by David Williams, and motion carried 6-0.

CLAIMS

Motion to approve the claims and send them on to the full board made by David Drobisch, seconded by Gary Minich, motion carried 6-0.

REPORTS

Circuit Clerk

No report

Circuit Court

Judge Webber reported that he has distributed a screening head count report and it ranges from 500 to 800 members of the public. About 40% are hand screened after being asked to empty pockets and remove all metal.

Coroner

No report.

Court Services / Probation

Macon County Board Resolution approving Extended Intergovernmental Agreement for Sale of Secured Bed Space in the Peoria County Juvenile Center

Lori Long reported that she had shared this with Judge Webber, Chairman Dunn, Assistant State's Attorney Mike Baggett and others who made minor changes. She reported that they are now prepared to continue with the contractual arrangement with Peoria County. She said that they have been very pleased with the service and it remains the most cost effective option available.

Greg Mattingley asked if the 5 guaranteed beds the same number as have been maintained in the past and if this is the same intergovernmental agreement that has been used in the past. Lori confirmed, but with one change to the 3% CPIU increase that was part of the original contract.

Motion to pass the resolution on to the full board with a recommendation to approve was made by David Williams, seconded by Bill Oliver, and motion carried 6-0.

Macon County Board Resolution approving Increase in Appropriations in the FY2014 Probation Grant Fund for Juvenile Redeploy Illinois Grant

Lori Long reported that they had been notified that there was some supplemental funding available for existing sites to apply for due to, for the second time, Cook County backing out of becoming a part of the juvenile redeploy initiative. She said that they are taking advantage of that in a good way and are able to get a modest amount of funding to help with the facilitation of staffing so that other partners in the project do not have to do it for free.

Bill Oliver asked if these were discretionary funds that had not been spent. Lori confirmed. Bill asked how long this went for. Lori said until June 30th. Greg Mattingley clarified that we have been getting the redeploy for years for juveniles. Lori confirmed and said we are going into the 9th year.

David Williams asked if the grant is prorated since it is less than a year and if it would have been more than \$6,400 if it had been for the State's full fiscal year. Lori was not sure. She said they don't get a lot of notice when they get invited to write for supplemental funding, but they usually have plans ready to go so they are ready to ask when the opportunity arises.

Motion to pass the resolution on to the full board with a recommendation to approve was made by David Drobisch, seconded by Gary Minich, and motion carried 6-0.

Lori informed the committee that she would have a cleanup resolution on timing issues for their three grants to present at the December 2nd Finance Committee meeting. She has been working on it and just completed it right before the meeting.

EMA

No report.

Public Building Commission

Jerry Lord had no report.

Public Defender

Rodney Forbes reported that he had distributed the monthly report for the office. He also updated the committee on a murder case that recently came back to Macon County for a new trial from the Appellate Court. This case has implications for how other cases proceed through the court system. The Appellate Court determined that there was a conflict of interest because the defense attorney had represented two people with ties to the case at the same time which was a conflict of interest and the defendant was entitled to a new trial. Today, a new

attorney was appointed. This case had 7 co-defendants who each had their own attorney. There were 20 state witnesses, some of which had cases pending and had attorneys representing them. There were 75 total witnesses disclosed in discovery. The new attorney is going through this information to determine whether he has a conflict in representing this defendant. This, contemporaneous representation conflict, is a new issue which extends all the way back to the pre-trial phase. This case has been pending since 2009. It is very difficult to find an attorney who, at some time, has not had some sort of conflict with this case. This is not the only case like this. We are really struggling to find attorneys to represent everybody. If we reach the point where there are no attorneys with no conflict and the office cannot provide conflict free representation, we will be forced to ask the court to vacate the appointment of the Public Defender's Office and appoint somebody else. We are doing everything we can to avoid this from happening, but we want you to know that this is a constant issue. This is a consistent, persistent problem.

David Drobisch asked how long this has been an issue. Rodney Forbes explained it has always been an issue, but it has been increasing over the last 4 to 5 years. David Drobisch asked if the finding of the Appellate Court was due to the way the Statute was written. Rodney Forbes said it is not the Statute, but is the way the case law is interpreted. The idea of conflict free representation has been expanded due to previous cases that have been decided by the Appellate Courts. In cases where there used to be conflict free representation there used to be an agreement where if an attorney had something to do with a witness's case at some point in the past, it would not necessarily be a conflict. Now we are very concerned that any sort of contact whatsoever may end up sending the case back. David said that he would think that if it were disclosed up front, there would not be an issue. Rodney said it is just very difficult, even with trying to be as upfront as possible, but when there are 75 witnesses, we just can't catch them all. Not only that, new witnesses are disclosed as the case goes on and new crimes are filed so the status keeps changing. David Drobisch asked if the Supreme Court had ever listened to this issue. Rodney said he had spoken with Justice Appleton who gave a presentation to Chief Public Defenders about 2 months ago. He said the Supreme Court has taken up another case where we hope to get more instruction from the Supreme Court and how to handle these cases. We are hopeful that some new laws / guidelines will be set, but we just have to wait and see how the Court decides that case.

David Williams asked what process the case that is coming back to us has gone through and when talking about hiring an outside attorney, where does that money come from. Rodney said he did not know where it would come from, but the County is responsible for paying these attorney's fees. The court has to ensure that the person is represented by conflict free counsel. If the Public Defender's Office cannot represent them, the court must find an attorney to represent them and the county must pay for that attorney's services. David said that this is not unique and questioned what had happened in the past. Rodney said they've recently had this situation come up in Logan County and he thought that they were looking at putting in place a new levy to pay for the attorney's fees. Rodney said that the case that came back is a murder case which went to the Appellate Court and they found that there was a conflict in the representation provided by the defense counsel. They sent it back to the trial court for a new trial. Rodney said he just wanted the committee to be aware of the bind that they are in. Greg Mattingley said he felt that it is an expansion of what the rule was. Rodney said that a lot of the shooting cases are retaliation for some other shooting that occurred that was retaliation for some other shooting. These cases have multiple ways in which a conflict can arise because they are all connected in some way.

Sheriff

Macon County Board Resolution approving “Me Too Clause” for Command Officers Increase in Appropriations in the Sheriff’s FY2013 Budget

Sergeant Matt Reynolds explained that the Deputy’s union had settled their contract recently. It was settled retroactively and they are in their first year getting ready to start their 2nd year. They received a step pay increase to 2 ¾%. The Command Officers currently has a working agreement where they are at 2%. Matt said he was there to request the “me too” clause to where the step pay percentage would be increased to 2 ¾% in line with the deputies. The resolution states that an agreement has been reached with the Macon County Sheriff’s Deputy FOP Lodge #144 whereas the Command Officers have requested the following be added to their 2013 working agreement. An increase shall be added to their current base which would equal the pay increase received by the deputies upon ratification of the FOP 144 contract retroactive to December 1, 2012. These increases shall be included in the Sheriff’s 2013 budget.

Motion to pass the resolution on to the full board with a recommendation to approve was made by David Williams, seconded by Gary Minich, and motion carried 6-0.

Amy Stockwell informed the committee members that with the end of the LEST fund reserves, revenue and expense need to be made equal. With the FY ending on Friday, she said she would be looking at expenses to see what needs to be moved from Fund 2 to Fund 1 to make everything come out right and a budget amendment will probably be needed. She said she would be taking the resolution to the Monday, December 2 Finance Committee.

State’s Attorney

Jay Scott had no report.

CITIZEN REMARKS – PUBLIC COMMENT

None

OLD BUSINESS

None

NEW BUSINESS

None

CLOSED SESSION – none needed

NEXT MEETING

Thursday, December 19, 2013

ADJOURNMENT

Motion to adjourn made by David Williams, seconded by Bill Oliver, motion carried 6-0, and meeting adjourned at 3:25 p.m.

Minutes submitted by Jeannie Durham, County Board Office.