

**PROCEEDINGS
OF THE
MACON COUNTY BOARD**

JULY 13, 2017

**Jay A. Dunn
Chairman**

**Stephen M. Bean
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 Mr. Baxter, Mr. Bird, Ms. Joy, Mr. Oliver and Mr. Smith.

Mrs. Taylor led the members in prayer.

All led in the Pledge of Allegiance.

A. APPROVAL OF THE MINUTES OF THE JUNE 8, 2017 MEETING

MOTION

Mr. Mattingley moved, seconded by Mr. Jackson to approve the minutes of the June 8, 2017 meeting.

There were no questions or comments from the board floor.

ROLL CALL.

Ayes: Brown, Buckner, Cox, Dawson, Drobisch, Dudley, Dunn, Greenfield, Hogan, Jackson, Kraft, Mattingley, Meachum, Noland, Potts, Taylor

Nays: (None)

AYES = 16

NAYS = 0

MOTION CARRIED.

There were no zonings or subdivisions presented at the meeting.

B. CORRESPONDENCE

A copy from the Illinois Department of Corrections of the recent inspection of the Macon County jail.

A letter from the Illinois EPA regarding application by Tate & Lyle Ingredients Americas LLC (Illinois EPA BOA ID# 115015ABX) for a Construction Permit 17050038.

Three letters from Ameren Illinois regarding tree trimming that will be done in and around the Decatur, Blue Mound and Macon areas in the near future.

A letter from IDOT regarding low bid submitted by Freesen, a div of UCM, Inc. on Section 07-00218-00-BR.

REPORTS

Sheriff's Report – June 2017
Treasurer's Fund Report – June 2017
Tax Collector's Report – June 2017
Coroner's Report – May, June 2017
Public Defender – June 2017
Auditor – June 2017

MOTION

Mr. Potts moved, seconded by Mr. Jackson to approve the Correspondence and Reports and that they be placed on file by prior roll call vote.

There were no questions or comments from the board floor.

MOTION CARRIED.

1. CLAIMS

MOTION

Mrs. Cox moved, seconded by Mr. Potts to approve the claims since they have been approved and voted on by prior roll call vote.

There were no questions or comments from the board floor.

MOTION CARRIED.

C. APPOINTMENTS

The appointments are being presented under the Consent Calendar.

D. CONSENT CALENDAR

2. Resolution G-4646-07-17 – Executing deeds to convey property on which taxes were delinquent

Resolution G-4647-07-17 – Appointment to the Blue Mound Countryside Fire Protection District

Jeffrey H. Brown, 7468 Mt. Auburn Rd. Decatur, IL 62521
Term Expires: 1st Monday, May 2018

MOTION

Mr. Meachum moved, seconded by Mr. Mattingley to approve the Consent Calendar by prior roll call vote.

There were no questions or comments from the board floor.

MOTION CARRIED.

JUSTICE COMMITTEE

Mr. Dunn: Mr. Dunn said he thought he had asked Attorney Ed Flynn to come, but he did not see him. Mr. Dunn said if he comes before the meeting is over they would let him speak.

The EEHW Committee had nothing to submit at the meeting.

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

The Legislative Committee had nothing to submit at the meeting.

FINANCE COMMITTEE

3. Mr. Greenfield presented Resolution G-4648-07-17 which is authorizing the Macon County Sheriff's Office to enter into an agreement with the newly formed Central Illinois Regional Dispatch Center (CIRDC) for full dispatching services.

MOTION

Mr. Greenfield moved, seconded by Mr. Hogan to approve Resolution G-4648-07-17 by prior roll call vote.

There were no questions or comments from the board floor.

MOTION CARRIED.

NEGOTIATIONS COMMITTEE

Mr. Dunn: Mr. Dunn said they did finish the State's Attorney Investigator's contract. He was not sure if they had voted on it. He asked Mr. Baggett if they had.

Mr. Baggett: Mr. Baggett said no. They were polishing up the language right now and having that circulated between Attorney Flynn and the State's Attorney's office and then the FOP. Once they get everybody agreed on the final language they will bring it to the Justice Committee and Finance Committee and then full board.

TRANSPORTATION COMMITTEE

4. Mr. Meachum presented Resolution H-2066-07-17 which is appropriating funds for Section 16-00268-01-PV, the Macon County Beltway Brush College Road Connector Project.

MOTION

Mr. Meachum moved, seconded by Mr. Mattingley to approve Resolution H-2066-07-17 by prior roll call vote.

There were no questions or comments from the board floor.

MOTION CARRIED.

5. Mr. Meachum presented Resolution H-2067-07-17 which is appropriating funds for Section 16-00268-01-PV, the Macon County Beltway Brush College Road Connector Project.

MOTION

Mr. Meachum moved, seconded by Mr. Potts to approve Resolution H-2067-07-17 by prior roll call vote.

There were no questions or comments from the board floor.

MOTION CARRIED.

6. Mr. Meachum presented Resolution H-2068-07-17 which is appropriating funds for Section 14-00268-00-EG, the Macon County Beltway Northeast Connector Project.

MOTION

Mr. Meachum moved, seconded by Mrs. Kraft to approve Resolution H-2068-07-17 by prior roll call vote.

There were no questions or comments from the board floor.

MOTION CARRIED.

7. Mr. Meachum presented Resolution H-2069-07-17 which is awarding the purchase of two 2017-2018 Tandem Axle Diesel Dump Trucks to Mack Sales & Service of Decatur.

MOTION

Mr. Meachum moved, seconded by Mr. Potts to approve Resolution H-2069-07-17 by prior roll call vote.

There were no questions or comments from the board floor.

MOTION CARRIED.

8. Mr. Meachum presented Resolution H-2070-07-17 which is appropriating funds for the 2017 CH 7 Baltimore Avenue Resurfacing Project.

MOTION

Mr. Meachum moved, seconded by Mrs. Taylor to approve Resolution H-2070-07-17 by prior roll call vote.

There were no questions or comments from the board floor.

MOTION CARRIED.

9. Mr. Meachum presented Resolution H-2071-07-17 which is approving a funding agreement and appropriating funds for the Drummer Road Bridge Replacement Project in Austin Township.

MOTION

Mr. Meachum moved, seconded by Mr. Jackson to approve Resolution H-2071-07-17 by prior roll call vote.

There were no questions or comments from the board floor.

MOTION CARRIED.

10. Mr. Meachum presented Resolution H-2072-07-17 which is approving a funding agreement and appropriating funds for the Nevada Road Bridge Replacement Project in Pleasant View Township.

MOTION

Mr. Meachum moved, seconded by Mrs. Cox to approve Resolution H-2072-07-17 by prior roll call vote.

There were no questions or comments from the board floor.

MOTION CARRIED.

11. Mr. Meachum presented Resolution H-2073-07-17 which is requesting the State's Attorney to commence an eminent domain action to acquire property for use in construction of the Brush College Road IL 48 Connector Project.

MOTION

Mr. Meachum moved, seconded by Mrs. Cox to approve Resolution H-2073-07-17 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.

CITIZENS' REMARKS:

George Muirheid: Mr. Muirheid lives at 10724 Norfolk Rd., Cerro Gordo, IL. He said he does live in Macon County in Oakley Township. Mr. Muirheid said he is on the Oakley Township Planning Commission, and he thinks this beltway thing has been handled very poorly. He knows it is a little late now because you guys have passed it. Mr. Muirheid said you neglected to make public some of the things that have happened. Now technically you may have made it public, but from a realistic standpoint you did not. The plans we saw had this broad band of bypass coming around the side of Decatur. He has been in favor of this bypass and wished you would have done it 10 years ago, but not the way you are doing it now. You are going to wreck the Farm Progress Show. They will leave Decatur if you do what you've planned here. When you set this thing in motion with condemning property up there to access 48, which is already a screwed up intersection, you made a terrible mistake. He has nothing else to say about this except you maybe need to reconsider. He thanked them and appreciated the time.

OFFICEHOLDERS' REMARKS:

Rodney Forbes: Mr. Forbes said he is the Chief Public Defender. Today is his last day as Chief Public Defender. Tomorrow he will be sworn in as Associate Judge. So he brought who he understands will be his replacement, Dave Ellison. He is going to be named Interim Chief Public Defender today. He just wanted to introduce him to the board. He is a fantastic attorney. He is very experienced and has been with the office longer than anybody else. He has the most seniority in the office. Mr. Ellison has been around Macon County for most of his life. There was a brief period of time when he lived in southern Illinois. He has been here for the last 20 years or so and is a long term resident of Macon County. Mr. Forbes said it has been an honor to serve the county in

this capacity. He said they have all treated him very well. He hoped they found that he had served with honor. Mr. Forbes thanked them for the opportunity that he has had here. He hopes they will extend the same courtesy that they have extended him, to Mr. Ellison. Mr. Forbes thanked them.

Mr. Dunn: Mr. Dunn thanked Mr. Forbes and said he appreciates all he has done and thinks he has done a great job. He thinks Dave will follow in Mr. Forbes footsteps.

There was no old business presented at the meeting.

NEW BUSINESS:

Mr. Dunn: Mr. Dunn said he did ask Attorney Ed Flynn to come and speak on the issue with the State's Attorney Jay Scott and what is going on with that with the Special Prosecutor.

Ed Flynn: Good evening, as Jay said my name is Ed Flynn just a little background. I have represented the county for approximately 20 years, 3 different State's Attorneys dating back to Scott Rueter and the current State's Attorney. I know from your budget process that I am part of your annual budget process as you prepare for the State's Attorney's budget. To continue with that, a little more history. I have handled and monitor over 10 collective bargaining agreements for the county. I handle all the grievances and discipline related issues. I defend the worker's compensation cases, a variety of civil litigations for the county throughout the years and it is not uncommon for me to just receive a phone call from any of the officeholders just to directly work for them because of the history I've got and all of the work that I've done with the State's Attorney's office. So, in that regard I have a long history with the county and it is not unusual for me in my capacity to just step in and handle litigation. In regards to the matter involving Jay Scott, by no means do I have any information or knowledge about the allegations alleged for the appointment of the Special Prosecutor. For practical reasons I have kind of created what I would call in the legal world a Chinese wall. I want nothing to do with that. That is not something I am involved in. But, what I am involved in is representing the county and keeping in mind the cost containment issues that the county faces. I have been intimately involved with Jay as the current County Board Chairman. When Kevin was the County Board Chairman, I was intimately involved with him in cost cutting issues and things that we addressed. So, on behalf of the county I have intervened in the matter involving the appointment of the Special Prosecutor. The sole purpose of my intervention, as I said, has nothing to do with the merits of that matter; it's solely in regards to addressing the costs that the county faces. A little history about this matter or these types of cases. Coincidentally my brother-in-law is the Comptroller for McHenry County and McHenry County had a Special Prosecutor appointed to address some issues involving their State's Attorney. Again, I don't know the merits of that, but I know the history of the statute that arose out of that. That State's Attorney was... the Special Prosecutor of that case went to trial. The State's Attorney had to hire a defense counsel and the end result was McHenry County spent \$1,200,000.00 involving that litigation for the Special Prosecutor. As a result of that,

Representative Franks from McHenry County developed, or kind of oversaw or was directly involved in the legislation for the appointment of Special Prosecutors. The appointment for Special Prosecutors provides in the statute that the first thing that the judge who is going to appoint the Special Prosecutor will do is to reach out to the Attorney General, and if the Attorney General is unable then they reach out to the Appellate Prosecutors office, and then if the Appellate Prosecutor is not available they reach out to the State's Attorney's offices, and the statute clearly says "throughout the state". To indicate the issue of "throughout the state", there was a case in the Chicagoland area where a police officer was charged with murdering a young person up there and that police officer was being prosecuted and consequently the State's Attorney's office in Cook County recused themselves. So, that judge wrote a letter to every State's Attorney throughout the state. I know those letters went out throughout the entire state because I not only represent Macon County, but I do the civil.... I do some isolated, not to the extent that I do for Macon County, but I handle matters for Moultrie and Shelby County. The Moultrie County State's Attorney got a letter from the judge in Cook County asking that State's Attorney to go up there and prosecute a murder case. Everybody here is familiar with Moultrie County that is Sullivan, Illinois. They have had one murder case, I think, in the last eighty years. That was recent and they got special help to prosecute that murder case because it is so unusual that that State's Attorney would be faced with that type of obligation. The point I am making is by no means to cast aspersions upon the State's Attorney in Moultrie County, but to point out that every State's Attorney in the state was requested to weigh in as to whether they would accept an appointment as a Special Prosecutor. In this particular case involving Mr. Scott, the court appointed a private attorney from Bloomington. I will tell you that I have never met her. I don't know her. I have no knowledge of her whatsoever. But, upon learning that private counsel had been appointed and then reviewing the court order, the court order provides that not only will she be compensated by Macon County, but any members of her law firm that she utilizes will be compensated by Macon County and that led to the concern about the cost that Macon County would face in this matter. So that was the impetus for the intervention in this case. As a result of that, I contacted the Appellate Prosecutors office who I'd had some involvement with in regards to a township official that this State's Attorney's office had to recuse itself from. So, I knew a couple members of the Appellate Prosecutor's office. I spoke with them about this particular issue and what their thoughts were and actually my initial thought was to try to convince them to find somebody from northern or southern Illinois to prosecute the case, to step in as the Special Prosecutor. They pointed out to me that if we have a conflict in central Illinois, we have a conflict in northern or southern Illinois as well, and I think that's right. I agreed with them. Through that conversation we discussed how Macon County could get through this and adhere to the statute. I think what I neglected to tell you the statute specifically provides that upon the appointment of a State's Attorney, that State's Attorney will provide those services at no cost. So, the whole point of intervening in this matter is to try to save the county, I would only be speculating, but potentially a very large sum of money in regards to the hiring of a private attorney. In that conversation with the Appellate Prosecutors office we discussed the idea of my office contacting local State's Attorneys to find someone who would step in and prosecute this matter or agree to be appointed as a Special Prosecutor. We had 3 or 4 counties that were interested.

One county was going to do it and they realized they had a conflict of interest, it wasn't really a conflict of interest, but they had some previous members of that office that were now employed in Macon County. That just, while it's not a conflict, it didn't pass what I call the sniff test, so we passed on that county just to make sure there were no inferences of impropriety whatsoever. Ultimately the State's Attorney in Randolph County agreed to accept the appointment and it was then that we filed the petition to intervene, again solely with the idea of trying to save Macon County the costs of a private attorney. There has been an objection and this is a little difficult and a little unusual. I completely respect the fact that the petitioner in this case is your board member Mr. Mattingley. In response to my petition there was an objection and the objection to what I perceived to be the primary basis of the objection is, and I am going to read directly from what the petition stated or the objection stated and that is that, "That financial cost must not and should not be the determining factor in selecting a Special Prosecutor." I can tell you that the legislative history for this statute to have a public prosecutor serve at no cost is rampant and ripe with all sorts of arguments that counties should not face this cost, and that is why this statute was written to provide a prosecutor at no cost. Now of course if there is not a public prosecutor, then you do the court would fall back to a private attorney. But, in this case we found a prosecutor. I can tell you this person is from Randolph County. I've never seen them. I've never met them, and in my petition to intervene I've invited the court to bring that person in to court and have a hearing with them determine their experience and capability to satisfy the courts concerns that they were capable of fulfilling this role, although the statute does not delineate the capabilities; we are open to that. This is the first time that the county board has met since the petition that I filed to intervene was filed. So, the purpose of me is to just advise you as to what is going on. I have had a few people inquire about this matter through the media that has covered it. I am here to answer any questions. I would hope that everybody would respect and understand the fact that this was done as a cost saving measure. Recently, I would say eight or nine months ago, I don't remember when this started, I had meetings separately and collectively with both Jay Dunn and Kevin Greenfield. I understand the fact that you had significant cuts throughout all the departments. I think the number that I was advised is that you are looking at a \$2,700,000.00 deficit. So anytime that there is a financial cost saving measure that can be undertaken, then the pursuit of that I think is in the best interest of not only you as elected officials, but the residents of Macon County. That being said, I guess the first thing, I have a couple things I would like to do, but the first thing I'd like to say is if anybody here and Mr. Mattingley I respect your difference of opinion but if anybody here as an elected official objects to the pursuit of this petition to intervene then please let me know and I will be happy to discuss it with you as I stand before you tonight. If I don't have any objectors then the next thing is, I know this has some complicated twists and turns and that being said I would open the floor up to answer any questions that I might. Normally I might do this in a closed session. This is all everything I am telling you has already been filed in open court so there is nothing that I haven't said that I've said that's not already in open court. I would be happy to answer any questions if anybody has any questions about this matter.

Mr. Jackson: Mr. Jackson asked if Mr. Mattingley's role be tied to the county board by stating the fact that money was no object under the justice committee, or not, or is it just him as a person.

Mr. Flynn: Mr. Flynn said I think that is a question maybe better suited for Mr. Mattingley than myself. I can tell you that the petition that Mr. Mattingley filed initially to start this matter on the very first paragraph illustrates that he is the Chairman of the Macon County Board Justice Committee and therefore is charged with the Macon County Board with oversight functions of the county civil and criminal justice systems. I don't know if he was acting in an official capacity or not. I would say it is implied.

Mr. Dunn: Mr. Dunn asked if there were any other questions.

Mr. Flynn: Mr. Flynn asked if it is fair for me to assume that the silence of any objections would be, with the exception of Mr. Mattingley a concurrence by this group to proceed forward with this petition as far as the pursuit of a Special Prosecutor at no cost. I see a bunch of heads nodding so I am going to take that as a concurrence. I appreciate your time. If anybody has any additional questions don't hesitate to give me a call. Thank you.

MOTION TO CLOSE SESSION

Mr. Potts moved, seconded by Mr. Meachum to go into closed session pursuant to 5 ILCS 120/2 c(11) for discussion of pending litigation against the county before the Illinois Worker's Compensation Commission by prior roll call vote.

MOTION CARRIED.

MOTION TO OPEN SESSION

Mr. Potts moved, seconded by Mr. Drobisch to return to open session by prior roll call vote.

MOTION CARRIED.

MOTION TO ADJOURN

Mr. Potts moved, seconded by Mr. Brown to adjourn until Thursday, August 10, 2017 at 6:00 p.m.

MOTION CARRIED.

Meeting adjourned at 6:33 p.m.