

**SITING, RULES & ORDINANCE SUB-COMMITTEE MEETING**  
**September 4, 2014**  
**5:30 P.M.**

**MEMBERS PRESENT**

Jerry Potts  
Matt Brown  
Tim Dudley

**MEMBERS NOT PRESENT**

Bill Oliver  
Susanna Zimmerman

**COUNTY PERSONNEL PRESENT**

Jennifer Hoffman, P&Z  
Mike Baggett, State's Attorney's Office  
Jay Dunn, Board Chairman  
Lt. Butts, Sheriff's Department  
Steve Bean, County Clerk  
Kevin Bird, County Board Member  
Jeannie Durham, County Board Office

The meeting was called to order by Chair Jerry Potts at the Macon County Office Building.

**MINUTES**

Motion to approve the minutes of prior meeting (7-2-14) made by Tim Dudley, seconded by Matt Brown and motion carried 3-0.

**CITIZEN'S REMARKS**

None

**OLD BUSINESS**

None

**NEW BUSINESS**

Chair Potts announced that he was going to rearrange the order of the agenda.

Review of An Ordinance Regulating the Operation of Raffles and Poker Runs

Mr. Dudley stated that there were a few questions from the last meeting that have been cleared up. Chair Potts said he had some concerns about the license issuance and whether the County Clerk could be authorized to issue these and he said he would also like some discussion on the time limits.

Mike Baggett said he had been asked to look into whether or not the Board would have the ability to delegate its authority to issue licenses to the County Clerk. He said in his review of the Statutes he did not see anything that would prohibit the Board from being able to delegate that authority to the County Clerk and treat it the way the raffle licenses have been treated in the past. The ordinance can be amended in order to delegate the authority to the County Clerk. A provision might be inserted that would create an appeal right where if someone presents an application to the clerk and the clerk denies the application for some reason, that person could appeal the denial to the full board. There will be a timing issue in waiting for the board to meet. If you delegated your authority to the clerk to issue the licenses, you could speed that process up. There is nothing in the Statute that the clerk has to be the recipient of the delegated authority. You could delegate that authority to a different person within the County structure whether that is the Board Office or the Chairman or however you would like to set it up. Jerry Potts said he thought Chairman Dunn is

pretty busy and he was thinking that Steve would be better qualified. Mr. Dudley asked Steve if he would have a problem taking that authority on. Mr. Bean said no and added that he had found some changes and questions. When reviewing the ordinance, the costs found in the fee study were not put into the ordinance for the raffle prices and they need to be added. A raffle application does not exactly apply to the Poker Run and some adjustments are going to be needed. One part of the State Statute talks about how a license can be issued for a whole year. We've been doing them individually. If a raffle is held along with a poker run event, do they need a separate raffle permit? It states that each Poker Run license shall include the name and address of each predetermined location. This license does not include every stop where they are going. Steve said they only list the key stop in their final thing. He said those are the questions they have. They have no problem doing it as they already do the liquor licenses and fireworks. He said they have very few raffles because they only issue them if the raffle itself is outside the metropolitan areas, cities, villages, incorporated areas, but on the poker runs, the County will have to handle everything. Steve questioned the time limit and whether they should be able to come in 24 hours prior to get the license. He said he just didn't want any calls to come down at night because it would still have to be signed by the Chairman and there are times that the Chairman is out of town. Tim Dudley asked Mr. Baggett if he had had a chance to review the questions from Mr. Bean. Mike said he was just now seeing them, but he wanted to clarify his role. He said he would absolutely amend the language that is currently used in order to incorporate the directions of the Board with respect to the language they want in the ordinance, and he would work with anyone they want him to work with in getting that done, but he would need the direction of what the Board wants to occur before he drafts language. He said his role is not presenting to the committee of what needs to be done or how it needs to be done, but his role is to take what the committee wants done and make sure it will fly legally, that the ordinance makes sense and won't run afoul of any Statutes. Jerry Potts if the committee had any objections on a 24 hour time limit. He also asked Mr. Baggett if the committee needed to make an amendment to delegate the authority to the County Clerk. Mike said they would need to draft a new ordinance which would amend or replace the current ordinance. For the sake of simplicity, he suggested they use the current ordinance as a template and start making amendments to its language. The committee would first need to have that language in front of it and then the committee can decide whether it wants to adopt that language and pass it on to the full board for adoption. Mike said he needs to know what the committee would like to direct him to do. Jerry said he was for the 24 hours or less, but didn't want to put the Clerk at a disadvantage. Steve said it was more of a concern to allow time for getting the Chairman's signature. Mike said he thought that if the Board adopts language which delegates the authority to issue these licenses to the Clerk, you won't have to obtain the Chairman's signature. It would be the Clerk's or deputized staff member's signature. Steve said he thought the fireworks permits were still signed by the Chairman, even though it has been designated to the clerk. Mike advised that it depends on the ordinance. If the Poker Run / Raffle ordinances are amended to delegate the authority for issuance of the licenses to the Clerk, the Clerk would be exercising the County Board's authority, but it would be the Clerk's say-so as to whether to issue or deny the license. Mike said he strongly advised having an appeal right where it goes to the full board and the Chairman would then sign off on whatever decision the County Board makes at the appeal. The Clerk would have the delegated power of the board and would not need the Chairman's signature. Steve commented that he did not want to make it any harder than it has to be, He said he wanted to clean up the cost deal and a line could be added into the raffle license that it's for a poker run. He questioned whether a raffle license would be needed if it is run inside of a poker

run and they already have a poker run license. Jerry said that the committee would direct Mike to look into those questions. Mike said he needed direction from the committee as to whether they want licenses for poker runs and raffles each when they are run together. He said he would look into that. Most people are aware that most government office workers do not work 24 hours a day, so as far as the timing issue goes, there should not be a problem with stating that the application has to be submitted at least a day and a half prior to when you want to hold your event. We don't want to encourage people to be calling the County Clerk up at 10 p.m. and asking him to meet them at the office to sign an application. Mike said he would do what the Board wants.

Chair Potts referred to the fees issue on page 6 and said the committee needs to determine what the charge, if anything, would be. Steve said the fees on page 6 are the old fees before the review by Bellweather who recommended \$1 to \$2,500 is \$30. That was part of the fee study that was already passed. Mike said that the Statute for the poker runs says \$25 and regardless of what Bellweather said it cannot be more than \$25. Jerry said it could be exempted altogether as some counties have done.

David Bean, 10 Peggy Ann Drive, Decatur, IL stated that he had done some research and got copies of an application from Jersey County and an ordinance from Madison County. When land based gambling became legal in Illinois, the agents of the Illinois Gaming Commission started going around tearing down poker run flyers and threatening bars and restaurants with fines or loss of license. At the same time, the participants in the poker runs were subject to fines and criminal penalties. That is when ABATE of Illinois got involved. David said he hoped the committee would keep it as simple as possible. He said he'd like to come in with an application, have it rubber stamped with a copy for the County and copy for him and he's out the door. Matt Brown asked if raffles were common along with the poker runs. David said if it is a benefit. The public act says these are not for profit organizations and they are probably doing a benefit. Any good benefit will probably raffle some stuff off. Anyone that applies are supposed to be not for profit organizations. He said his group pays a fee to the state for their not for profit certification. Jerry Potts asked David if he knew how many poker runs their group has in a season. David said not very many and they had gotten away from it last year because it was a big deal.

Dave Ellison, 3872 N. Skippy Drive, Decatur Il said that poker runs are run either separately or with a benefit involved. Sometimes there will be a benefit with a poker run as a part of it. They are run different ways, but are generally used to raise money for a charitable purpose. They are also used to raise money for people that have had a house fire or some type of medical illness. Poker Runs are generally run with a benefit, but they can be run separately. People come in and pay money to participate. They draw a card at each stop. The winning hand wins X amount or a % of the amount of money raised. Nine times of ten, they just donate the money back to the cause. There used to be a lot more poker runs. A lot of times someone will get sick and their friends will get together and form a poker run to try to raise money for these people. They are not just used for what is listed in the Statute, but because of the Statute, people are restricted to that. Now, Dave said he envisioned that they will come to people like ABATE or other organizations to try to get them to run a poker run in conjunction with an event they are doing. They try to raise as much money as possible and so go out into the community to get prizes that are raffled off. Matt Brown asked what Dave's main concern is with the permit process and the ordinance that the committee and the board are needing to pass. He said the dollar amount is not that big, so he

assumed that was not the main issue. Is it a convenience factor? Dave said a lot of times when people are putting things together, you have to figure out stops without making it too long or too short. One of the main concerns is that they don't always stay within Macon County. If the key place is used, when they pass through other counties, they should be covered. Mike Baggett said it is the end destination that determines what county the permit has to come from. Another concern is the streamline process and he doesn't feel that they need just a day. Three days should be sufficient because people should be organized enough by then. That way if there is a problem, it can be addressed before the 3 days is over. Mike Baggett asked if it would address ABATE's concerns with the current ordinance if the application process was redone so that the County Clerk was the authority and had the ability to make that decision on the spot and even if there was a deadline for filing the application of a day before at the latest, but you can get it as early as you want, would that satisfy the group's concerns for the most part? Dave said he thought so and didn't know of any others. David Bean added concerns about the fee, but said he didn't think \$25 was outrageous. Also, the bonding issue. Mike said that is Statutory and the county has no power there. David Bean said that if he's elected by the group that is having the poker run, you can waive that. Mike Baggett said he would need to review the Statute because his understanding was that the bond is a statutory issue, but if there's a waiver provision built in, the Statute always trumps the ordinance. If there is a bond built into the Statute, there is nothing the County can do to alleviate that. Dave Ellison said that they are bonded through ABATE so he did not think bonding would be a problem. The way the Statute is written is that because they are a chapter of a state organization that is covered under the Statute, the bond comes through ABATE. Mike said he would look into it and if there is something in the Public Act that includes a waiver provision for the bond, then even if it is not contained in the ordinance, the Statute trumps the Ordinance, but short of that waiver provision, the county cannot do anything about a bond. David Bean pointed out Section 5 of the Public Act where it states it can be waived by the governing body. Tim Dudley said he thought what needs to be done tonight is to make the designation of the County Clerk to be the overseer of the license providing and have the County Clerk work with Mike Baggett to put together an ordinance that addresses all the concerns. Matt Brown asked if the County Clerk himself had to approve the permits or if it could be someone in his office. Mike Baggett explained that the County Clerk has the ability to deputize certain members of his staff so if he's not present, anyone he has delegated that authority to can act on his behalf. Jerry Potts reminded that the fees would need to be clarified. Tim Dudley asked Mike to check whether a poker run and raffle could be done in one fee. Mike said yes, but keep in mind that the poker run fee is maxed out at \$25 by Statute. Mike said he has been given direction by the committee and would draft the language and then bring it back to the committee for review, but he asked if the committee wanted him to put in that they need to apply for a new poker run license for each event or can they purchase a license for a year. Tim Dudley asked if it would be a different price if it were for a year. Mike said he wasn't sure it was permissible and he would have to review the statute. Matt Brown and Tim Dudley were in favor of the each event fee. Jerry asked if they were stuck on the \$25 fee. He said it could be waived. Tim Dudley said this is all new to us and we don't know what is customary for other counties. Mike Baggett said he could put the fee in and the members could think about it and when they meet again to review, it can be adjusted. Mike said the other issue they need to address is whether the application needs to list every address they are going to. Mike said he did not know if there was a statutory requirement on this or not. Dave Ellison said he thought it was the key place that needed to be listed. The Statutory language states it can be for one or you can have a license that will cover a specific number of events and it will be

valid for up to one year. (Section 285) Tim Dudley said unless the Statute says we have to specifically list them, he didn't care where they went. Mike said that if it's statutory, there's nothing we can do. If it is not statutory, the only thing we would need to know is the end destination to confirm that it is in Macon County. You may want the beginning destination for a point of reference. Mike said he would take the recommendations, work with Steve Bean and he would notify the chairman when they were ready to present the modified language to the committee.

**Macon County Ordinance Establishing Permit Fees for Oversized and Overweight Trucks**  
This was tabled until the next meeting. No one was present to explain.

#### **Macon County Noise Ordinance**

Jennifer Hoffman reported that the proposed ordinance was written in conjunction with the Macon County Planning & Zoning Department, The Macon County Sheriff's Department, & the Macon County State's Attorney's Office. It was drafted after research was conducted with other counties of comparable size and after an area noise study was done by Lt. Butts & Jennifer Hoffman. Decibels of motorcycles, loud exhaust vehicles, stereo equipment, generators, farm equipment, end loaders, backhoe equipment and everyday living noises. Over the years, a few noise complaints have come into the P&Z Office in residential neighborhoods. Some of the issues have been in rural areas, but mostly in residential subdivisions. Jurisdiction is in only the County, but there are a lot of residential subdivisions that have close neighbors. In the past, complainers have been told to call the sheriff's department. At that time the deputy is dispatched and it becomes the sheriff's responsibility.

Lt. Butts said he has been with the sheriff's office for over 25 years and has handled dozens of noise complaints. What they've had to do is rely on a State Statute which is a criminal statute dealing with disorderly conduct which is a breach of peace and for the victim to become alarmed. He said his intention was to give the Sheriff's Office a tangible mechanism for officers that work these shifts to be able to handle the situation without it being treated as a criminal offense. He said they don't want people to have a criminal arrest record for playing loud music in a residential area at midnight and keeping neighbors up who live right next door. He said they also do not want to tie the court system up in a criminal aspect for these types of offenses. He said they don't want the person to be convicted of a Class C Misdemeanor on a noise violation. From a law enforcement perspective, this is the least intrusive action that can be taken to give the deputies the upper hand on how to handle situations in a productive, yet objective manner. The goal is to hold people accountable while making them understand that even though they do live out in the rural area, they live in a subdivision and there are houses nearby. The ordinance was written as Macon County's ordinance and not a copy or duplication of anyone else's ordinance with a reliance on people using common sense, but being held accountable and it is not to be enforced as other ordinances are. Lt. Butts said if a person is in their own house at 10 p.m., they should be able to have a conversation without having someone playing music or revving their vehicle not made for street use causing interference, but we don't want to take those people to jail either. He said they want to be able to handle the situation in a timely, fair and objective manner. This ordinance has 10 exemptions where agriculture, state registered vehicles that are being enforced by the Illinois Vehicle Code, times of day, emergency road repair, community events, construction sites & recreational firearms are taken into consideration. This ordinance is to give deputies a tool so they can go out in a

timely manner that does not clog up the court system and does not give someone a criminal arrest record. As big as this county is, it is appropriate to have an ordinance where people are held accountable but are also treated fairly. It is not very obtrusive, but allows deputies to do their job and help people who are calling in at midnight because they have to get up at 6 a.m. and their neighbors are not being respectful.

Jerry Potts asked if all the cars would have the device to measure sound. Lt. Butts said not all, but they would purchase enough for each district car to have one depending on manpower or the sergeant would carry it and respond to the scene and they would be able to do it. Mike Baggett advised to keep in mind that the measurement device is not necessary in order to gain enough evidence to determine whether or not to issue a citation. Jerry said he was also wondering how loud 60 decibels was. Comparison charts were distributed.

Jerry asked about the agriculture exemption and asked if a phrase about “while performing farm duties” should be added. Mike Baggett said it was important to note that this ordinance is only applicable in residentially zoned portions of the unincorporated county. It does not apply in the vast majority of the county. Lt. Butts said he lives between Warrensburg and Forsyth and not very far from his house is a field that is planted and harvested. Farmers need time to plant and harvest fields at all times of the night and day. There may be R1, R2 or RE5 areas that border A1 areas. If someone is out operating their tractor on their A1 land, it is still not going to apply to them even if they are making enough noise to bother their neighbors on the R1 land. This ordinance also exempts noise for agricultural purposes, so farmers are not going to have to worry about violating this by doing their jobs. Lt. Butts said they tried to take into consideration everything that would cover the situations that the sheriff’s department would have to deal with. There are people that work the night shift, but not the majority of people. They have to understand that their neighbors are going to mow yards during the day. That is reasonable. Deputies just needed something so they could go out and not arrest people criminally, but do something so a fight between neighbors doesn’t break out. We use common sense and discretion. Up until now the criminal arrest was all we could use. Not all of the elements were in a specific incident and people don’t need a criminal arrest or conviction for this.

Jerry Potts asked about the work performed by public body service workers and whether they should be subject to the same rules as everyone else being that later in the ordinance, it states that they work from 7 a.m. to 8 or something. Do we need to clarify by adding “subject to the rules set forth except in cases of emergency”? Mike Baggett said the problem is holding a government employee criminally liable for conducting government work is going to create much bigger issues. The exemption is really more of a statement of the current status of the law than it is a special carve out for government. Government already has that carve out, this is just including it in the ordinance to make it clear. You don’t want the sheriff’s department going out and citing a highway department employee for operating a jackhammer in an emergency situation. These types of workers don’t work through the night routinely. Lt. Butts clarified that they want to address the people that are doing things with no good reason without treating them like criminals. We want to give an ordinance ticket, have them pay the ordinance fine and go down road and hope they become better neighbors.

Matt Brown said he thought they did a good job putting that together using common sense.

Tim Dudley commended Lt. Butts and Jennifer on the hard work and said he's very pleased they were able to do an ordinance without impounding anything.

Mike Baggett pointed out that as they worked on the ordinance, the goal was not to give the sheriff's office the ability to pull over whoever they want whenever they want or to impound vehicles. It is not a money making scheme. It is simply a matter of giving the Sheriff's office a tool they can address a problem that doesn't occur that often. This gives them the ability to address this more effectively.

Tim Dudley made a motion to pass the ordinance on to the full board, seconded by Matt Brown and motion carried 3-0.

**CLOSED SESSION**

None

**ADJOURNMENT**

Motion to adjourn made by Tim Dudley, seconded by Matt Brown and motion carried 3-0 and the meeting adjourned at 6:30 p.m.

Minutes submitted by Jeannie Durham  
Macon County Board Office