TERM OF COMMISSION:

August Session of the July Adjourned Term

PLACE OF MEETING:

Roger B. Wilson Boone County Government Center

**Commission Chambers** 

PRESENT WERE:

Presiding Commissioner Daniel Atwill District I Commissioner Karen Miller District II Commissioner Janet Thompson

County Clerk Wendy Noren

Director Purchasing Melinda Bobbitt

Director Resource Management Stan Shawver

Sheriff Captain Chad Martin

Treasurer Kay Murray

Joint Communications Mary Pat Murphy Fire District Retention Mgr. Josh Creamer Deputy County Clerk Mike Yaquinto

The meeting was called to order at 1:30 p.m.

## **County Clerk**

## 1. Depository Bid Opening

Wendy Noren said three bids were received and we have representatives present from Hawthorne Bank, Landmark Bank and Central Bank of Boone County. Each bid should have two copies and a certified check which will be retained by the County Treasurer.

Commissioner Miller opened the bid from Hawthorne Bank and confirmed number of copies and check enclosed.

Commissioner Atwill opened the bid from Central Bank of Boone County and confirmed number of copies and check enclosed.

Commissioner Thompson opened the bid from Landmark Bank and confirmed number of copies and check enclosed.

Ms. Noren said the award date is scheduled for August 27<sup>th</sup>.

Commissioner Atwill thanked those that offered bids and said they will be submitted for evaluation.

#### **Treasurer**

# 2. First reading; Disposition of 2014 tax sale surplus for Karen L. Sapp

Kay Murray said this is the second parcel for Karen Sapp on the tax excess which is money paid over and beyond the taxes owed on the property. She has reclaimed it and is entitled to it.

There were no comments or questions.

Commissioner Atwill stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available commission meeting with appropriate order for approval.

## **Purchasing**

# 3. First reading; Contract Amendment Number One to 27-10JUN14, Child Advocacy Services

Melinda Bobbitt read the following memo:

Contract 27-10JUN14 – Child Advocacy Services was approved by commission for award to Heart of Missouri CASA on December 30, 2014, commission order 602-2014. This amendment adds an additional 1,125 additional units of child advocacy services,

not to exceed \$28,120. The amendment also renews the contract for the period January 1, 2016 through June 30, 2016.

Invoices will be paid from department 2161 – CCS Funding Opportunities, account 71106 – Contracted Services.

There were no comments or questions.

Commissioner Atwill stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available commission meeting with appropriate order for approval.

4. Second reading; Contract Amendment Number Four to 48-18SEP12 – Pest Control Services (1st read 8-4-15)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the attached Contract Amendment Number Four to 48-18SEP12 – Pest Control Services.

The terms of this amendment are stipulated in the attached Contract Amendment. It is further ordered the Presiding Commissioner is hereby authorized to sign said Contract Amendment Number Four – Pest Control Services.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. Order #341-2015

## **Boone County Joint Communications**

5. 1st & 2nd reading; 2nd Quarter Joint Communications Invoice

Mary Pat Murphy said they have reviewed the details and ask the Commission to approve the invoice.

There were no comments or questions.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the attached 2nd Quarter Invoice from the City of Columbia pertaining to the operating costs of the Joint Communications Center for the period April through June, 2015. The County's FY 2015 budget includes an appropriation to reimburse the City of Columbia for operating costs of the 911 call center with such reimbursement to be made from the proceeds of the 3/8 cent sales tax dedicated to 911 and emergency management purposes.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. Order 3342-2015

## Sheriff's Department

6. First reading; Intergovernmental Agreement – Edward Byrne Memorial Justice
Assistance Grant Program

Chad Martin said the Sheriff's Department is requesting Commission approval for a Memorandum of Understanding between Boone County, the City of Columbia and the State of Missouri regarding the FY2015 Edward Byrne Memorial Justice Assistance Grant Program. This is the same MOU that has been done annually and reviewed by County

Counsel.

There were no comments or questions.

Commissioner Atwill stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available commission meeting with appropriate order for approval.

7. First reading; Budget Revision to move funds to replace unacceptable camera in a large housing unit of the jail

Chad Martin said they are utilizing savings in account 1255 and requesting Commission approval for a budget revision to replace a camera that is not functioning properly in a large housing unit in the jail.

There were no comments or questions.

Commissioner Atwill stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available commission meeting with appropriate order for approval.

# Resource Management

8. First reading; General Consultant Services Agreement with AECOM Technical Services Inc.

Stan Shawver said this is a standard general consultant services agreement with WECOM. We have used them in the past and they provide the required services.

There were no comments or questions.

Commissioner Atwill stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available commission meeting with appropriate order for approval.

#### Commission

9. 1<sup>st</sup> & 2<sup>nd</sup> reading; Accept 2015 Emergency Management Performance Grant (EMPG) award from the State Emergency Management Agency (SEMA)

Josh Creamer said this is an Emergency Management Performance Grant documenting federal reimbursement of \$111,949. This is a pass through grant award from SEMA used to support emergency management staffing, critical supplies and equipment maintenance.

The award of this grant was anticipated and expected for this year's calendar budget which was previously approved by Commission earlier this year. With that, we recommend acceptance of the award.

Commissioner Miller said that this is granted to Boone County and we do intergovernmental work with the Fire District.

Mr. Creamer said that is correct. They do all the reimbursement activities as part of the grant. It is essentially the same grant as last year.

There were no further comments or questions.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby accept the attached 2015 Emergency Management Performance Grant from the State Emergency Management Agency.

It is further ordered the Presiding Commissioner is hereby authorized to sign said grant

award.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. Order #343-2015

10. First reading; Approval of a Commission Order receiving and accepting the legal opinion of B. Daniel Simon dated July 22, 2015, and ordering the relocation of the Desert Storm Memorial

Commissioner Miller said the Commission had requested an outside attorney to look at the issue from a Federal and State constitutional perspective instead of everyone trying to figure it out on our own. We received it towards the end of July. As is our process, we receive and accept these studies.

Commissioner Atwill said this is a result of a request made to local council for an opinion as is the practice and custom of the County Commission. We receive these opinions after they have been delivered and either accept or reject them. The proposal before us is to accept it and proceed accordingly to the attached order. This is a first reading and the second reading will be scheduled for August 11<sup>th</sup> at which time other comment can be added and the vote will be taken at that time.

Commissioner Thompson said she has read the opinion by Mr. Simon and was thankful he addressed some issues that had not be addressed previously by folks within the community and outside the community because he addressed what was of particular concern which was the state constitutional provisions. There had been a lack of comment as to those provisions in prior discussions. I thought that was very helpful to further flesh out the issues before us.

Commissioner Miller said that in the press release, the opinion was attached so everyone

could have a chance to read the opinion on their own. This was an effort to be open to the public on this subject.

There were no further comments or questions.

Commissioner Atwill stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available commission meeting with appropriate order for approval.

11. First reading; Commission Order adopting a policy relating to the acceptance of monuments and/or displays for the Boone County Courthouse plaza and grounds

Commissioner Atwill said this proposal was drafted by County Council at the request of the Commission and sets forth the policy on monuments and displays. It was made public at an earlier meeting and has not been changed.

There were no comments or questions.

Commissioner Atwill stated this is a first reading and requested the Deputy County Clerk to schedule this item for a second reading at the next available commission meeting with appropriate order for approval.

#### 12. Public Comment

## **Hugh Odneal**

It is still unclear why the current Commission decided to alter the Desert Storm Memorial and cover the ichthus last year in June. Why was it not done with equal publicity and dedication as was the dedication to the memorial in 1992. Why did you seek approval of

America United for Separation of Church and State for covering the ichthus and if the current Commission felt intimidated or coerced by AU, why did they refuse the Alliance Defending Freedom offer to defend Boone County for no charge if the ichthus was uncovered and a lawsuit was brought against the County. ADF has a pretty good record, an 80% win rate, protecting constitutional law and protecting citizens in the constitutional rights.

As you mentioned, attorney Dan Simon did give this opinion. He did say that in case law, both federal and state, there is no real clear issue, calling it the Bright Line Test, to be determined if the issue related in a propriety of the memorial. He also says the ichthus should be covered but also concedes there are people who believe the opposite. So again, where have we been for 15 months. There are some people who say there is and some people say they shouldn't. In America, we are supposed to be innocent until proven guilty. That has not happened here.

Since there is no clear violation, constitutionally, I believe the current Commission has violated the 1<sup>st</sup> Amendment in three different ways. First, the current Commission did and continues to prohibit the inalienable right, free exercise of religion, by covering the ichthus. The current Commission did and continues to abridge the freedom of speech by covering the ichthus. The current Commission did and continues to prohibit the citizens to petition the Commission for redress of grievances by the Commissions secrecy, silence, and refusal to discuss the covering of the ichthus.

It is very disturbing why the Commission will never comment on why, never comment on how. I have written to the Commission asking for papers or any kind of communication the Commission had with AU in regard to this. There is none. The only paper the attorney sent me is the letter that AU sent the Commission asking for papers and reasons why the monument with the ichthus was allowed on the courthouse grounds. Did the Commission just decide, there is nothing in the minutes that indicate it was discussed. Did one of the

Commissioners just decide to call AU and make an agreement with them. It has been 15 months.

## **Hugh Farnen**

Leonard Pitts wrote in the newspaper last week about giving the republicans hell about Donald Trump. The title is Principal Separates Heroes from Hypocrites. In small print it says; This much is surely right. It is a sin to mock the honorable service of those who have gone into harms way on their country's behalf, particularly if you have never served a day in your life. In today's Columbia paper, it says the Commission, as elected officials are to enforce the laws of the United States. I don't know why you are concerned about that now. The President and Attorney General sure as hell ain't.

## **Gladys Farnen**

I would like the monument to stay in the courthouse plaza and be honored along with all the other memorials there. If you move the monument to the Columbia Cemetery, how are people to know it is out there. Will there be a little box out there with a flier, with directions, saying if you want to see the Desert Storm Memorial go to the Columbia Cemetery. The memorial should stay where it is and I hope it does.

#### **Sherry Wyatt**

I am a Gold Star mom. I am not here about constitutionality or laws, I came to talk about the heart. What I do know as a Gold Star parent, you have been through enough and have given enough, your very soul, your flesh and blood. Our sons died to assure freedom of this great country. I always thought I was a patriot, but until sending my son off to Afghanistan, I had no idea what being a patriot really was.

That morning, July 11, three years ago, when that Chaplain and Sergeant came to our door, I then knew what it was to be a patriot. I put a small flag at that monument just before I came here and to their spirits, I said boys, I am going to do what I can for you because you gave everything for us.

My son is not yet on a monument, but I would hope he would have your support and that is what I am asking for. I am not one to stand here in anger, but what I want you to hear is from my heart. These parents have gone through enough and they should not have to go through this again.

## Jim Coy

Twenty-three years ago I was in the 3<sup>rd</sup> Group Army Special Forces in operation Urban Freedom to liberate Kuwait City. Although my name is not on the Persian Gulf War Memorial, I'm indirectly mentioned on that memorial because it states: To those men who gave their lives and to the men and women who offered but where spared. I actually was spared. I have actually been shot at, seen people die, seen people wounded and what I think you are doing is terrible. I know you may think you have a legal right to do so, but you are breaking the hearts of parents in this county by what you are considering doing.

I would ask you to honor the letter you received yesterday to leave the monument where it is. The parents have given permission to leave the ichthus covered. To those who fought for it, freedom has a cost and a meaning that's protected you will never know. I will venture you fall into that group.

One of the POW's I was friends with many years ago said; As Americans we have a sacred obligation to remember those who fought and died on foreign battlefields and did not return home. I'm asking that you please do what's right and not what you consider to be the legal alternative. Hear the parent's request. Hear the Gold Star mother's request. Hear the

veteran's request. Hear the Christian's request in the community. Please don't move the monument.

## **Chuck Basye**

I am here to say that the monument should stay where it currently is. This is something as a county we should be willing to fight for and not be worried about the lawsuit, supposedly. I know you have the opinion of that attorney, but that's just an opinion. I come from a family of veterans. We have the Memorial Day parade every year. We have a ceremony on the Courthouse grounds. We can take this a lot of different directions. I think it is extremely offensive to move this memorial. Something deep down inside of me says it's more than this. It's an attack on our very freedoms we enjoy.

There are certain groups that are just not happy with certain things and the Christian religion is one of them. I would like to see that monument stay right where it is. I have just been given an idea and it seems like a good one. We can take that small piece of land that the monument sits on and donate it to a service organization whether it be the VFW or American Legion and let them have the right to that property, that small piece of land. From what I understand, it has been done in other counties and other communities. That's an opinion and I think it should stay where it is.

#### **Elizabeth Phillips**

When I was coming here this afternoon, I was not sure what I was going to say. I do want the monument to stay where it is. For some reason, Lincoln's 2<sup>nd</sup> Inaugural Address, believe it or not, comes into my mind. All I could remember was the first part, but with a cell phone, I am able to get the rest. He said; With malice towards none and charity for all, with firmness in the right, as God gives us to see the right, let us strive to finish the work we are in. He also mentions to bind up the nation's wounds.

I really don't have malice towards people, but certainly have definite beliefs in this situation and I believe, to be frank, this would not have happened 40 or 50 years ago. Our country has changed a lot, but we are still the same Americans. I don't have hard feelings, but I do disagree.

As the inauguration phrase says, with firmness in the right, as God gives us to see the right. That's where I feel I am at and we don't see the same things, which is unfortunate. The next line says; let us strive to finish the work we are in. I understand your legal right to do this, but don't agree constitutionally. I also believe we are going to finish what is right and in this case, the monument will stay and the fish will be uncovered.

## Richard Heimburger

I submitted an article into the Tribune last week and hoped it would have been printed by now, but it has not. I would like to read it today.

Dear Editor: This ichthus fish seems like such a petty thing that very few people would have noticed if such a big fuss would not have been created. It took 20 years in clear public site until some callous outsider made a big issue of it. There are many avid fishermen in Boone County who merit a fish on their tombstone. I enjoy eating fish so much that I might warrant it.

Artwork is commonly placed on tombstones and memorial including various flowers of many types on church memorials. So, should they be removed? Beauty is in the eye of the beholder and all art work is subject to various interpretations.

Perhaps another lawyer might give a different interpretation of Dan Simon's 45 page report. Be not afraid. Steve Farnen and Patrick Connor gave up their lives in a heroic manner so that you and I could speak freely our views. This expensive monument of

stone is a peaceful demonstration of thanks given by many people, perhaps the majority, to those who lovingly and selflessly laid down their lives or put themselves at risk against the tyrants of this world who ruthlessly want to take away our freedom at the expense of others. This is only the visible or tangible evidence of the greater invisible, spiritual intangible, reality of love and sacrifice, that built our great country with the faith and hope to persevere. I hope this is read by those who love and appreciate our freedom and liberty.

#### **Greg Lammers**

It is right and good to honor people who have made the sacrifice. It's a public good to honor them, but the "Jesus Fish" or ichthus is a well known sectarian symbol. Such symbols are rallying points for those who identify with them and the dogmas tied to them. The effect of sectarian symbols on spaces is to claim them for their specific group or particular dogmas.

When placed on public government property, the sectarian symbol gives its group and their peculiar viewpoints official sanction status. It signals to all others they are outsiders. Its effect in the public square as in the private, is to create an in group and an out group, to drive wedges through a community. A representative government can't be in the business of promoting or sanctioning specific sectarian ideologies. The fish must go.

#### Jan Bell

I have worked with the Central Missouri Honor Flights since 2009. I have been a part of honoring veterans for the last six years and seeing what that honoring of other people does to the families. I am here to support the families of these veterans. I pulled up the U.S. Army web site and the oath that they take at enlistment and the last line is So Help

Me God. The last line of the oath that a commissioned officer takes is So Help Me God. So why are we doing this. It is such disrespect to these two gentlemen and their families. I just always thought that the Commission of the County was here to represent the people in the county and not a group far away. If they really want to go after somebody, they probably should go after our Federal government for changes. I would really, really like to see the monument stay with the other monuments.

## Fred Parry

I wanted to say something that has not been said in the three public hearings we have had in talking about the ichthus on the Desert Storm Memorial. It is important for people to know that the three of you are very good people. I suspect all three of you are Christians and I suspect there are any number of issues today that you would rather be talking about than the ichthus on the memorial. You would probably want to talk about chip and seal on county roads than this issue. So, I guess that as citizens of Boone County, it is important for us to let you know that you are in an unenviable position right now, forced into a corner on this issue, feeling you have to take action.

My hope today is that you will take into consideration the wishes of the parents of Steven Farnen and Patrick Connor and leave the Desert Storm Memorial where it is. It is your choice, your decision to decide if the ichthus should be covered or not. I think the issue today is more about honoring these two young men and the sacrifice they have made for our country and the citizens of Boone County. So, I am appealing to you to please take that into consideration.

If something should happen by your decision not to relocate, I hope you would know the citizens of this county would support you. I know you have had an offer from the Defense Alliance, but I hope you know we will stand with you and give you political cover if that is necessary and also show our support for the very bold decision that I hope

you will make.

#### Val DeBrunce

I am a fairly new resident, here in Columbia for two years. I have not been as active as I should be. I am surprised that the meeting started without the Pledge of Allegiance. To the matter at hand. They fought for us, we have access to legal representation at essentially no charge. Why aren't we fighting for them.

## **Fred Berry**

I am a retired Colonel with 24 years of service. Most of that time has been overseas, all with commanding soldiers. I know a lot about soldiers. I know why soldiers are willing to fight and if necessary, die for their country. I have noticed there are many veterans in here who have that same understanding. Thinking of it, at this level, for a decision like this, we don't need to worry about lawyers, so much, although we have one out there with a lawsuit or what the Federal or State Constitution says about this because we know there is no prohibition to it. What's important is what happens here, it's the grassroots level where people live that I think we need to be concerned about.

We need to be mostly concerned about these young men and women who are going to go into our military and want to feel like the people they are going to fight for and it's not going to be for the Federal government or even the State of Missouri. They are going to be fighting for the buddy in the fox hole next to them. They are going to be fighting for their mother and father. They are going to be fighting for the people they went to school with. All of that are the things that are going to inspire them to go into the military or to reject the military as an organization that they can identify with. We have to protect our people and their beliefs. What are their beliefs. It starts with the Declaration of Independence, the U.S. Constitution. You can include the Gettysburg Address and

innumerable documents that describe why this country is exceptional.

Now, very quickly, a story was related to me by a division commander who I served with many times. This was in East Berlin at the Berlin Brigade long before the wall came down. He was taking some Soviet officers around and they wanted to see how our troops lived and mostly wanted to see what the barracks looked like. There was no notice to the troops and they went into the barracks and went to a soldier's room, housing four soldiers, and the first thing they saw on the wall was a rosary. He said you should have seen the look on those Soviet officers faces. It was like Ahhh! Like Bela Lugosi in The Vampire and that cross being put in front of him. Why is that. Because in the Soviet Union, you have a state that is totally Pagan, totally secular. You would never find that in the barracks of their soldiers because that is not what motivates these soldiers to live and die for our freedoms. What motivates them to be able to do that is knowing that if they are killed, their bodies will be protected. We are not going to leave them on the battlefield. We will bury them. We will bury them with honor and we will bury them with the symbols that made this country great and yes, for many, that is the ichthus, the symbol of Jesus Christ. To take that symbol off is to deny Christ. I do not think that this organization stands for all of the values we have fought and died for over 230 years and should be denied, denied to these soldiers and all who will come after.

#### Mark Schieftelker

I am the leader of the student lead atheist group on campus at Mizzou. We are MU skeptics, atheists and agnostics. I would like to think we are the most inclusive group on campus. I am an atheist. This is what an atheist looks like. We are not a monstrous group of people. We represent a lot of the views that others share. This Americans United is a Washington group. The narrative so far, has been that this outside group is here to impose their views on us here in mid Missouri and their views are not shared with people in our community. I would like to de-emphasize that as much as possible by being here.

I can't claim to represent the views of all atheists, but the inclusion of the ichthus on this monument is offensive and an unusual consideration given that no other faiths are represented on the Boone County Courthouse Plaza. Relocation of the monument or as the recent compromise seems to suggest by retaining the monument with the ichthus covered is a very reasonable compromise in my opinion and it is the best solution for the lack on inclusivity presented by this monument.

Although our opinion is in the minority, it represents the best understanding of the law, the best interest of the County and ultimately the most considerate thing to do for those soldiers who have served in uniform for faiths other than Christianity. Thank you for listening to my point of view.

#### Rick Rowden

There have been a number of people that have approached you today with different attitudes. Some have been respectful, some heartfelt. I will be honest with you, I come angry today. I think there has been an epic failure of leadership in this community. I think this was mishandled from the beginning. At no more than a letter of inquiry, you have responded in a way that has set a fire, a passion in this community.

A recent poll was taken and more than 62% of the community says that this memorial should remain and I think if you make any other decision rather than allow that memorial to stay, you are going against the will of the people and that is a serious action to take and to live with and there will be a price to pay for that. I think we have been reduced here in this forum as people that are groveling in front of the hierarchy to get something done. I see a mother and father groveling to you, asking you to honor their child and that is unacceptable in American and Boone County. In this case, I am ashamed to call myself a Boone Countian. This is an embarrassment across the country when people read about this in the paper that we are taking this sort of action with regard to this particular issue.

Now what has happened is that both of these parents have come to you and said they will do the ultimate compromise. They will take the fish off the memorial if it stays. If you choose to still move the memorial, I would say there was a predetermined plan from the beginning that this follows only your convictions and has nothing to do with the will of the people and that is totally unacceptable. These people, because they want to honor their children, are asking you to leave it there and deface the monument that was built for their children and they are willing to do that. If you are not willing to give in to that, then I think that is the worst action to take.

Please do the right thing. Show leadership in this community because you are going to be assailed with a number of other accusations to come against you. If this is the way you want to respond, we do not want you representing Boone County.

## **Chris Herring**

I would like to say first of all, God bless the parents of these two soldiers who died and the many of million others who died for our country and its freedom and I thank each and everyone for that. I did not have the opportunity to serve, but my father did and my brother did. Suffice it to say, I wish I knew my dad before he went to war. I have done some studying on the internet, superficially of course, and looked at some legal ramifications of what will happen. We as Americans, we could fight this, we could fight and maybe win to keep the fish on the monument, but the ramifications of that, and I read this on the internet, any church or any religion that professes to be a church, will have the legal right to put a statue or an edifice on county or state property. We may win. There are people that are going to pay good money for us to fight and of course, Commissioners, the majority of Boone County residents want it to stay.

The problem is, and I would encourage you to research on your own, there is a 7-10 foot statue of Satan, there is a Hindu idol and PITA actually wants to put a flag on the

Arkansas State house because, I believe, Arkansas fought and won the right to keep a religious edifice on their property and because of that, the other religions have a legal right to also put things on public grounds. I have nothing personally bad to say about other religions, but I believe, Commissioners, that if you fight and win, other groups will come and turn this sacred ground that we have honoring these two soldiers and their families who gave all they had in service of their country, turn into a show and tell for whoever wants to come and put monuments on this sacred ground. That is a fact that has not been brought up and I would like to do that.

I have an opportunity. I love this country. I love my God. I wish this was a time in our country when this wasn't an issue, but it is. Our country had been founded on the separation of church and state, we came from tyranny. That is why America was founded, because we did not want the government telling us how we could worship or what we should worship. That is why the colonists came and founded the Americas. So, with all my heart, Commissioners, I see the dilemma you have and I see the weight upon your shoulders and I ask you with all my heart, to honor these two soldiers and cover up the religious emblem which would keep us in compliance with the law and Constitution, I believe. Keep if here to honor the lives of those two Desert Storm heroes that died.

# 13. Commissioner Reports

None

The meeting adjourned at 3:31 p.m.

Attest:

Wendy S. Noren

Clerk of the County Commission

Daniel K. Atwill

Presiding Commissioner

Karen M. Miller

District I Commissioner

Janet M. Thompson

District II Commissioner