

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
Environmental Health Specialist Kris Vellema
Environmental Health Specialist Britni Hendren
Director Purchasing Melinda Bobbitt
Public Works Manager Chet Dunn
Deputy County Clerk Mike Yaquinto

The meeting was called to order at 9:30 a.m.

Health Department

1. **1st & 2nd reading; Abatement of a property located at 4835 E. Meadowlark Lane A, parcel #21-201-04-01-035.00 01**

Britni Hendren said this is a duplex, side A is the issue. There are several appliances under the car port and a few pieces of furniture on the front porch. There has been no contact with the owner although they signed for the certified letter.

There were no comments or questions.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby authorize the Presiding Commissioner to sign the attached Finding of Public Nuisance and Order for Abatement of a public nuisance located at 4835 E. Meadowlark Lane A, parcel #21-201-04-01-035.00 01

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #344-2-15**

**2. 1st & 2nd reading; Abatement of a property located at 2505 E. Oakbrook Drive
A+B, parcel #12-415-20-02-005.00 01**

Kris Vellema said this is a weed violation and it has not been mowed all year. The county has abated this every year for the last several years. The bid is \$175 to mow, mostly by hand and then there is a large mound of dirt which will be sprayed for \$75 for a total of \$250.

There were no comments or questions.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby authorize the Presiding Commissioner to sign the attached Finding of Public Nuisance and Order for Abatement of a public nuisance located at 2505 E. Oakbrook Drive A+B, parcel #12-415-20-02-005.00 01

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #345-2015**

**3. 1st & 2nd reading; Abatement of a property located at 2510 E. Oakbrook Drive
A+B, parcel #12-415-20-02-018.00 01**

Kris Vellema said this is the same owner as the other one. It has not been mowed all year. It looks like some of the neighbors are using this as a parking area. Someone is mowing part of it and there are varying vehicles parked there every time I go by there. This is for mowing, but if there is a disabled or derelict vehicle there, it will be towed. It is the same price for

mowing, \$175.

There were no comments or questions.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby authorize the Presiding Commissioner to sign the attached Finding of Public Nuisance and Order for Abatement of a public nuisance located at 2510 E. Oakbrook Drove A+B, parcel #12-415-20-02-018.00 01

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #346-2015**

4. 1st & 2nd reading; Abatement of a property located at 2601 E. Oakbrook Drive A+B, parcel #12-415-20-02-008.00 01

Kris Vellema said there are three vehicles at this duplex, two on one side and one on the other. They have flat tires and one of the vehicles is missing a window. They have been there for some time as the weeds have grown up around these vehicles. There has been no contact with the owner. We have got numerous complaints.

There were no comments or questions.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby authorize the Presiding Commissioner to sign the attached Finding of Public Nuisance and Order for Abatement of a public nuisance located at 2601 E. Oakbrook Drove A+B, parcel #12-415-20-02-008.00 01

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #347-2015**

Purchasing

5. First reading; Professional Services Contract 47-30OCT15C – Consulting Services for Radio Tower Project for Emergency Communication Center

Melinda Bobbitt read the following memo:

Dave Dunford, on behalf of Boone County as our Radio Consultant, requests Consulting Services for the Emergency Communication Center Radio Project with Malicoat-Winslow Engineers, P.C. of Columbia, MO as follows:

Gas Piping design & specifications

Electrical design & specifications

Coordinate with utility companies

Shop drawing review

Coordination with Owner

Cost of services is \$1,475 and will be paid from department 4101 – ECC Radio and Technology, account 71201 – Construction Costs. \$2.83 million is the total budget for the ECC Project.

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.

6. First reading; Cooperative Contract 17/2015 – Service Cut Repair and Crew Services

Melinda Bobbitt read the following memo:

Purchasing and Public Works request permission to utilize the City of Columbia cooperative contract 17/2015 to purchase *Service Cut Repair and Crew Services* from Cook Concrete Construction Company of Fayette, Missouri.

This is a Term and Supply contract and invoices will be paid from department 2040 – PW Maintenance Operations, account 71100 – Outside Services. \$93,007 remains in the account at this time.

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; Bid Award 33-20JUL15 – Internet Service Provider

Melinda Bobbitt read the following memo:

Request for Bid 33-20JUL15 - *Internet Service Provider* closed on July 20, 2015. Seven bids were received. Information Technology and Purchasing recommend award to CenturyLink for offering the lowest and best bid as follows:

1Gbps Synchronous Internet Connection	\$834 / month
100Mb/100Mb	\$304 / month

TOTAL \$1,138 / month

Invoices will be paid from department 1170 – Information Technology, account 71100 – Outside Services. This contract is for the period November 1, 2015 through October 31, 2016 with four one-year optional renewals. \$1,450/month is budgeted for 2015.

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.

8. Second reading; Contract Amendment Number One to 27-10JUN14, Child Advocacy Services (1st read 8-6-15)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the attached Contract Amendment Number One to 27-10JUN14 – Child Advocacy Services/Heart of Missouri CASA.

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 One – Child Advocacy Services.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #348-2015**

Public Works**9. Public Hearing and second reading; Budget Amendment for the purchase of the MoDOT facility (1st read 7-28-15)**

Commissioner Atwill opened the public hearing and asked if there is anyone present that would like to speak to this item. There were no speakers and Commission Atwill closed the public hearing.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby acknowledge the following budget amendment for Public Works to purchase MoDOT facilities located at Hwy. 63 & Hwy. 124 and related expenses for the operations.

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
2040	91800	PW-Maintenance	Land		118,760
2040	91200	PW-Maintenance	Buildings & Improvements		377,545
2040	91300	PW-Maintenance	Machinery & Equipment		73,000
2040	48000	PW-Maintenance	Telephones		150
2040	48002	PW-Maintenance	Data Communications		10,000
2040	48200	PW-Maintenance	Electricity		1,600
2040	48300	PW-Maintenance	Water		260
2040	48400	PW-Maintenance	Solid Waste		260
2040	48700	PW-Maintenance	LP Gas		1,200
2040	71004	PW-Maintenance	Property Insurance		1,000
2040	71100	PW-Maintenance	Outside Services		5,500
2040	86850	PW-Maintenance	Contingency		13,000
					602,275

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #349-2015**

Treasurer

10. Second reading; Disposition of 2014 tax sale surplus for Karen L. Sapp (1st read 8-6-15)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the disposition of surplus, per attached summary order description, to Karen L. Sapp in the amount of \$78,220.14, as recommended by the County Treasurer.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #350-2015**

Resource Management

11. Public Hearing and second reading; Budget Amendment for Scott Blvd. Phase III Project (1st read 7-28-15)

Commissioner Atwill opened the public hearing and asked if there is anyone present that would like to speak to this item. There were no speakers and Commission Atwill closed the public hearing.

Commissioner Miller moved on this day the County Commission of the County of Boone

does hereby acknowledge the following budget amendment for Resource Management to use previously reserved funds for the Scott Blvd. Phase III project.

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
2049	84200	PW- Administration	Other Contracts		500,000

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #351-2015**

12. Second reading; General Consultant Services Agreement with AECOM Technical Services Inc. (1st read 8-6-15)

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the attached agreement between Boone County and AECOM Technical Services, Inc. for engineering, surveying and other professional services.

The terms of the Agreement are stipulated in the attached Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said General Consultant Services Agreement.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #352-2015**

13th Circuit**13. Public Hearing and second reading; Budget Amendment for funds received from DMC Contractual Funds (1st read 7-30-15)**

Commissioner Atwill opened the public hearing and asked if there is anyone present that would like to speak to this item. There were no speakers and Commission Atwill closed the public hearing.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby acknowledge the following budget amendment for the 13th Judicial Circuit to increase revenue and expenditures for funding received to be used for the Youth Day Proclamation.

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
1243	3451	Judicial Grants	State Reimburse Grant		119
1243	23050	Judicial Grants	Other Supplies		119

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #353-2015**

Sheriff's Department**14. Second reading; Intergovernmental Agreement – Edward Byrne Memorial Justice Assistance Grant Program (1st read 8-6-15)**

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the attached Intergovernmental Agreement between Boone

County, The City of Columbia and the State of Missouri relating to the Edward Byrne Memorial Justice Assistance Grant Program – FY2015 Local Solicitation.

The terms of the Agreement are stipulated in the attached Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Intergovernmental Agreement

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #354-2015**

15. Second reading; Budget Revision to move funds to replace unacceptable camera in a large housing unit of the jail (1st read 8-6-15)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the following budget revision for the Sheriff's Department to move funds from Corrections to Maintenance to replace an unacceptable camera in a large housing unit of the jail.

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
1255	37200	Corrections	Seminars/Conf/Meeting	1,476	
1256	92300	Sheriff/Corrections HK/Maintenance	Repl. Machine & Equipment		1,248
1256	92302	Sheriff/Corrections HK/Maintenance	Repl. Computer Software		228
				1,476	1,476

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #355-2015**

Commission

16. Public Hearing and second reading; Budget Amendment to recognize unanticipated revenue received from the City of Columbia and establish budget for CMEC Review Board Committee (1st read 7-30-15)

Commissioner Atwill opened the public hearing and asked if there is anyone present that would like to speak to this item. There were no speakers and Commission Atwill closed the public hearing.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the following budget amendment to recognize the unanticipated revenue of \$521,825 received from the City of Columbia, a return of Airport Subsidy Guarantee contract payment, plus interest, and to establish a budget of \$11,000 to be used for costs needed to support the work of the Central Missouri Events Center Review Board Committee. The remaining amount of the revenue, approximately \$510,000, will be set-aside in reserved fund balance in the General Fund for one or more non-recurring expenditures or projects to be determined by the Commission at a future date.

Department	Account	Department Name	Account Name	Decrease \$	Increase \$
1190	3826	Non-Departmental	Prior Year Cost Repayment		521,825
1121	23000	County Commission	Office Supplies		500
1121	23001	County Commission	Printing		500
1121	37220	County Commission	Travel		4,500
1121	37235	County Commission	Meals & Lodging		1,000
1121	71101	County Commission	Professional Services		2,500
1121	83100	County Commission	Awards		500
1121	84010	County Commission	Receptions/Meetings		500
1121	84300	County Commission	Advertising		1,000

					532,825

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #356-2015**

17. Second reading; Approve funds received from City of Columbia in the General Fund be set-aside for future expenditures (1st read 7-30-15)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby direct that \$510,000 of the \$521,824.71 received from the City of Columbia on June 26, 2015 be deposited into the County's General Revenue Fund to be set-aside and reserved for one or more future non-recurring expenditures, to be determined by the County Commission at a future date. The \$521,824.71 received from the City of Columbia represents a return of the County's original \$500,000 airport revenue guarantee payment, with interest, which was paid to the City of Columbia pursuant to the 2012 Airport Revenue Guarantee contract.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #357-2015**

18. 1st & 2nd reading; Organizational Use of the Government Center Chambers by Voices for September 23, 2015

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the Organizational Use of the Government Center Chambers by Voices for September 23, 2015 from 7:10 p.m. to 8:50 p.m.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #358-2015**

19. Second 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 (1st read 8-6-15)

Commissioner Atwill moved on this day the County Commission of the County of Boone does hereby receive and accept the legal opinion of B. Daniel Simon dated July 22, 2015. A copy of that opinion, with exhibits, is attached hereto, and the County Commission incorporates the same herein. Based on said legal opinion, the County Commission orders the relocation of the Desert Storm Memorial, with the ichthus exposed, from the Boone County courthouse plaza to the Columbia Cemetery Association at the earliest time that is mutually convenient. The Commission further orders that a replacement Memorial consistent with the Commission's monument/display policies shall be purchased and installed that will recognize Boone County veterans from Operation Desert Storm and other, later military actions, and which will specifically honor veterans who gave their lives in service to their country whose families have given permission to the County for the display of their names.

The Commissioners read statements prior to a seconding of the motion.

Commissioner Miller read the following statement:

This is a time when I have to use advice from Shimon Peres, Former Prime Minister of Israel "It's better to be controversial for the right reasons than to be popular for the wrong reasons."

There are three reasons that I will support the motion before us today:

- 1- The first job of a county commissioner is to be sworn into office, and I have taken this oath seven times. The oath of office is: to solemnly swear to uphold the Constitution of the United States and the Constitution of the State of Missouri and to faithfully demean myself in the office of Associate Commissioner of Boone County MO.

Not being an attorney, I must rely on comprehensive legal analysis provided by attorney Dan Simon. It is a fiscally prudent action to take on behalf of County Government.

- 2- I have heard the cry to not disrespect the memory of these two fine young men who paid the ultimate sacrifice. I can think of no worse disrespect than to be potentially forced by a court to allow other types of symbols to be added to the Memorial that might not be desirable to those of you I have heard from about this issue. This in itself in my opinion would take away the solemnity of the dedicated war memorials, none of which have any religious symbols other than the Desert Storm Memorial.

- 3- And finally, this step placing it at the Historical Columbia Cemetery will allow for the ichthus to be uncovered. We will put in its place a replacement monument that will be secular in nature and broader in scope that will allow the addition of other soldiers who have paid the ultimate sacrifice. There is at least one that I know of from our community who is not currently recognized on the Courthouse Plaza who gave his life in service in Afghanistan.

Commissioner Thompson said she has some prepared remarks.

Last summer, it was brought to the attention of the County Commission that on the face of one of the war memorials in the Courthouse Plaza was an "ichthys," which has been called a "Jesus fish" in some circles. The decision was made to cover this religious symbol and to superimpose on the memorial a notice of the year of its dedication.

That decision raised the ire of certain individuals here in Boone County. Their ire has been expressed in terms of their beliefs that the decision was made by Commissioners who disrespect the Constitutions of the United States and the State of Missouri; Commissioners who disrespect the sacrifice made by those who serve our country as part of the armed forces, and Commissioners who disrespect the religious underpinning of the icon that had been displayed on the war memorial. I can only speak for myself, as one of the Commissioners who made the decision last summer to cover the religious symbol. I stand by that decision. It is consistent with the Constitutions of both the United States and the State of Missouri. It is respectful of the service and sacrifices of those who are part of our armed forces, including the two young men who are specifically honored in the subject war memorial. And, it in no way is disrespectful of the religious underpinning of the icon that has been displayed.

First, let's be very clear. The ichthys is a religious symbol. It is not some historical reference disconnected from religion. The symbol was used by early Christians to signal to other Christians their faith, in a time when openly acknowledging that faith could and did lead to persecution and death. It is still used as a sign or signal of a person's Christian faith.

I am a Christian, specifically an Episcopalian, and believe myself to be incredibly fortunate, in this country, in this time and space, to be able to practice my faith openly, without fear of persecution or reprisals. When my family, like many immigrants, came to this country, that was not always the case. Of course, my situation now is markedly different from that of many immigrants, including that of some of my ancestors. I am

part of the majority in this country—and that is an ENORMOUS factor in both my perception and how I am perceived. An acquaintance of mine said earlier this year “well, nobody noticed the ichthys until this group from New York wrote about it.” I beg to differ with her interpretation. Maybe she and I didn’t notice the ichthys BECAUSE we are members of that Christian majority. But, were we members of another faith community, or people who ascribe to NO faith community, would we have not noticed? It’s akin to a conversation with a local pastor earlier this year—I don’t notice that I’m white but, every day, she “notices” that she is a person of color.

Decisions to immigrate over the history of this country were often influenced by a lack of religious tolerance in immigrants’ home countries. And, while my family did not experience religious intolerance in this country, others have not been so fortunate. Despite the hope and belief that, in this country, people could freely practice their religion, without fear, without experiencing exclusion, fear and exclusion exist, even now.

Fear and the ability to exclude based on religious differences were part of what informed the Founding Fathers’ decision to include in the First Amendment the following language: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...” This language was based, in part, upon the concerns of the Founding Fathers that, if the government—the MAJORITY-- is intertwined with religion, the individual—the MINORITY—will be denied these constitutional rights. In the Federalist Papers, John Adams wrote:

If a majority are capable of preferring their own private interest, or that of their families, counties, and party, to that of the nation collectively, some provision must be made in the constitution, in favor of justice, to compel all to respect the common right, the public good, the universal law, in preference to all private and partial considerations... To remedy the dangers attendant upon the arbitrary use of power, checks, however

multiplied, will scarcely avail without an explicit admission some limitation of the right of the majority to exercise sovereign authority over the individual citizen....

Going one step further, the Missouri Constitution, in Article I, Section 7, provides that “no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, set, or denomination of religion, or in aid of any priest, preacher, minister or teacher thereof, as such; and that no preference shall be given to nor any discrimination made against any church, set or creed of religion, or any form of religious faith or worship.” Article IX, Section 8 further provides that Neither the general assembly, nor any county, city, town, township, school district or any other municipal corporation, shall ever make an appropriation or pay from any public fund whatever, anything in aid of any religious creed, church or sectarian purpose, or to help to support or sustain any private or public school, academy, seminary, college, university, or other institution of learning, controlled by any religious creed, church or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the state or any county, city, town, or other municipal corporation for any religious creed, church or sectarian purpose whatever.” As lawyers would say, the federal Constitution, which prohibits the establishment of religion, provides the constitutional floor, the baseline for discussion. Missouri’s state Constitution provides MORE protections from the “tyranny of the majority” than does the federal Constitution.

Mr. Simon’s analysis of both the federal and state Constitutions leads to the conclusion first, that covering the ichthys while it remained on public property was the appropriate interim solution to the prohibitions imposed on government by both Constitutions, second, that removing a monument bearing a religious symbol from public property is an appropriate way of honoring the members of the armed forces who made sacrifices to our country while maintaining our constitutional obligations, and third, that instituting a policy that ensures the separation of church and state that our constitutions contemplate and REQUIRE is necessary for the future of our county. I concur wholeheartedly with Mr. Simon’s analysis.

While I am not now nor have I ever been a member of our country's armed forces, I have taken an oath that is very similar to the one that every member of our armed forces takes upon taking up that obligation on the part of our country. Both as a member of the Missouri Bar and as a member of the Boone County Commission, I have sworn to "support the Constitution of the United States and the Constitution of the State of Missouri." I have taken the oath as Commissioner once. I have taken and re-affirmed the oath as a member of the Missouri Bar every year since 1984.

That oath requires me, just like the members of our armed forces, to protect the minority from the tyranny of the majority—which is the very essence of our federal Constitution and, is precisely the issue at which Article I, Section 7 and Article IX Section 8 of the Missouri Constitution are directed. When government directly or indirectly supports any one religions, that support automatically serves to place that religion or the followers of that religion, in a different category, a PREFERENTIAL category, than any other religion.

I will vote to move the Gulf War Memorial from public property on the courthouse plaza to a place—the Columbia cemetery on Broadway—where, on private property, the ichthys can be displayed. I will also vote to replace that memorial with another war memorial, to honor those who have served and those who have made the ultimate sacrifice, WITHOUT any religious iconography, on our courthouse plaza. In that way, we honor those whose service has kept us free AND we uphold our obligations under both the State and federal constitutions.

Commissioner Atwill read the following statement.

My concern is that maintaining this symbol at the entrance to the courtyard is a direct violation of the Missouri constitution. As an officeholder I am sworn to uphold the

constitution of the State of Missouri. I think the opinion of Mr. Simon clearly explains the basis for this conclusion. This was true from the day the monument was placed on the grounds. It was wrongly placed on county property from the outset.

To those who want to fight any legal challenges that might arise without regard to cost I ask: What result would you expect? It would be totally unreasonable to expect that a final judicial decision would be that the religious symbol could remain without any other requirements. Those requirements would likely include you must allow other religious symbols. What is the effect of that?

The county would be faced with applications for the display of symbols that would require a determination by the county of whether or not such symbols qualify. In effect, the county would be placed in the position of determining what constitutes a religion. That would most certainly lead to more unproductive litigation and the expenditure of time and resources. By removing this symbol we narrow the issues. Granted, if someone wants to sue the county to force the display of religious symbols we will find the county defending that unique type of case. I encourage you to check out how Texas and Oklahoma have fared in dealing with similar issues.

To those who consider this disrespectful to the men who gave their lives in the service of their country, I say that is not my intent. Keep in mind that this is not a cemetery and the rules are very different and the men involved were laid to rest under symbols chosen by them or their families. It is my expectation that the existing monument will be moved to an appropriate cemetery, simultaneously with the installation of a similar monument in the current location. Such a monument will be in recognition of those who served in Operation Desert Storm and later conflicts. The names of those currently on the monument will be included if their families approve.

If you haven't read the opinion from attorney Dan Simon, I encourage you to do that. In

cases where expert opinion is needed because of technical and complicated facts, business and government leaders are often confronted with conflicting opinions. When that occurs, the credibility of the authors of those opinions becomes important. In 40 years of law practice in this state, and having worked with and in opposition to many attorneys, it is my opinion that no finer legal scholar can be found. The integrity and credibility of Dan Simon is unsurpassed. His carefully crafted review of the facts, and the law, have great importance in this discussion.

Your county commission has tried to evaluate the issue we are facing by carefully reviewing the facts, the law and our legal responsibilities. The emotional aspects of this matter cannot and should not be the basis for a final decision. We can only hope there is some appreciation of this.

Thanks to everyone that has participated in the process, this is the way our system works best.

There were no further comments from the Commission

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #359-2015**

20. Second reading; Commission Order adopting a policy relating to the acceptance of monuments and/or displays for the Boone County Courthouse plaza (1st read 8-6-15)

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby adopt the attached policy relating to the acceptance of monuments and/or displays for the Boone County Courthouse plaza and grounds.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #360-2015**

21. Public Comment

Rick Rowden

I appreciate your well spoken words, but I can assure you they fell on deaf ears. The reason being, about an hour before the previous Commission hearing on this, a letter was sent to you by the Farnens and Connors saying they would agree to have the ichthus removed if the memorial could stay. So, all of your arguments about freedom of religion and all the well spoken words about this is out of context. It has nothing to do with where we are at today. These people, who want honor paid to their children, made a huge compromise by saying take the ichthus off and leave the memorial. You paid no attention to what these people had to say. Why is that. How can you justify moving a memorial that does not have a religious symbol. How do you justify that. How are you going to respond when some war protester comes up and says we want all the war memorials removed from the county square because they don't have any religious symbols either.

The argument changed completely on the day the letter was received by you which you paid no attention to. You did not address in any way. We kept continuing on the agenda we had, referring back to the attorney's opinion and it really has nothing to do with where we are at today, zero. They said the ichthus could be removed and the memorial should stay. Why did you not respond to the compromise in allowing the names of these two sons to be in the public square as it was intended and placed there by a previous administration.

It's well within your right to remove religion from the public square. It's a sad day for me to see that happen because you might contend in a number of places that it has been argued and

people have responded in that way, but in so many others, it has not. I refer back to an old song, popular in our day...the day the music died. I think what you are doing today is going to set a precedent for our community and how we deal with that. It is sad.

I posted today that I apologize to my grandchildren because this happened on my watch. That aside, it has nothing to do with the moving of this memorial. You are moving without cause. You are arguing a point that is irrelevant to where we are right now. Remove the ichthus, which I see it is today, leave the memorial as you are going to open the door for everyone to have all memorials removed honoring our soldiers.

Philip Dooley

I understand you have voted and it is unlikely you will un-ring that bell. However, I have prepared the following comments.

For the last 25 years, I have been a minister of the gospel. After reading attorney Simon's 45 page opinion, I have the following comments:

#1, on page 2; "the legal opinion against the memorial is a more likely than not, meaning greater than 51%." I say this respectfully, but this Commission is not a court of competent jurisdiction. This Commission can vote not to spend a single dollar defending the memorial. That is within your purview. Your mandate is to represent your constituents. I hold attorney Simon in the highest regard, but he makes no mention of his experience in litigating religious freedom issues. On the other hand, the 2400 attorney strong Alliance Defending Freedom specializes in the matters which are before you today.

#2, on pages 6 & 7; "the 10 Commandments display at the Texas capital was not deemed a violation of the establishment clause." No, this is not the 10 Commandments we are talking about in this memorial, it's two arched lines that overlap at the tails end. You are right, there

is symbology there. However, that to me, is much less, it's more of a symbol. It's not the same as the 10 Commandments. I am not going to take my time in reading all 10 of them.

#3, on page 10; "the fish symbol in the City of Republic seal was deemed a violation due to its prominence." The fish symbol with the Desert Storm memorial has essentially gone unnoticed for 22 years and then we read the property argument, which you eluded to in your comments. The state may not grant property or expend public funds in maintaining said property. This is a Gulf War memorial, it's not a fish memorial. For 22 years, myself included, if you knew the fish ever resided on county property.

#4, on page 22; "governments must commit themselves to a position of neutrality whenever the relationship between a man and religion is affected." These are attorney Simon's own words. The two Boone Countians who died in the Gulf War claimed faith in Christ. No reasonable person would suggest all Gulf Warriors were Christians. These two that died happened to be Christians and their family members find comfort in the knowledge that Jesus will one day re-unite them with their beloved sons. If a court of competent jurisdiction determines and deems fit that the memorial be altered and removed, then so be it. But, until then, I think it appropriate to grant these families the measure of comfort.

The key question; Is retaining the War Memorial in its current form a religious preference given or is removing it religious discrimination against the Boone Countians who died? If you are not certain, shouldn't preference be given to the memory of the deceased until determined otherwise by a court.

I also serve as a chaplain with the Missouri State Highway Patrol. I'm sometimes called upon to visit the parents with the worst possible news when their children have died. I cannot place myself in your shoes, but I cannot also image myself taking upon me the responsibility of moving that symbol that has given their families comfort and peace.

To conclude, I have in my possession, my government issued dog tags. There are five critical pieces of information on them. My name, my social security number, branch of service, blood type and my religion. If something terrible and violent happened to my body, then my remains could be identified as someone belonging to the Christian faith. The families of Patrick Connor and Steven Farnen felt it appropriate that there be some symbol of faith on that memorial.

Reed Hickam

If I understand correctly, you are going to remove the memorial and move it to a cemetery and replace it with another memorial to be paid with tax dollars and it will be the same type and size without the ichthus. As long as you honor those two soldiers that gave their lives for this county, I'm okay with that. We are honoring these guys, that's what it is about. It is about this family, they lost a son. He gave his life for this country. I know what they are going through. I am a step grandfather to two Gold Star kids who lost their dad in Afghanistan, also by a sniper. I know the pain they feel. I lost a son at the age of 12. You disrespected these two soldiers. It will never be forgotten. Come election time, I'll guarantee that.

Hannah Smith

I am a niece of Steve and I never got to meet him. So I will never get to know how many cousins I would have. I will never have an uncle-niece relationship. The only thing I have left of him is the picture and memorial. So, please don't take that away from me and my family.

Mark Schieftelker

I am a leader for MU SASHA, skeptics, atheists, secular humanists and agnostics. This

memorial should have been stopped in the planning phase. Apparently, it occurred to no one to consult a lawyer in any of this process, otherwise, we would not be having this discussion 22 years later and too late. The temptation has been to say let the courts decide this. We have nothing to lose. I disagree. We should not allow Boone County to be the staging grounds for a slugfest for two outside interest groups. That would, more likely than not, re-affirm the decision made here today. Let's do a service to all of our veterans by honoring them in a way that is consistent with the principles of our Constitution. The right decision was made here today.

Betsy Phillips

I was thinking on the way here, what a sad occasion for being here. I still don't think this is over. One thing I want to preface, I can't speak for anybody else, but I can say that freedom of religion is guaranteed and it doesn't say what it is. I am a Christian, however, other people or groups can legally put their things here. The emphasis has been on Christianity because this is a Christian situation.

With the Constitution and the Bill of Rights, we are really guaranteed the freedom of religion. I taught English a number of years in China. We basically taught about the culture, taught them hokey-pokey. These were Chinese English teachers. When I first started in 1995, in a city of nine million people with only two internet sources, these teachers had never heard of the internet. I knew there would be a lot of changes, a lot of good things about western culture and some things not so good. Hopefully they would take the right things. The last four summers I spent in China, we did a lot of skits about courtship and marriage. Their culture is totally different. We did it about all sorts of things and in our book we had things that covered government, we had Canadians and we talked about the Canadian government. So people would know.

We would have mock elections, not on issues, but pretend we had a candidate. We would

also pretend to have photographers and reporters. They had nothing like that. These were teachers. The idea was for them to take it back to the classrooms. They very well could have 150-200 students, many of them would become teachers. After Chairman Mao died his successors said there were two things China needed to do. First was to privatize and second was to learn English and that's why you see a modern China now. So, we were there to teach the teachers so they would have an idea. It was a lot of fun, sometimes a lot of work. The last four summers, and this is the point I'm getting to, I kept having thoughts about the Declaration of Independence and our unalienable rights which are life, liberty and the pursuit of happiness. I would go to China and that would go through my mind. I had no idea why. There are inalienable rights, not given by man, but by the creator. That's the difference.

I know there are arguments for and against and if this happened 30-40 years ago, I don't think it would have happened. Our country has changed a lot. Our ways of interpretation of a lot of things have changed. Some of it is culture, some of it is not. My only belief and I know what you are planning to do and I understand that, I really believe there will be intervention of some sort. I keep thinking life, liberty and the pursuit of happiness and that is why government is ordained. I just want to leave you with that.

Gladys Farnen

I would like to address Commission Dan Atwill. You stated that the Courthouse Grounds was not a cemetery. True, it is not a cemetery. So, why would you move a monument to a cemetery without a body. Thank you.

Hugh Farnen

Mr. Farnen: You have the opinion of Mr. Simon. Did you ever consider getting another opinion?

Commissioner Atwill: We did not consider getting another opinion.

Mr. Farnen: Do you think there is the possibility someone would have a little different idea.

Commissioner Atwill: We are aware of that possibility.

Mr. Farnen: Why not get a different one.

Commissioner Atwill: I explained my reasoning for personally believing in the opinion of Mr. Simon in my comments. I still feel that way.

Mr. Farnen: Did you receive the letter from the Connors about the memorial.

Commissioner Atwill: Yes

Mr. Farnen: You did not even consider leaving the memorial there even though we agreed to leave it covered. You will spend the county's money moving it and getting another memorial. Pete Scavone raised the money and they accepted it as it was and then it became county property. Now you are going to spend the county money for another memorial. We already have one and we agreed to leave it as it sits there now. It isn't that I want to do that. I hate that idea. We are willing to compromise. You don't look like you want to do anything but what you want.

Commissioner Atwill: It's an opportunity to recognize other conflicts as well.

Mr. Farnen: When it was put there, there were no other conflicts. I think you were determined to get rid of it regardless. I don't trust you. I will look you straight in the eye and tell you I don't trust you. Did you ever consider the letter received from the Connors.

Commissioner Atwill: It's part of the record.

Mr. Farnen: Yes, but did you consider it.

Commissioner Atwill: Everyone read it.

Mr. Farnen: Did you consider it.

Commissioner Atwill: You will have to ask everyone else. I considered it.

Mr. Farnen: Ms. Miller

Commissioner Miller: I read everything and I still believe in the comments that I made that this is the right solution.

Mr. Farnen: Ms. Thompson

Commissioner Thompson: Yes, I read it and considered it and quite honestly, to respect your initial desires to have your son linked to the ichthus and to have the Connors son also. The expression of your faith and those young men's faith, it seems to me, to be the more appropriate way to honor their service and honor your beliefs and your son's beliefs to move the current memorial to the Columbia Cemetery and have the ichthus exposed and have a memorial here on the Courthouse Plaza that honors their service and honors other young people's service and does not have that religious symbol and that seems to me to be the best way to maintain our Constitutional obligation and honor your son's service.

Mr. Farnen: Where in the cemetery will it be.

Commissioner Atwill: When you go through the gates, it will be the first or second thing

you see on the left.

Mr. Farnen: We have never had any contact with the court what so ever and I think we are entitled to a little respect. How soon will it be moved.

Commissioner Atwill: It will depend on the availability of the replacement and the ability to move the monument.

Mr. Farnen: Will we be told the when and where.

Commissioner Atwill: I think so.

Commissioner Miller: I also think so and we can give you a map of the cemetery where it will be moved to and our goal is when it is moved to have the other one in its place so there will always be recognition on the Courthouse Plaza.

Mr. Farnen: That will be a change. Who is going to pay for this, the County.

Commissioner Miller: Yes.

Mr. Farnen: What about the upkeep.

Commissioner Miller: That will be the cemetery.

Mr. Farnen: Anyone from the cemetery here.

Commissioner Miller: No, but we have an agreement with them that they will take care of it.

Mr. Farnen: What about the design of the new monument.

Commissioner Atwill: It is in process. We are involved.

Mr. Farnen: By who.

Commissioner Atwill: Right now we are involved and we will solicit the assistance in those with the expertise in doing that.

Mr. Farnen: One last thing. When I went to school, we were taught that majority rules with rights and with respect to the rights of the minority. Somehow, that got switched around and it's now a minority rules with no respect for anybody but themselves.

Elwood Jeffrey

I am an army veteran from World War II. I have read attorney Simon's ruling and must say he did an excellent job, but he overlooked the emotional impact this has on the families and I think on the community. If the Farnen and Connor families are satisfied to remove the fish symbol, that would be a reasonable solution, but in my opinion, the idea of moving the monument to the cemetery is unacceptable. The idea of replacing it with another monument would be meaningless because we would always remember that the real monument had been moved to the cemetery. If the Farnen and Connor families think that is dishonoring their sons, I agree with them. It's dishonoring those heroes who gave their lives for this country.

Hugh Odneal

I don't agree with you. So many points have been missed. Commissioner Thompson talked about making another memorial honoring everybody. These two boys are everybody. They are every Boone County resident who was killed in the Gulf War. If you want to make

another memorial to people who served in Iraq between 2001 and 2008 and those killed in Afghanistan, that's fine. They are the only two possibilities and they happen to both be Christian. If they had been atheists or Muslims, they would have had the same rights to have their religious symbol put on there as well. You are missing the whole thing. What you have done, if you move or even continue to keep it covered, you have prohibited these two families and friends from exercising their religious freedoms.

You cannot use one part of the Constitution to counter another. The Constitution can't be contradicted. When they abolished alcohol and decided to bring it back, they just didn't say go ahead and serve it, they amended the Constitution to reflect that they wanted to change their minds. That's the way we are supposed to rule, supposed to live. This country was founded by people who would fight tyranny despite the cost to them, even costing their life, not asking for the approval of the tyrant, despite the cost and to escape cost, they were willing to risk everything for the opportunity to live free and the chance to win the war.

There are only two sides to this. First, it started with Americans United for the Separation of Church and State sending a letter. We have no idea what the response to that was because there is no public record of that. We are still in the dark why specifically you decided to take the action you did. One thing that was in that first comment is that we have already allotted \$250,000 to defend the civil rights of some employee. How many dollars have you spent on our religious freedom, to defend it. That's what your job is, not to take an opinion against an opinion. It is to defend our Constitutional right. You have not given one point or one reference to case law. Dan Simon said there isn't any. How can you choose the Dan Simon and AU opinion over the ADF opinion. What you have done is illegal. Not only that, they put their money where their mouth is. They said that if you will do what's right, if you will uncover the symbol and leave the monument where it is at, they will, free of charge, defend you in court. The court is where this should be decided. All we have now is two opposing views. I don't know how many people have the same opinion as me, but we need to call for a vote by the people. Do they want to have their religious freedom or any freedom defended in

court or you three and AU to make that decision.

Roger Fries

I would like to point out that it doesn't seem that time is of the essence to get this existing memorial moved. It does not have to be moved this week, this month or this year. In less than 15 months, there will be an election and I am very confident that everyone in this room is going to work their hardest to see that there is a new Commission sitting in those chairs. I wish you would put off any physical movement until the new Commission is here and let them deal with the problem. The fish is covered, there will be no problem with it, just consider the vote of the people and let's see who gets elected in November of 2016.

Beverly Fries

Ms. Fries: Mr. Atwill said the design on the new replacement memorial is underway. I would like to know, since these are community funds, who that was bid out to and when the design actually got started and became underway.

Commissioner Atwill: The design has been underway internally for a couple of weeks. It has been discussed internally by Commission, staff people and County Counsel.

Ms. Fries: Part of the problem is how this whole operation has been so under wraps. No one knows what is going on until actually a decision has been made.

Lynn Acton

There is just a real sadness, I can feel it in the air because I can't believe what you have done to these two families. That memorial has been there for 22 years and is just a symbol. Most people weren't aware it was there. To take that memorial which means so much to these two

families who lost two sons and move it to a different location is like you are having them suffer their pain all over again.

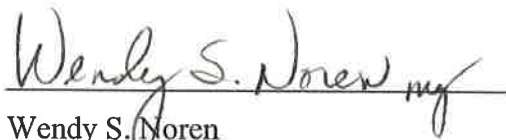
This is a sad day for religious freedom and in the Constitution it is freedom of religion, not freedom from religion. It is a victory for being politically correct and I'm afraid that in Boone County you have chosen to do what is politically correct like all over the United States. It is a very sad day in Boone County.

22. Commissioner Reports

None

The meeting adjourned at 10:51 a.m.

Attest:



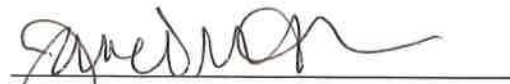
Wendy S. Noren
Clerk of the County Commission



Daniel K. Atwill
Presiding Commissioner



Karen M. Miller
District I Commissioner



Janet M. Thompson
District II Commissioner