

TERM OF COMMISSION: March Session of the January Adjourned Term

PLACE OF MEETING: Roger B. Wilson Boone County Government Center
Boone County Commission Chambers

PRESENT WERE: Presiding Commissioner Kip Kendrick
District I Commissioner Justin Aldred
District II Commissioner Janet Thompson
First Assistant Prosecuting Attorney Nick Komoroski
Director of Human Resources Angela Wehmeyer
Senior Buyer Liz Palazzolo
Director of Purchasing Melinda Bobbitt
Deputy County Clerk III Jodi Vanskike

Conference Call Information:

Number: 425-585-6224 Access Code: 802-162-168

The meeting was called to order at 1:30PM and roll call was taken.

Human Resources

1. First and Second Reading: Request to Hire Above FHR for Position 669, Assistant Prosecuting Attorney II

Director of Human Resources Angela Wehmeyer stated this candidate has thirty years of experience in law and he is a great hire. First Assistant Prosecuting Attorney Nick Komoroski stated this candidate was the elected Prosecuting Attorney in Scott County for many years, and this would allow the candidate to start on the Monday after the current employee leaves. Prosecutor Komoroski stated there are no internal equity issues, and he feels this candidate could step into this role and immediately start doing cases.

Commissioner Aldred moved now on this day, the County Commission of the County of Boone does hereby approve a request to hire above the Flexible Hiring Range for Position Number 669, Prosecuting Attorney II, and does hereby authorize an appropriation of \$87,006.40 for the salary of said position.

Commissioner Thompson seconded the motion.
The motion carried 3 to 0. **Order #161-2024**

Purchasing

2. First Reading: Purchasing Cooperative of America Interlocal Agreement

Senior Buyer Liz Palazzolo read the following memo:

Purchasing requests approval of the attached Purchasing Cooperative of America (PCA) Interlocal Agreement. This agreement would allow the County to use contracts that PCA has established that allow for cooperative procurement. The Purchasing Cooperative of America requires the County to sign the Interlocal Agreement first to use PCA's Cooperative Contracts. Once this Interlocal Agreement has been signed and approved by PCA, the County will be allowed to piggy-back off the PCA contracts. There is a PCA Contract held by Q4 Industries that allows for the purchase of janitorial equipment that has been identified as necessary by the Facilities Management Department.

There is no expenditure of funds or cost associated with the PCA Interlocal Agreement.

Commissioner Kendrick 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.

3. First Reading: Purchase Agreement: C000764 – Law Enforcement Retirement Plan

Director of Purchasing Melinda Bobbitt read the following memo:

Attached for signature is Contract# C000764 - Law Enforcement Retirement Plan for certain employees of the Boone County Sheriff's Office (Sheriff's Deputies). The Contract is with CCM New Opportunities, LLC (CCMNO), a wholly owned subsidiary of Columbia Capital Management, LLC, who is currently engaged as the County's municipal advisor.

Nationwide is not able to provide the Law Enforcement Retirement Plan directly to the County without a broker-dealer or investment adviser involved. CCMNO will act as the investment adviser with facilitating the County's selection of Nationwide to provide a supplemental 401(a) retirement plan for certain employees of the Boone County Sheriff's Office at no charge to the County.

Commissioner Kendrick 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. First Reading: Award of Contract C000758 from Cooperative Contract 22050101 for Disaster Restoration and Emergency Recovery Services & Supplies with ProPac, USA for the Boone County Emergency Management Department

Senior Buyer Liz Palazzolo read the following memo:

Purchasing requests approval of Contract C000758 using TIPS Co-Operative Contract 22050101 for Disaster Restoration and Emergency Recovery Services & Supplies with ProPac, Inc. of Charleston, South Carolina for the Boone County Facilities Maintenance Department.

The Emergency Management Department wishes to make ongoing purchases for disaster restoration and emergency recovery services and supplies from the Contract. The initial order is for a variety of trauma supplies, for a total discounted price of \$6,634.46. An additional National CERT Association discount has also been added.

Contract pricing provides a minimum 5% discount off current MSRP for supplies.

The Contract period will run from March 31, 2024, through March 30, 2027. There is one (1) one-year renewal option available beyond this initial Contract period.

This is considered a Term and Supply contract. Payments will reference Department 2702 – Emergency Management Operations, Account 23350 – Special Program Supplies.

Commissioner Kendrick 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.

5. First Reading: Award of County Contract C000765 from Cooperative Contract 60524CO0635 with Knapheide Truck Equipment Company for a utility bed-body for a Ford F350 cab-chassis for Boone County Joint Communications

Senior Buyer Liz Palazzolo read the following memo:

Purchasing requests approval for the award of Contract C000765 from Co-Operative Contract 60524CO0365 established by the State of Missouri as a Cooperative Contract for the purchase of utility beds and bodies. In this case, the County requested quotes from all companies on the Qualified Vendors List (QVL). The quote tabulation is attached. The quote from Knapheide Truck Equipment Company is the “lowest and best” quote. The Contract will be for provision and installation of a Knapheide A6132D54F40 bed/body on a Ford F350 cab/chassis that was previously purchased and awarded August 31, 2023, via Commission Order 380-2023.

The Contract period will run April 01, 2024, through February 28, 2025. There are four (4) one-year renewal options available for renewal of the Contract beyond the initial period. Any subsequent orders with Knapheide from the QVL will have to be bid by the Purchasing Department and added to the contract via formal Contract Amendment if Knapheide is “lowest and best” as a result of the specific quote request process.

Payment for the bed/body will reference Department 2704 – Boone County Joint Communications Radio Operations, Account 91400 – Auto Trucks: \$32,745.00. A budget revision has been conducted by the Auditor’s Office for this purchase.

Commissioner Kendrick 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. **Second Reading: Award of Contract C000762 from Cooperative Contract CC240138008 for New Vehicles, Qualified Vendors List (QVL) for new 2024 Ford F150 XLT Super Crew 4X4 Truck from Joe Machens Ford Lincoln of Columbia, Missouri for the Boone County Sheriff’s Office – First Read 03.26.24**

Commissioner Thompson moved now on this day, the County Commission of the County of Boone does hereby approve the Award of County Contract C000762 awarded from Cooperative Contract CC240138008 for New Vehicles – Qualified Vendors List (QVL) from Joe Machens Ford Lincoln of Columbia, Missouri for a new 2024 Ford F150 XLT Super Crew 4X4 truck for the Boone County Sheriff’s Office.

The Contract is set out in the attached and the Presiding Commissioner is authorized to sign the same.

Commissioner Aldred seconded the motion.
The motion carried 3 to 0. **Order #162-2024**

7. **Second Reading: Contract: C000763 (020923-SKJ) - Skyjack 3226 Electric Scissor Lift – First Read 03.26.24**

Commissioner Aldred moved now on this day, the County Commission of the County of Boone does hereby approve Contract C000763 (020923-SKJ) with Rental Supply District 1, LLC for the purchase of one (1) Skyjack 3226 Electric Scissor Lift.

The terms of the Agreement are set out in the attached Contract and the Presiding Commissioner is authorized to sign the same.

Commissioner Thompson seconded the motion.
The motion carried 3 to 0. **Order #163-2024**

Resource Management

8. Second Reading: Contract for Signature for the Ben Williams Road Bridge No. 35000021 BRO-R010(20) over Tributary to Gans Creek – First Read 03.26.24

Commissioner Thompson moved now on this day, the County Commission of the County of Boone does hereby approve the construction contract for the Ben Williams Road Bridge No. 35000021 BRO-R010(20) over Tributary to Gans Creek which opened on February 1, 2024 with three bids received, authorize the Presiding Commissioner to sign the Contract Agreement, and authorize the Chief Engineer to sign the Notice to Proceed at the Preconstruction Meeting.

Commissioner Aldred seconded the motion.
The motion carried 3 to 0. **Order #164-2024**

Commission

9. Public Comment

None

10. Commissioner Reports

Commissioner Aldred stated Election Day is Tuesday April 2nd.

Commissioner Thompson stated that today is Presiding Commissioner Kendrick’s birthday, and stated she is so pleased he’s here. Commissioner Thompson has provided Judge Wolff’s opinion article about his decision in the Brian Dorsey case, which is attached to the end of the minutes. Commissioner Thompson stated she thinks it’s significant Judge Wolff, who was the Chief Judge on the Missouri Supreme Court and served as a member of the Court for quite some time, has concluded that his opinion in that case was incorrect and that Governor Parson should grant clemency and allow Mr. Dorsey to serve life without parole, instead of being executed on April 9, 2024.

Commissioner Aldred added there is a birthday in the Clerk's office this week also, Deputy County Clerk Jodi Vanskike's.

Attest:



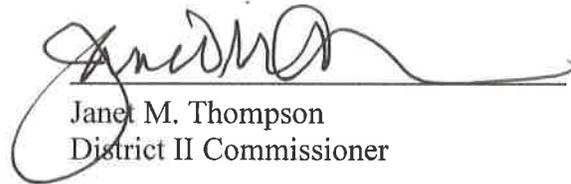
Brianna L. Lennon
Clerk of the County Commission



Kip Kendrick
Presiding Commissioner



Justin Aldred
District I Commissioner



Janet M. Thompson
District II Commissioner

Brian Dorsey, a Missouri death row prisoner scheduled for execution on April 9, 2024, has garnered widespread support for clemency from more than 70 corrections officials, a former Missouri Supreme Court Judge, multiple jurors, Democratic and Republican state legislators, faith leaders, and his family members – several of whom are related to the victims, Sarah and Ben Bonnie – all of whom have called on Governor Mike Parson to commute his sentence to life in prison without the possibility of parole. Noteworthy among these supporters is a group of 72 current and former Missouri correctional officers, who submitted and signed a letter asking Gov. Parson to grant Mr. Dorsey clemency and commute his death sentence. “Generally, we believe in the use of capital punishment,” these officers wrote. “But we are in agreement that the death penalty is not the appropriate punishment for Brian Dorsey.” All these officers know Mr. Dorsey personally from their time spent working at Potosi Correctional Center, where Mr. Dorsey has lived in an “honor dorm” and worked for over a decade as the staff barber, “a position of exceptional trust and respect.” The officers added that “[e]very one of us believe that Brian is a good guy, someone who has stayed out of trouble, never gotten himself into any situations, and been respectful of us and of his fellow inmates.” Multiple corrections officers submitted individual letters of support, with one writing that “Mr. Dorsey has accepted what he did and taken accountability for his crime. It is my impression that he has spent his time since then trying to do his best by being a role model to other inmates and providing a valuable service to staff.”

During his 17 years in prison, Mr. Dorsey has committed to improving himself and has remained infraction-free throughout his incarceration. In an individual letter to Gov. Parson, one corrections official says “when you spend time around Brian like I have, you can just tell that he has changed. Some inmates never change, no matter how many years they are in. But that’s not Brian... The Brian I have known for years could not hurt anyone. The Brian I know does not deserve to be executed.” Former Missouri Supreme Court Judge Michael Wolff also wrote to Gov. Parson urging him to grant clemency to Mr. Dorsey. Judge Wolff explained to Gov. Parson that the Court erred in upholding Mr. Dorsey’s death sentence, with his case being one of the “rare cases where those of us who sit in judgment of a man convicted of capital murder got it wrong.” Five of the jurors who sentenced Mr. Dorsey to death have also urged Gov. Parson to grant clemency, with one juror pleading that “by the grace of God, I hope you will find your way to give him a life sentence instead of death.” Both Republican and Democratic state legislators have also asked Gov. Parson to commute Mr. Dorsey’s sentence.

On April 1, 2024, attorneys for Mr. Dorsey filed a petition for certiorari with the United States Supreme Court, asking them to determine whether the flat fee paid to his

appointed public defenders created an actual conflict of interest that violates his Sixth Amendment right to effective assistance of counsel. Mr. Dorsey's trial attorneys were each paid \$12,000 to defend him — regardless of the amount of work they did.

According to a 2010 report commissioned by federal courts, the average time spent by defense attorneys in capital cases is 3,557 hours, which means that each of Mr. Dorsey's attorneys would have been paid \$3.37 per hour spent on his case, if they spent the average time preparing a defense. Flat fee payments were a common practice across the United States, but the Missouri Public Defender System no longer uses them in death penalty cases because of the inherent conflict of interest that results. In 2003, the [American Bar Association](#) explicitly warned against the use of flat fees in death penalty cases, stating that "counsel in death penalty cases should be fully compensated at a rate that is commensurate with the provision of high-quality legal representation and reflects the extraordinary responsibilities inherent in death penalty representation." The use of flat fees ultimately "discourages lawyers from doing more work than what is minimally necessary."

Prior to his arrest in 2006, Mr. Dorsey did not have a history of violence but had suffered from depression for many years and had sought both inpatient and outpatient treatment. In efforts to alleviate the symptoms of his depression, Mr. Dorsey began drinking heavily and using crack cocaine. At the time of the crime, Mr. Dorsey was experiencing drug-induced psychosis, but Mr. Dorsey's trial attorneys failed to investigate or present any mental health history. Had they hired an expert to evaluate Mr. Dorsey, they could have explained to the jury that he was incapable of forming the necessary intent to commit first-degree murder. Instead, his attorneys told him to plead guilty without any deal with the prosecution to remove the death penalty. The jury that sentenced Mr. Dorsey to death did not hear evidence of his substance abuse disorder and previous mental health history.

In his letter to Gov. Parson, Judge Wolff also references Missouri's former flat fee system, saying it "undoubtedly influenced everything" in Mr. Dorsey's trial. Sean O'Brien, a University of Missouri-Kansas City law professor told *The Marshall Project* that for lawyers paid in flat fees, "it can be a boost to your cash flow at the beginning, but it's a drain on your cash flow if you actually do the work." Mary Fox, the director of the Missouri State Public Defender System also wrote a letter to Gov. Parson telling him that her office stopped using flat fees after Mr. Dorsey's trial and recognizes that such fees "remove the incentive to do an effective job."

Megan Crane, an attorney for Mr. Dorsey told *The Marshall Project* that her client "says he wants to find a way to make people's lives better to atone for what he's done." Mr.

Dorsey has been placed in solitary confinement since the state announced his execution date and has been unable to continue his work as a barber. As Mr. Dorsey's execution date approaches, Ms. Crane said that he "has tried to manage his expectations" about the possibility of clemency or court intervention. Mr. Dorsey "has taken full accountability since Day 1," Ms. Crane said. "And the horror of the fact that he could have done this — I think that is still his focus in this final week."

Sitting in judgment of a man sentenced to death is an awesome responsibility, one I undertook with great care during my 13 years on the Missouri Supreme Court. In the case of Brian Dorsey, I now believe this is the rare case where we got it wrong. I am so convinced of our error that I have asked Governor Parson to grant clemency to Mr. Dorsey. If Mr. Dorsey is executed on April 9, it will dishonor our system of justice.

There is no dispute that Mr. Dorsey killed the two victims in his case. But when my colleagues and I upheld his conviction and death sentence in 2009, we were unaware of how compromised his defense lawyers were. The most glaring problem, one that undoubtedly influenced everything, was that Mr. Dorsey's lawyers were paid a flat fee by the state public defender system.

The courts rarely have any evidence of fee arrangements, and did not on direct appeal in this case. Flat fees are no longer used because the Missouri Public Defender system recognizes they create an inherent financial conflict of interest that compromises an attorney's ability to provide adequate representation. Such arrangements are improper in capital cases, according to the American Bar Association, and are contrary to the Missouri Rules of Professional Conduct for attorneys.

The conflict is now readily apparent in Mr. Dorsey's case. His lawyers did little to no investigation, including none of the basic preparations to determine whether he truly was eligible for the death penalty, before pleading him guilty – waiving trial – with the death penalty still on the table. Had counsel investigated the case and used an expert to evaluate their client, they would have discovered he had a defense to capital murder. With that in hand, they could have negotiated a plea deal for a penalty less than death or taken his case to trial. In either case, the likely result would have been a life without parole sentence, not death.

I am convinced that the system got it wrong in Brian Dorsey's case because the available information plainly shows he is not “the worst of the worst.”

What we now know, and what Mr. Dorsey's lawyers could have presented to the jury and the courts, is that at the time of the crime, he was experiencing a drug-induced psychosis. Mr. Dorsey had no history of violence, and had suffered severe depression for most of his life. He repeatedly sought treatment, turning to self-medication with alcohol and crack cocaine when antidepressants failed to alleviate his symptoms. None of these tragic circumstances, which were crucial to judging Mr. Dorsey's actions fairly, were known to the courts.

The available evidence indicates that a jury may have found that Mr. Dorsey was not capable of forming the mental state required to commit first-degree murder. His lawyers, however, conceded his guilt without doing the work that would have revealed he had a viable defense. The evidence of Mr. Dorsey's impaired mental state should have taken the death penalty off the table or, at the very least, led the jury to return a life sentence. In fact, several of Mr. Dorsey's penalty phase jurors now say this evidence would have altered their verdict.

The legal system now recognizes that flat fee arrangements skew the outcomes in death penalty cases with dire results. But the flat fee and its impact on counsel's representation was not evident when I sat in judgment of Mr. Dorsey in 2009. Mr. Dorsey has sought to raise this issue in post-conviction proceedings, but the court has rejected it on procedural grounds, most recently on March 20. No doubt the shoddy representation he received was a direct result of the conflict induced by the fee arrangement, and the outcome of the case flowed from counsel's errors.

Unlike the jury and the courts, the governor has all of this information for him to consider. And when an injustice is plainly apparent, a procedural bar that cements that unfairness is a powerful reason why clemency exists and is warranted here.

Governor Parson knows something else the courts did not: Mr. Dorsey has an exceptional record of good conduct while incarcerated, earning so much trust and respect from correctional staff that he has served for many years as the prison barber. By all accounts, he is deeply remorseful for his crime and has not committed a single disciplinary infraction in 17 years in prison.

Given everything we now know to be true, I am convinced that Brian Dorsey's death sentence is the result of a rare failing by the legal system itself. Executing him would be a miscarriage of justice. I hope Governor Parson will commute Mr. Dorsey's death sentence