

Secular or religious?

Memorial cross resurrects church-state debate

By **Cody Hooks**, chooks@taosnews.com

The Taos News, 3/23/2017

The towering bronze cross on Taos Plaza that was erected 57 years ago as a memorial to Bataan Death March veterans has ignited a fierce defense after members of a Wisconsin-based group asked the town of Taos to remove it because of what they perceive to be an unconstitutional establishment of religion.

The Freedom From Religion Foundation objects to the cross, saying that no matter the intent, its presence on public land means it is a blatant endorsement of Christianity.

But local elected officials are standing behind veterans, vowing to fight tooth and nail to keep the cross on the Plaza, bringing to light questions of whether or not a war memorial in the form of a cross can ever have a secular meaning and what the symbol means to veterans, Taosenos and the local culture.



Mayor Dan Barrone stands in front of the decades-old memorial for veterans on Taos Plaza March 20. The Wisconsin-based Freedom From Religion Foundation has challenged the Town of Taos for having religious symbols on the Plaza. Barrone has promised to keep the memorial on the Plaza as long as he is in office.

Katharine Egli

Memorial

The cross on the Plaza was erected in October 1960 and dedicated in a ceremony with much fanfare. The cross replaced a bandstand that was donated to the town by Mabel Dodge Luhan.

According to *Taos News* columnist Spud Johnson at the time, an organization called the “War Mothers” funded the cross through private donations, “got an unpublicized green-light from the [town] council to raze the bandstand, abolished it efficiently in an hour flat one day late in the summer — and immediately erected the cross which now stands in the center of the Plaza.”

The cross memorialized the soldiers of Battery H of the 200th Coast Artillery of the New Mexico National Guard, who were deployed to the Philippines and were among the first Americans to engage in combat with Japanese forces in World War II.

Following a three-month-long battle, some men in the Taos battery, other American fighters and Filipino soldiers were taken as prisoners of war in what became known as the Bataan Death March, an event that was not publicized in the United States until nearly two years after it happened.

The religious symbolism of the cross was not lost at the time of its installation. *The Taos News* ran a front-page story the week after the ceremony declaring, “A simple cross, the symbol of a man who sacrificed his life to save all humanity, was dedicated ... as a memorial to Taos County men who died and suffered that their neighbors might live in freedom.”

But the Plaza cross was not without controversy at the time. For one, it was a big physical change for the Plaza. The son of Luhan also objected to the bandstand demolition, saying his mother wasn’t given the courtesy of a notice of the structure’s demise.

Some folks just thought the cross was gaudy.

“To many a Taoseno, the appearance of the memorial leaves much to be desired. Their objection is purely esthetic. The cross ... looks as though it were made of plastic or faced with a coating of kitchen linoleum,” Johnson said. Still, it remained. The memorial was rededicated to honor all veterans in a 1995 Veterans Day ceremony — which ended in a prayer.

‘Patently religious’

The nonprofit Freedom From Religion Foundation first sent a letter to Taos Town Manager Rick Bellis in March 2016 after fielding a complaint from a Taoseno who raised concerns about the church-state violation inherent in the cross, according to Madeline Ziegler, a legal fellow with the group.

The letter states that the purpose of the group, which has 23,500 members across the country and nearly 250 in New Mexico, “is to protect the constitutional principle of separation between state and church.”

The nonprofit foundation, based in Madison, Wisconsin, fights church-state violations in a similar way to how the American Civil Liberties Union picks its battles — that is, putting its legal expertise and financial backing behind locals without the resources to tackle the issue themselves.

“No secular purpose, no matter how sincere, will detract from the overall message that the Latin cross stands for Christianity and that the display promotes Christianity. The display of this patently religious symbol on public property confers government endorsement of

Christianity, a blatant violation of the Establishment Clause [of the U.S. Constitution],” states the foundation’s letter to the town.

One of the 14 federal court cases cited in the letter came from the 10th U.S. Circuit Court of Appeals – of which New Mexico is a part and where U.S. Supreme Court nominee Neil Gorsuch is seated. In *American Atheists, Inc. v. Davenport*, a 2010 case, the court said even though a cross is a memorial, that does not nullify its “religious sectarian content because a memorial cross is not a generic symbol of death; it is a Christian symbol of death.”

The foundation’s letter asks the town to move the cross to a private location or remove it altogether.

The war memorial could be relocated to restore a more historic look to the Plaza, according to a 2016 planning document adopted by the town. However, that’s contingent on such a move being “desired by the community.”

Three follow-up letters were sent to the town, the last of which prompted veterans and their supporters to turn out for a town council meeting March 14, where at least 10 people spoke in favor of the memorial and defended it as a bastion of Taos culture and history.

“When I heard about this issue, I didn’t know if I was more ashamed or pissed off. If we let outsiders dictate to us what this community should be or should not be, Taos begins to lose what Taos is,” said David Rael. “People without a knowledge of their history are like a tree without roots,” said Arsenio Cordova.

Indeed, the historical argument has weight in other legal fights. In a 2005 Supreme Court case, *Van Orden v. Perry*, a Ten Commandments statue at the Texas Capitol was permitted to stay because it had been in that location for 40 years and thus had historical significance.

“You are not only desecrating the memorial if you let this happen, you are desecrating the people who served in the military,” Cordova said to the town council. “I hope you’ll fight it to the hilt.”

Digging in

It seems public officials are ready to pick this fight if it can’t be resolved through dialogue.

“This is a symbol for our Taos County veterans who fought to make sure we have the freedoms we have today,” Taos Mayor Dan Barrone told

The Taos News . “I’ll back up the vets 100 percent,” Barrone said.

He expressed the same sentiment at last year’s Veterans Day ceremony at the Plaza.

Barrone, a Mormon, said he doesn’t see the cross as a Christian symbol when he looks at it. Given its history and context, “It’s just a war memorial.”

Even without moving the cross, changes are coming to the Plaza. The large diseased tree just west of the memorial will be removed in the coming weeks, certainly making the cross more prominent in scale.

Stephen C. Ross, an attorney with Santa Fe firm Basham and Basham who has contracted with the town since last fall, said he’s going to “engage [the foundation]” and try to explain “what they’re really dealing with.” But even he has publicly admitted that the foundation has been successful in many of its fights. He plans to send a written response.

The town could simply ignore the foundation, as was done in Belen, where the group raised concerns in 2015 over a Nativity display, but did not follow through with legal action.

For its part, the foundation prefers to handle these issues before they get to court because it saves both sides time and money, Ziegler said.

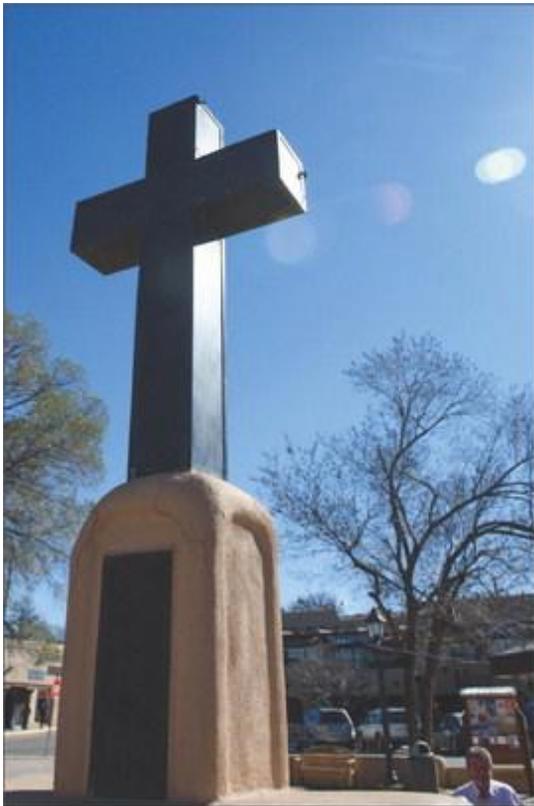
Furthermore, the foundation has two hurdles to overcome should it choose to escalate with a lawsuit — getting a New Mexico attorney to represent the case and finding one or more locals willing to be plaintiffs.

The latter challenge can be particularly difficult because folks who decide to come forward in these fights are often “harassed, threatened and bullied,” Ziegler said. When some Wiccans challenged a Ten Commandment monument in Bloomfield, New Mexico, they reported such resistance.

When the cross was first erected on the Plaza, that sort of hostility was augured by *Taos News* columnist Johnson, who wrote that any criticism “would surely be construed as belittling the idea of a memorial and of criticizing the gesture of honor the martyrs of Bataan.”

Johnson wrote, “The sad thing is that another hundred years will have to pass before anything can be done about it which will not ... be considered an insult to the men whom it honors.”

The separation of church and state is enshrined in Article I of the U.S. Constitution, which reads, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ...



**A detailed image of the memorial for veterans on Taos Plaza.
Katharine Egli**



**A detailed image of the memorial for veterans on Taos Plaza.
Katharine Egli**

Copyright (c)2017 The Taos News 3/23/2017