

Florida House of Representatives
Representative Mel Ponder
District 4

July 5, 2017

Wayne Bolla, Chairman
Clay County BCC
P.O. Box 1366
Green Cove Springs, FL 32043

RE: Commissioner-led invocations at BCC meetings

Dear Chairman Bolla and Commissioners:

We have learned that the Freedom From Religion Foundation has asked you to stop opening meetings with prayer. We encourage you to ignore this request, and use this as an opportunity to tell the citizens of Clay County about our country's religious heritage.

A government official asking people to pray with him is certainly not new. George Washington issued the first presidential call to prayer on October 3, 1789. He wrote, "It is the duty of all nations to acknowledge the providence of Almighty God, to obey his will, to be grateful for his benefits, and humbly to implore his protection and favor." Since then, there have been over 130 presidential calls to prayer, and in 1952 President Harry Truman signed a law making the National Day of Prayer an annual event.

The constitutionality of whether a government legislative body can open a session in prayer was first considered nearly 45 years ago. In *Marsh v. Chambers*, 463 U.S. 783 (1983), a state legislator challenged his legislature's practice of hiring a chaplain (always a Christian of the same denomination) who always opened the legislative sessions with a Judeo-Christian prayer. The legislator contended that this practice violated the First Amendment's Establishment Clause, a contention soundly rejected by the Supreme Court. Perhaps just as important as the ruling were Chief Justice Burger's following words on behalf of the Court:

The opening of sessions of legislative and other deliberative public bodies with prayer is deeply embedded in the history and tradition of this country. From colonial times through the founding of the Republic and ever since, the practice of legislative prayer has coexisted with the principles of disestablishment and religious freedom. In the very courtrooms in which the United States District Judge and later three Circuit Judges heard and decided this case, the proceedings opened with an announcement that concluded, "God save the

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United States and this Honorable Court.” The same invocation occurs at all sessions of this Court. 463 U.S. at 786.

After reviewing the colonial practice of opening legislative sessions with prayer, the Chief Justice reviewed the practice of the First Congress, and noted:

On Sept. 25, 1789, three days after Congress authorized the appointment of paid chaplains, final agreement was reached on the language of the Bill of Rights . . . Clearly the men who wrote the First Amendment Religion Clause did not view paid legislative chaplains and opening prayers as a violation of that Amendment, for the practice of opening sessions with prayer has continued without interruption ever since that early session of Congress. It has also been followed consistently in most of the states . . . 463 U.S. at 788-89.

These principles in *Marsh* were reaffirmed a couple years ago in *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014), where the Supreme Court once again held that opening government meetings in prayer is constitutionally permissible. In his opinion for the Court, Justice Kennedy highlighted our nation’s historic use of legislative prayer, further stating that “the First Congress provided for the appointment of chaplains only days after approving language for the First Amendment [which] demonstrates that the Framers considered legislative prayer a benign acknowledgment of religion’s role in society. . . . As a practice that has long endured, legislative prayer has become part of our heritage and tradition, part of our expressive idiom, similar to the Pledge of Allegiance, inaugural prayer, or the recitation of ‘God Save the United States and this honorable Court’ at the opening of this Court’s sessions.” *Id.* at 1819, 1825.

Justice Kennedy in *Town of Greece* rejected FFRF’s claim that prayers before meetings is divisive. Justice Kennedy wrote: “These ceremonial prayers strive for the idea that people of many faiths may be united in a community of tolerance and devotion. Even those who disagree as to religious doctrine may find common ground in the desire to show respect for the divine in all aspects of their lives and being. Our tradition assumes that adult citizens, firm in their own beliefs, can tolerate and perhaps appreciate a ceremonial prayer delivered by a person of a different faith.” *Id.* at 1823.

Chief Justice Burger in *Marsh v. Chambers*, 463 U.S. 792 provides a good conclusion:

In light of the unambiguous and unbroken history of more than 200 years, there can be no doubt that the practice of opening legislative sessions with prayer has become part of the fabric of our society. To invoke Divine guidance on a public body entrusted with making the laws is not, in these circumstances, an “establishment” of religion or a step toward establishment; it is simply a tolerable acknowledgment of beliefs widely held among the people of this country. As Justice Douglas observed, “[w]e are a religious people whose institutions presuppose a Supreme Being.” *Zorach v. Clauson*, 343 U.S. 306, 313 (1952).

We applaud you for continuing the time honored tradition of opening sessions with prayer. May God continue to bless you and the citizens of Clay County.

Honored to serve!

Mel Ponder, Chair
Legislative Prayer Caucus, Florida House of Representatives

A handwritten signature in blue ink that reads "Dennis Baxley". The signature is written in a cursive style with a large initial 'D'.

Dennis Baxley, Chair
Legislative Prayer Caucus, Florida Senate

A handwritten signature in blue ink that reads "Jennifer Sullivan". The signature is written in a cursive style with a large initial 'J'.

Jennifer Sullivan, Co-Chair
Legislative Prayer Caucus, Florida House of Representatives