



CONGRESSIONAL PRAYER CAUCUS FOUNDATION

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September 12, 2017

Kenyne Humphrey
Mayor
200 N. David Street
Casper, WY 82601

RE: City-council led invocations

Dear Mayor Humphrey and Councilmembers,

I have the honor of serving as the Executive Director of the Congressional Prayer Caucus Foundation. The Foundation serves nearly 100 members of Congress who are part of the Congressional Prayer Caucus (the names of those members of Congress who serve on the Congressional Prayer Advisory Team are listed on the left).

In addition, the Foundation serves Legislative Prayer Caucuses in 31 states, which have over 750 state senators and state representatives as members of these Legislative Prayer Caucuses. These leaders pray together, are working together to preserve the integrity of our Founding Principles and protect First Amendment rights for all.

It has come to our attention that the Casper City Council is considering opening city meetings with prayer. We want to encourage you to do so, and affirm that this action is within the Constitutional rights of all city council members. The practice of opening meetings in prayer is part of a longstanding tradition in America.

The first presidential call to prayer was issued by George Washington 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, including two recently called by President Donald J. Trump. Furthermore, 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 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 the claim that prayer 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).

Furthermore, in November 2011, Congress passed House Resolution 13 by a landslide 396/9 vote, reaffirming ‘In God We Trust’ as America’s National Motto and encouraging its public display in schools and government buildings. If Casper City Council hasn’t already done so, we would like to take this opportunity to encourage you to ensure our National Motto is prominently displayed on your building.

Jim Davids is Special Counsel for CPCF and Steve Fitschen is Senior Legal Advisor for CPCF in his capacity as President of the National Legal Foundation. Together, our legal team has decades of experience litigating in state and federal courts. They have won important related victories at the Supreme Court of the United States, various federal courts of appeals, and state supreme courts and courts of appeals. If you believe you need assistance, please do not hesitate to contact Steve at (757) 463-6133 or via email at nlf@nlf.net.

Please let us know if you need anything in the future.

For Faith and Freedom,



Lea Carawan

Executive Director

Congressional Prayer Caucus Foundation