

MINNESOTA PRAYER CAUCUS



May 9, 2018

The Hon. Donna Schmitt
Mayor, Columbia Heights
590 40th Ave. NE
Columbia Heights, MN 55421

*Supporting the Minnesota
Legislative Prayer Caucus*

Re: City-Sponsored Prayer Breakfast and Invocation Policy

Dear Mayor Schmitt:

We are some of the legislators in Minnesota who are part of the Minnesota Legislative Prayer Caucus. We formed this Caucus to preserve the integrity of our founding principles, and to protect First Amendment rights for all. We are writing this letter to state publicly that you are not alone; we support your call for prayer and the City's practice of starting meetings with prayer.

We learned recently that you received a letter from the Freedom From Religion Foundation ("FFRF") complaining of two things: (1) Your issuance of a proclamation designating May 1 as the date of the City's "Interfaith Prayer Breakfast," which was held in a hall owned and operated by the City's Recreation Department; and (2) the City Council's practice of beginning each meeting with prayer, typically delivered by invited local clergy who, to date, have been Protestant and, in their absence, by Councilman Bobby Williams. For the reasons stated below, we believe that both of these actions are constitutional.

FFRF's claim that the City's promotion and hosting of a day of prayer violates the Establishment Clause absolutely defies our nation's history and tradition. A government official asking people to pray with him or her 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, an event we celebrated earlier this month.

Our nation's President is not, of course, the only public person who asks people to pray or invokes the blessing of God after almost every speech. Are you aware that each session of the U.S. Supreme Court begins with the prayer that "God save the United States and this Honorable Court"? We start each session of the Minnesota Senate and the House of Representatives in the state capitol (a **public** building) with prayer and, just like Congress, the Minnesota Senate has an official chaplain. Starting public meetings in the legislature with prayer is a tradition in our country, and the constitutionality of a chaplain paid by the government was conclusively determined in *Marsh v. Chambers*, 463 U. S. 783 (1983). In *Marsh*, a Nebraska 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 (a

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charge, of course, leveled against you by FFRF). 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 in 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 September 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 risk that resuscitation of "God Save the United States and this Honorable Court" at the opening of this Court's sessions." *Id.* at 1819, 1825.

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Justice Kennedy in *Town of Greece* rejected a claim that prayer before meetings is divisive. Justice Kennedy wrote, “The 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 as ceremonial prayer delivered by a person of a different faith.” Id at 1823.

Chief Justice Burger in *Marsh v. Chambers*, 463 U. S. at 792, provides a good conclusion when he said,

In light of the unambiguous and unbroken history 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).

In closing, we hope that you will not yield to threats to rob you and your community of your rights and heritage. To protect our freedom, we must exercise that freedom.

May God bless you and the residents of your City.

Sincerely,

Senator Dan Hall
Co-Chair MN Prayer Caucus

Representative Abigail Whelan
Co-Chair MN Prayer Caucus