

Florida House of Representatives
Representative Mel Ponder
District 4

July 18, 2018

The Hon. Kent Guinn
Mayor, City of Ocala
110 S.E. Watula Avenue
Ocala, FL 3447

Chief Greg Graham
Ocala Police Department
402 South Pine Ave.
Ocala, FL. 34471

Re: Prayer Vigil In Ocala Park

Dear Mayor Guinn and Chief Graham:

We are some of the Florida legislators in Florida who are part of the Florida 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 the action both of you took to engage the faith community in Ocala and aid their effort to hold a prayer vigil to combat the violent crime that had appeared in Ocala.

We recently learned of the prayer vigil, subsequent lawsuit, and Judge Corrigan's decision. We generally understand that because of unsolved violent crimes in Ocala, various police officers met with two of the department's chaplains and a community activist to discuss how to approach churches and the general religious community for help in apprehending violent criminals. At this meeting, one of the chaplains, who was an unpaid police volunteer and member of the clergy, suggested a prayer vigil or similar event in Ocala's Downtown Square. After approval, the chaplain and community activist started planning for the vigil and drafted for the Chief's signature a letter inviting members of the public to attend the vigil. The department posted this invitation on the police department's website. At the vigil, both of you attended, but neither of you spoke. The speakers included some volunteer chaplains (again, presumably members of the clergy in Ocala) plus other members of the Ocala clergy. Because of the Chief's letter and its posting on the police website, Judge Corrigan concluded that the City violated the First Amendment's Establishment Clause. We, and our attorneys at the National Legal Foundation (nlf.org) respectfully disagree, and we will file with the 11th Circuit an amicus brief in support of the City's position. One of the focuses of our brief will include the following.

25 Walter Martin, Ste. 202
Fort Walton Beach, FL 32548
850-833-3713
850-833-3712 (Fax)

1301 The Capitol
402 South Monroe Street
Tallahassee, FL 32399-1300
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A government official asking people to pray 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 government-sponsored 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. In soundly rejecting this contention, Chief Justice Burger wrote that state-sponsored prayer is “deeply embedded in the history and tradition of this country.” 463 U.S. at 786. Regarding history, the Chief Justice noted that three days after Congress authorized the appointment of paid chaplains, Congress reached a final agreement on the language of the Bill of Rights. The Chief Justice reasonably concluded that the men who wrote the First Amendment’s Religion Clause did not view state-sponsored prayer as a violation of that Amendment. Regarding tradition, the Chief Justice further wrote that state-sponsored prayer has continued without interruption ever since the First Congress, and has been consistently followed 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 state-sponsored prayer is constitutionally permissible. In his opinion for the Court, Justice Kennedy highlighted our nation’s historic use of 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.

Inviting people to pray is a part of our country’s history and tradition. Your respective roles in inviting people to the prayer vigil is nothing more than presidents and governors have historically done. We applaud you for using the time honored tradition of calling people to pray, and for your active partnership with the faith community. We look forward to supporting you in the appeal to the 11th Circuit Court of Appeals.

Sincerely,

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



Dennis Baxley, Chair
Legislative Prayer Caucus, Florida Senate



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



Matt Caldwell
Florida House of Representatives