



CONGRESSIONAL PRAYER CAUCUS FOUNDATION

February 3, 2020

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Mayor Glenn F. Elliott, Jr.
City of Wheeling
1500 Chapline Street
Ste. 303
Wheeling, WV 26003

Re: Opening City Meetings with Prayer

Dear Mayor Elliott and City Council:

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 nearly 40 states, including West Virginia, which have over 1,000 state senators and state representatives as members. These leaders are working together to preserve the integrity of our Founding Principles and to protect First Amendment rights for all.

We have learned from news services that recently, the Freedom From Religion Foundation ("FFRF") asked the City Council to stop opening meetings with prayer. Since we have literally seen dozens of similar letters, we know that FFRF claimed that such prayers are improper, divisive, and an unconstitutional violation of the First Amendment's Establishment Clause. We also know that FFRF filled its letter with various Supreme Court citations claiming to support its assertion that prayer by public officials is unconstitutional. We also know that FFRF ignored the most obvious examples of public officials leading citizens in prayer, including using public money to support clergy to provide prayer and other religious services for public officials.

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.

The constitutionality of whether a government legislative body can open a session in prayer by a publicly paid clergyman 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 FFRF's claim that prayers before meetings are 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 understand from news sources that you have substituted "secular prayers" for religious prayers before meetings. By doing so, you have rejected the history and tradition of your community as well as of the nation. We urge you and the City Council to return to religious prayers and use this as an opportunity to tell the citizens of your City about our country's religious heritage. We have on staff experts in First Amendment law who are prepared to work with your City attorneys to draft a policy on opening City Council meetings with prayer, and who will defend the City for free if that policy is challenged. Please let us know if we can be of assistance.

Sincerely,

A handwritten signature in black ink that reads "Lea Carawan". The signature is fluid and cursive, with a long horizontal flourish at the end.

Lea Carawan

Executive Director

Congressional Prayer Caucus Foundation

National Strategic Center