

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

January 18, 2017

SENT VIA EMAIL & U.S. MAIL

bspencer@cityofpensacola.com

Brian Spencer
Office of the City Council
Pensacola City Hall
222 West Main Street
Third Floor
Pensacola, FL 32502

Re: Unconstitutional Invocation Practices

Dear City Council President Spencer and Council Members:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding the implementation of a new invocation policy at the January 12, 2017 Pensacola City Council meeting, which raises constitutional concerns. FFRF is a national nonprofit organization with nearly 26,000 members across the country, including over 1,300 members in Florida and a state chapter, the Central Florida Freethought Community. Our purposes are to protect the constitutional principle of separation between state and church, and to represent the views of freethinkers (atheists, agnostics and nonbelievers).

It is our understanding that an invocation is given at the open of City Council meetings. We also understand that at the January 12 meeting, City Council President Spencer announced a change to the policy for giving invocations. Instead of the City Clerk maintaining a list of persons to contact, as has been policy in the past, individual Council Members may choose to give the invocation themselves or otherwise choose a member of the community to do it for them. Legislator-led prayer raises serious constitutional concerns. The city should cease giving invocations or adopt a policy that allows for a selection process that is not based upon the theological predilections of individual Council Members, but instead allows prayer given of any religion or none at all, as the Supreme Court has required.

Government prayer is unnecessary and legislator-led prayer is unconstitutional.

Prayer at government meetings is unnecessary, inappropriate, and divisive. The best solution is to discontinue invocations altogether. Pensacola City Council Members are free to pray privately or to worship on their own time in their own way. They do not need to worship on taxpayers' time. The Pensacola City Council ought not to lend its power and prestige to religion by scheduling, hosting or conducting governmental prayers.

Citizens, including Pensacola's nonreligious citizens, are compelled to come before you on important civic matters, to seek licenses and permits, and to participate in important decisions affecting their livelihoods, property, children, and quality of life.

The legislative prayers exclude the 23% of Americans who are not religious.¹ It is coercive, embarrassing and intimidating for nonreligious citizens to be required to make a public showing of their nonbelief (by not rising or praying) or else to display deference or obeisance toward a religious sentiment in which they do not believe. This "sponsorship of a religious message is impermissible because it sends the ancillary message to . . . nonadherents 'that they are outsiders, not full members of the political community and an accompanying message to adherents that they are insiders, favored members of the political community.'" *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309-10 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O'Connor, J., concurring)).

Local government officials should not be in the business of writing and offering prayers themselves. As you may be aware, the U.S. Supreme Court recently decided *Town of Greece, N.Y. v. Galloway*. 134 S. Ct. 1811 (2014). This case did not address situations in which government officials themselves lead the prayers; however, it did address non-neutral methods of selecting speakers to give invocations. The Court in *Galloway* only approved opening a neutral forum for others, including non-Christians and atheists, to give invocations. "Our Government is prohibited from prescribing prayers to be recited in our public institutions." *Galloway*, 134 S. Ct. at 1822 (citing *Engel v. Vitale*, 370 U.S. 421, 430 (1962)). The system imposed by President Spencer does exactly what *Galloway* forbids; it allows Council Members to prescribe the invocation to be given at each meeting instead of utilizing a neutral process that allows people of all belief and nonbelief systems to be selected.

In order to demonstrate the Pensacola City Council's respect for the diverse range of religious and nonreligious citizens living in Pensacola, we urge you to concentrate on civil matters and leave religion to the private conscience of each individual by ending the practice of hosting prayers at your meetings. The prayer practice is creating unnecessary divisiveness and should be dropped. Please inform us in writing of the steps you are taking to resolve this matter.

Sincerely,



Andrew L. Seidel
Staff Attorney
Freedom From Religion Foundation

¹ *America's Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.