

FREEDOM FROM RELIGION *foundation*

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

June 29, 2020

SENT VIA EMAIL ONLY:

franklincitymayor@franklinva.com

The Honorable Frank Rabil
Mayor
City of Franklin
207 W. 2nd Ave.
Franklin, VA 23851

Re: Unconstitutional prayer at government events

Dear Mayor Rabil,

I write on behalf of the Freedom From Religion Foundation, both to follow up on my previous letter and to bring to your attention additional constitutional violations on the part of the City of Franklin, Virginia.

Our complainant has again contacted us to report that the City of Franklin's lunch in honor of public works employees on May 22, 2020 featured government-initiated sectarian prayer. We understand that Director of Public Works Russ Pace introduced another public works employee to bless the food and give an invocation in the name of Jesus Christ.

Please see the attached letter for detailed arguments demonstrating the unconstitutional nature of these government sponsored Christian prayers. When the City of Franklin uses its power as a government entity to sponsor sectarian prayer in this way, it violates the U.S. Constitution, alienates the significant portion of its residents that are neither Christian nor religious,¹ and needlessly exposes itself to legal liability.

We look forward to your response, including written confirmation that the City of Franklin will discontinue promoting and hosting prayer at its employee events so that we notify our complainant of this issue's resolution. We hope you'll agree that the cherished constitutional principle of separation of church and state protects the

¹ Thirty five percent of American adults are not Christian, and this includes the twenty six percent that are not religiously affiliated. See *In U.S., Decline of Christianity Continues at Rapid Pace*, Pew Research Center (Oct. 17, 2019), available at <https://www.pewforum.org/2019/10/17/in-u-s-decline-of-christianity-continues-at-rapid-pace/>.

freedom of conscience of all citizens, religious and nonreligious alike. Thank you for your time and attention to this matter, and I hope this letter finds you in good health.

Sincerely,

A handwritten signature in black ink, appearing to be 'BJ' followed by a long horizontal flourish.

Brendan Johnson, Esq.
Robert G. Ingersoll Legal Fellow
Freedom From Religion Foundation

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January 16, 2020

SENT VIA EMAIL AND U.S. MAIL:

franklincitymayor@franklinva.com

The Honorable Frank Rabil
Mayor
City of Franklin
207 W. 2nd Ave.
Franklin, VA 23851

Re: Unconstitutional prayer at government functions

Dear Mayor Rabil:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to constitutional concerns with government-sponsored prayer that occurred at a City of Franklin employee luncheon. FFRF is a national nonprofit organization with more than 30,000 members across the country including over 700 in Virginia. FFRF's purposes are to protect the constitutional principle of separation between state and church and to educate the public on matters relating to nontheism.

A concerned city employee contacted us to report that the City brought in a pastor to bless the food at the annual employee luncheon on December 13, 2019. We understand that this event took place at The Main Event and that yourself, the city manager, and many other city employees were in attendance. We are informed that the pastor requested the participation of the employees, asking that the group "bow our heads in prayer."

We request that the City of Franklin discontinue including religious invocations as part of government-sponsored events like the employee luncheon.

The Establishment Clause of the First Amendment prohibits government sponsorship and endorsement of religious messages. The Supreme Court has said time and again that the "First Amendment mandates government neutrality between religion and religion, and between religion and nonreligion." *McCreary Cnty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *see also Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Ark.*, 393 U.S. 97, 104 (1968); *Everson v. Board of Educ. of Ewing*, 330 U.S. 1, 15–16 (1947). When a city-run event features exclusively Christian prayer, those in attendance will understandably perceive the city as having endorsed the religious message.

Further, federal courts have held that mandatory meetings for government employees cannot promote religion. *See Warnock v. Archer*, 380 F.3d 1076, 1080–81 (8th Cir. 2004) (prohibiting public school district from orchestrating or supervising prayers at mandatory

teacher meetings and in-service training); *see also Milwaukee Deputy Sheriff's Ass'n v. Clarke*, 588 F.3d 523, 525–26 (7th Cir. 2009) (holding that religious speech by a sheriff, bible readings, and distribution of Christian literature during mandatory employee meetings violates the Establishment Clause). By including prayer at an official luncheon for city employees, the City violates its obligation to remain neutral on matters of religion. Regardless of who delivers the prayer, the City has granted its seal of approval to the speaker's exclusively religious message, which it cannot constitutionally do.

Please note that the prayer remains illegal even if the employees in attendance are told that they can “opt out” of participation. The Supreme Court and the Fourth Circuit (in which Virginia sits) have summarily rejected arguments that voluntariness excuses a constitutional violation. *See Lee v. Weisman*, 505 U.S. 577, 596 (1992) (“It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice.”); *see also Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 288 (1963) (Brennan, J., concurring) (stating that “availability of excusal or exemption simply has no relevance to the establishment question”); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) (“VMI cannot avoid Establishment Clause problems by simply asserting that a cadet’s attendance at supper or his or her participation in the supper prayer are ‘voluntary.’”) Such prayers—even when participation is voluntary—“exact[] an unconstitutional toll on the consciences of religious objectors.” 327 F.3d at 372.

Sound policy likewise dictates an end to this prayer practice. Prayer at government-sponsored events like employee luncheons can be divisive, even among those of similar faith traditions. Additionally, such prayers and invocations make the 35% of Americans who are not Christian¹ feel like outsiders in their own place of work and show unconstitutional governmental preference for religion over nonreligion.

Please respond in writing with the steps you will take to remedy this constitutional violation and respect the right of conscience of all city employees. Thank you for your time and attention to this matter.

Sincerely,



Brendan Johnson, Esq.
Robert G. Ingersoll Legal Fellow
Freedom From Religion Foundation

¹ *In U.S., Decline of Christianity Continues at Rapid Pace*, PEW RESEARCH CENTER (Oct. 17, 2019), available at <https://www.pewforum.org/2019/10/17/in-u-s-decline-of-christianity-continues-at-rapid-pace/>.