

FREEDOM FROM RELIGION *foundation*

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

October 26, 2016

SENT VIA EMAIL AND U.S. MAIL:
cityadministrator@kenosha.org

Mr. Frank Pacetti
City Administrator
625 52nd Street
Room 300
Kenosha, Wisconsin 53140

Re: Unconstitutional grant for religious event

Dear Mr. Pacetti:

I am writing again on behalf of the Freedom From Religion Foundation. We received your response, dated October 11, to our letters regarding a \$500 grant to a church toward an Easter retreat for two of the church's youth groups—"God 1st" and "J-Walkers."

You pointed out that the funding for this grant came from private donations to the Youth Memorial Fund, rather than from tax proceeds, and stated that therefore "the City does not believe that any constitutional violation has occurred."

This reasoning is fallacious. The Establishment Clause prohibits the City from funding religion, regardless of how the City acquired the funds. We applaud your commitment to vigilantly "protect the constitutional rights of all [Kenosha] citizens" and urge you to uphold that commitment by reconsidering the City's position on this issue.

The Establishment Clause applies to all of the City's actions, not just expenditures of tax proceeds. No matter how the government categorizes a grant, the City must abide by the First Amendment when it awards funds. As the Supreme Court said, "Law reaches past formalism." *Lee v. Weisman*, 505 U.S. 577, 595 (1992).

The Mayor's Youth Commission is a City entity, and the Kenosha Common Council itself votes to approve the "mini-grants" in question.¹ Funds from memorial brick sales are under the City's control. This is the end of the

¹ See kenosha.org/mayor/GrantGuidelines.pdf.

inquiry: the Common Council must use these public funds in a way that complies with the First Amendment.

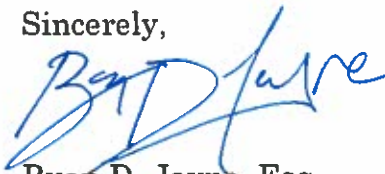
Further, the City did not warn memorial brick donors that their donations would be used to advance religion. The Brick Memorial Order Form states that the proceeds will go toward the “maintenance and expansion of the Kenosha Youth Memorial, the Youth Memorial Scholarship Fund, and mini-grants intended to benefit the youth of Kenosha.”² Any reasonable donor would understand that the funds would be given in a way that complies with the Constitution, *i.e.*, not to a church for a proselytizing religious activity.

Finally, as a practical matter, the City should not jeopardize taxpayer dollars by defending an obviously unconstitutional \$500 grant. FFRF strives to resolve these matters outside of court, but we take these complaints very seriously. FFRF is currently suing Morris County, New Jersey for granting public funds to churches, and the Chino Valley School Board in California was recently ordered to pay more than \$200,000 in FFRF’s attorneys’ fees after defending another plainly unconstitutional practice.

Surely there are secular alternatives to the “God 1st” and “J-Walkers” youth groups that would be appropriate recipients of Youth Memorial Fund mini-grants. It is admirable for the City to raise money to fund local youth programs, but programs that proselytize children, or otherwise advance religion, are simply not eligible for public funding.

We request written assurances that the City will not award grants for religious activities in the future. Thank you again for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Ryan D. Jayne". The signature is stylized and cursive.

Ryan D. Jayne, Esq.
Diane Uhl Legal Fellow
Freedom From Religion Foundation

² www.kenosha.org/mayor/Order_Form.pdf.