

FREEDOM FROM RELIGION *foundation*

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

November 7, 2014

SENT VIA FAX & U.S. MAIL
(812) 948-1596

The Honorable Jeff Gahan
Mayor
City of New Albany
311 Hauss Square
New Albany IN 47150

Re: Mayor's Community Prayer Breakfast

Dear Mayor Gahan:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to urge you to immediately discontinue using City of New Albany (City) resources and taxpayer funds to plan, organize and promote the 46th annual prayer breakfast. FFRF is a national nonprofit organization with over 21,500 members, including nearly 350 members in Indiana, whose purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that you host an annual prayer breakfast and that this event is a "long-standing tradition held at the beginning of the holiday season..."¹ The religious event is a time "to come together to celebrate the diversity within God's family..." This prayer event, scheduled for November 15th, is promoted on the City website and the telephone number for "more information" is the number for City Hall. Please see the attached screenshot from the City's webpage about the prayer breakfast. Our New Albany complainant also informs us that the breakfast was announced on citizens' municipal utilities bills. Please find enclosed a copy of that promotion as well. You'll notice the words "prayer" and "faith" are emphasized.

Your participation in this event, and the City's apparent coordination of the event, poses serious constitutional separation of state and church concerns. The Establishment Clause of the First Amendment to the United States Constitution prohibits the government from endorsing, advancing or promoting religion. Therefore, it is grossly illegal and inappropriate for the City to be hosting, organizing, supporting or otherwise promoting a patently religious event, such as a prayer breakfast. This practice certainly has the effect of government endorsement of religion. The breakfasts send the message that the City not only prefers religion over non-religion, but also Christianity over all other religions. It alienates non-believers in New Albany by turning them into political outsiders in their own community. This violates the Establishment Clause, which requires government neutrality toward religion.

¹ <http://www.cityofnewalbany.com/home/315-youre-invited-to-the-46th-annual-mayors-community-prayer-breakfast>

The inclusion of different religions at city-promoted or sponsored faith events would still raise constitutional concerns, as these events notably would still exclude those of no religious faith — the non-religious and the non-believers. The non-religious are the fastest-growing segment of the U.S. population by religious identification, now making up one in five Americans, and one in three Americans under 30.² These prayer breakfasts “send[] 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)).

Since any reasonable City resident would logically interpret the City’s actions in this case as government endorsement of religion, the City must refrain from expending any further taxpayer dollars, using publicly funded employees, and drawing on any other publicly funded resources to promote the religious prayer breakfast. This includes publicizing the event on the City website, advertising and handling tickets and RSVPs, and coordinating sponsors of the event.

It is not uncommon for ministerial associations or private groups to host a prayer breakfast/luncheon and invite public officials, who attend as individuals. This is the case at the “National Prayer Breakfast” in D.C., for example. But it is absolutely unlawful, inappropriate and unseemly under the First Amendment for a mayor’s office itself to host such an event or work in tandem with event organizers to put on the breakfasts.

Finally, you appear to be sponsoring and attending the event in your official capacity as Mayor of New Albany. The United States Supreme Court has held that public officials may not seek to advance or promote religion, specifically stating, “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us.” *West Virginia Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943).

In 1993, FFRF won an injunction against the mayor of Denver, Colorado, over his promotion, endorsement, and sponsorship of a “Day of Prayer.” See *FFRF, v. Denver*, No. 93 CV 6056 (District Court, City and County of Denver, Colorado 1993). In that case, the mayor designated a “city wide day of prayer.” The court enjoined the mayor and other City officials “acting in an official capacity, from promoting, endorsing, or supporting the Day of Prayer.” *Id.* at 5. It reasoned:

“[the event] would logically be interpreted by a reasonable person as an endorsement of religion. Because from all appearances Mayor Webb was acting in his official capacity in issuing the press release and conducting the press conference endorsing the Day of Prayer, the Court concludes that a reasonable person would interpret his conduct as governmental endorsement of religion. As such, it violates the Establishment Clause.” *Id.*

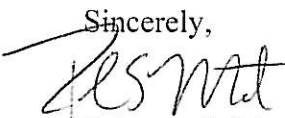
² “Nones on the Rise: One-in-Five Adults Have No Religious Affiliation,” Pew Research Center, The Pew Forum on Religion & Public Life (October 9, 2012), available at <http://www.pewforum.org/Unaffiliated/nones-on-the-rise.aspx>

Government officials can worship, pray, and participate in religious events in their *personal* capacities. But they are not permitted to provide credibility or prestige to their religion by lending a government office and government title to religious events. Their office and title belong to "We the people," not the office's temporary occupant.

The separation of church and state is among the most fundamental principles of our system of government. As the City's highest elected official, you are charged with great responsibility and have been given significant trust by its citizens, including those citizens who may not share your religious viewpoint. We strongly urge you to consider your status as the highest elected official in New Albany and the importance of the constitutional principle of separation of church and state before you put on this or any future religious functions in your community as Mayor.

We ask that you disassociate the Mayor's office from the Mayor's Community Prayer Breakfast or any other religious event, and refrain from hosting, organizing, or otherwise coordinating such events. No Mayor's office resources, including telephone lines or personnel, should be used to coordinate the breakfast. We request a response in writing about what steps you are taking to ensure constitutional dictates are being followed.

Sincerely,



Rebecca S. Markert
Staff Attorney

Enclosures

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You're Invited to the 46th Annual Mayor's Community Prayer Breakfast



LATEST NEWS

Memoir Writing Workshop, "What's Your Story?" on November 7

Every Vote Counts in the 2014 General Election!

You're Invited to the 46th Annual Mayor's Community Prayer Breakfast

Mayor Jeff Gahan invites you to Trunk or Treat Saturday October 25!

Parks & Recreation Releases 2014 Fall Brochure

P.A.W.S. Walk the Riverfront 2014

Tickets on Sale for The Fourth Annual "STORIES BEHIND THE STONES" Fairview Cemetery Tour

August Line-up Announced for Bicentennial Park Summer Concert Series

"Seussical the Musical" at the New Albany Riverfront Amphitheater

New Albany Bicentennial Crit Bicycle Race Takes Place Sunday July 28

Bicentennial Summer Concert Series July Line-Up

Mayor Gahan Proclaims June 30, 2014, St. Elizabeth's Charities Day

Southern Indiana Table Tennis Association Donates \$10,000 to City of New Albany

Hoosier Millionaire Show coming to New Albany Riverfront Amphitheater

46TH ANNUAL MAYOR'S COMMUNITY

Prayer BREAKFAST

NEW ALBANY HIGH SCHOOL CAFETERIA
SATURDAY, NOVEMBER 15TH | 8:30 A.M.
TICKETS \$8 IN ADVANCE | \$9 AT THE DOOR

The Mayor's Community Prayer Breakfast is a long-standing tradition held at the beginning of the holiday season, that gives our community the opportunity to unite citizens of all ages and faiths. We come together to celebrate the diversity within God's family, and to give thanks for the blessings of our community and its people.



Keynote Speaker MIKE DIGIURO

Mike DiGiuro is the secretary of the Trent DiGiuro Foundation, a charity established in his son's name to raise funds, and provide scholarships to students in Oldham County, KY. Trent, a U of K football player, was shot and killed as he sat on his front porch, three days shy of his 21st birthday, on July 17, 1994. Mike's story is one of tragedy, faith and inspiration.

FOR MORE INFORMATION CALL 812.948.5333

46th Annual Mayor's Community Prayer Breakfast

June 19!

Summer Recreation Guide

New Parks and Facilities Planned

Volunteer Through the City

The Bicentennial Park Summer Concert Series

Boomtown Ball & Festival Update with Full Lineup

Open For Business!

New Albany High School Cafeteria

Saturday, November 15th 8:30 AM

Tickets are \$8 in advance or \$9 at the door.

The Mayor's Community Prayer Breakfast is a long-standing tradition held at the beginning of the holiday season that gives our community the opportunity to unite citizens of all ages and faiths. We come together to celebrate the diversity within God's family and to give thanks for the blessings of our community and its people.

The Keynote Speaker is Mike DiGuio, a secretary of the Trent DiGuio Foundation, a charity established in his son's name to raise funds and provide scholarships to students in Oldham County, KY. Trent, a U of K football player was shot and killed as he sat on his front porch, three days shy of his 21st birthday, on July 17, 1994. Mike's story is one of tragedy, faith and inspiration. For more information call 812-948-5333.

YOU ARE HERE YOU'RE INVITED TO THE 46TH ANNUAL MAYOR'S COMMUNITY PRAYER BREAKFAST

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Welcome To Our City

Welcome to the City of New Albany, Indiana's official website. This site has been developed for you, our citizens, businesses, and welcomed visitors. This site is continually updated so check back often for the latest news!

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- Purdue
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- Historic Landmarks
- Historic New Albany
- IU Southeast
- Midtown New Albany
- Ohio River Greenway
- One Southern Indiana
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Faith

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