

# FREEDOM FROM RELIGION *foundation*

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August 31, 2016

**SENT VIA FAX & U.S. MAIL  
254-897-2600**

Mr. Andrew Lucas  
County Attorney  
Somervell County  
P.O. Box 1335  
Glen Rose, TX 76043

Re: Modified invocation practices still unconstitutional

Dear Mr. Lucas:

I am writing again on behalf of the Freedom From Religion Foundation (FFRF) in regard to reports that the Somervell County Commissioner's Court has modified its invocation practice by returning to the previous practice of having members of the Commissioner's Court deliver an opening prayer. We understand that at the start of the August 8 meeting, Judge Chambers asked Commissioner Larry Hulsey to "lead us in prayer." Commissioner Hulsey then delivered a Christian prayer that ended with "In Jesus' name."

Local government officials should not be in the business of writing and offering prayers themselves. As you may be aware, the Supreme Court's decision in *Town of Greece, N.Y. v. Galloway*, 134 S. Ct. 1811 (2014), did not address situations in which government officials themselves lead the prayers. 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)).

We understand that for two months the Commissioner's Court briefly switched to having community members lead the pre-meeting invocations. Both invocations delivered by community members were given by Christian religious leaders who addressed a "Heavenly Father" and ended their prayers with "In Jesus' name." The Commissioner's Court then reverted back to having commissioners give prayers after an atheist volunteered to lead one. Through these actions the Commissioner's Court has created the appearance of endorsing Christianity over all other religions and over nonreligion. It appears that the Commissioner's Court would rather adopt a legally suspect practice than follow what the Supreme Court has ruled constitutional, simply because an atheist wanted to be included.

America was founded in part by refugees seeking freedom from government dictation of religion. The Framers who adopted our entirely secular Constitution knew that religious liberty does not exist without the freedom to dissent. Our nation is founded on a godless Constitution, whose only references to religion in government are exclusionary, such as "no religious test shall ever be required" for public office. U.S. Const. art. VI. The United States was the first nation to adopt a secular constitution, investing sovereignty in "We the People," not a divine entity. The framers of our Constitution did not find it necessary to pray during the 4-month Constitutional Convention. We fail

to see why it is necessary, then, for the Somervell County Commissioner's Court to pray over liquor licenses, sewers, or variances.


James Madison, the primary architect of the U.S. Constitution and Bill of Rights, and our fourth president, opposed government prayers and congressional chaplaincies. In his *Detached Memoranda*, Madison wrote, "Is the appointment of Chaplains to the two Houses of Congress consistent with the Constitution, and with the pure principle of religious freedom? In strictness the answer on both points must be in the negative. The Constitution of the U. S. forbids everything like an establishment of a national religion . . . The establishment of the chaplainship to Congress is a palpable violation of equal rights, as well as of Constitutional principles." Madison was equally critical of presidential and governmental prayer:

Religious proclamations by the Executive recommending thanksgivings & fasts are shoots from the same root . . . Although recommendations only, they imply a religious agency, making no part of the trust delegated to political rulers. . . . An *advisory* Government is a contradiction in terms. The members of a Government as such can in no sense, be regarded as possessing an advisory trust from their Constituents in their religious capacities. In their individual capacities, as distinct from their official station, they might unite in recommendations of any sort whatever, in the same manner as any other individuals might do.<sup>1</sup>

Commissioner-led prayers may not only ostracize minority religious and nonreligious citizens of Somervell, but also some in the Christian majority. Christians who know their bible are familiar with the biblical injunction of Jesus in the Sermon on the Mount, condemning public prayer as hypocrisy. "And when thou prayest, thou shalt not be as the hypocrites are: for they love to pray standing in the synagogues and in the corners of the streets, that they may be seen of men. Verily I say unto you, They have their reward. But thou, when thou prayest, enter into thy closet, and when thou hast shut the door, pray to thy Father which is in secret; and thy Father which seeth in secret shall reward thee openly." Matthew 6:5-6.

Government-sponsored prayer is unnecessary and divisive. The simplest solution is to end the prayer practice entirely. If the Commissioner's Court feels the need to solemnize its meetings, this can be achieved without excluding anyone through a moment of silence. If the Commissioner's Court continues to open its meetings with invocations, it should revert to invocations led by a rotating list of community members, the practice approved by the Supreme Court in *Galloway*. Please respond in writing to outline what actions will be taken.

Sincerely,



Sam Grover  
Staff Attorney

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<sup>1</sup> *Detached Memoranda* of James Madison (ca. 1817), first published by Elizabeth Fleet in the WILLIAM & MARY QUARTERLY (Oct. 1946).