

FREEDOM FROM RELIGION *foundation*

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January 14, 2016

**SENT VIA FAX & U.S. MAIL
928-636-2144**

Chino Valley Town Council
202 N. State Route 89
Chino Valley, AZ 86323

Re: Unconstitutional invocation practice

Dear Councilmembers:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in the Chino Valley Town Council (Council). FFRF is a national nonprofit organization with over 23,000 members across the country, including more than 550 members and a chapter in Arizona. 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 after a local resident expressed offense about the town's invocations always ending with "In Jesus' name," Councilmember Turner gave the official response to the public at the Council's Jan. 8 meeting. Turner declared that he would continue to pray in Jesus' name, and claimed that the citizen's request was an attempt to "tread on" his religion and "freedom of expression." We understand that a Council member typically gives the invocation at Council meetings, and that Mayor Marley asks everyone to rise and uncover their heads before a Council member delivers a Christian prayer.

Though courts have permitted prayer at government meetings in limited instances, they have not allowed government officials to give those prayers in their official capacity.

It is coercive, embarrassing and intimidating for nonreligious citizens to either make a public showing of their nonbelief by defying the Mayor's call to stand and participate, or else to display deference toward a religious sentiment in which they do not believe. In addition, Councilmember Turner's vow to continue praying to Jesus, made from his council seat in his official capacity as a Councilmember, is unconstitutional. Government officials, while acting in their official capacities, are acting as the government, which must stay neutral on religion. This "sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherents 'that they are outsiders, not full members of the political community and 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. at 668 (O'Connor, J., concurring)).

Prayer at government meetings is unnecessary, inappropriate, and divisive. The best solution is to discontinue invocations altogether. 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 Council ought not

to lend its power and prestige to religion by scheduling, hosting or conducting governmental prayers. Citizens, including Chino Valley's nonreligious and non-Christian 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 prayers exclude one in five nonreligious Americans, including one in three adult Americans under thirty.¹

Even if the council insists on continuing to impose religion on its citizens, Councilmembers themselves may not deliver the prayers. 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. 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)).

It is inappropriate and coercive for the Chino Valley Mayor to direct meeting attendees to rise and show deference to the invocations. The Supreme Court specified in *Galloway* that its "analysis would be different if town board members directed the public to participate in the prayers . . . Although board members themselves stood, bowed their heads, or made the sign of the cross during the prayer, they at no point solicited similar gestures by the public." *Galloway*, 134 S. Ct. at 1826 (emphasis added).

Observing a strict separation of church and state offends nobody, includes everybody, and honors not only the First Amendment, but also the very tenets being professed during the Council's prayers. 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 you pray, do not be like the hypocrites, for they love to pray standing in the synagogues and on the street corners to be seen by others. . . . But when you pray, go into your room, close the door and pray to your Father, who is unseen. Then your Father, who sees what is done in secret, will reward you." Matthew 6:5-6.

The Chino Valley Town Council chambers are a public meeting space, not a pulpit. Councilmembers, acting in their official capacities as government representatives, are not, as several Councilmembers seem to believe, religious leaders. Councilmembers are free to pray on their own time. They cannot abuse their political power to demand that a room full of local residents participate in their personal religious practices. In order to demonstrate the Town Council's respect for the diverse range of religious and nonreligious citizens living in Chino Valley, Councilmembers must immediately cease delivering prayers at meetings, and 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 entirely.

Sincerely,



Madeline Ziegler, Esq.
Cornelius Vanderbroek Legal Fellow
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/.