

FREEDOM FROM RELIGION *foundation*

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Marilyn Newell
Mayor
City of Roxboro
P.O. Box 128
Roxboro, NC 27573

Re: Unconstitutional prayer at Roxboro City Council meetings

Dear Mayor Newell and Council members:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in the City of Roxboro. FFRF is a national nonprofit organization with more than 40,000 members across the country, including more than 900 members and a local chapter in North Carolina. Our 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 Roxboro resident has reported that the Council regularly opens its meetings with Christian prayers led by members of the Council. It is our understanding that Mayor Newell selects who gets to deliver the prayer, typically a member of the Council, and that the prayers are always Christian. Our complainant is a non-Christian and they feel alienated at council meetings because of the Council's imposition of Christianity and continuous support of one particular faith tradition.

We write to request that the Council immediately refrain from opening its meetings with exclusively Christian, legislator-led prayer because this practice violates the Establishment Clause and the constitutional rights of Roxboro's citizens.

Prayer at government meetings is unnecessary, inappropriate, and divisive. The best solution is to discontinue invocations altogether. All Council members are of course free to pray privately or to worship on their own time in their own way. However, 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 Roxboro's nonreligious citizens, are compelled to come before the Council and its committees 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 opening prayer excludes those who are among the 37 percent of Americans who are non-Christians, including the nearly one in

three adult Americans (29 percent) who are religiously unaffiliated.¹ It is coercive, embarrassing and intimidating for nonreligious citizens to be required to make a public showing of their nonbelief (by not rising or praying) or else to display deference toward a religious sentiment in which they do not believe, but which their Council members clearly do. Government-sponsored prayer “has the improper effect of coercing those present to participate in an act of religious worship.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 312 (2000).

Local government officials should not be in the business of leading prayers themselves. The Supreme Court addressed government prayer in *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 Council members to direct meeting attendees to rise, participate in, or otherwise 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..

Coercive government prayer practices continue to be challenged in federal courts. In *Lund v. Rowan Cty., N. Carolina*, the Fourth Circuit Court of Appeals, which controls in North Carolina, found that when the members of a local legislative body are the only ones giving prayers, the prayers are unconstitutional because the government is delivering prayers that were exclusively prepared and controlled by the government, constituting a “much greater and more intimate government involvement” in the prayer practice than that at issue in *Galloway*. 863 F.3d 268, 278 (4th Cir. 2017).

FFRF recently won a suit in the Fourth Circuit against the City of Parkersburg over its City Council’s practice of opening each meeting with a recitation of the Lord’s Prayer. *Cobranchi v. City of Parkersburg*, Civil Action 2:18-cv-01198 (S.D.W. Va. May. 17, 2022). The Court permanently enjoined the Council from opening its meetings with the Lord’s Prayer, declaring the practice unconstitutional. *Id.* The Court found that the Council ran afoul of the Establishment Clause when it “wrapped itself in a single faith.” *Id.* at ¶ 28. The Court noted several key factors that led to its conclusion that the prayer practice was unconstitutional, including “unduly heightened risk of coercion by the state by virtue of the government identity of the prayer-givers acting in unison” and “the implicit and sometimes express invitation to the public in attendance to join in, all in the relative intimacy of a local government setting.” *Id.*

Here, members of the Council similarly lead prayer at each meeting. The Supreme Court in *Galloway* clearly stated that the purpose of these invocations must be inclusive: “These ceremonial prayers strive for the idea that people of many faiths may be united in a community of tolerance and devotion.” *Galloway*, at 1823. The Supreme Court’s decision would have been different had the town used the prayer as an opportunity to inculcate one religious view and exclude minority religions like the Council has chosen to do.

Observing a strict separation of church and state offends nobody, includes everybody, and honors the First Amendment. Christians who know their bible are familiar with the biblical injunction of Jesus in the

¹ Gregory A. Smith, *About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated*, Pew Research Center (Dec. 14, 2021), www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/.

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.

In order to demonstrate the Council’s respect for the diverse range of religious and nonreligious citizens living in Roxboro, we urge you to concentrate on civil matters and leave religion to the private conscience of each individual by ending the practice of leading prayers at your meetings. Please inform us in writing of the steps you are taking to resolve this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a long horizontal flourish extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation