



FREEDOM FROM RELIGION FOUNDATION

P.O. Box 750 • Madison WI 53701 • (608) 256-8900 • www.ffrf.org

March 16, 2010

COPY

**SENT VIA U.S. MAIL & FAX
(330) 375-2298**

Mr. Marco Sommerville
Council President
Akron City Council
166 S. High Street, 3rd Floor
Akron, OH 44308

Re: Prayers at City Council Meetings

Dear Council President Sommerville and Members of the Council:

I am writing on behalf of a concerned Akron resident and taxpayer and other Ohio members of the Freedom From Religion Foundation (FFRF) who object to the practice of opening Akron City Council meetings with prayers. FFRF is a nationwide nonprofit organization that works to protect the constitutional principle of separation of church and state. FFRF represents 14,600 members across the country including more than 350 members in Ohio.

It is our information and understanding that the Akron City Council frequently opens meetings with a prayer given by a local clergy member. We are unaware of any formal written policy or guidelines concerning the prayer practice. It is also our understanding that members of the public regularly attend City Council meetings and have necessary business before the City Council.

Upon reviewing several meetings, it is clear that these prayers are rarely, if ever, non-denominational or non-sectarian. The prayers in recent months contained specific references to Jesus Christ and several prayers ended with "in Jesus' name." Despite the practice of offering prayers to Jesus Christ, the agenda for past meetings states the prayers offered were "non-sectarian." Listed below are excerpts of two prayers from City Council meetings:

November 2, 2009: Reverend Andy Smith, Rolling Acres Alliance Church

"Just want to thank you for this opportunity to be here. Thank you. Will you bow with me. **Dear Lord Jesus**, I pray that you be glorified in this meeting and that you will help our city, that you will heal us, that you will feed the hungry, that

you will shelter the homeless, that you will bless the leaders of our city with the knowledge of your will, that they will walk in a manner worthy of you, that you'll be glorified in this city and that you'll restore us in all ways unto you. Bless this meeting with wisdom, and I pray that your will is accomplished. **It's in your precious name we pray, Lord Jesus. Amen.**"

November 9, 2009: Pastor Rick Fuson, East Market Street Church of God

"Shall we pray. Father we are so grateful for your love for us, we thank you for your son **Jesus Christ**, and we thank you for these men and women who are here tonight. We thank you for the leadership they offer Akron City, we just worship you because of that. Tonight, God, bestow them wisdom I pray, help them be directed in the course of unity, for the betterment of your people. God, we honor you today, we call it down at this time. **In Christ's name, Amen.**"

Please find enclosed transcriptions of some of the impermissible prayers reviewed from November and December of 2009.

The Supreme Court has only found prayers before legislative bodies permissible in narrow circumstances. In *Marsh v. Chambers*, 463 U.S. 783 (1983), the Supreme Court ruled that a legislative practice confined to a non-sectarian, non-denominational prayer, led by an officiant who had not been selected based upon any impermissible religious motive, and which was addressed to the body of legislators present and no one else, was permissible. *See Marsh*, 463 U.S. 783. Additionally, the Court held that legislators must have the option not to participate. The prayer opportunity must not be "exploited to proselytize or advance any one, or to disparage any other, faith, or belief." 463 U.S. at 794-95. The Court also noted that the content of the prayers was permissible because the chaplain has "removed all references to Christ." *Id.* at 793 n.14.

In *County of Allegheny v. ACLU Greater Pittsburgh Chapter*, 492 U.S. 573, 603 (1989), the Supreme Court found that, even if history and custom had saved non-sectarian legislative prayer, "history cannot legitimate practices that demonstrate the government's allegiance to a particular sect or creed." Additionally, the Court reiterated, "not even the 'unique history' of legislative prayer, can justify contemporary legislative prayers that have the effect of affiliating the government with any one specific faith or belief." *Id.* The Court continued, "The legislative prayers involved in *Marsh* did not violate this principle because the particular chaplain had 'removed all references to Christ.'" *Id.*

Lower federal courts have continued to emphasize that some government-sponsored prayers are constitutionally permissible only because they are non-sectarian, non-denominational, are not directed at citizens, and do not invoke a particular faith or deity. *See, e.g., Wynne v. Town of Great Falls*, 376 F.3d 292 (4th Cir. 2004) (holding that the Establishment Clause was violated when the town council opened sessions with prayer containing references to Jesus Christ); *Snyder v. Murray City Corp.*, 159 F.3d 1227, 1234 (10th Cir. 1998) ("...the kind of legislative prayer that will run afoul of the Constitution is one that proselytizes particular religious tenet or belief, or that aggressively advocates a specific religious creed, or that derogates another religious faith or doctrine.").

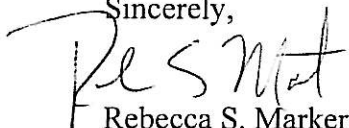
The prayerful practice at City Council meetings runs afoul of the First Amendment to the United States Constitution because it impermissibly advances Christianity. It leads a reasonable observer to believe that the City Council is endorsing not only religion over nonreligion but also Christianity over other faiths. It appears that the Council is already aware of the impermissibility of sectarian prayers; each past agenda states that the prayer offered was "non-sectarian." Unfortunately, the past agendas incorrectly list the prayers as non-sectarian. All the prayers our organization reviewed were Christian prayers. Even though the City Council may be permitted to engage in invocations prior to its meetings, this opportunity does not provide "license to advance its own religious views in preference to all others..." *Wynne*, 376 F.3d 292.

Additionally, these Christian prayers inappropriately alienate non-Christians and non-believers in Akron. Their efforts to participate in public meetings are adversely affected by these prayers, which turn non-believers and non-Christians into political outsiders of their own community and government. The rights of citizens to participate in government meetings such as the City Council's meetings should not be predicated upon being subjected to Christian-based prayers.

By hosting sectarian prayers that show preference for Christianity, the Council is inappropriately entangling itself with religion. To avoid violations of the Establishment Clause and the divisiveness these prayers cause within the community, the solution is simple: discontinue official government prayers before City Council meetings.

The City Council's demonstrated preference for Christianity and preference for religion over nonreligion during Council meetings is inappropriate and violates the Establishment Clause of the First Amendment. We respectfully request notification in writing of the appropriate actions you are taking to remedy these violations so that we may notify our complainant.

Sincerely,


Rebecca S. Markert
Staff Attorney

Enclosure

Cc: Mayor Donald Plusquellic

Akron City Council Prayers

Nov. 2009 - Dec. 7, 2009

November 2, 2009: Reverend Andy Smith, Rolling Acres Alliance Church

“Just want to thank you for this opportunity to be here. Thank you. Will you bow with me. **Dear Lord Jesus**, I pray that you be glorified in this meeting and that you will help our city, that you will heal us, that you will feed the hungry, that you will shelter the homeless, that you will bless the leaders of our city with the knowledge of your will, that they will walk in a manner worthy of you, that you'll be glorified in this city and that you'll restore us in all ways unto you. Bless this meeting with wisdom, and I pray that your will is accomplished. **It's in your precious name we pray, Lord Jesus. Amen.**”

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November 16, 2009: Pastor Kevin Truax, Gateway Church

“Father, **we come in Jesus' name** with anticipation. Great thanks to you for your wisdom, your insight, we continue to pray for your protection over this council, the mayor, his cabinet, that you would lead them and direct them through your peace and your wisdom and your understanding. Thank you for resolutions, thank you for insights, thank you for wisdom, thank you for little inventions and ideas for this council to rule this people, to govern this people, to lead them in the direction that you would have them go in your wisdom, for the unfolding of the increase of this city, that this city would be a beacon of light, that it would be a beacon of wisdom on highly resolved issues as we look to you, the one who alone is wise. **We thank you for it in Jesus' name. Amen.**”

November 30, 2009: Pastor Melford Elliott, Greater Bethel Baptist Church

“We submit our hearts and our minds to thee, and all that we do, we ask that thou get the praise. We thank you for life, and time to live it, we recognize you in your sovereignty, for you are the architect of this nation, the blueprint builder of the universe, you are the keeper, the maker and the holder of our lives. It's in you that we move, and we ask that thou be with us. We ask for your grace on this city, and our leaders. Keep their hearts receptive to the needs of the community, and their minds alert on how to do it. We know that you require some things of us, that is, to do justly, love mercy, and walk humbly with our God. We thank you for this opportunity, God, for this another expression of your

loving-kindness, being with us throughout this season, thanks for giving. **We ask this in the name that is above all names, the name of Jesus Christ our Lord.** Amen.”

December 7, 2009: Rev. Sam Martin, United Methodist Church

“Awesome God, on this historic day, let us not only remember those who perished, but those who fought the good fight. Let us remember all those who have served to this very present day, not only those who wear a uniform, but this group, this council, these servants of the people, as well as those gathered here to witness tonight's proceedings. Guide them as they make decisions in these current and troubling times. May they vote with wisdom and compassion for the decisions affect so many. **All this we pray in the name of the Triune God.** Amen.”