

FREEDOM FROM RELIGION *foundation*

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SENT VIA U.S. MAIL AND EMAIL

andy.nickelston@gmail.com

Andy Nickelston
Chairman
Stokes County Board of Commissioners
1014 Main Street
Danbury, NC 27016

Re: Unconstitutional legislative prayer

Dear Chairman Nickelston:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in the meetings of the Stokes County Board of Commissioners (The Board). FFRF is a national nonprofit organization with more than 33,000 members, including over 700 members in North Carolina. FFRF's purposes are to protect the constitutional principle of separation of church and state and to educate the public on matters relating to nontheism.

A concerned local resident contacted us to report that the Board begins each of its meetings with prayer. We understand that these prayers are invariably Christian and invariably led by members of the Board.¹ For example, the meeting of December 3, 2020 at 6:30 PM featured a prayer by Commissioner Walker in which he stated "Lord, your wisdom and your truth is supreme in this world." Additionally, we understand that he ended the prayer with "we ask these things in Christ's name."

I write to request that the Board cease opening its meetings with prayer. This practice represents an unconstitutional endorsement of Christianity in violation of the First Amendment of the U.S. Constitution.

Precedent from the Fourth Circuit Court of Appeals, which has jurisdiction over North Carolina, prohibits government-led prayer of the sort practiced at the Board's meetings. In *Lund v. Rowan Cty., N. Carolina*, the Rowan County Board of Commissioners opened each session with a prayer that was invariably Christian and led by a Board member, often featuring sectarian references that "implied that Christianity was superior to other faiths." 863 F.3d 268, 273 (4th Cir. 2017). No other faiths were allowed or asked to take part in the prayers and, when faced with public challenges to the practice (like this one), the Board ignored them and stayed its course. *Id.* The Fourth Circuit declared that the Board's prayer practices violated the Establishment Clause because the Board "elevated one religion above all others and aligned itself with that faith." *Id.* at 272. In Stokes County, the Board's prayer practices closely match those at issue in *Lund*. The Board's members lead prayers that are always Christian and often include sectarian references. Like the Board in *Lund*, the Board in

¹ See *2020 Meeting Schedule*, http://www.co.stokes.nc.us/bocc/meeting/index_files/Page683.htm.

Stokes County violates the Establishment Clause of the First Amendment because it “elevate[s] one religion above all others and align[s] itself with that faith.” *Id.* Any reasonable community member would perceive a prayer in “Christ’s name” that claims “Lord, your wisdom and your truth is supreme in this world” as government endorsement of religion over nonreligion and of Christianity over all other faiths.

The Board’s government-sponsored prayers are a far cry from the prayer addressed in *Town of Greece, N.Y. v. Galloway*, 572 U.S. 565 (2014). *Town of Greece* did not address situations in which government officials themselves lead the prayers. The Supreme Court only approved opening a neutral forum for others—including non-Christians and atheists—to give invocations. As the Court noted, “[o]ur Government is prohibited from prescribing prayers to be recited in our public institutions.” *Id.* at 581 (citing *Engel v. Vitale*, 370 U.S. 421, 430 (1962)).

Prayer at government meetings is unnecessary, inappropriate, and divisive, and the best solution is to discontinue it altogether. Board members are of course free to pray privately or to worship on their own time in their own way, but they should not worship on taxpayers’ time. Citizens, including Stokes County’s nonreligious citizens, are compelled to come before you on important civic matters and to participate in important decisions affecting their livelihoods, property, children, and quality of life. The prayers exclude the 35 percent of Americans who are not Christians, which includes the 26 percent of Americans who are not religious.² It is coercive and intimidating for nonreligious citizens to make a public showing of their nonbelief (by not rising or praying) or else to display deference towards religious sentiment with which they do not believe, but their elected officials clearly do. This “sponsorship of a religious message is impermissible because it sends the ancillary message to . . . nonadherents that they 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) (internal quotations omitted).

In order to demonstrate the Board’s respect for the diverse range of religious and nonreligious citizens living in Stokes County, 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 the Board’s meetings. Please respond in writing detailing the steps you are taking to resolve this constitutional issue so that we may inform our complainant. Thank you for your time and attention to this matter, and I hope this letter finds you in good health.

Sincerely,



Brendan Johnson, Esq.
Robert G. Ingersoll Legal Fellow
Freedom From Religion Foundation

² *In U.S., Decline of Christianity Continues at Rapid Pace*, PEW RESEARCH CENTER (Oct. 17, 2019), available at <https://www.pewforum.org/2019/10/17/in-u-s-decline-of-christianity-continues-at-rapid-pace/>.