

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 › MADISON, WI 53701 › (608) 256-8900 › WWW.FFRF.ORG

February 14, 2023

SENT VIA EMAIL AND U.S. MAIL:
tybrowder@browder-overby.com

J. Tyrone Browder
Stokes County Attorney
Browder, Overby, Hall & Michaud
P.O. Box 550
King North Carolina 27021

Re: Continued unconstitutional legislative prayer

Dear Mr. Browder:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a continuing constitutional violation occurring at Stokes County Commissioners meetings. FFRF is a national nonprofit organization with more than 39,000 members across the country, including over 800 members in North Carolina and a local chapter, Triangle Freethought Society. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

On December 10, 2020, FFRF wrote to the chairman of the Stokes County Board of Commissioners, Andy Nickleston, alerting him that the Board's practice of starting meetings with Christian prayers given by Board members was unconstitutional. This letter has been enclosed for your convenience. On January 8, 2021, we received a letter from your office stating that the newly elected board would be reviewing their procedures and that we would be alerted of any changes made to the prayer policy. To date we have received no further response.

It is our understanding that there has been no change to the prayer policy at Board of Commissioners meetings. For example, at the meeting on Monday, January 9, 2023, Commissioner Sonya Cox gave the following prayer:

Dear heavenly father, as we come to you in prayer we'd like to thank you for this day, we'd like to thank you for all our many blessings, we'd like to thank you for allowing us to be here tonight to do the business for the county... We ask that you

make this meeting profitable and that we would make the right decisions, and we ask for travel mercy on the way home tonight. In your name we ask this, amen.¹

As discussed in our previous letter, 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 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 directed towards and in the name of a "heavenly father" 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 thirty-seven percent of Americans who are non-Christian, including the nearly one in three Americans who now identify as religiously unaffiliated.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

¹ Stokes County Board of Commissioners, *Stokes County Board of Commissioners' Meeting - Monday January 9, 2023, 6 PM*, available at <https://www.youtube.com/watch?v=ipLKwgfdMTU> (last accessed Jan. 25, 2023).

² Gregory A. Smith, *About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated*, Pew Research Center (Dec. 14, 2021), available at www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/.

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 the Board to concentrate on civil matters and leave religion to the private conscience of each individual by ending the practice of hosting prayers at its meetings. Please respond in writing detailing the steps you are taking to resolve this constitutional issue so that we may inform our complainant.

Sincerely,

A handwritten signature in black ink, appearing to read "Kat D. Grant". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kat D. Grant

Equal Justice Works Fellow (sponsored by the Wm. Collins Kohler Foundation)
Freedom From Religion Foundation

Enclosure