

FREEDOM FROM RELIGION *foundation*

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February 8, 2024

**SENT VIA EMAIL & U.S. MAIL: bgrenier@tavares.org, sgamble@tavares.org,
wprice@tavares.org, lpfister@tavares.org, tsinger@tavares.org**

The Honorable Bob Grenier
Mayor
Tavares City Council
P.O. Box 1068
Tavares, FL 32778

Re: Concerns Regarding Equal Treatment of Secular Invocations and **Records Request**

Dear Mayor Grenier and City Council members:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to raise concerns regarding the Board's prayer policy and practice, and to ensure that nonbelievers in Tavares are treated with the same respect and given the same rights as religious prayergivers. FFRF is a national nonprofit organization with more than 40,000 members across the country, including more than 2,000 members in Florida and a local chapter, the Central Florida Freethought Community. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

As you may recall, on February 7, 2024, Joseph Richardson, a Central Florida Freethought Community board member, was invited to deliver the opening invocation before the Council. Joseph delivered a respectful secular message of equality and diversity, encouraging members of the public and the Council to reflect the wisdom of reason and empathy that binds us all together. He asked that the Council be guided by the principles of inclusivity, fairness, and respect for the autonomy of every individual, and celebrated the City's shared values transcending creed, culture, and conviction.

In full, he said:

Our thanks today to Mayor Grenier, the commissioners, and the city staff for this invitation to do the invocation today. In this chamber of governance, let us unite in the spirit of reason, compassion and the pursuit of justice.

As we gather, may our hearts be open to the diversity that defines our community. This morning, let us draw inspiration from the universal declaration of human rights, signed more than 75 years ago, serving as a guidepost illuminating the path to equality, dignity, and liberty for all. May today's meeting's decisions reflect the wisdom of reason and the empathy that binds us as fellow human beings. In the pursuit of goodwill to all in our County, may our actions be guided by the principles of inclusivity, fairness, and respect for the autonomy of every individual. Let this assembly today be a testament to the shared values that transcend creed, culture, and conviction. At the same time, may we be grateful for the progress we have made in the past 75 years and the many

accomplishments that surely lie ahead. In closing, let us remember this work is a reflection of a commitment to the city and that these efforts will have a lasting impact on the lives of those you serve. Thank you.

Immediately following his invocation, Mayor Grenier directed Phil Clark, Tavares' utilities director, to deliver a Christian prayer:

Mr. Clark, if you would please.

Mr. Clark delivered a Christian prayer asking that God "forgive us for our sins...In Jesus Christ's name":

Good afternoon, thank you for the privilege of allowing me to work with you all. And thank you for the honor of allowing me to pray.

Heavenly Father, thank You for this blessed and glorious day. Thank You for the folks we work for, thank You for the folks we work with. Thank You for the glorious city we live in. Thank You for all the blessings you bestow upon us. Please keep us on a righteous path. Please forgive us for our sins and bless those less fortunate. In Jesus Christ's name. Amen.

This Christian prayer, apparently delivered because the invocation Joseph gave was not sufficiently Christian, was discriminatory and unconstitutional.

We write to ask that the Council immediately apologize to Joseph and ensure that the discriminatory conduct exhibited at the February 7 meeting does not recur. If the Board cannot treat invocation speakers equally, instead favoring Christianity and denigrating nonbelievers, the practice of having an invocation needs to be eliminated entirely.

As Mayor Grenier's conduct at the meeting demonstrated, prayer at government meetings is unnecessary, inappropriate, and divisive. The best solution is to discontinue invocations altogether. City 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. Citizens, including Tavares' nonreligious citizens, are compelled to come before local government bodies like the Council on important civic matters, to participate in critical decisions affecting their livelihoods, property, children, and quality of life. The prayers exclude the nearly 30 percent of adult Americans who are religiously unaffiliated, as well as the additional six percent of Americans adhering to non-Christian faiths.¹ It is coercive and intimidating for these nonreligious citizens to come to a public meeting and be required either to make a public showing of their nonbelief or to show deference to a religious sentiment they do not believe in, but which their Council members clearly do.

If the Board insists on continuing to host prayers at public meetings, it must not discriminate against any person delivering an invocation on the basis of religion. Secular invocations must be treated the same as Christian prayers. The Supreme Court addressed the issue of legislative prayer in *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014). The Court identified several important elements in the town's invocation practice that, taken together, ensured that the practice did not impermissibly advance one religion over others or promote religion over nonreligion. Over time, the town of Greece "compiled a list

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/.

of willing ‘board chaplains’ who had accepted invitations and agreed to return in the future.” *Id.* at 1816. Additionally, the town of Greece “at no point excluded or denied an opportunity to a would-be prayer giver.” *Id.*

Although Greece created its initial list of invocation givers by having a “town employee . . . call the congregations listed in a local directory until she found a minister available for that month’s meeting,” the town demonstrated a willingness to go beyond its list and allow others to give invocations. *Id.* At one point the town invited a Jewish layperson to give an invocation; and when a Wiccan priestess requested to give an opening prayer, the town granted her the opportunity. *Id.* at 1817. The town “maintained that a minister or layperson of any persuasion, *including an atheist*, could give the invocation.” *Id.* at 1816 (emphasis added). In fact, on July 15, 2014, an atheist citizen delivered the opening invocation at Greece’s town board meeting.²

The fact that Greece “represented that it would welcome a prayer by any minister or layman who wished to give one” was a critical factor in the Court’s conclusion that the practice in *Galloway* did not violate the Constitution. *Id.* at 1824. The Court clearly stated that the purpose of legislative 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.” *Id.* at 1823. The Supreme Court’s decision would have been different had the town used the prayer opportunity to discriminate against minority religions. The Court made clear that governmental bodies must “maintain[] a policy of nondiscrimination” with respect to invocation speakers and must not act with “aversion or bias . . . against minority faiths.” *Id.* at 1824.

The U.S. Court of Appeals for the Eleventh Circuit—which has jurisdiction over Florida—has likewise condemned discrimination against minority beliefs in invocation practices. In *Pelphrey v. Cobb County*, 547 F.3d 1263, 1281–82 (11th Cir. 2008), the Eleventh Circuit held that a county commission violated the Establishment Clause by removing Jews, Muslims, Jehovah’s Witnesses, and Mormons from a list that it used to select invocation-speakers. The court explained that the Establishment Clause “prohibits purposeful discrimination”—“the selection of invitational speakers based on an ‘impermissible motive’ to prefer certain beliefs over others.” *Id.* at 1278, 1281 (quoting *Marsh v. Chambers*, 463 U.S. 783, 793 (1983)).

And in *Williamson v. Brevard County*, 928 F.3d 1296, 1299 (11th Cir. 2019), the Eleventh Circuit ruled that a county commission violated the Establishment Clause by discriminating in favor of mainstream, monotheistic religions in its invocation practice. The court emphasized that “local governments violate the Constitution if they organize and conduct their prayers in a way that discriminates against other religious beliefs.” *Id.* at 1310. After the case returned to the district court, the defendant county agreed to a settlement that prohibited it from continuing its discriminatory practices and required it to pay \$490,000 in damages and attorney’s fees to the plaintiffs. Consent Amended Final Judgment, *Williamson v. Brevard County*, No. 6:15-cv-1098 (M.D. Fla. Feb. 19, 2020), ECF No. 152.

The Establishment Clause thus requires that a nonbeliever who delivers an invocation be treated the same as someone who delivers a Christian prayer. When the Council invites someone to deliver a Christian prayer to “correct” a prayer or invocation that was not Christian, the Council engages in a practice that discriminates against minority faiths.

² See www.centerforinquiry.net/newsroom/atheist_to_deliver_invocation_at_greece_ny_town_meeting_july_15/.

Furthermore, it is unconstitutional discrimination to treat similarly situated persons differently: “[t]he Equal Protection Clause of the Fourteenth Amendment . . . is essentially a direction that all persons similarly situated should be treated alike.” *City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985) (citing *Plyler v. Doe*, 457 U.S. 202, 216 (1982)). Treating an atheist or nonbeliever who delivers an invocation differently from a Christian citizen constitutes discrimination.

We urge you to concentrate on civil matters and leave religion to the private conscience of individuals by ending the practice of hosting prayers at your meetings. But as long as the Council continues to invite citizens to deliver invocations to begin its meetings, it must treat all invocations the same. The Council should apologize to Joseph and the non-Christian members of Tavares, and ensure that no “corrective” Christian prayers are offered after non-Christian invocations in the future. Thank you for your time and attention to this matter.

Records Request

Pursuant to the Florida Sunshine Law (Fl. Stat. §119), I request the following records:

1. All communications between members of the Council regarding the February 7 meeting and invocation;
2. All communications between Phil Clark and any member of the Council regarding the February 7 meeting and his invocation;
3. All emails between Phil Clark and any member of the Council since November 1, 2023;
4. Any documents or records, excluding Council meeting minutes, referencing the Board’s invocation policy since January 1, 2023;
5. Any correspondence, including letters and emails, to or from Council members, relating to the Board’s invocation policy since January 1, 2023.

If any records are available in electronic format (preferred), they may be emailed to **chris@ffrf.org**. Thank you in advance for your time and attention to this matter. If I can provide any clarification that will help expedite your attention to my request, please contact me.

Sincerely,

A handwritten signature in blue ink that reads "Chris Line". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation