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Prayer Before a Public Meeting – Yes or No?

By Randy Van Vleck, League General Counsel

One of the perennial questions we receive at the League is whether it is constitutional to have an opening prayer before council meetings. My standard answer for the longest time has been “it depends.” Now the Supreme Court of the United States (SCOTUS) has decided a case on this issue. In *Town of Greece v. Galloway*, the SCOTUS decided whether a prayer made at the beginning of a council meeting was appropriate under the U.S. Constitution. In *Town of Greece*, the SCOTUS was called upon to decide whether the town of Greece, New York, imposes an impermissible establishment of religion by opening its monthly board meetings with a prayer.

Following the roll call and recitation of the Pledge of Allegiance, the Town Supervisor (Mayor) would invite a local clergyman to the front of the room to deliver an invocation. After the prayer, the Town Supervisor would thank the minister for serving as the board’s “chaplain for the month” and present him with a commemorative plaque. The prayer was intended to place town board members in a solemn and deliberative frame of mind, invoke divine guidance in town affairs, and follow a tradition practiced by Congress and dozens of state legislatures. The Town followed an informal method for selecting prayer givers, all of whom were unpaid volunteers. A Town employee would call the congregations listed in a local directory until she found a minister available for that month’s meeting. The town eventually compiled a list of willing “board chaplains” who had accepted invitations and agreed to return in the future. The Town at no point excluded or denied an opportunity to a would-be prayer giver. Its leaders maintained that a minister or layperson of any persuasion, including an atheist, could give the invocation. Nearly all of the congregations in Town were Christian and consequently the bulk of the prayers were led by Christian leaders. The Town neither reviewed the prayers in advance of the meetings nor provided guidance as to their tone or content, in the belief that exercising any degree of control over the prayers would infringe the free exercise speech rights of the ministers.

Respondents Susan Galloway and Linda Stephens attended Town Board meetings to speak about issues of local concern, and they objected, claiming that the prayers violated their religious or philosophical views. At one meeting, Galloway admonished board members that she found the prayers “offensive,” “intolerable,” and an affront to a “diverse community.” After these complaints, the town invited a Jewish layman and the chairman of the local Baha’i temple to deliver prayers. A Wiccan priestess who had read press reports about the prayer controversy requested, and was granted, an opportunity to give the invocation.

Nevertheless, Galloway and Stevens brought suit in the United States District Court for the Western District of New York. They alleged that the Town violated the First Amendment’s Establishment Clause by preferring Christians over other prayer givers and by sponsoring sectarian prayers, such as those given “in Jesus’ name.” They were not interested in stopping the prayer practice, but they wanted the content of the prayers to be more “inclusive and ecumenical,” in other words prayers that referred only to a “generic God” and which would not associate the government with any one faith or belief.

The District Court upheld the prayer practice and found that there was no impermissible preference for Christianity. It also held that notion of a requirement that the prayer be nonsectarian is not supported. The Court of Appeals reversed, finding that in its totality a reasonable observer might believe that the Town was endorsing Christianity. It also found fault because the Town did not go outside its borders to find more diverse clergy. Finally, the court found it relevant that guest clergy sometimes spoke on behalf of all

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District Directors, Alternates Chosen during League’s District Meetings in March

District Directors and Alternates in even-numbered district were elected during the League annual District Meeting held in March in locations around the state. The Directors and Alternates will serve two-year terms. The District Directors and Alternates are:

District 2

Director: Mayor Barbara Cottam – Angel Fire
Alternate: Mayor Pro Tem George Woerndle – Red River

District 4

Director: Mayor Sharon King – Portales
Alternate: Mayor Ruth Litchfield – Tucumcari

District 6

Director: Councilor Joseph Eby – Ruidoso
Alternate: Mayor Ray Cordova – Tularosa

District 8

Director: Mayor Jack Torres – Bernalillo
Alternate: Mayor Greg Hull – Rio Rancho

Clerk/Treasurer Renee Martinez of Questa Receives CMC Designation from IIMC

Renee Martinez, Village Clerk/Treasurer of Questa, has received the prestigious Certified Municipal Clerk designation (CMC) from the International Institute of Municipal Clerks (IIMC).

The CMC designation program is designed to enhance the job performance of the Clerk in small and large municipalities. To earn the CMC designation, a Municipal Clerk must attend extensive education programs. The designation also requires pertinent experience in a municipality. The program prepares the participants to meet the challenges of the complex role of the municipal clerks by providing them with quality education in partnership with 47 institutions of higher learning. The program has been in existence since 1970 and has helped thousands of clerks in various municipalities.

Founded in 1947, IIMC is a professional association with more than 10,000 members in the US, Canada and 15 other countries. IIMC's primary goal is to actively promote the continuing education and professional development of municipal clerks through extensive education programs, certification, recertification, publications, networking, annual conferences and research. IIMC also engages in municipal research administration, enhances critical professional skill development and fosters a spirit of mutual assistance and good fellowship among municipal clerks around the globe.

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Getting to Know You

This feature focuses on learning more about the League Executive Committee, Board of Directors and other elected officials. This month is Springer Mayor Fernando Garcia.



What was your primary motivation to run for political office in your community?

My primary motivation to run for a political office was to make a difference in my community. As a lifelong resident of the Town of Springer, I feel it is important to conserve our valuable resources as well as protect our heritage of this area. Being an elected official for the Town, I have been given the chance to invest in my community by working smarter and not harder.

How do you view your role in serving as an elected official in your community?

I view my role as an unbiased neutral source between the governing body and the people I serve.

What do you think is the primary role of municipal government?

The primary role is to manage and oversee the Town’s day-to-day operations and to create and maintain opportunity with the Town for economic development and infrastructure improvements. It is essentially important to work hand in hand with the elected officials to communicate and keep a positive approach to ensure progress.

What do you think is the primary role of the New Mexico Municipal League in municipal government?

I feel the New Mexico Municipal League is the key to our success as municipalities. The League supplies the tools and resources we need to efficiently operate our local governments.

What is your favorite “after work” pastime?

My favorite pastimes includes fishing, driving my fast car, and spending time with my family, especially my grand babies.

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Prayer . . . continued from page 1

present at the meeting, by saying “let us pray,” or by asking audience members to stand and bow their heads: “The invitation . . . to participate in the prayer . . . placed audience members who are nonreligious or adherents of non-Christian religion in the awkward position of either participating in prayers invoking beliefs they did not share or appearing to show disrespect for the invocation.”

The Supreme Court of the United States reversed. In support, the SCOTUS cited *Marsh v. Chambers*, 463 U. S. 783 (1983), where the Supreme Court found no First Amendment violation in the Nebraska Legislature’s practice of opening its sessions with a prayer delivered by a chaplain paid from state funds. The decision concluded that legislative prayer, while religious in nature, has long been understood as compatible with the Establishment Clause. Legislative prayer lends gravity to public business, reminds lawmakers to transcend petty differences in pursuit of a higher purpose, and expresses a common aspiration to a just and peaceful society. *Marsh* teaches instead, that the Establishment Clause must be interpreted “by reference to historical practices and understandings.” The fact that the first Congress of the United States provided for the appointment of a chaplain, days after approving the First Amendment (which contains the Establishment Clause) is evidence that the Framers of the Constitution considered prayer to be an acknowledgement of religion’s role in society. *Marsh* stands for the proposition that it is not necessary to define the precise boundary of the Establishment Clause where history shows that the specific practice (prayer prior to a legislative meeting) is permitted.

The SCOTUS decided that an insistence on nonsectarian or ecumenical prayer as a single, fixed standard is not consistent with the tradition of legislative prayer outlined in prior cases. The Congress that drafted the First Amendment would have been accustomed to invocations containing explicitly religious themes of the sort respondents find objectionable and have historically approved such themes in prayers. The contention that legislative prayer must be generic or nonsectarian arises from statements made in *County of Allegheny*, 492 U. S. 573, that was disputed when written and has been repudiated by later cases. To hold that invocations must be nonsectarian would force the legislatures that sponsor prayers and the courts that are asked to decide these cases to act as supervisors and censors of religious speech, which would create an environment of government entanglement in religion, which would clearly be in violation of the First Amendment. It was suggested that references to “Father, God, Lord God, and the Almighty” would be acceptable in public prayer, but that references to “Jesus Christ, the Holy Spirit, and the Holy Trinity” would not. Perhaps the thought was that references to a generic “Father, Lord, God or Almighty” would not be overly offensive, yet those types of references would most likely alienate nonbelievers or polytheists.

The SCOTUS supported a prayer that was designed to emphasize the gravity of the occasion and to instill a positive and reflective attitude among the elected officials. Prayer that is solemn and respectful in tone, that invites lawmakers to reflect upon shared ideals and common ends before they embark on the contentious business of governing,

serves a legitimate function. So long as the prayer is not disparaging of other faiths or used and given to proselytize those at the meeting it will be acceptable. The tradition of having an opening prayer that has been in place since the Constitution was written and adopted, permits each chaplain to be free to ask their own God for blessings of peace, justice, and freedom that find appreciation among people of all faiths. That a prayer is given in the name of Jesus, Allah, or Jehovah, or that it makes passing reference to religious doctrines, does not remove it from that tradition.

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Scenes from District 8 Meeting

Prayer . . . continued from page 4

From the very beginning, these prayers or invocations were directed to the legislative or judicial body. So, some common sense suggestions as to the mechanics of having a prayer or invocation might be in order.

First, it is preferable that the chaplain or person leading the prayer face the council and not the audience. The leader should refrain from asking the gallery members to participate, but direct the prayer to the members of the body. Such actions show the intent is to actually have the prayer be a part of the legislative meeting and given for the governing body. Second, it is preferable to have outside individuals lead this prayer or invocation. Having the Mayor or a member of the body give the prayer or invocation (even if they person rotates or changes) gives the indelible impression that the body is endorsing or supporting the view being espoused which is exactly what the Establishment Clause is seeking to avoid. Having a list or “stable” of chaplains of differing faiths and beliefs goes a long way toward rebutting claims that the body is endorsing one religion over the others.

If a municipality wants to begin its meeting with a prayer, it must understand that the principal audience for these invocations is not, indeed, the public but the governing body themselves, who may find that a moment of prayer or quiet reflection sets the mind to a higher purpose and thereby eases the task of governing. Prayer, prior to a meeting of a legislative body has been in practice since the birth of this country and has historically been accepted as a legitimate means of expressing that our own existence must be understood by precepts far beyond the authority of government.



Above, some of the participants at the District 8 meeting held March 24 at Los Poblanos Historic Inn in Los Ranchos de Albuquerque. Below, Rio Rancho Mayor Greg Hull (left) addresses the group as the chair of the newly-formed Mayors’ Caucus. Also shown is League Executive Director William Fulginiti and Intergovernmental Relations Director Regina Romero. (Photos courtesy of Colette Schobbens)





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U.S. Communities Announces Foreign Language Interpretation Contract

by Marc Shapiro, National League of Cities

U.S. Communities, NLC's national non-profit purchasing cooperative, has announced a contract for foreign language interpretation, translation services and related services and solutions.

The [U. S. Communities contract](#) was awarded to Language Select after the lead public agency, the City of Chicago, completed a competitive solicitation and thorough evaluation process for language services. This is the first contract U.S.

Communities has awarded in this category. It is valid for three years, with two one-year renewal options.

Under this new contract, Language Select will offer on-demand telephone interpreting services with access to over 200 languages, 24 hours a day, 7 days a week, 365 days a year. In addition, Language Select offers video remote interpreting services, on-site interpreting services, written translation services, and ancillary services.



“Language Select is pleased to be the exclusive interpretation and translations service partner for U.S. Communities,” said Mr. Yeun Korman, Managing Director of Business Development. He further noted, “our team is excited to have an opportunity to serve all US Communities’ partnering agencies and limited English speakers around the country. Our entire Language Select interpreter staff and management team is looking forward to providing language services to U.S. Communities’ valuable partnering agencies.”

U.S. Communities is the only national purchasing cooperative founded and sponsored by the National League of Cities (NLC), National Association of Counties (NACo), Association of School Business Officials, International (ASBO) and U.S. Conference of Mayors (USCM), along with 29 state municipal leagues.

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