

CITY COUNCIL COMMITTEE

POLICY DEVELOPMENT AND INTERNAL OPERATIONS

Mayor Tim Grayson, Chair
Vice-Mayor Laura Hoffmeister, Committee Member

5:30 p.m.
Monday, January 12, 2015

City Council Chamber
1950 Parkside Drive, Concord

- ANNOTATED AGENDA -

ROLL CALL: All present

STAFF PRESENT: Mark Coon, City Attorney, Valerie Barone, City Manager

MEMBERS OF THE PUBLIC WHO ADDRESSED THE COMMITTEE: Daisy Daymond, Luz Keller, Scott Trublood, Roylen Stack, Steve Weir, Terry Kremin, Burt Bogardus, Larry Hicok, Jane Russell, Harmesh Kumar, Sally Johnson, Barbara Gomez, Eric Stone, Ellen Bulf, Nancy Hume, Floyd Roseberry

PUBLIC COMMENT PERIOD: None

- 1. DISCUSSION** – Consideration of Prayer/Inspirational Moment at City Council Meetings.
Report by Mark Coon, City Attorney.

ACTION: City Attorney Mark Coon briefly discussed the recent Supreme Court decision in *Town of Greece, New York v. Galloway*. He noted that in that decision, the Supreme Court held that a brief moment of prayer/inspiration prior to a city council meeting does not violate the First Amendment's Establishment Clause, which precludes governmental institutions from establishing religion or preferring one religion over another. Nevertheless, cities that adopt a moment of prayer must make a reasonable attempt to allow all faiths and denominations within the city to participate; those giving the prayer cannot proselytize or criticize other religions; members of the public cannot be forced to take part in the prayer or moment inspiration against their will; and decisions by the City Council cannot in any way be influenced by whether or not a party has or has not participated in the prayer.

Mr. Coon noted that at the July 14, 2014 Meeting of the Policy Development and Infrastructure Organization Council Committee, then Committee members Mayor Tim Grayson and Vice-Mayor Ron Leone asked staff to research a number of issues relating to the potential adoption by Concord of a moment of prayer/inspiration. Mr. Coon noted that the answers to those questions were set forth in the staff report for the January 12, 2015 meeting.

Vice Mayor Hoffmeister thanked the many speakers for their comments on this matter. She noted that a number of public speakers indicated that they were of a particular faith or religion, but that prayer should not be part of the Council meeting. She stated that although she recognizes the importance of prayer and religious faith within the community, she believes that establishing a moment of prayer prior to Council meetings would be divisive, and that it would be administratively challenging and time-consuming for staff to afford all faiths and religions within Concord an equal opportunity to participate. Vice-Mayor Hoffmeister also noted that adoption of a moment of prayer could expose the City to lawsuits by members of faiths who felt they were not given an equal opportunity to participate. She noted that when Concord allowed prayer at council meetings in the 1970s the proceedings often became contentious, with members of the audience denouncing the prayer that had just been given. Because of the controversy, the Council meeting focus by the public was on the prayer portion and not the agenda items. Vice-Mayor Hoffmeister noted that religious faith is a private, personal matter, and that Concord is best served by maintaining a separation between religion and City government. She also noted that the Town of Greece, which was the defendant in the Supreme Court case at issue, is much smaller than Concord, and almost certainly does not have such a large and diverse number of religions and faiths as Concord. In response to speakers' suggestions of having a single and consistent secular statement read at the beginning of Council meetings (as an alternative to prayer), Vice-Mayor Hoffmeister noted that the Pledge of Allegiance is recited, and serves as an appropriate unifying statement prior to the meeting. Vice-Mayor Hoffmeister stated that for these reasons, she is not in favor of forwarding this proposal to the full Council for consideration.

Mayor Grayson stated that given Vice-Mayor Hoffmeister's vote against forwarding the moment of prayer/inspiration proposal to the full Council, his decision—either for or against the proposal— will not change the outcome (inasmuch as, absent City Manager action, a unanimous vote is required to move a proposal from a Council Committee to the full City Council). Mayor Grayson stated that he absolutely respects Councilmember Helix's intentions in initially making the proposal, and the recognition by Councilmember Helix that legislative prayer can serve as a unifying reminder to councilmembers to transcend their differences in pursuit of a higher purpose and common goals. Mayor Grayson noted that prayer is routinely given in both houses of the United States Congress, as well as in the state legislature. Mayor Grayson stated that prayer is important in his own personal life, that political leaders at all levels of government seek faith-based guidance, and that he has personally witnessed the positive effect that police chaplains can have in helping members of the public deal with loss and grief. Mayor Grayson stated that he nevertheless recognizes and accepts that he was elected for reasons other than to establish prayer at Concord City Council meetings. Councilmember Grayson also observed that the majority of the public speakers at the meeting clearly were not in favor of adopting a moment of prayer/inspiration.

The proposal for prayer or moment of inspiration prior to Council meetings was not advanced to the full city Council for review.

2. ADJOURNMENT at 7:10 p.m.

MAL

In accordance with the Americans with Disabilities Act and California Law, it is the policy of the City of Concord to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require a copy of a public hearing notice, or an agenda and/or agenda packet in an appropriate alternative format; or if you require other accommodation, please contact the ADA Coordinator at (925) 671-3361, at least five days in advance of the meeting. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

Distribution: [REDACTED]
City Council
Valerie Barone, City Manager
Mark Coon, City Attorney
Joelle Fockler, City Clerk
Administrative Services

Attachments: correspondence by Jane Russell, Ellen Bulf, Terry Kremin and Daisy Diamond

rev'd @ mtg
1/12/2015

^{Vice Mayor}
Mayor Grayson and Councilmember Hoffmeister. Thank you for allowing me to speak.

~~My name is Jane Russell,~~ and I am one of the organizers of the Contra Costa Atheists and Freethinkers, a group of 326 members, 34 who live in Concord

I have read the city attorney's report carefully. What is compelling to me is the fact that the city did have prayer at council meetings in the past, but discontinued the practice due to the difficulty and discord that such government-sanctioned prayer generated. I think it is important to learn from the past. I see no reason to think that implementing prayer at this time would be any less divisive. I think that the Concord community is even more diverse now than in the 70's, so it is likely to be even more divisive should such a policy be implemented.

Should prayer be implemented at council meetings, the city attorney recommended, (and I quote) "The official action as taken by an individual councilmember or the body itself may not be affected in any way by a member of the public's participation, or lack thereof, in the prayer." (close quote) This recommendation is impossible to carry out. As a psychologist, I realize that people often are unaware of their own reactions and thoughts, and may well become prejudiced by the actions or inactions of others. The recommendation to not be affected by the public's participation is only rhetorical - it is not reasonable.

The city attorney includes an alternative to prayer -- a private gathering before council meetings. It is not clear if this is meant to be only for council members, or for the public as well. If the public is included, bias is clearly a risk, as it would be noticed which individuals did attend, and those who did not. This would not be conducive to harmonious and fair governance.

If you are concerned that the council members do not take their actions seriously, which I find a bit odd, but if you are concerned, then why not have the mayor read a short statement at the beginning of a council meeting, such as, (quote) "I remind all participants herein to take these proceedings seriously, to attempt to resolve any differences in a productive way, and to work towards a just and peaceful community." (close quote) Such a statement, it would be less cumbersome administratively and less divisive than sanctioning and allowing time for a prayer.

Your job is to run the government of Concord, and to represent **all** the citizens of your city, including the significant portion of non-believers. I urge you to maintain the integrity of Concord city government, and promote harmony and unity by rejecting this proposal.

Thank you.

Jane Russell

Rec'd @ mtg
1/12/2015

January 12, 2015

To: Members of the Concord City Council

Re: prayers at Council meetings

Our family is opposed to the practice of officially-sponsored prayer at government meetings for many reasons. These include its being divisive, a waste of taxpayers' time and money, disrespectful of our diverse community, and opening the door to a circus atmosphere as the Scientologists, Satanists, Druids, and who knows who else will insist—rightly-- on their turn to speak.

I would like to address another good reason not to have prayers: the near-certainty of expensive litigation. The Supreme Court decision in *Greece vs Galloway* was a narrow one. Prayers must be "brief". They must be only "ceremonial." They must not "denigrate, proselytize, or betray an impermissible government purpose."

These vague requirements are sure to be tested in future cases. Do we want Concord's coffers to be drained as one of those? Could the Council members themselves even agree on what is permissible? Do we really want to have to coach each and every preacher who stands before this body ahead of time as to what these requirements mean and worry that he/she might cross the line?

I respectfully urge this body to keep to its trust and mandate and spend its time on the business of the City of Concord and leave the business of religion to those who choose to practice it.

Ellen M. Bulf
1350 Canyonwood Ct. #1
Walnut Creek, CA 94595
Resident of Contra Costa County for 25 years.

Ellen M. Bulf

Recod @ mtg
1/12/2015

A person's religion belongs in their head, their heart, their home, and their chosen house of worship.

A specific religion should not have an active part in our government.

While the underlying principles of religion and philosophy of treating others well, and respecting community should be incorporated, government should not be a platform for religion.

All government gatherings should be welcoming to all people regardless of any faith.

We should not be having a Catholic meeting one week, a Muslim meeting another week, a Jewish meeting another week, a Baptist meeting another, a Wiccan meeting for another, a Scientology week, and a Church of Satan week, and on.

If you are offended by one or more of those and would be put off attending on that day, you cannot belittle others who might find a different set offensive and put off from attending that meeting.

EVERY meeting should be welcoming to all people. To promote and further participation by all citizens, I believe that religion should be left to the individual and their 4 Hs and not made an official part of city governance.

TERRY KEEMIN
CONCORD RESIDENT

Recvd @ mtg.
1/12/2015

Members of the Council:

My name is Daisy Daymond.

I will speak to three issues related to the report prepared for this meeting by the City Attorney.

The first relates to Concord's previous experience with prayer. On Page 2, second to last paragraph, the report says that the practice was discontinued because in addition to taxing the resources of the staff, it created some public criticism as to the fairness of the process. It goes on to say, Quote - "This discord overshadowed the very reason for having prayer in the first place – the desire to foster harmony and unity." End quote.

Now I want to suggest that there are many other ways to foster harmony – appeal to reason, for example. And further to suggest that the reason for choosing **prayer** – then and now - is not to foster harmony but to foster religion.

The second issue refers to a statement on Page 3, second to last paragraph, where the author says that religious leaders will be invited to offer a prayer or an inspirational moment, Quote - "for the benefit and blessing of the City Council". End quote.

I was momentarily taken aback when I read the word 'blessing'. We're bordering here on religious ritual.

My third and final point refers to another part of that same statement. If instead of a prayer, the speaker might offer an inspirational thought, why then must the speaker be a religious leader? Why not a philosopher? Or a poet?

I'll repeat this last point: If instead of a prayer, the speaker might offer an inspirational thought, why not a philosopher, or a poet?

I'd like to think that we live in an enlightened community, but it is troubling to learn, here in the 21st century and more than 300 years after the beginning of the Enlightenment, that the Council is proposing to invoke the imaginary powers and blessings of supernatural beings. *over their proceedings.*

Consider whether it is the business of the Council to promote religion or to promote harmony in the interests of good governance. Let's dispense with prayers, ~~and~~ *lets* reason together.

Thank you for this opportunity to speak to so important an issue.

Daisy Daymond
daisydaymond@yahoo.com