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September 18, 2015

By Email & U.S. Mail

Coolidge City Council

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Robert Hudelson, Councilmember (rob4coolidge@gmail.com)
Steve Hudson, Councilmember (steve@garrettmotors.com)
Gary Lewis, Councilmember (lewiscouncilman@yahoo.com)
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City Hall

130 W. Central Ave.
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Re: Religious discrimination in selection of invocation speakers

Dear members of the City Council and Mr. Fitzgibbons:

We have received a complaint that the Coolidge City Council voted to adopt an invocation policy that requires all invocation speakers to deliver Christian prayers. *See* Joey Chenoweth, *Coolidge City Council Meetings: Prayers Planned, But Christian Only*, Coolidge Examiner, Sept. 15, 2015, <http://tinyurl.com/pkyjol3>. If adopted, this discriminatory policy—which essentially adopts Christianity as the City’s official religion—would clearly violate the Establishment Clause of the First Amendment to the U.S. Constitution. Even the City’s own attorney admitted that the policy “would not be legal under Supreme Court rulings.” *Id.* Because the Christian-only policy violates the First Amendment so flagrantly, adoption of the policy would likely cause the City to be sued in federal court and held liable for violating the Constitution.

The City’s policy would violate “the clearest command of the Establishment Clause”: “one religious denomination cannot be officially preferred over another.”

Larson v. Valente, 456 U.S. 228, 244 (1982). In *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014), the U.S. Supreme Court held that, when inviting speakers to deliver invocations at legislative meetings, government bodies must “maintain[] a policy of nondiscrimination” and may not follow policies or practices that “reflect an aversion or bias ... against minority faiths.” *Id.* at 1824. In upholding the invocation practice of the town at issue, the Court relied on the town’s assurance that “a minister or layperson of any persuasion, including an atheist, could give the invocation.” *Id.* at 1816. The Court added that government officials may not “act as supervisors and censors of religious speech.” *Id.* at 1822. And the Court reiterated that invocation practices must not be “exploited to proselytize or advance any one, or to disparage any other, faith or belief.” *Id.* at 1823.

The City’s policy here would violate each of the Supreme Court’s directives. It would discriminate against non-Christians, lead the City to prescribe and censor the prayers’ content, and exploit the prayer opportunity to advance Christianity and Christianity alone.

The public statements of the policy’s chief proponent reinforce that the policy impermissibly seeks to place the government’s weight behind Christianity. Councilman Hudelson, who offered the amendment restricting the prayers to Christianity, stated: “You know what was said at the end of the (Revolutionary) war? A treaty in Paris that said ‘In the name of the most Holy and undivided Trinity.’ You don’t get that from the Quran. You get it from the Bible. You get it from Christianity. That’s our heritage.” *See Chenoweth, supra*. But even if the Council believes that Christianity is or should be more important than other religions, “[o]ur government is prohibited from prescribing prayers to be recited in our public institutions in order to promote a preferred system of belief or code of moral behavior.” *Town of Greece*, 134 S. Ct. at 1822.

In order to comply with the First Amendment and respect the religious diversity of Coolidge’s citizens, the City should rescind its Christian-only policy and replace it with a policy that invites invocation speakers on equal terms. You can find a model policy, which would respect the City’s religious diversity and comply with the First Amendment, at <http://tinyurl.com/InvocAU>. If, on the other hand, the prospect of diverse prayers is unacceptable to the Council, the City is free to dispense with opening prayers entirely and sponsor a moment of silence instead. In all events, members of the Council must refrain from advancing, proselytizing, or disparaging any religion, as Councilman Hudelson did in his public comments.

Please respond to this letter within thirty days. If you have any questions, you may contact Ian Smith at (202) 466-3234 or ismith@au.org.

Sincerely,

A handwritten signature in blue ink that reads "Ian Smith". The signature is cursive and includes a stylized flourish at the end.

Richard B. Katskee, Legal Director
Gregory M. Lipper, Senior Litigation Counsel
Ian Smith, Staff Attorney