



March 7, 2012

Board of County Commissioners
Carroll County Office Building
225 North Center Street
Westminster, Maryland 21157

Re: Official Prayers at Carroll County Board of Commissioners Meetings

Ladies and Gentlemen:

I am writing to alert you to a serious separation of church and state concern. We have recently been informed that public meetings of the Board of Carroll County Commissioners regularly open with sectarian prayers.

The American Humanist Association is a national nonprofit organization with over 10,000 members and 20,000 supporters across the country, including in Maryland. The purpose of the AHA's legal center is to protect one of the most fundamental legal principles of our democracy: the constitutional mandate requiring separation of church and state, embodied in the Establishment Clause of the First Amendment.¹

The recordings of the board meetings posted on the your website² reveal that many meetings from September 15, 2011, through March 1, 2012, opened with a prayer that was delivered by a county commissioner. The prayers frequently mention "Jesus," "Lord," "Savior" and/or "Heavenly Father" and end with a biblical "amen."³ Given these facts, the county's actions are in violation of the Establishment Clause and therefore unconstitutional.

¹ The very first sentence of the Bill of Rights mandates that the state be secular: "Congress shall make no law respecting an establishment of religion." This provision, known as the Establishment Clause, "build[s] a wall of separation between church and State." See Reynolds v. United States, 98 U.S. 145, 164 (1878). Pursuant to the Fourteenth Amendment the Establishment Clause applies to the states. See Cantwell v. Connecticut, 310 U.S. 296, 303 (1940).

² <http://carrollcountymd.igq2.com/citizens/>

³ At the following meetings, a commissioner delivered the prayer, each containing the noted religious references: 3/1/12 ("In the name of my savior"); 2/23/12 ("Heavenly Father" and "Amen"); 2/16/12 ("Lord" and "in the name of my savior"); 2/9/12 ("Heavenly Father," "Lord," and "in Jesus' name"); 1/24/12 ("Heavenly Father" and "in Jesus name I pray"); 1/19/12 (Recited the Lord's Prayer); 1/11/12 ("In my savior I pray"); 12/22/11 ("Heavenly Father"); 12/13/11 ("Lord" and "in the name of my savior"); 12/8/11 ("Heavenly Father," "Lord," and "in Jesus' name"); 12/6/11 ("Heavenly Father" and "Amen"); 12/1/11 ("Lord" and "Amen"); 11/17/11 ("Heavenly Father" and "Amen"); 11/10/11 ("Amen"); 11/8/2011 ("Amen"); 11/3/11 ("Heavenly Father" and "in the name of my savior I pray"); 11/1/11 ("Heavenly Father," "in your name" and "Amen"); 10/31/11 ("Lord" and "in Jesus my savior's name I pray");

The Supreme Court has made clear that prayers offered as part of legislative business are unconstitutional if they are sectarian (*i.e.* if they “advance any one . . . faith or belief”). Marsh v. Chambers, 463 U.S. 783, 794-95 (1983). The Fourth Circuit Court of Appeals, which includes Maryland within its jurisdiction, recently applied Marsh to strike down as unconstitutional the practice of a legislature opening its meetings with prayers that “contained references to Jesus Christ.” See Joyner v. Forsyth Co., 653 F. 3d 341, 343 (4th Cir. 2011).⁴ The Joyner court stated that “[s]ectarian prayers must not serve as the gateway to citizen participation in the affairs of . . . government.” *Id.* at 343-44. The court went on to state that such official sectarian prayers do “violence to the pluralistic and inclusive values that are a defining feature of American public life.” *Id.* at 347.

Including prayers as part of the legislative process creates an unconstitutionally hostile environment for those who have no desire to encounter officially sanctioned religion when exercising their fundamental right to participate in the local democratic process. The commission’s endorsement of particular religious views discourages such citizens from attending meetings by marking them as disfavored political outsiders. See Lynch v. Donnelly, 465 U.S. 688, 688 (1984) (O’Connor, J., concurring, stating that “[e]ndorsement [of religion] sends a message to nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community”). This is unconstitutional because the “Establishment Clause prohibits government from making adherence to a religion relevant in any way to a person’s standing in the political community.” *Id.*⁵ In order to prevent this sort of estrangement between citizens and their government, our Constitution “mandates that the government remain secular, rather than affiliate itself with religious beliefs or institutions, precisely in order to avoid discriminating among citizens . . .” Allegheny County v. Greater Pittsburgh ACLU, 492 US 573, 610 (1989).

The fact that some of you may believe that a majority of Carroll County residents agree with your official promotion of Christianity is of no legal significance. The very nature of the democracy established by our Constitution is such that, although the will of majority generally governs, our fundamental civil rights and liberties are not put to a vote. See West Virginia Bd. of Ed. v. Barnette, 319 U. S. 624, 638 (1943) (stating that “[t]he very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond

10/13/11 (“Heavenly Father” and “Amen”); 10/6/11 (“in Jesus name I pray”); 10/4/11 (“Amen”); 9/29/11 (“in Jesus name I pray”); 9/22/11 (“Lord and “Amen”); and 9/15/11 (“Amen”).

⁴ See also Wynne v. Town of Great Falls, 376 F.3d 292 (4th Cir. 2004) (holding a town council’s prayers that “invok[ed] the name ‘Jesus Christ’ . . . advance[d] one faith, Christianity, in preference to others, in a manner decidedly inconsistent with Marsh”); Rubin v. Burbank, 101 Cal. App. 4th 1194 (2002) (holding that city council’s “invocation offered to Jesus Christ violated the Establishment Clause”); Doe v. Tangipahoa Parish School Bd., 473 F 3d. 188 (5th Cir. 2005) (holding that a school board’s prayers that sometimes made “reference to Jesus Christ,” “evoked a Christian tone” and were never “given by non-Christians” were unconstitutional); Coles v. Cleveland Bd. of Ed., 171 F. 3d 369 (6th Cir. 1999) (holding that school board’s prayers that made “repeated reference to Jesus and the Bible” were unconstitutional); and Bacus v. Palo Verde Unified School District Board of Education, 52 Fed. Appx. 355 (9th Cir. 2002) (holding that school board’s prayers “in the name of Jesus” were unconstitutional).

⁵ The full Supreme Court has adopted the view, originally espoused by Justice O’Connor in her concurrence in Lynch, that government endorsement of religion unconstitutionally makes nonbelievers into political outsiders. See Santa Fe Independent School Dist. v. Doe, 530 U.S. 290, 309-10 (2000) (stating that “[w]hen the government associates one set of religious beliefs with the state and identifies nonadherents as outsiders, it encroaches upon the individual’s decision of whether and how to worship”).

the reach of majorities and officials and to establish them as legal principles to be applied by the courts”). The Establishment Clause protects just such a fundamental right that is not subject to the supposed will of the majority. *See e.g. McCreary* at 884 (stating that courts “do not count heads before enforcing the First Amendment”).

We respectfully request that you immediately cease beginning public Board of Carroll County Commission meetings with prayers and instead comply with the Constitution, which requires a separation of church and state. All residents of Maryland deserve to feel welcome when interacting with their government. Beginning public meetings with divisive prayers produces the opposite effect, corroding the broad civic engagement that is fundamental to the proper functioning of our secular and democratic form of government.

Please notify us in writing within one week of the steps you are taking to end this constitutional violation so that we may avoid any potential litigation. Thank you for your time and attention to this matter.

Sincerely,

William J. Burgess
Appignani Humanist Legal Center
American Humanist Association

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