



FREEDOM FROM RELIGION FOUNDATION

P.O. Box 750 • Madison WI 53701 • (608) 256-8900 • www.ffrf.org

April 17, 2009

The Honorable John Cook
Mayor
City of El Paso
2 Civic Center Plaza
10th Floor of City Hall
El Paso TX 79901

Re: Unconstitutional Prayer Luncheon/Open Records Request

Dear Mayor Cook:

I am writing on behalf of Texas members of the Freedom From Religion Foundation (FFRF), who object to the City of El Paso's participation and involvement in the Mayor's Prayer Luncheon. FFRF is a national nonprofit organization with nearly 14,000 members, including more than 570 members in Texas. Our purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that a group that calls itself El Paso for Jesus allegedly is coordinating the annual Mayor's Prayer Luncheon. This year's prayer event is scheduled for May 7, 2009, and will be held at the El Paso Convention Center. Our complainants inform us that all of the promotional materials and other advertising for the event fail to mention that El Paso for Jesus is involved in coordinating or sponsoring the prayer luncheon. From all information available to the general public about the event, it appears that the City of El Paso is hosting the Mayor's Prayer Luncheon.

We understand there is a large billboard up in El Paso (hereinafter City) announcing this event and the billboard states simply: "Mayor's Prayer Luncheon May 7 For Reservations Call 58JESUS." Additionally, the flyer distributed to the general public fails to disclose the actual sponsor of the event. The flyer reads:

"Mayor John F. Cook invites you to join him for his annual
National Day of Prayer
Mayor's Prayer Luncheon

Thursday, May 7 11:30am El Paso Convention Center. Table for 8 people only \$96. Call 585-3787 for reservations."

Please find enclosed a copy of this flyer for your review. Furthermore, the announcement in the El Paso Times also makes no reference to El Paso for Jesus. Please find a copy of the listings compiled by El Paso Times reporter Maria Cortes Gonzalez enclosed. Finally, even more troubling, while the City's website lists the Mayor's Prayer Luncheon as an event, and includes it in the Mayor's electronic newsletter (copy of which is enclosed), El Paso for Jesus' website does not list the prayer luncheon as an event at all.

Any reasonable El Paso resident or visitor would logically conclude that the City, not El Paso for Jesus, is hosting the event. This also leads to the inevitable conclusion that the City, and you, as Mayor, favor religion over non-religion. Furthermore, given the prominent billboard displayed in the City with the number, 58JESUS, the reasonable observer would also believe that the City prefers Christianity over all other faiths.

The Establishment Clause of the First Amendment to the United States Constitution prohibits the government from endorsing, advancing or promoting religion. Therefore, it is grossly illegal and inappropriate for the City to be hosting, organizing, supporting or otherwise promoting a patently religious event, such as a prayer luncheon. This practice certainly has the effect of government endorsement of religion thereby alienating non-believers and non-Christians in El Paso by turning them into political outsiders in their own community.

In order to comply with the law, you, as Mayor of El Paso, must discontinue the practice of expending any taxpayer dollars and public resources to promote the religious prayer luncheon.

The separation of church and state is among one of the most fundamental principles of our system of government. The United States Supreme Court has held that public officials may not seek to advance or promote religion. The Supreme Court has specifically stated, "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us." (emphasis added) West Virginia Board of Education v. Barnett, 319 U.S. 624, 642 (1943).

As the City's highest elected official, you are charged with great responsibility and have been given significant trust by its citizens, including those citizens who may not share your religious viewpoints. Even if the luncheon is sponsored by an outside religious organization or church, any insinuation that you attend these religious events in your official capacity as mayor raises grave Establishment Clause concerns. Therefore, we strongly urge you to consider your status as the highest elected official in El Paso and the importance of the constitutional principle of separation of church and state before you agree to attend any future religious functions in your community as Mayor of your city, much less lend your name as mayor to the event.

You and the City government cannot engage in any conduct that gives the appearance of endorsing religion. Therefore, the City must take immediate action to disassociate itself from this Christian event. Any promotional materials failing to indicate who the actual sponsor of the event is, or failing to provide an adequate disclaimer notifying the public that the City is not sponsoring, hosting or endorsing this particular religious event, must be taken down immediately to avoid further confusion.

Under Texas Open Records law, we also seek copies of your or the City's correspondence, including any e-mails, with El Paso for Jesus; any contracts the Mayor's office may have over this event with the Convention Center; and any receipts for flyers about the prayer luncheon or other PR produced by or paid for by your office. I would request your response within ten days. If you believe this information is not public, the law requires that you seek a formal decision from the Texas Attorney General and notify me not later than ten calendar days from your receipt of this request. If you choose to deny this request, please provide a written explanation for the denial including a reference to the specific statutory exemption(s) upon which you rely. Can your office assure our complainants that no public money is spent on this patently religious event or continue actions, which make it appear that the City is sponsoring the event? We ask that you inform us promptly, in writing, of the steps your office takes to remedy these serious Establishment Clause concerns.

Sincerely,

Rebecca S. Kratz
Staff Attorney

Enclosures