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Government-sanctioned prayer on trial

With a state court case on the issue yet to be decided, Western Virginia governments are caught up in the debate over invocations at public meetings.

By Paul Dellinger

CHRISTIANSBURG -- Steve Spradlin felt so strongly about having invocations at public meetings that he stepped down momentarily as Montgomery County supervisors chairman to make it happen.

"I'm personally not trying to ram anything down any board member's throat," he said in making a motion for the board to have an opening prayer Monday night, but "this is an item very close to my heart."

The motion passed, with only one supervisor voting against it -- John Muffo.

"The minority of people in Montgomery County who are not Christians and pay county taxes will have to sit and listen to Christian invocations and will not be represented when that happens," Muffo said later. He wondered how those favoring invocations would feel about one from "the Quran or some Hindu holy text or something like that."

Muffo predicted that County Attorney Marty McMahon will have to police each invocation wording to make sure someone does not refer to a specific deity or belief system, as stated in the resolution. "I don't see where it should be a problem," Spradlin said, because nobody will be required to pray and the invocation resolution provides that it advances no specific faith.

"It's happening already," Muffo said, citing several citizens who referred to Jesus Christ in their support of the Montgomery County motion. They included Floyd County Supervisor Fred Gerald, who successfully called for invocations at his board meetings several years ago.

"If they don't like to pray, you know, we don't force nobody to pray," said citizen John Early. "A whole lot of people say a lot of things we don't believe in. I've never seen where a prayer has ever hurt anyone."

Nearly 20 people in the audience stood when citizen Stacie Haynes asked who supported having invocations. "I stand before you first as a Christian and second as a taxpayer," Haynes told the board. "It broke my heart to realize that you didn't open meetings with prayer."

Muffo, who said he is a Christian, said his district includes Jews, Unitarians, Hindus and atheists who will not be represented by the kind of invocations he expects to hear.

Morton Nadler, a retired Virginia Tech professor and atheist, is one of Muffo's constituents who is against elected bodies having a prayer.

"I feel they are a violation of several very specific constitutional conditions," Nadler said, adding that he would not worry overmuch about them.

"No, I don't feel left out. ... Let them have their fun," Nadler said. "I'm not as militant an atheist as I used to be."

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The Montgomery County discussion comes at a time when the debate over public prayer has become more of an issue in Western Virginia -- predominantly steeped in traditional Christian values -- as well as across the state.

In Carroll County, World War II veteran Clyde Easter started a national petition drive after he was prohibited from starting a Veterans Day ceremony last year at an elementary school with a prayer. He has gathered more than 15,000 signatures.

In Chesterfield County, invocations at board of supervisors meetings are given by volunteer clergy. In 2002, Cyndi Simpson, a Wiccan who regularly attended those board meetings, asked to be included in the rotation which included Jewish, Islamic, Jehovah's Witnesses, Mormon and Catholic representatives as well as ones from mainstream Protestant churches.

The board said no. In 2002, Simpson filed a lawsuit claiming discrimination and unconstitutional government promotion of a particular religion. She won in federal court, lost at the 4th U.S. Court of Appeals, and in 2005 the Supreme Court declined to hear her case.

"This is an ongoing issue for the ACLU, both nationally and in Virginia," said Kent Willis, executive director of the American Civil Liberties Union of Virginia. "The ACLU of Virginia is not the prayer police. We don't monitor government meetings ... but when we receive a complaint, we will act."

The ACLU received such a complaint from a Fredericksburg citizen, who is Jewish, over City Councilman Hashmel Turner's practice of ending his public invocations with "in Jesus' name" whenever it was his turn in a prayer rotation.

A 1983 U.S. Supreme Court decision allows invocations as a long-held tradition of solemnizing governmental meetings. But the prayer must be nonsectarian, and not single out a specific deity, according to the court ruling.

"Most people probably wouldn't think twice if there was an invocation," said Grace Kao, assistant professor of religious studies in Virginia Tech's department of interdisciplinary studies. "The argument is always, 'Come on, we've been doing this for 200 years.' Usually, if you remove it, you create even more of a stink."

The Supreme Court decision leaves out people who believe in no deity, Kao said. "Even nonsectarian prayer is still prayer," she said. "There's no end to the controversy about speech."

"We're not saying government officials can't invoke their religion. ... That is absolutely fine, because they are speaking for themselves," Willis said. "What we're concerned about is an official prayer that opens a government meeting."

The ACLU wrote to the Fredericksburg council in 2004 asking that it end the practice or use a nonsectarian prayer. The governing body complied, starting a nonsectarian format. Then Turner filed a lawsuit against the council, saying the change violated his free speech rights.

U.S. Judge James Spencer dismissed Turner's lawsuit Aug. 14. Turner has appealed, but the 4th U.S. Court has not yet heard the case.

Turner said his attorneys at the Charlottesville-based Rutherford Institute, a nonprofit organization that often represents people in religious liberties issues, advised him not to talk about the case. "I've been muzzled," he said.

John Whitehead, president and founder of the Rutherford Institute, said the issue came down to the last three words in Turner's prayer, "in Jesus' name." He said Turner, an associate Baptist minister, would be denying his own faith if he said the nonsectarian prayer.

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Most elected bodies in Virginia have a prayer or moment of silence.

Judy Kiser, assistant to the Montgomery County administrator, checked Virginia's other 94 counties as part of the board of supervisors' recent discussion. Her research found that 66 boards have invocations, 10 others have a moment of silence, two have occasional invocations, and only five have neither an invocation nor moment of silence. Information on the remaining 11 was not immediately available.

Roanoke City Council, the governing body representing the largest locality -- and likely the most diverse -- in Western Virginia, has regularly opened its meetings with an invocation for years. "We used to have various members of the clergy from the community [deliver the prayer]," said Mayor Nelson Harris, who is a pastor at Roanoke's Virginia Heights Baptist Church.

For the past few years, the duty has been rotated among several council members instead of clergy, he said. "The reason that we switched was because it was a bit cumbersome, and that the clerk's office would have to call ... and sometimes they'd show up and sometimes they wouldn't."

When clergy were recruited, he said, most were Protestant or Catholic, but there were also representatives from a city Muslim organization, some Jewish congregations and Roanoke's Baha'i Faith. "We typically were pretty broad," Harris said.

The pre-meeting observances in the New River Valley range from invited ministers giving invocations at Pulaski County supervisor meetings to the Radford School Board's moment of silence or Pulaski Town Council members inviting those who choose to do so to join them in prayer.

There have been no formal challenges of the governmental prayers in this region, but the possibility exists, especially if a certain religion becomes a predominant factor in the process.

In Roanoke, Harris said such words as Turner's "in Jesus' name" are not generally part of the council invocation. "We just typically end with 'Amen,'" Harris said.

Whitehead, of the Rutherford Institute, said he favors rotating invocations among representatives of different faiths. He said he would have supported the Wiccan invocation in Chesterfield County.

He said the institute is getting frequent inquiries about the Fredericksburg case from other localities across the country. "It's a very important case," he said.

Willis, the ACLU official, said sectarian-prayer supporters would probably like to see such a case get to the Supreme Court, which is more conservative now than it was in 1983 and has already changed precedents from other cases.

Whitehead agreed, saying that may be why the 4th Circuit is taking a while with its decision. "They know it's probably liable to go upstairs to the big boys," Whitehead said. "Turner's got a good shot."