

Three Forks Fire Department

Monthly Meeting Minutes

5 December 2023

Present: Fire Chief Keith Aune; Assistant Chief John Whitesitt; Battalion Chief Trevor Aune, Captains Cheryl Carrasco, Charles Eastty and Jason Kelsey, Secretary Josh Miller; Fire Fighters Ian Schilf and Chase Moore; and probationary Fire Fighter John Perason

Meeting: The monthly meeting of the Three Forks Fire Department was called to order by Chief Aune at 1902 hrs.

The pledge of allegiance was led by Asst. Chief John Whitesitt.

The following prayer was offered by Fire Department Chaplain Josh Miller: "Dear Lord, we thank you for the opportunity to serve our community, thank you for your provision of safety, and we humbly ask that you continue to protect us as we put our lives at risk to serve those in need. Bless now our meeting, in Jesus' name, Amen."

Minutes of the November meeting were read and approved.

Guests: None

Training Report:

No regular training is planned for December.

Truck Maintenance Report:

The hood lift arms on Brush 14-21 have been replaced.

Command 14 will be going in on January 17th, to get a new radio.

After Action Review:

We responded to 14 calls in November: 9 Motor vehicle accidents, 2 assist medical, and 3 cancelled calls.

We have responded to 161 calls in 2023.

Correspondence: We received a request for one of our fire patches. Cheryl will make sure a patch gets sent out.

Agenda Items: none

General Discussion:

The secretary read a letter from the city attorney, Susan Swimley, addressed to the Chief and Asst. Chief. (see attached) We discussed the professional advice given by Susan, and agree that anyone on the department or in the community is welcome to offer our opening prayer. They just need to contact the chaplain, Josh Miller. We also agree that none are required to participate or be present for the prayer. We also agree that all prayers need to be "absent of a pattern of denigration of persons or other religions or nonreligion, proselytization, not betraying an impermissible governmental purpose, does not threaten damnation or seek conversion."

The 1st responder dinner at the KG ranch is scheduled for next Tuesday, December 12th.

Motion to adjourn the meeting made by John and seconded by Jason. Meeting adjourned at 1953 hrs.

Respectfully Submitted:

Joshua Miller

Joshua Miller – Secretary

Approved: 1/2/24



SUSAN B. SWIMLEY

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December 4, 2023

Kieth Aune, Chief
John "David" Whitesitt, Asst. Chief
Three Fork Fire Department

RE: Christian Prayer on Fire Dept. Agenda

Dear Chief Aune and Asst. Chief Whitesitt,

It has come to my attention as Three Forks City Attorney that there are concerns regarding the practice of the Three Forks Fire Department, a department of the City of Three Forks, to schedule and hold prayer at the commencement of all meetings. It appears that each prayer is offered by Pastor Joshua Miller of the Three Forks Bible Church, who is also the secretary of the Three Forks Fire Department. Having no other information, I assume these prayers are Christian based.

The City of Three Forks currently does not have a written policy regarding prayer in public meetings. The Council does not hold a prayer nor a moment of silence to participants.

The Three Forks Fire Department derives its authority via the City Council, the City Charter and the Ordinances enacted under Title 5 of the Three Forks City Ordinances.

The concern, which was expressed to Three Forks City office personnel, was responded to with an affirmative statement that prayer would continue and an article produced by the Freedom of Religion Foundation, a non-profit tax exempt educational organization established for the purpose to "to promote the constitutional principle of separation of state and church, and to educate the public on matters relating to nontheism."¹

There has been debate at our local level as to what is appropriate and how prayer should be addressed. It has been relayed to me that the Fire Department intends to continue to hold prayer, include it on its agendas and record the offering of prayer in its minutes until directed otherwise. There was discussion regarding the Fire Department holding prayer at their meeting, but not including it on the agenda or in the minutes. It was further proffered that the practice of Pastor Miller offering prayer at every meeting does not pose a risk to the City so long as the Fire Department allows for all prayer types. All of this debate necessitated this opinion letter.

Prayer at governmental meetings could survive a Constitutional violation litigation if the prayer is proven to be absent a pattern of denigration of persons or other religions or non-

¹ Nontheism is defined by the Oxford Language Dictionary on-line as "lack of belief in a god or gods".

religion, proselytization, not betraying an impermissible governmental purpose, does not threaten damnation or seek conversion. Further, the citizens cannot be forced into participation. *Town of Greece v. Galloway*, 572 U.S. 565 (2014) [It should be noted this was a 5-4 opinion, thus while the law of the United States, it could be modified if a case seeking further clarification is presented to the United States Supreme Court.]

Based upon *Galloway*, the Fire Department must not only document the prayer offered word for word and then examine the prayer for compliance with the law, but the Fire Department is also required by *Galloway* to actively seek other local clergy inclusive of all religions and non-religions.

The need for extensive resources to defend the offering of prayer has resulted in many levels of government using a moment of silence.

Should the Fire Department desire to continue with offering prayer, the Fire Department *and not other city staff*, should undertake the necessary steps to protect the City of Three Forks from claims that could arise from the Fire Departments policy decision. The requiring of the "actors" to bear the burden is normal course of business, just like requiring contractors to have insurance and public works to have the appropriate drivers licenses.

The Fire Department needs to transcribe each prayer verbatim in order to document that the prayer is absent a pattern of denigration of persons or other religions or non-religion, proselytization, not betraying an impermissible governmental purpose, does not threaten damnation or seek conversion. Additionally, the Fire Department must document the method employed to ensure that the citizens cannot be forced into participation. Finally, the Fire Department must document their efforts to seek other local clergy to offer prayer, inclusive of all religions and non-religions.

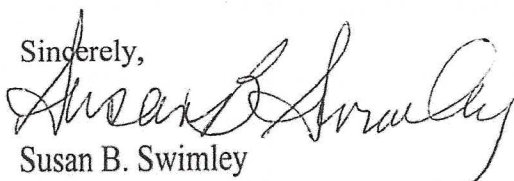
The Fire Department must not rely upon the City Clerk or the Deputy City Clerk for this documentation. The documentation must be produced to the City Clerk and Deputy City Clerk monthly, where the documentation will be retained.

Absent the Fire Department documenting the constitutionality of the Fire Department's Prayer Policy, the Fire Department is placing the City of Three Forks at a higher risk of lawsuit as a result of the Fire Department's Prayer Policy.

I have requested the City Clerk forward to the City Attorney, upon presentation from the Fire Department, the documentation required to protect the City.

Thank you for your attention to this matter.

Sincerely,


Susan B. Swimley
Three Forks City Attorney