

Learn How to Stop a Mosque (at end of article)

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Bible-Belt city allows mosque after 1st rejecting it

Threat of lawsuit turned tables, angers residents

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Members of Overpasses for America and the Georgia Security Force militia protest outside of Kennesaw City Hall in Kennesaw, Georgia, Monday, Dec. 15.

KENNESAW, Ga. – The Kennesaw City Council approved a land-use permit for a new mosque less than two weeks after it had denied the permit, citing traffic and parking concerns.

The council voted 4-1 to deny the permit Dec. 3, but after legal threats from the Suffa Dawat Center, the council reversed its earlier decision with a 5-0 vote Monday. The vote was taken without discussion as six police officers lined the walls of the council chambers and another contingent of officers patrolled outside where about 25 protesters from Overpasses for America and the Georgia Security Force militia held American flags and signs saying “No Mosque!” and “Ban Islam!”

Kennesaw Mayor Mark Mathews [told WSB-TV in Atlanta](#) that the council changed its vote due to “legal advice from our own city attorney, not based on input received from the public or anybody else.”

Mosque members were pleased with Monday's outcome.

"I think we have achieved success for the whole community including those who oppose us," Khalid Hashmi told WSB.

"The Bible says love thy neighbor. Our religion teaches love your neighbor," said Samir Malik.

But the protesters outside weren't buying it.

Capt. Linc Doberman of the Georgia Security Force told WND he believes Islam is more than just a religion and should be treated as such.

"The imams in the mosques are all striving towards the establishment of a caliphate and you can't have a constitutional republic along with a caliphate," he said. "So you can allow it to continue creeping in, until you feel the deep, red welts of domination."

One of the protesters yelled at the Muslims as they filed out of city hall saying, "We will never respect Islam! We will never convert!"

Suffa Dawat applied for the permit to lease a space in a retail shopping plaza that is zoned for commercial use. A residential neighborhood sits directly behind the strip shopping center, and neighbors were not happy about the prospect of hearing the Friday call to prayer blasting near their homes. The mosque has entered into a two-year lease.

Suffa Dawat had the backing of the Council on American-Islamic Relations, or CAIR, a wealthy Islamic-rights organization founded by the Muslim Brotherhood.

The city council's flip-flop angered residents who had come out against the mosque. But residents were not allowed to speak for or against the mosque until after the vote was taken.

One Kennesaw woman, Carlene Fregeolle, addressed the council after the vote. She said she met with the Muslims and found they had not disclosed all of their plans for the building on their application.

The mosque will be open for prayer five times a day, for the weekly call to prayer on Fridays and also for an educational program for children on Sundays. The city restricted the mosque to 80 worshipers at a time and 40 parking spaces.

"They said they're expecting about 80 children on Sundays. So, again, no worries about traffic and parking issues? Really? We're now talking kids and lots of them," Fregeolle said.

"Everything was done behind the scenes," Fregeolle continued. "If they don't get their way they sue. Our city council is afraid to stand behind their own zoning laws."

Local media were reporting a federal complaint had been filed with the U.S. Department of Justice and that the DOJ had threatened a lawsuit.

Fregeolle asked the council if that were indeed the case.

“I can answer that. No, the DOJ has not come in and has not threatened a lawsuit,” said city attorney Randall Bentley.

As a neighbor who lives closest to the mosque, Fregeolle said the Muslims lied to the city about her attitudes toward the new house of worship.

“They told the council I wouldn’t mind,” she said. “Again, that is false information. ... By your flip-flopping you have made the city even more vulnerable.”

Suffa Dawat Center has also opened an online [fundraising account with YouCaring.com](#) with the goal of raising \$30,000 for “legal costs and startup costs for Kennesaw Mosque.”

The legal expenses will apparently no longer be needed given the council’s about face.

Fregeolle said that if any other applicant had applied for the same space using the same tactics they would have been denied.

“But with this group you have to be PC,” she said.

Council member Debra Williams, who voted against the mosque the first time, changed her vote, as did council members Leonard Church, Tim Killingsworth and Jim Sebastian. Cris Eaton Welsh was the only member who voted in favor of the mosque both times.

The decision came down to costs, Williams said, and the threat of an expensive lawsuit in federal court.

“We denied a nightclub there a few months ago and we argued the same thing – traffic, noise and parking,” she told WND. “And it would have operated at night when all the other businesses were closed and they were willing to put in sound-proof walls. They should sue our pants off.”

Williams told WND that even if the Justice Department hadn’t yet threatened a lawsuit the attorneys for the Islamic congregation were keeping the DOJ abreast of the situation with the city.

When it came down to it, Williams said, the council was not willing to risk a lawsuit being filed on the basis of the Religious Land Use and Institutionalized Persons Act, signed into law by President Clinton in 2000.

This law makes it difficult for cities to deny a house of worship a conditional-use permit based on zoning laws.

In the end, “RLUIPA trumps,” she said.

Cobb County, just northwest of Atlanta, already has two other mosques but members of Suffa Dawat, which includes about 18 families, said they had to drive too far to attend those mosques. The site in Kennesaw is 10.8 miles from one of the mosques and about nine miles from the other.

Karen Lugo, a California attorney with expertise in RLUIPA, said it is possible to defeat a suit based on the federal law if the city is properly prepared.

“Federal statute, RLUIPA, trumps almost everything. Cities, counties are not allowed to substantially burden a religious organization and cannot discriminate between a religious and a business use,” she said.

If a city has already allowed churches to locate in a retail center in the last two to three years, as Kennesaw has done, that makes it even tougher to deny the same type of use to a mosque.

Once a mosque is approved in a residential or commercial area, it often expands into uses that were never spelled out upfront at the time of application, Lugo said, causing friction with nearby residents. This can be handled with clear ordinances drawn up ahead of time, but otherwise it’s difficult to rein in a mosque after it gets approved under vague or poorly written ordinances.

“This type of use is different. It’s not just Sunday morning and Wednesday night service, this is 24/7 prayer services,” she said. “So this is difficult when cities are not willing to enforce their special-use terms or if they are not clearly written and interpreted. This is when it becomes really difficult to come back later and say ‘oh we did not anticipate this and you misrepresented yourself.’ They will often complain that it’s restricting something core to their religion.”

If the parameters are set clearly, upfront, the city is in better position later should any complaints arise from residents about traffic, noise or parking issues.

“If there are examples of restrictions due to the nature of the property, like no daycare due to traffic, no schools, no meetings other than on certain specified days of the week, etc., the city will be better off,” she said. “The courts still allow religious uses but if they’re shared in a conditional use with something that is not a designated multi-use then the courts allow terms for reasonable restrictions.”

“For years cities didn’t think they had to pay attention to RLUIPA,” Lugo said. “They have neglected to build in proper, reasonably based restrictions that can be enforced. That’s what I have been trying to help council members understand.”

But most cities are ill prepared for dealing with mosques, because they assume they will operate just like churches.

For example, in Bloomington, Minnesota, a mosque was approved under the pretense of accommodating a maximum of 200 people, but now residents are seeing events that bring in excess of 700 people and the accompanying traffic problems.

“To date there has not been enough express language in the permits saying if you go over this number then you need to hire your own traffic guides, etc.,” Lugo said.

Mosques are geared towards recreation, communal meals and five prayer times starting at dawn and going to dusk, “and including all facets of family life,” she said. “It’s a different kind of use, more active, more frequent, and that’s what cities need to know going in. They need to understand RLUIPA will prevail and it’s so ambiguous, so short of Congress clarifying it the courts are all over the map in how they’re interpreting this law.”

She said the law was the brainchild of Sens. Orin Hatch, R-Utah, and the late Ted Kennedy, D-Mass.

“Some of these Islamic organizations have gotten what looks like preferential treatment because they have been able to threaten and not give all the facts,” she said. “Cities need to make it clear that they expect applicants to be honest and everyone to go through the same process no matter who you are.

“Back up, ask for clear and complete answers. How many cars? Are the existing lanes able to handle the traffic? And once they set a precedent saying a religious group can have five to seven services per day then they have to keep saying yes to that kind of request in the future.”

In other words, Pandora’s box has been opened.

“They’re creating a whole new level of use,” Lugo said. “It has to be done deliberately and with the understanding that they’re creating an example that will be referenced in the future.

“Cool heads need to prevail and do this in a real measured process.”



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