

RESOLUTION 15-2808

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF CASSELBERRY, FLORIDA, ESTABLISHING CITY COMMISSION POLICY AND PROCEDURES REGARDING OPENING INVOCATION BEFORE MEETINGS OF THE CITY COMMISSION; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Casselberry is an elected legislative and deliberative public body, serving the citizens of the City of Casselberry, Florida; and

WHEREAS, the City Commission wishes to continue to solemnize its proceedings by continuing to allow for an opening invocation before each meeting, for the benefit and blessing of the City of Casselberry; and

WHEREAS, the City Commission now desires to adopt this formal, written policy to clarify and codify its invocation practices; and

WHEREAS, in *Marsh v. Chambers*, 463 U.S. 783 (1983), the United States Supreme Court validated the Nebraska Legislature's practice of opening each day of its session with a prayer by a chaplain paid with taxpayer dollars, and specifically concluded, "The opening of sessions of legislative and other deliberative public bodies with prayer is deeply embedded in the history and tradition of this country. From colonial times through the founding of the Republic and ever since, the practice of legislative prayer has coexisted with the principles of disestablishment and religious freedom." *Id.* at 786; and

WHEREAS, in *Town of Greece v. Galloway*, 134 S.Ct. 1811 (2014), the United States Supreme Court validated opening prayers at meetings of the Town of Greece, finding that "legislative prayer lends gravity to public business, reminds lawmakers to transcend petty differences in pursuit of a higher purpose, and expresses a common aspiration to a just and peaceful society." *Id.* at 1823; and

WHEREAS, the City Commission desires to avail itself of the Supreme Court's recognition that it is constitutionally permissible for a public body to "invoke divine guidance" on its work. *Marsh* at 792; and

WHEREAS, the Supreme Court has clarified that opening invocations are "meant to lend gravity to the occasion and reflect values long part of the Nation's heritage" and should not show over time "that the invocations denigrate nonbelievers or religious minorities, threaten damnation, or preach conversion." *Town of Greece*, 134 S.Ct. at 1823; and

WHEREAS, in *Town of Greece* the Supreme Court rejected a challenge based on the religious content of the prayers and cautioned against government officials acting as "supervisors and censors of religious speech" by requiring that prayers be "generic" or "nonsectarian," noting that "[t]he law and the Court could not... require ministers to set aside the nuanced and deeply

personal beliefs for vague and artificial ones.” *Id.* at 1822. Further, the Court stated: “Once it invites prayer into the public sphere, government must permit a prayer giver to address his or her own God or gods as conscience dictates.” *Id.* at 1822; and

WHEREAS, this City Commission is not establishing a policy that defines the constitutional limits for permissible public invocations; rather, this City Commission intends to adopt guidelines that are consistent with the guidance provided by several courts that have considered the validity of public invocations; and

WHEREAS, numerous courts have approved an invocation practice that incorporates a neutral system to invite religious leaders from the local community and volunteers to provide an invocation before public meetings. *Town of Greece*; see also *Simpson v. Chesterfield Cnty. Bd. of Supervisors*, 404 F.3d 276 (4th Cir. 2005), *cert denied*, 546 U.S. 937 (2005); *Pelphrey v. Cobb Cnty.*, 547 F.3d 1263 (11th Cir. 2008); *Rubin v. City of Lancaster*, 710 F.3d 1087 (9th Cir. 2013); and

WHEREAS, the City Commission intends to adopt a policy that does not proselytize or advance any particular faith, or show any purposeful preference for one religious view to the exclusion of others; and

WHEREAS, the City Commission intends to adopt a policy that will not demonstrate a purposeful preference for one religious view over another by not permitting the faith of the person offering the invocation to be considered when extending an invitation or scheduling participation; and

WHEREAS, the City Commission provides all of its citizens, regardless of their religious beliefs, the free and equal benefits of citizenship, invites all leaders of all religious assemblies to volunteer to give a public meeting invocation, does not discriminate against anyone on the basis of their participation or non-participation in a public meeting invocation, encourages all invocation speakers to be respectful of those who may hold different religious beliefs, and prohibits invocations that intentionally proselytize or disparage any person, religion, or religious sect; and

WHEREAS, the City Commission believes that clergy that serve the local community are peculiarly suited through training, tradition, and public service to petition for divine guidance upon the deliberations of the City Commission, and to accomplish the City Commission’s objective to solemnize public occasions, express confidence in the future, and to encourage the recognition of what is worthy of appreciation in society. See *Lynch v. Donnelly*, 465 U.S. 668, 693 (1984); and

WHEREAS, in further recognition of the diversity of ideas, viewpoints, and various beliefs and non-beliefs held within this Country, it is the policy of the City that the opening invocation and recitation of the Pledge of Allegiance be voluntary and allow participation from all that wish to participate, but otherwise allow non-participation and an opportunity to exit the City Commission Chambers during the opening invocation or recitation of the Pledge of Allegiance to any who do not wish to witness or participate in same; and

WHEREAS, the City Commission accepts as binding the applicability of general principles of law and all the rights and obligations afforded under the United States and the State of Florida Constitution and statutes.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF CASSELBERRY, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative and Administrative Findings. The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Commission. This policy and these procedures are not intended, and shall not be implemented, and shall not be construed in any way, to affiliate the City Commission of the City with, nor express a preference for or against, any faith, belief, non-belief, opinion, religion, non-religion, or denomination. Rather, this policy and these procedures are intended to acknowledge and express the City Commission’s respect for the diversity of religious and non-religious denominations and faiths represented and practiced among the citizens of the City and to express the City Commission’s respect for its proceedings and the importance of government and local legislative functions. In no event shall these procedures be intended, implemented, or construed in any way to compel participation in the opening invocation or recitation of the Pledge of Allegiance. Neither the City Commission nor the City staff shall single out dissidents for opprobrium; or indicate in any manner the City Commission’s decisions to be influenced by a person’s participation or lack of participation in the opening invocation or recitation of the Pledge of Allegiance.

SECTION 2. Adoption of Invocation Policy. The City Commission hereby adopts the following policy and procedures regarding opening invocations before meetings of the City Commission:

1. It is the intent of the City Commission to allow a private citizen to solemnize the regular meetings of the City Commission. It is the policy of the City Commission to allow for an invocation, which may include prayer; a reflective moment of silence; or a short solemnizing message, to be offered before its regularly scheduled meetings for the benefit of the City Commission, to accommodate the spiritual needs of the public officials. Special meetings, emergency meetings, and workshops will not include an opening invocation. The prayer will be limited to one minute.

2. No member of the City Commission or City employee will direct the public to stand, bow, or in any way participate in the prayers; make public note of a person’s presence or absence, attention or inattention during the invocation; or indicate that decisions of the City Commission will in any way be influenced by a person’s acquiescence in the prayer opportunity. The Mayor will provide time for persons who wish to leave the room during an invocation to do so, and equal time for them to return to the room before other business is addressed.

3. The invocation shall be voluntarily delivered by an appointed representative of a group from the database described below. To ensure that such person (the “invocation speaker”)

is selected from among a wide pool of representatives on a rotating basis, the invocation speaker will be selected according to the following procedure:

a. The City Clerk will compile and maintain a database (the “database”) from a broad and diverse pool of volunteer invocation speakers from leaders of any and all local religions, denominations, faiths, creeds, and beliefs, including but not limited to, ministers, priests, chaplains, rabbis, deacons, clerics, and the like. The database may be compiled through referencing the listings for “churches,” “congregations,” and other similar groups and organizations, located, or with an established presence, within the jurisdictional limits of the City of Casselberry, through research from the Internet, consultation with local organizations, and any other methods deemed effective by the City Clerk or her designee.

b. Any church, congregation, entity, organization or group within the jurisdictional limits of the City not identified within the database for participation may request inclusion within the database by written communication directed to the City Clerk that references the opening invocation.

c. If a resident of the City is a member of a church, congregation, other group or organization which is located outside of the City, that group shall be included in the database upon the resident’s written request.

d. This policy is intended to be and shall be applied in a way that is inclusive of diverse congregations, groups, and organizations. The database is compiled and used for purposes of logistics, efficiency, and equal opportunity for all within the jurisdictional limits of the City to choose whether to respond to the City Commission’s invitation.

e. The database shall be updated, by reasonable efforts of the City Clerk or her designee, in her reasonable discretion, in November of each calendar year.

f. In December of each calendar year, the City Clerk shall communicate with each group leader from each entry on the database using reasonable methods, and shall post an invitation on the City’s website.

g. The invitation shall read as follows:

Dear _____,

The City Commission of the City of Casselberry makes it a policy to invite volunteer invocation speakers to voluntarily offer an invocation before the beginning of its meetings, for the benefit and blessing of the City Commission. As a representative of one of the religious congregations or other groups with an established

presence serving the City, you are eligible to offer this important service at an upcoming meeting of the City Commission.

If you are willing to assist the City Commission in this regard, please send a written reply at your earliest convenience to the City Clerk of the City of Casselberry at the address included in this letterhead. Representatives are scheduled on a first-come, first-serve basis. The anticipated dates of the City Commission's regularly scheduled meetings for the upcoming year are listed on the following attached page. Speakers are invited on a rotation basis. We are unable to accommodate requests for specific dates.

This opportunity is voluntary, and you are free to offer the invocation according to the dictates of your own conscience. To maintain a spirit of respect and ecumenism, the City Commission requests that the opportunity not be exploited as an effort to convert others to the particular faith of the invocation speaker, or to disparage any faith or belief different than that of the invocation speaker. A copy of Resolution No. _____ adopting the City Commission's policy regarding invocations is attached for your information.

On behalf of the City Commission of the City of Casselberry, I thank you in advance for considering this invitation.

*Sincerely,
City Clerk*

- h. The respondents to the invitation shall be scheduled on a first-come, first-serve basis to deliver the invocation.
 - i. In the event a representative of a group serving the local community believes that the City Clerk has not complied with the terms of this policy, the representative has the right to be heard at the Public Comments portion of a meeting by the City Commission.
4. Invocation speakers will not receive compensation for providing an invocation.
5. Neither the City Commission nor the City Clerk shall engage in any prior inquiry, review of, or involvement in, the content of any invocation to be offered by an invocation speaker. No guidelines or limitations shall be issued regarding an invocation's content, except that the City Commission requests by the language of this policy that no invocation should proselytize or advance any faith, or disparage the religious faith or non-religious views of others. Statements reflecting ideals relating to peace and security for the nation; safety of our armed forces, police, firefighters and emergency service personnel; wisdom for the lawmakers; and justice for the people are encouraged. The City Commission reserves the right to limit any

invocation speaker who violates the spirit and intent of this Resolution from delivering invocations at future Commission meetings.

6. The City Clerk shall make every reasonable effort to ensure that a variety of eligible invocation speakers are scheduled for the City Commission's meetings. To ensure a variety of speakers, no invocation speaker will be scheduled for more than two Commission meetings in any calendar year, and no invocation speaker will be scheduled for two consecutive meetings.

7. The invocation shall be given at the start of the public meeting, during the "ceremonial" (call to order, pledge of allegiance, etc.) portion, and before the start of the "legislative" / "quasi-judicial" portion.

8. The invocation speakers shall face the City Commission when giving the invocation.

9. Members of the public may lodge post-meeting complaints about public meeting invocations or invocation speakers during Citizen Comments or by contacting City staff or officials.

10. The City will keep a record of attempts to solicit invocation speakers, and of efforts to be inclusive of religions that do not have strong demographic representation in the City.

11. Should the scheduled invocation speaker or his or her substitute not appear at the appointed time to deliver the invocation, the Mayor will offer a moment of silence. Neither the Mayor, any other Commission member, nor any employee of the City, shall deliver an invocation.

12. To make clear the City Commission's intentions, a disclaimer will be included at the bottom of each regularly scheduled Commission meeting agenda in substantially the following form:

Any invocation that may be offered before the official start of the City Commission meeting is the voluntary offering of a private citizen to and for the benefit of the Commission pursuant to Resolution No. _____. The views and beliefs expressed by the invocation speaker have not been previously reviewed or approved by the City Commission and do not necessarily represent their individual religious beliefs, nor are the views or beliefs expressed intended to suggest allegiance to or preference for any particular religion, denomination, faith, creed, or belief of the City Commission or the City of Casselberry. No person in attendance at this meeting is or shall be required to participate in any invocation, and the decision whether or not to participate will have no impact on his or her right to actively participate in the public meeting.

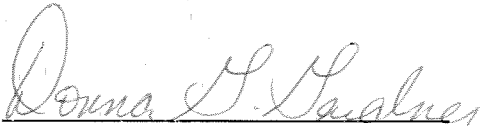
SECTION 3. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 4. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 5. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED and **ADOPTED** this 14th day of December, AD 2015.

ATTEST:


Donna G. Gardner
City Clerk


Charlene Glancy
Mayor/Commissioner