

RESOLUTION NO. 15-04

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, REGARDING A CEREMONIAL, OPENING INVOCATION AND RECITATION OF THE PLEDGE OF ALLEGIANCE AT COMMISSION MEETINGS PRIOR TO OFFICIAL POLICYMAKING AND LEGISLATIVE FUNCTIONS; ADOPTING A POLICY OF NON-EXCLUSION AND SELECTION OF VOLUNTEER INVOCATION SPEAKERS AND A DIVERSITY OF VIEWPOINTS AND NON-EXCLUSION OF THOSE IN ATTENDANCE; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Winter Garden (the "City") desires to preserve and maintain the tradition of solemnizing its City Commission proceedings by allowing and inviting an opening invocation and the recitation of the Pledge of Allegiance before each regular and special meeting of the City Commission for the benefit of the City Commission; and

WHEREAS, the City recognizes that our history is replete with official references to the value and invocation of Divine guidance in deliberations and pronouncements of the Founding Fathers and contemporary leaders as set forth in the holding of *Lynch v. Donnelly*, 465 U.S. 668, 675 (1984); and

WHEREAS, the United States Supreme Court and Eleventh District have consistently upheld the practice of delivering religious invocations before deliberative public bodies occurring prior to policymaking. See *Town of Greece v. Galloway*, 572 U.S. _____, slip op., 134 S. Ct. 1811 (2014); *Marsh v. Chambers*, 463 U.S. 783 (1983); *Atheists of Florida, Inc. v. City of Lakeland*, 713 F.3d 577 (11th Cir. 2013); and

WHEREAS, the City recognizes that our City and Nation is comprised of individuals with a diversity of viewpoints, including but not limited to, faiths, religions, beliefs, and non-beliefs. Accordingly, the City will make reasonable efforts to invite, locate, and welcome individuals with a diversity of viewpoints to offer the opening invocation for the benefit of the City Commission, and the City's policies shall not be intended, implemented, or construed in any manner to affiliate the City Commission or the City with, or express any preference for or against, any faith, non-faith, belief, non-belief or religious denomination;

WHEREAS, in recognition of the diversity of faiths, ideas, viewpoints, and various beliefs as referenced herein, it is the policy of the City that sectarian prayer may be allowed that is solemn and respectful in tone that invites the City Commissioners to reflect upon shared ideals and common ends before embarking on the business of governing. However, invocation speakers are hereby requested to refrain from exploiting the invocation period with proselytizing or advancing any one belief, view, or religion; disparaging any other faith or belief; denigrating nonbelievers or religious minorities; threatening damnation; or preaching conversion;

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 and/or recitation of the Pledge of Allegiance to any who do not wish to witness or participate in same; and

WHEREAS, the City Commission intends that this policy and these procedures do not proselytize or advance any faith, or show any purposeful preference of one religious or non-religious view to the exclusion of others.

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

SECTION I. OPENING INVOCATION PROCEDURE AND POLICIES.

Intent. It is the policy of the City Commission that the procedures set forth in this Resolution concerning opening invocation shall occur at all regular and special meetings of the City Commission. This policy and these procedures are not intended, shall not be implemented, and shall not be construed in any way, to affiliate the City Commission or 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 require the public to participate in the opening invocation or recitation of the Pledge of Allegiance; single out dissidents for opprobrium; or indicate or allow 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.

Timing. After the Call to Order of all regular and special meetings of the City Commission, an opening invocation as described herein shall occur followed directly by the recitation of the Pledge of Allegiance. The opening invocation and recitation of the Pledge of Allegiance will occur and be completed during the opening, ceremonial portion of the City Commission meeting and shall in no event occur, or be construed to occur, during the policymaking or legislative portions of the City Commission meeting.

Speaker Selection. The City Commission hereby invites and welcomes the religious leaders and other representatives of any and all local religions, denominations, faiths, creeds, and beliefs, including but not limited to, ministers, priests, chaplains, rabbis, deacons, and the like, to participate in providing opening invocations for the City Commission. The opening invocation will be performed by a local volunteer selected in accordance with these rules. The local volunteer selected for leading the opening

invocation shall be selected from a wide pool of local clergy and organization or group leaders as specified below, and he/she shall in no event receive compensation from the City for his/her participation or services. To ensure that such person is selected from among a wide pool of local clergy and organization or group leaders, on a rotating basis, the invocation speaker shall be selected according to the following procedure:

1. The City Manager or his/her designee shall compile and maintain a database of the religious congregations and other groups and organizations with an established presence within the jurisdictional limits of the City of Winter Garden.

2. The database shall be compiled examining a broad and diverse pool of religious leaders and other representatives 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," other religious and non-religious groups and organizations located, or with an established presence, within the jurisdictional limits of the City in the annual Yellow Pages telephone book(s) or comparable data sources, research from the Internet, consultation with local chambers of commerce or comparable organizations, and any other effective method in the discretion of the City Manager or his/her designee. Any such 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 Manager that references the opening invocation. If a resident of the City is a member of a church, congregation, other religious or non-religious group or organization which is located outside of the City, such shall be included in the database upon the residents' written request to the City. This policy is intended to be and shall be applied in a way that is inclusive of diverse religious and non-religious congregations, groups and organizations. The database is compiled and used for purposes of logistics, efficiency, and equal opportunity for all religious and non-religious leaders within the jurisdictional limits of the City to choose whether to respond to the City Commission's invitation.

3. The database shall be updated by reasonable efforts of the City Manager or his/her designee yearly.

4. Potential invocation speakers shall be selected from the database and be invited by a member of the City Commission on a rotating basis; provided, however, reasonable efforts shall be made to ensure that a variety of invocation speakers are scheduled for City Commission meetings. Notwithstanding the preceding, no invocation speaker shall be scheduled to offer an invocation at consecutive meetings of the Commission, or at more than two (2) City Commission meetings in any twelve (12) month period.

5. Neither the City nor the City Commission shall engage in any prior inquiry, review, or involvement in, the content of any invocation to be offered by an invocation speaker. However, consistent with U.S. Supreme Court precedent, invocation speakers are hereby advised that the invocation should not denigrate nonbelievers or religious minorities; threaten damnation; or preach conversion. 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.

6. The City Clerk may add the name and affiliated organization of the selected invocation speaker for a particular meeting to the Commission Agenda next to the "Opening Invocation" item. Notwithstanding the preceding, such entry or information shall not be considered or construed as an official agenda item for the public meeting or considered part of the public business to be transacted by the City Commission.

7. In recognition of the transitional process relating to the policies set forth herein, including but not limited to the completion of the database, the City Commission may invite religious or non-religious leaders, chaplains, ministers, rabbis or leaders of other groups or organizations with an established presence within the jurisdictional limits of the City to conduct the opening invocation until such time as the database is compiled, to offer a moment of silence, or to forego the opening invocation.

8. In the event an upcoming meeting of the City Commission does not have a volunteer opening invocation speaker for that meeting, the City Commission reserves the right to invite religious or non-religious leaders, chaplains, ministers, rabbis or leaders of other groups or organizations to conduct the opening invocation for that meeting, and in the event no such speaker is available, the Mayor may choose any speaker; offer a moment of silence; or forego the opening invocation.

Conduct of Proceedings. No member of the City Commission, City employee or staff, or any other person in attendance at the meeting shall be required to participate in any opening invocation that is offered or to rise and/or recite the Pledge of Allegiance. An opportunity to exit the City Commission chambers and return upon completion of the opening invocation shall be afforded to those who do not wish to participate or witness same.

Persons in attendance at the City Commission meeting are invited to stand during the opening invocation and are invited to stand and/or recite the Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. Such invitation constitutes a general invitation that a person in attendance may stand and/or participate if he/she wishes to do so for such observances. An opportunity to exit the City Commission Chambers and return upon completion of the Pledge of Allegiance shall be afforded to those who do not wish to participate or witness same

Agenda Disclaimer. The following statement shall be placed at the bottom of City Commission meeting agendas:

Any opening invocation that is offered before the official start of the Commission meeting shall be the voluntary offering of a private person, to and for the benefit of the Commission. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the City Commission or the city staff, and the City is not allowed by law to endorse the religious or non-religious beliefs or views of such speaker. Persons in attendance at the City Commission meeting are invited to stand during the opening

invocation and to stand and recite the Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. No person in attendance at the meeting shall be required to participate in any opening invocation that is offered or to participate in the Pledge of Allegiance. You may remain seated within the City Commission Chambers or exit the City Commission Chambers and return upon completion of the opening invocation and/or Pledge of Allegiance if you do not wish to participate in or witness the opening invocation and/or the recitation of the Pledge of Allegiance.

SECTION II: CONFLICTS/SUPERSEDE. This Resolution shall supersede any previous rules, policies, procedures, or resolutions to the extent of any conflict with this Resolution.

SECTION III: SEVERABILITY. If any portion of this Resolution is finally determined by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable, or void, the balance of the Resolution shall continue in full force and effect.

SECTION IV: EFFECTIVE DATE. This Resolution shall take effect immediately.

PASSED AND RESOLVED this 12th day of March, 2015, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

/S/

John Rees, Mayor

ATTEST:

/S/

Kathy Golden, City Clerk