

THE CITY OF WINTER GARDEN
CITY COMMISSION AGENDA ITEM

From: Michael Bollhoefer, City Manager

Date: May 6, 2019 **Meeting Date:** May 9, 2019

Subject: Resolution 19-03

Issue: Resolution 19-03 amends the current invocation policy and reestablishes the City's traditional policy of giving the opportunity to lead the invocation or observe a moment of silence to the City Commissioners. A Commissioner also may offer his or her opportunity to another Commissioner.

No member of the City Commission, City employee or staff, or any other person in attendance shall be required to participate in, and/or rise for, any invocation, any moment of silence, or to rise for and/or to recite the Pledge of Allegiance.

Recommended action: Approve Resolution 19-03 to amend the invocation policy.

RESOLUTION NO. 19-03

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, REGARDING CITY COMMISSION OFFERING OF A CEREMONIAL, OPENING INVOCATION OR THE OBSERVANCE OF A MOMENT OF SILENCE AND RECITATION OF THE PLEDGE OF ALLEGIANCE AT COMMISSION MEETINGS PRIOR TO OFFICIAL POLICYMAKING OR LEGISLATIVE FUNCTIONS ON A ROTATING BASIS; ADOPTING A POLICY OF NON-COMPULSION 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 or the observance of a moment of silence 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 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’s policies shall not be intended, construed, or implemented 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; 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. 565 (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 understands that history demonstrates that legislator-led opening invocations are a long-standing tradition since before the founding of our Republic with legislators offering prayers to commence legislative sessions with a history of legislator-led prayer in state capitals for over one hundred fifty years. See *Bormuth v. County of Jackson*, 870 F.3d 494 (6th Cir. 2017). Such tradition of legislator-led prayer is understandable in light of legislative prayer’s purpose as it “invites lawmakers to reflect upon shared ideals and common ends before they embark on the fractious business of governing.” *Town of Greece*, 572 U.S. at 583; and

WHEREAS, the City desires to allow legislator-led invocation or the observance of a moment of silence on a rotating City Commissioner basis such 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 provided that City Commissioners refrain from exploiting the invocation period with proselytizing or advancing any one belief, view, or religion; disparaging any other faith, belief, or non-belief; denigrating nonbelievers or religious minorities; threatening damnation; or preaching conversion; and

WHEREAS, in further recognition of the diversity of ideas, viewpoints, and various beliefs and non-beliefs held within the City and 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 allowing non-participation and a reasonable opportunity to exit the City Commission Chambers during the opening invocation or observance of a moment of silence and recitation of the Pledge of Allegiance to any who do not wish to witness or participate in same; and

WHEREAS, the City intends that this policy and these procedures do not proselytize or advance any particular faith, or show any other 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. CITY COMMISSION PROCEDURE AND POLICIES.

Intent. It is the policy of the City Commission that the procedures stated in this Resolution shall govern the regular and special meetings of the City Commission. This policy and the procedures set forth herein 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, opinion, religion, non-religion, or denomination. Rather, this policy and these procedures are intended to acknowledge and 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 so as to compel participation in the invocation, observance of the moment of silence, or recitation of the Pledge of Allegiance as described herein. Neither the City Commission nor the City staff shall order or require the public to participate in the invocation, moment of silence, 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 invocation, moment of silence, or recitation of the Pledge of Allegiance.

Timing. After the Call to Order of all regular and special meetings of the City Commission, City Commissioners on a rotating basis will be given the opportunity to

lead the invocation or observe a brief moment of silence, which shall be followed directly by recitation of the Pledge of Allegiance. Any City Commissioner may offer his or her opportunity to another City Commissioner. The invocation or moment of silence and 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.

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, and/or rise for, any invocation, any moment of silence, or to rise for and/or to recite the Pledge of Allegiance. A reasonable opportunity to exit the City Commission Chambers and return upon completion of the invocation or moment of silence and Pledge of Allegiance shall be afforded to any who do not wish to participate or witness same.

Persons in attendance at the City Commission meeting are invited to stand during the invocation or moment of silence and recitation of 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 persons in attendance may stand and/or participate if he/she wishes to do so for such observances.

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

Any opening invocation or observance of a moment of silence that is offered before the official start of the City Commission meeting shall be the voluntary offering of a single City Commissioner which shall be offered on a rotating basis. The views or beliefs expressed by the voluntary invocation speaker have not been previously reviewed or approved by the entirety of the City Commission or 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 invocation or moment of silence and 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 or rise for any invocation or moment of silence that is offered or to rise for or recite 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 invocation or moment of silence and Pledge of Allegiance if you do not wish to participate in or witness same.

SECTION II: CONFLICTS/SUPERSEDE. This Resolution supersedes all 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 ____ day of _____, 2019, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

John Rees, Mayor

ATTEST:

Angela Grimmage, City Clerk