

RESOLUTION NO. 13-02

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ADOPTING A POLICY REGARDING INVOCATIONS AT MEETINGS OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY

WHEREAS, the Town Council is an elective legislative and deliberative public body, serving the citizens of the Town of Yucca Valley; and

WHEREAS, legislative bodies in America have long maintained a tradition of solemnizing proceedings by allowing for an opening prayer before each meeting, for the benefit and blessing of the Town Council; and

WHEREAS, since the incorporation of the Town, the Town Council has followed a practice of selecting a member of local clergy to provide invocations at Town Council meetings; and

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

WHEREAS, such prayer before deliberative public bodies has been consistently upheld as constitutional by American courts, including the United States Supreme Court; and

WHEREAS, in *Marsh v. Chambers*, 463 U.S. 783 (1983), the United States Supreme Court rejected a challenge to the Nebraska Legislature's practice of opening each day of its sessions with a prayer by a chaplain paid with taxpayer dollars, and specifically concluded, "The opening 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, the Supreme Court further held, "To invoke divine guidance on a public body... Is not, in these circumstances, and 'establishment' of religion or a step toward establishment; it is simply a tolerable acknowledgment of beliefs widely held among the people of this country." *Id.*, at 792; and

WHEREAS, the Supreme Court affirmed in *Lynch v. Donnelly*, 465 U.S. 668 (1984), "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." *Id.*, at 675; and

WHEREAS, the Supreme Court further stated, "Those government acknowledgments of religion serve, in the only ways reasonably possible in our culture, the legitimate secular purposes of solemnizing public occasions, expressing confidence in the future, and

encouraging the recognition of what is worthy of appreciation in society. For that reason, and because of their history and ubiquity, those practices are not understood as conveying governmental approval of particular religious beliefs.” *Id.*, at 693 (O’Connor, J., concurring); and

WHEREAS, the Supreme Court also famously observed in *Zorach v. Clauson*, 343 U.S. 306, (1952), “Ware are a religious people whose institutions presuppose a Supreme Being.” *Id.*, at 313-14; and

WHEREAS, the Supreme Court acknowledged in *Holy Trinity Church v. United States*, 143 U.S. 457 (1892), that the American people have long followed a “custom of opening sessions of all deliberative bodies and most conventions with prayer...,” *Id.*, at 471; and

WHEREAS, the Supreme Court has determined, “The content of [such] prayer is not of concern to judges where... there is no indication that the prayer opportunity has been exploited to proselytize or advance any one, or to disparage any other, faith or belief.” *Marsh*, 463 U.S. at 794-795; and

WHEREAS, the Supreme Court also proclaimed that it should not be the job of the courts or deliberative public bodies “to embark on a sensitive evaluation or to parse the content of a particular prayer” offered by a deliberative public body. *Id.*; and

WHEREAS, the Supreme Court has counseled against the efforts of government officials to affirmatively screen, censor, prescribe and/or proscribe the specific content of public prayers offered by private speakers, as such government efforts would violate the First Amendment rights of those speakers. *See, e.g., Lee v Weisman*, 505 U.S. 577, 588-589 (1992); and

WHEREAS, the Town Council intends, and has intended in past practice, to adopt a policy that upholds individuals “free exercise” rights under the First Amendment; and

WHEREAS, the Supreme Court has repeatedly clarified that “there is a crucial difference between government speech endorsing religion, which the Establishment Clause forbids, and private speech endorsing religion, which the Free Speech and Free Exercise Clauses protect.” *Bd. Of Educ. Of Westside Cmty Sch. V. Mergens*, 496 U.S. 226, 250 (1990); and

WHEREAS, the Town Council intends, and has intended in past practice, to adopt a policy that does not proselytize or advance any faith, or show any purposeful preference of one religious view to the exclusion of others; and

WHEREAS, the Town Council recognizes its constitutional duty to interpret, construe, and amend its policies and ordinances to comply with constitutional requirements as they are announced; and

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Yucca Valley, California that the Town Council does hereby adopt the following written policy regarding opening invocations before meetings of the Town Council to wit:

1. In order to solemnize proceedings of the Town Council, it is the policy of the Town Council to allow for an invocation or prayer to be offered at its meetings for the benefit of the Town Council and community.
2. No member of the Town Council or Town employee or any other person in attendance at the meeting shall be required to participate in any prayer that is offered.
3. The prayer shall be voluntarily delivered by an eligible member of the clergy/religious leader in the Town of Yucca Valley. To ensure that such person (the “invocational speaker”) is selected from among a wide pool of the (jurisdiction)’s clergy/religious leaders, on a rotating basis, the invocational speaker shall be selected according to the following procedure:
 - a. The Town Clerk shall compile and maintain a database (the “Congregations List”) of the religious congregations with an established presence in Yucca Valley.
 - b. The Congregations List shall be compiled by referencing the listing for “churches”, “congregations”, or other religious assemblies in the annual Yellow Pages phone book(s) published for the Town of Yucca Valley, research from the Internet, and consultation with local chambers of commerce. All religious congregations with an established presence in the Town of Yucca Valley are eligible to be included in the Congregations List, and any such congregation can confirm its inclusion by specific request to the Clerk.
 - c. The Congregations list shall include the name and contact information of any chaplain who may serve one or more of the fire departments or law enforcement agencies of the Town of Yucca Valley or any nearby military facilities.
 - d. The Congregations list shall be updated by reasonable efforts of the Town Clerk.
 - e. Within thirty (30) days of the effective date of this policy, the Town Clerk shall mail an invitation addressed to the “religious leader” of each congregation listed on the Congregations List, as well as to the individual chaplains included on the Congregations List.
 - f. The invitation shall be dated at the top of the page, signed by the Town Clerk at the bottom of the page, and read as follows:

Dear religious leader,

The Town Council makes it a policy to invite members of the clergy in the Town of Yucca Valley to voluntarily offer a prayer before the beginning of its meetings, for the benefit and blessing of the Town Council. As the leader of one of the religious congregations with an established presence in the local community of the Town of Yucca Valley, or in your capacity as a chaplain for one of the fire departments or law enforcement agencies of the Town of Yucca Valley, you are eligible to offer this important service at an upcoming meeting of the Town Council.

If you are willing to assist the Town Council in this regard, please send a written reply at your earliest convenience to the Town Clerk at the address included on this letterhead. Clergy are scheduled on a first-come, first-serve or other random basis. The dates of the Town Council's scheduled meetings for the upcoming year are listed on the following, attached page. If you have a preference among the dates, please state that request in your written reply.

This opportunity is voluntary, and you are free to offer the invocation according to the dictates of your own conscience. To maintain the spirit of respect and ecumenism, the Town Council requests only that the prayer opportunity not be exploited as an effort to convert others to the particular faith of the invitational speaker, nor to disparage any faith or belief different than that of the invitational speaker.

On behalf of the Town Council, I thank you in advance for considering this invitation.

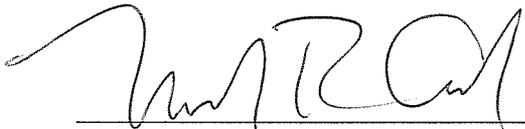
*Sincerely,
Town Clerk*

- g. Consistent with paragraph 6 hereof and, as the invitation letter indicates, the respondents to the invitation shall be scheduled on a first-come, first-serve or other random basis to deliver the prayers
 - h. If the selected invitational speaker does not appear at the scheduled meeting, the Mayor may ask for a volunteer from among the Council or the audience to deliver the invocation.
4. No invitational speaker shall receive compensation for his or her service.
5. The Town Clerk shall make every reasonable effort to ensure that a variety of eligible invitational speakers are scheduled for the Town Council meetings. In any event, no invitational speaker shall be scheduled to offer a prayer at consecutive meetings of the Town Council, or at more than three (3) Town Council meetings in any calendar year.

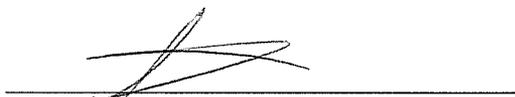
6. Neither the Town Council nor the Town Clerk shall engage in any prior inquiry, review of, or involvement in, the content of any prayer to be offered by an invitational speaker.
7. This policy shall be intended for all Boards and Commissions for the Town of Yucca Valley, California.
8. This policy is not intended, and shall not be implemented or construed in any way, to affiliate the Town Council with, nor express the Town Council's preference for, any faith or religious denomination. Rather, this policy is intended to acknowledge and express the Town Council's respect for the diversity of religious denominations and faiths represented and practiced among the citizens of Yucca Valley.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this policy shall become effective immediately upon approval by the Town Council of the Town of Yucca Valley, California.

DATED this 22nd day of January, 2013.


MAYOR

ATTEST:


TOWN CLERK

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

I, Janet M. Anderson, Town Clerk of the Town of Yucca Valley, California do hereby certify that Resolution No. 13-02 was duly and regularly adopted by the Town Council of the Town of Yucca Valley, California, at a meeting thereof held on the 22nd day of January, 2013, by the following vote:

AYES: Council Members Huntington, Lombardo, Rowe, and Mayor Abel

NOES: None

ABSTAIN: None

ABSENT: None



TOWN CLERK