

POLICY REGARDING OPENING INVOCATIONS BEFORE MEETINGS OF THE TOWN BOARD OF THE TOWN OF GREECE

WHEREAS, the Town Board of the Town of Greece ("the Town Board") is an elected legislative and deliberative public body, serving the citizens of Greece, New York; and

WHEREAS, the Town Board wishes to solemnize its proceedings by allowing for an opening invocation before each meeting, for the benefit and blessing of the Town Board, and

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

WHEREAS, our country's Founders recognized that we possess certain rights that cannot be awarded, surrendered, nor corrupted by human power, and the Founders explicitly attributed the origin of these, our inalienable rights, to a Creator. These rights ultimately ensure the self-government manifest in our deliberative bodies, upon which we desire to invoke divine guidance and blessing; 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 sessions 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 WL 1757828 (May 5, 2014), the United States Supreme Court validated opening prayers at meetings of this Town Board 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 *7; and

WHEREAS, the Town Board 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. *Id.* 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*, 2014 WL 1757828, at *11; 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 their nuanced and deeply personal beliefs for vague and artificial ones." *Id.* at *10, *11. 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 *11; and

WHEREAS, this Town Board is not establishing a policy that defines the constitutional limits for permissible public invocations; rather, this Town Board 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/or volunteers to provide an invocation before public meetings. *Town of Greece*, 2014 WL 1757828; *see also Simpson v. Chesterfield City Bd. of Supervisors*, 404 F.3d 379 (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 Town Board intends to adopt a policy that does not proselytize or advance any particular faith, or show any purposeful preference of one religious view to the exclusion of others; and

WHEREAS, the Town Board intends to adopt a policy that will not show a purposeful preference of 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 Town Board 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 Town Board, and to accomplish the Town Board'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. 688, 693 (1984) (O'Connor, J. concurring); and

WHEREAS, the Town Board accepts as binding the applicability of general principles of law and all the rights and obligations afforded under the United States and New York State Constitutions and statutes.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Greece, New York, that the Town Board hereby adopts the following written policy regarding opening invocations before meetings of the Town Board, to wit:

1. It is the intent of the Town Board to allow a private citizen to solemnize the proceedings of the Town Board. It is the policy of the Town Board to allow for an invocation, which may include a prayer, a reflective moment of silence, or a short solemnizing message, to be offered before its meetings for the benefit of the Town Board to accommodate the spiritual needs of the public officials.

2. No member or employee of the Town Board or any other person in attendance at the meeting shall be required to participate in any prayer that is offered and such decision shall have no impact on the ability of the person to actively participate in the business of the Town Board.

3. No member or employee of the Town Board will direct the public to stand, bow, or in any way participate in the prayer; make public note of a person's presence or absence, attention or inattention during the invocation; or indicate that decisions of the Town Board will in any way be influenced by a person's acquiescence in the prayer opportunity.

4. The invocation shall be voluntarily delivered by an appointed representative of an Assemblies List for the Town of Greece. To ensure that such person (the "invocation speaker") is selected from among a wide pool of representatives, on a rotating basis, the invocation speaker shall be selected according to the following procedure:

a. The Clerk to the Town Board (the "Clerk") shall compile and maintain a database (the "Assemblies List") of the assemblies with an established presence in the Town of Greece that regularly meet for the primary purpose of sharing a religious perspective (hereinafter referred to as a religious assembly).

b. The Assemblies List shall be compiled by using reasonable efforts, including research from the Internet, to identify all "churches," "synagogues," "congregations," "temples," "mosques" or other religious assemblies in the Town of Greece. All religious assemblies with an established presence in the Town of Greece are eligible to be included in the Assemblies List, and any such religious assembly can confirm its inclusion by specific written request to the Clerk.

c. The policy is intended to be and shall be applied in a way that is all-inclusive of every diverse religious assembly serving the citizens of the Town of Greece. The Assembly List is compiled and used for purposes of logistics, efficiency, and equal opportunity for all of the community's religious leaders, who may themselves choose whether to respond to the Town Board's invitation and participate. Should a question arise as to the authenticity of a religious assembly, the Clerk shall refer to criteria used by the Internal Revenue Service in its determination of those organizations that would legitimately qualify for I.R.C. § 501(c)(3) tax-exempt status.

d. The Assemblies List shall also include any religious assembly located outside the Town of Greece if such assembly is regularly attended by at least one resident of the Town of Greece and such resident requests inclusion of the assembly by specific written communication to the Clerk.

e. The Assemblies List shall be updated, by reasonable efforts of the Clerk, in November of each calendar year.

f. On or about December 1 of each calendar year, the Clerk shall mail an invitation addressed to the "religious leader" of each entry on the Assemblies List.

g. The invitation shall be dated at the top of the page, signed by the Clerk at the bottom of the page, and read as follows:

Dear Religious Leader,

The Town Board of the Town of Greece makes it a policy to invite members of the clergy or religious representatives in the Town of Greece to voluntarily offer an invocation before the beginning of its meetings, for the benefit and blessing of the Town Board. As a representative of one of the religious congregations with an established presence serving the local community you are eligible to offer this important service at an upcoming meeting of the Town Board.

If you are willing to assist the Town Board in this regard, please send a written reply at your earliest convenience to the Clerk to the Town Board at the address included on this letterhead. Representatives are scheduled on a first-come, first-serve basis. The anticipated dates of the Town Board'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 a spirit of respect, the Town Board requests only 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.

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

*Sincerely,
Clerk to the Town Board*

h. The respondents to the invitation shall be scheduled on a first-come, first-serve basis to deliver the invocation.

i. In the event an eligible representative of an Assembly serving the local community believes that the clerk has not complied with the terms of this policy, the representative has the right to have the matter reviewed by the Town Board.

5. No invocation speaker shall receive compensation for his or her service.
6. No guidelines or limitations shall be issued regarding an invocation's content, except that the Town Board shall request 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.
7. The Clerk shall make every reasonable effort to ensure that a variety of eligible invocation speakers are scheduled for the Town Board's meetings.
8. Neither the Town Board nor the Clerk shall engage in any prior inquiry, review of, or involvement in, the content of any invocation to be offered by an invocation speaker.
9. This policy is not intended, and shall not be implemented or construed in any way, to affiliate the Town Board with, nor express the Town Board's preference for, any faith or religious denomination. Rather, this policy is intended to acknowledge and express the Town Board's respect for the diversity of religious denominations and faiths represented and practiced among the citizens of the Town of Greece.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this policy shall become effective immediately upon adoption by the Town Board.

THIS INTRODUCED at the regular meeting of the Town Board of Town of Greece, New York, on August 17, 2022.

For: 5

Against: 0

THIS ADOPTED at the regular meeting of the Town Board of Town of Greece, New York, on August 17, 2022.


CLERK


TOWN SUPERVISOR