

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA**

**RESOLUTION NO. \_\_-\_\_**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, RESCINDING RESOLUTION NO. 14-2.36 AND RESTATING IN ITS ENTIRETY ITS POLICY REGARDING INVOCATIONS AT THE OPENING OF ITS MEETINGS; MAKING FINDINGS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners of Martin County, Florida (“the Commission”) is an elected legislative and deliberative public body, serving the citizens of Martin County, Florida; and

**WHEREAS**, the Commission wishes to maintain a tradition of solemnizing its proceedings by allowing for an invocation at the opening of each meeting, for the benefit and blessing of the Commission; and

**WHEREAS**, by Resolution No. 14-2.36, the Commission adopted a formal, written policy to clarify its invocation practices; and

**WHEREAS**, such invocation before legislative and other 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, “[t]he 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**, the Commission desires to continue 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 v. Chambers*, 463 U.S. 783, 792 (1983). Such invocation “is not, in these circumstances, an ‘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.*; and

**WHEREAS**, the Supreme Court affirmed in *Lynch v. Donnelly*, 465 U.S. 668 (1984), “[o]ur 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 the findings cited in Resolution No. 14-2.36 are re-adopted as if recited herein; and

**WHEREAS**, the Supreme Court further stated, that “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 government approval of particular religious beliefs.” *Id.*, at 693 (O’Connor, J., concurring); and

**WHEREAS**, the Supreme Court also observed in *Zorach v. Clauson*, 343 U.S. 306, (1952), “[w]e are a religious people whose institutions presuppose a Supreme Being.” *Id.*, at 313; 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, “[t]he content of the 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 before a deliberative public body. *Id.*; and

**WHEREAS**, the Supreme Court has counseled against the efforts of government officials to affirmatively screen, censor, prescribe 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**, in *Pelphrey, et al v. Cobb County, Georgia, et al*, 547 F.3d 1263 (11th Cir., Oct. 28, 2008), the United States Court of Appeals for the Eleventh Circuit, which includes Florida, held that the practice of allowing clergy to offer uncensored religious invocations at the beginning of sessions of a county commission and county planning commission did not violate the Establishment Clause, as long as the invocations did not advance or disparage a belief or affiliate government with specific faith; and

**WHEREAS**, in following the guidance of the Courts, the Commission's adopted policy does not proselytize or advance any faith, or show any purposeful preference of one religious view to the exclusion of others; and

**WHEREAS**, the Commission desires to update the policy to recognize changes in its organizational structure, improvements in technology, and maintain consistency with its adopted Rules of Procedure; and

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

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

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA:**

**SECTION 1.** The foregoing findings are incorporated herein by reference and made a part hereof.

**SECTION 2.** Resolution No. 14-2.36 is hereby rescinded and replaced in its entirety as set forth herein.

**SECTION 3.** In order to solemnize proceedings of the Commission, it is the policy of the Commission to allow for an invocation or prayer to be offered in the English language at the opening of its meetings for the benefit of the Commission. The Invocation shall be no more than three minutes in length.

**SECTION 4.** The invocation shall not be part of the public business.

**SECTION 5.** No member or employee of the Commission or any other person in attendance at the meeting shall be required to participate in any invocation that is offered.

**SECTION 6.** Unless the scheduled invocation speaker fails to appear, the invocation shall be voluntarily delivered by an eligible member of the clergy, as specified below. To ensure that such person (the “invocation speaker”) is selected from among a wide pool of local clergy, on a rotating basis, the invocation speaker shall be selected according to the following procedure:

- a. The Assistant County Administrator or designee (the “Administrator”) shall compile and maintain a database (the “Congregations List”) of the religious congregations with an established presence in the local community of Martin County.
- b. The Congregations List shall be compiled by referencing the listings for churches and other religious organizations researching the Internet and in consultation with Commissioners and staff. All religious congregations with an established presence in the local community of Martin County are eligible to be, and shall be, included in the Congregations List. Any such congregation not otherwise identified for participation may request its inclusion by specific written communication to the Administrator.
- c. This policy is intended to be and shall be applied in a way that is all-inclusive of every diverse religious congregation in Martin County. The Congregations List shall be 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 Commission’s invitation and participate. Should a question arise as to the authenticity of a religious congregation, the Administrator shall refer to criteria used by the Internal Revenue Service in its determination of those religious organizations that would legitimately qualify for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.
- d. The Congregations List shall also include the name and contact information of any chaplain who may serve one or more of the fire departments or law enforcement agencies of Martin County.
- e. The Congregations List shall also include the name and contact information of any religious congregation located outside Martin County, if such religious congregation is

attended by a resident or residents of Martin County, and such resident requests the inclusion of said religious congregation by specific written communication to the Administrator.

- f. The Congregations List shall be compiled by the Administrator within thirty (30) days after the effective date of this Resolution and shall be updated, by reasonable efforts of the Administrator, in or about the month of November of each calendar year after the year of adoption of this Resolution.
- g. Within thirty (30) days after the effective date of this Resolution, and on or about December 1 of each calendar year thereafter, the Administrator shall e-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.
- h. The invitation shall be sent on behalf of the Administrator and read as follows:

*Dear Religious Leaders,*

*The Board of County Commissioners makes it a policy to invite members of the clergy in Martin County to voluntarily offer an invocation in the English language at the opening of its meetings, for the benefit and blessing of the Commission. As the leaders of one of the religious congregations with an established presence in the local community, or in your capacity as a chaplain for one of the local fire departments or law enforcement agencies, or as the religious leaders of one or more Martin County residents, you are eligible to offer this important service at an upcoming meeting of the Commission.*

*If you are willing to assist the Commission in this regard, please reply at your earliest convenience to the e-mail address included. Clergy are scheduled on a first-come, first-serve basis. The dates of the Commission’s scheduled meetings for the upcoming year are listed on the 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 and ecumenism, the Commission*

*requests only that the invocation opportunity follow the Commission's adopted Rules of Procedure for Appearance Before the Commission by refraining from engaging in politicking, personal attacks, abusive or insulting language, be respectful of and civil to other members of the public, County staff, and the Commissioners; and not be exploited as an effort to convert others to the particular faith of the invocation speaker, nor to disparage any faith or belief different than that of the invocation speaker, nor to affiliate government with a specific faith.*

*On behalf of the Board of County Commissioners of Martin County, Florida, I thank you in advance for considering this invitation.*

*Sincerely,  
Administrator (or designee)*

**SECTION 7.** As the invitation e-mail indicates, the respondents to the invitation shall be scheduled on a first-come, first-serve basis to deliver the invocations.

**SECTION 8.** No invocation speaker shall receive compensation for his or her service.

**SECTION 9.** The Administrator shall make every reasonable effort to ensure that a variety of eligible invocation speakers are scheduled for the Commission meetings. In any event, no invocation speaker shall be scheduled to offer an invocation at consecutive meetings of the Commission or at more than three (3) Commission meetings in any calendar year.

**SECTION 10.** Neither the Commission nor the Administrator shall engage in any prior inquiry, review of, or involvement in, the content of any invocation to be offered by an invocation speaker.

**SECTION 11.** At the opening gavel, prior to the business of the Commission, the Chair of the Commission shall introduce the invocation speaker following the invocation and invite those who wish to do so to stand for the observance of and for the Commission. No member or employee of the Commission or any other person in attendance at the meeting shall be required to participate in any invocation that is offered.

**SECTION 12.** This policy is not intended, and shall not be implemented or construed in any way, to affiliate the Commission with, or express any preference by the Commission for or against, any faith or religious denomination. Rather, this policy is intended to acknowledge and express the Commission's respect for the diversity of religious denominations and faiths represented and practiced among the citizens of Martin County.

**SECTION 13.** To clarify the Commission's intentions, as stated in this Resolution, the following disclaimer shall be included in at least 10 point font at the bottom of any printed Commission meeting agenda: "Any invocation that may be offered at the opening of the Commission meeting shall be the voluntary offering of a private citizen, 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 Commission, and the Commission is not allowed by law to endorse the religious beliefs or views of this, or any other speaker."

**SECTION 14.** If any legislative or deliberative public board or commission whose members are appointed by the Commission elects to solemnize its proceedings by allowing for an invocation or prayer to be offered for its benefit, it shall do so in a manner that is consistent with this Resolution.

**DULY PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

ATTEST:

BOARD OF COUNTY  
COMMISSIONERS MARTIN COUNTY,  
FLORIDA

\_\_\_\_\_  
CAROLYN TIMMANN,  
CLERK OF THE CIRCUIT COURT  
AND COMPTROLLER

\_\_\_\_\_  
STACEY HETHERINGTON, CHAIR

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

\_\_\_\_\_  
SARAH W. WOODS,  
COUNTY ATTORNEY