

When recorded return to:  
Clerk  
Pinal County Board of Supervisors  
P.O. Box 827  
Florence, AZ 85132

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

**A RESOLUTION OF PINAL COUNTY BOARD OF SUPERVISORS ESTABLISHING  
GUIDELINES AND PROCEDURES REGARDING OPENING INVOCATION BEFORE  
REGULAR MEETINGS OF THE BOARD OF SUPERVISORS.**

**WHEREAS**, the Pinal County Board of Supervisors (“Board”) is an elected legislative and deliberative public body, serving the citizens of Pinal County, Arizona; and

**WHEREAS**, the Board wishes to continue to solemnize its proceedings by allowing for an opening invocation before each regular meeting, for the benefit and blessing of the County; and

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

**WHEREAS**, in *Marsh v. Chamber*, 463 U.S. 783 (1983), the United States Supreme Court validated the Nebraska Legislature’s practice of opening each day of its session with a prayer by a chaplain paid with taxpayers 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 76; and

**WHEREAS**, in *Town of Greece v. Galloway*, 134 S.Ct. 1811 (2014), the United States Supreme Court validated opening prayers at meetings of the Town of Greece, finding that “legislative prayer lends gravity to public business, reminds lawmakers to transcend petty differences in pursuit of a higher purpose, and express a common aspiration to a just and peaceful society.” *Id.* at 1823; and

**WHEREAS**, the 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. *Marsh* 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*, 134 S.Ct. at 1823; 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 the nuanced and deeply personal beliefs for vague and artificial ones.” *Id.* at 1822; and

**WHEREAS**, this Board is not establishing a policy that defines the constitutional limits for permissible public invocations; rather, the 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 community to provide an invocation before public meetings. *Town of Greece*; see also *Simpson v. Chesterfield Cnty. Bd. Of Supervisors*, 404 F.3d 276 (4<sup>th</sup> Cir. 2005), *cert denied*, 546 U.S. 937 (2005); *Pelphrey v. Cobb Cnty.*, 547 F.3d 1263 (11<sup>th</sup> Cir. 2008); *Rubin v. City of Lancaster*, 710 F.3d 1087 (9<sup>th</sup> Cir. 2013); *Bormuth v. County of Jackson*, 870 F.3d 494 (6<sup>th</sup> Cir. 2017); and

**WHEREAS**, the Board intends to adopt a policy that does not proselytize or advance any particular faith, or show any purposeful preferences for one religious view to the exclusion of others; and

**WHEREAS**, the Board intends to adopt a policy that will not demonstrate a purposeful preference for 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 Board provides all of its citizens, regardless of their religious beliefs, the free and equal benefits of citizenship, invites all leaders of all religious assemblies within the county to volunteer to give a public meeting invocation, does not discriminate against anyone on the basis of their participation or non-participation in a public meeting invocation, encourages all invocation speakers to be respectful of those who may hold different religious beliefs, and prohibits invocations that intentionally proselytize or disparage any person, religion, or religious sect; and

**WHEREAS**, the Board believes that clergy that serve the County are peculiarly suited through training, tradition, and public service to petition for divine guidance upon deliberations of the Board, and to accomplish the 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. 668, 693 (1984); and

**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 Board 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 Board Chambers during the opening invocation or recitation of the Pledge of Allegiance to any who do not wish to witness or participate in same; and

**WHEREAS**, the Board accepts as binding the applicability of general principles of law and all rights and obligations afforded under the United States and the State of Arizona Constitution and statutes.

**NOW, THEREFORE, BE IT RESOLVED BY THE PINAL COUNTY BOARD OF SUPERVISORS, AS FOLLOWS:**

**SECTION 1. Legislative and Administrative Findings.** The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the Pinal County Board of Supervisors. This policy and these procedures are not intended, and shall not be implemented, and shall not be construed in any way, to affiliate the County 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 Board's respect for the diversity of religious and non-religious denominations and faiths represented and practiced among the citizens of the County and to express the Board'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 Board nor County staff shall single out dissidents for opprobrium; or indicate in any manner the Board's decision to be influenced by a person's participation or lack of participation in the opening invocation or recitation of the Pledge of Allegiance.

**SECTION 2. Adoption of Invocation Policy.** The Board hereby adopts the following guidelines and procedures regarding opening invocations before regular meetings of the Pinal County Board of Supervisors.

1. It is the intent of the Board to allow organizations with an established physical presence within the County to solemnize the regular meetings of the Pinal County Board of Supervisors. It is the policy of the Board to allow for an invocation, which may include prayer; a reflective moment of silence; or a short solemnizing message, to be offered before its regularly scheduled meetings for the benefit of the Board, to accommodate the spiritual needs of the public officials. Special meetings, emergency meetings, and work sessions will not include an opening invocation. The prayer will be limited to one minute.
2. No member of the Board or County employee will direct the public to stand, bow, or in any way participate in the prayers; make public note of a person's presence or absence, attention or inattention during the invocation; or indicate the decisions of the Board will in

any way be influenced by a person's acquiescence in the prayer opportunity. The Chairman will provide time for persons who wish to leave the room during an invocation to do so, and equal time for them to return to the room before other business is addressed.

3. The invocation shall be voluntarily delivered by an appointed representative of a group from a database described below. To ensure that such person (the "invocation speaker") is selected from among a wide pool of representatives from the County on a rotating basis, the invocation speaker will be selected according to the following procedure:
  - a. The Clerk of the Board of Supervisors will compile and maintain a database (the "database") yearly from a broad and diverse pool of volunteer invocation speakers from leaders of any and all religions, denominations, faiths, creeds, and beliefs, including but not limited to, ministers, priests, chaplains, rabbis, deacons, clerics, and the like from within the County. The database may be compiled through referencing the listings for "churches," "congregations," and other similar groups and organizations with an established physical presence within the jurisdictional boundary of the County, through research from the Pinal County Assessor Office, PCSO Chaplains list, and Arizona Corporation Commission.
  - b. Any church, congregation, entity, organization or group within the jurisdictional boundaries of the County, with an established physical presence, not identified within the database for participation may request inclusion within the database by written communication directed to the Clerk of the Board that references the opening invocation.
  - c. This policy is intended to be and shall be applied in a way that is inclusive of diverse congregations, groups, and organizations. The database is compiled and used for the purposes of logistics, efficiency, and equal opportunity for all within the jurisdictional boundaries of the County to choose whether to respond to the Board's invitation.
  - d. The database shall be updated, by reasonable efforts of the Clerk of the Board or her designee, in her reasonable discretion, of each calendar year.
  - e. In December of each calendar year, the Clerk of the Board shall communicate with each group leader from each entry on the database using reasonable methods, and shall post an invitation to the County's website.
  - f. The invitation shall read as follow:

Dear \_\_\_\_\_,

*The Board of Supervisors of Pinal County makes it a policy to invite volunteer speakers to voluntarily offer an invocation before the beginning of its regular meetings, for the benefit and blessing of the Board. As a representative of one of the religious congregations or other groups with an established physical presence within the County, you are eligible to offer this important service at an upcoming Regular meeting of the Board of Supervisors.*

*If you are willing to assist the Board in this regard, please send a written reply no later than \_\_\_\_\_ to Clerk of the Board at the address or email included in this letterhead. Representatives are scheduled on a first-come, first-serve basis. The anticipated dates of the Board's regularly scheduled meeting for the upcoming quarter are listed on the following attached page. Speakers are invited on a rotation basis. We are unable to accommodate requests for specific dates.*

*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 Board requests 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. A copy of Resolution No. \_\_\_\_\_ adopting the Board's policy statement and guidelines regarding invocations is attached for your information.*

*On behalf of the Board of Supervisors, I thank you in advance for your consideration of this invitation.*

*Sincerely,  
Clerk of the Board*

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

- h. In the event a representative of a group serving the local community believes that the Clerk has not complied with the terms of this policy, the representative has the right to be heard at the Public Comments portion of a regular meeting by the Board.
4. Invocation speakers will not receive compensation for providing an invocation.
5. Neither the 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. No guidelines or limitations shall be issued regarding an invocation's content, except that the Board requests 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. Statements reflecting ideals relating to peace and security for the nation; safety of our armed forces, law enforcement, firefighters and emergency service personnel; wisdom for lawmakers; and justice for the people are encouraged. The Board reserves the right to limit any invocation speaker who violates the spirit and intent of this Resolution from delivering invocations at future meetings.
6. The Clerk of the Board shall make every reasonable effort to ensure that a variety of eligible invocation speakers are scheduled for the Board's meetings. To ensure a variety of speakers, no invocation speaker will be scheduled for more than two Board meetings in a calendar year, and no invocation speaker will be scheduled for two consecutive meetings.
7. The invocation shall be given prior to the start of the public meeting, during the "ceremonial" (call to order, pledge of allegiance, etc.) portion, and before the start of the "legislative"/ "quasi-judicial" portion.
8. The invocation speakers shall face the Board when giving the invocation.
9. Members of the public may lodge post-meeting complaints about public meeting invocations or invocation speakers by contacting the Clerk of the Board.
10. The Clerk of the Board will keep a record of attempts to solicit invocation speakers, and of efforts to be inclusive of religions that do not have a strong demographic representation in the County.
11. Should the scheduled invocation speaker or his or her substitute not appear at the appointed time to deliver the invocation, the Chairman will offer a moment of silence. Neither the Chairman nor any other member of the Board, shall deliver an invocation.

12. To make clear the Board's intentions, a disclaimer will be included at the bottom of each regularly scheduled meeting agenda in substantially the following form:

*Any invocation that may be offered before the official start of the Pinal County Board of Supervisor's meeting is the voluntary offering of a private citizen to and for the benefit of the Board pursuant to Resolution No. \_\_\_\_\_. The views and beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Board and do not necessarily represent their individual religious beliefs, nor are the views or beliefs expressed intended to suggest allegiance to or preference for any particular religion, denomination, faith, creed, or belief of the Board. No person in attendance at this meeting is or shall be required to participate in any invocation, and the decision whether or not to participate will have no impact on his or her right to actively participate in the public meeting.*

**SECTION 3. Conflicts.** All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

**SECTION 4. Severability.** If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this resolution.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2021

\_\_\_\_\_  
Stephen Q. Miller, Chairman of the Board of Supervisors

**ATTEST:**

\_\_\_\_\_  
Natasha Kennedy, Clerk of the Board

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Deputy County Attorney