

RESOLUTION 2023-174

RESOLUTION OF THE TOWNSHIP OF LITTLE EGG HARBOR, COUNTY OF OCEAN, STATE OF NEW JERSEY, ESTABLISHING THE OPENING OF TOWNSHIP COMMITTEE MEETINGS WITH AN INVOCATION

WHEREAS, the Township Committee of the Township of Little Egg Harbor (“the Committee”) is an elected legislative and deliberative public body, serving the citizens of the Township of Little Egg Harbor, County of Ocean, State of New Jersey; and

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

WHEREAS, since colonial times, legislative prayer has been the consistent practice of Congress, state legislatures, and other deliberative public bodies; and

WHEREAS, our country’s Founders recognized that we possess certain rights that cannot be awarded, surrendered, or corrupted by human power, and the Founders explicitly attributed the origin of these, our inalienable rights, to a Creator.

WHEREAS, these rights ultimately ensure the self-government manifest in our deliberative bodies, upon which we desire to invoke divine guidance and blessing; and

WHEREAS, legislative prayer has continuously coexisted with the constitutional guarantee of freedom of religion and the prohibition against the establishment of religion; and

WHEREAS, the U.S. Supreme Court in Marsh v. Chambers, 463 U.S. 783, 103 S.Ct. 330, 77 L.Ed.2d 1019 (1983) and in Town of Greece, N.Y. v. Galloway, 134 S. Ct. 1811, 1824 (2014) has held that legislative prayer is, indeed, constitutional; and

rmshc

Rothstein, Mandell, Strohm,
Halm & Cipriani, P.A.
ATTORNEYS AT LAW

98 East Water Street
Toms River, NJ 08753

o: 732.363.0777
f: 732.905.6555

WHEREAS, the U.S. Supreme Court has said that, “in light of the unambiguous and unbroken history of more than 200 years, there can be no doubt that the practice of opening legislative sessions with a prayer has become part of the fabric of our society.” Town of Greece, 134 S. Ct. at 1819 (quoting Marsh v. Chambers, 463 U.S. 783, 792 (1983)); and

WHEREAS, in Town of Greece v. Galloway, 572 U.S., 2014 WL 1757828 (May 5, 2014), the United States Supreme Court validated opening prayers at town council meetings 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 Committee 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

r|m|s|h|c

Rothstein, Mandell, Strohm,
Halm & Cipriani, P.A.
ATTORNEYS AT LAW

98 East Water Street
Toms River, NJ 08753

o: 732.363.0777
f: 732.905.6555

permit a prayer giver to address his or her own God or gods as conscience dictates.” *Id.* at *11; and

WHEREAS, this Committee is not establishing a policy that defines the constitutional limits for permissible public invocations; rather, this Committee intends to adopt guidelines that are consistent with the guidance provided by several courts that have considered the validity of public invocations; and

WHEREAS, in Marsh, 463 U.S. 783, the U.S. Supreme Court specifically approved of opening invocations delivered by a chaplain appointed by a deliberative public body; and

WHEREAS, the Committee 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 Committee 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; and

WHEREAS, the Committee 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 Committee, and to accomplish the Committee’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) (O’Conner, J., concurring); and

r|m|s|h|c

Rothstein, Mandell, Strohm,
Halm & Cipriani, P.A.
ATTORNEYS AT LAW

98 East Water Street
Toms River, NJ 08753

o: 732.363.0777
f: 732.905.6555

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

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Little Egg Harbor, County of Ocean, State of New Jersey as follows:

1. That the Township Committee do hereby reserve the right to open its public meetings with an invocation in order to solemnize the proceedings of the Township Committee, and that the policy of the Committee to allow for an invocation may include a prayer or a short solemnizing message offered before its meetings for the benefit of the Committee to accommodate the spiritual needs of public officials.
2. That no member, or employee of the Committee, or any other person in attendance at the meeting shall be required to attend or 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 Committee.
3. That no member or employee of the Committee 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 that decisions of the Committee will in any way be influenced by a person's acquiescence in the prayer opportunity.
4. That no guidelines or limitations shall be issued regarding an invocation content, except that the Committee 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.

r|m|s|h|c

Rothstein, Mandell, Strohm,
Halm & Cipriani, P.A.
ATTORNEYS AT LAW

98 East Water Street
Toms River, NJ 08753

o: 732.363.0771
f: 732.905.6555


5. That the Committee shall not engage in any prior inquiry, review of, or involvement in, the content of any invocation to be offered.
6. That to clarify the Committee's intentions, as stated herein above, the following disclaimer shall be included in at least ten (10) point font at the bottom of any printed agenda, program or schedule of events published by the Committee:

"Any invocation that may be offered before the official start of the Committee meeting is offered by a person who is expressing private thoughts as governed by his or her own conscience, to and for the benefit of the Committee. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Committee and do not necessarily represent the religious beliefs or views of the Committee in part or as a whole. No member of the community is required to attend or participate in the invocation and such decision will have no impact on their right to participate actively in the business of the Committee."

7. That this policy not be implemented or construed in any way to affiliate the Committee with, nor express the Committee's preference for, any particular faith or religious denomination.

CERTIFICATION

I, **KELLY LETTERA, RMC**, do hereby certify that the foregoing is a true copy of a resolution adopted by the Governing Body of the Township of Little Egg Harbor at a meeting held on the **8th** day of **June, 2023**.



KELLY LETTERA, RMC
Township Clerk
Little Egg Harbor Township

r|m|s|h|c

Rothstein, Mandell, Strohm,
Halm & Cipriani, P.A.
ATTORNEYS AT LAW

98 East Water Street
Toms River, NJ 08753

o: 732.363.0777
f: 732.905.6555