



# NEWPORT BEACH

## City Council Staff Report

April 25, 2017  
Agenda Item No. 6

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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**TITLE:** Resolution 2017-29 – Adopting a Revised City Council Policy A-19  
(Guidelines for Invocations)

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### **ABSTRACT:**

The U.S. Supreme Court issued an opinion in *Town of Greece v. Galloway*, 134 S.Ct. 1811 (2014) that “absent a pattern of prayers that over time denigrate, proselytize, or betray an impermissible government purpose...” an invocation policy passes constitutional muster. The U.S. Supreme Court further held that government should refrain from censoring invocations in advance by prohibiting speakers from referencing specific religions or deities. As a result, of the U.S. Supreme Court’s holding, the City Council could update its existing City Council Invocation Policy (A-19) (Attachment B) to reflect the current state of the law and remove restrictions that prohibit a speaker from referring to a specific religion or deity in his/her invocation.

### **RECOMMENDATION:**

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Adopt Resolution No. 2017-29, *A Resolution of the City Council of the City of Newport Beach, California, Adopting a Revised City Council Policy Regarding Invocations.*

### **FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

### **DISCUSSION:**

The City Council, like other legislative bodies in America, has long maintained a tradition of solemnizing proceedings by allowing for an opening prayer before each meeting. The City 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.

The attached policy allows an invocation to be voluntarily delivered by a member of the clergy/religious leader, City Council member or other person in the community. No member of the City Council, members of any City Board, Commission, Committee or City employee or any other person in attendance at a meeting is required to participate in any invocation that is offered.

The City Council intends, and has intended in past practice, to adopt a policy that upholds an individual's "free exercise" rights under the First Amendment. The U.S. 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)). The attached policy reflects the case law established by the U.S. Supreme Court and respects individual rights without endorsing any particular religion or set of beliefs.

#### **ENVIRONMENTAL REVIEW:**

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

#### **NOTICING:**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

#### **ATTACHMENTS:**

Attachment A: Resolution No. 2017-29

Attachment B: City Council Policy A-19 – Redline version