

ORDINANCE 2015-023

AN ORDINANCE OF THE CITY OF FRUITLAND PARK, LAKE COUNTY, FLORIDA INCLUDING INVOCATION IN THE OPENING CEREMONY FOR CITY COMMISSION MEETINGS; CODIFYING A POLICY REGARDING INVOCATIONS IN CHAPTER 33 OF THE CODE OF ORDINANCES; PROVIDING FOR REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Fruitland Park (the “City Commission”) is an elected legislative and deliberative public body, serving the citizens of Fruitland Park; and

WHEREAS, the City Commission desires to maintain a tradition practiced by Congress and dozens of state legislatures by opening its legislative meetings with prayer to place the City Commission in a solemn and deliberative frame of mind and invoke divine guidance in city affairs for the benefit and blessing of the City Commission; and

WHEREAS, the City Commission 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 City Commission, upon which we desire to invoke divine guidance and blessing; and

WHEREAS, such invocation before 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, “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, the City Commission 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. Such invocation “is not, in these circumstances, an

‘establishment’ of religion or a step toward establishment; it is simply a tolerable acknowledgement of beliefs widely held among the people of this country.” *Id.*; and

WHEREAS, in *Town of Greece v. Galloway*, 134 S.Ct. 1811 (May 5, 2014), the United States Supreme Court validated opening prayers at meetings of the City Commission 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 6; and

WHEREAS, the Supreme Court has counseled against the efforts of government officials to affirmatively screen, censor, prescribe and/or proscribe the specific content of public prayers offered by private speakers; and

WHEREAS, the City Commission intends 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; and

WHEREAS, the City Commission desires and intends to establish a policy that is 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 incorporated a neutral system to invite religious leaders from the local community and/or volunteers to provide an invocation before public meetings. *Town of Greece, Id.*; and

WHEREAS, the City Commission of the City of Fruitland Park, Lake County, Florida accepts as binding the applicability of general principals of law and all the rights and obligations afforded under the United States and Florida Constitutions and statutes, and hereby finds and declares that the adoption of this ordinance is necessary, appropriate, and in the public interest of the citizens of this community.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, LAKE COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Recitals.

The above recitals are true and correct and, by this reference, are hereby incorporated into and made an integral part of this ordinance.

Section 2. Invocation.

That Section 33.70 in Chapter 33, of the Fruitland Park Code of Ordinances is hereby created to read as follows:

Sec. 33.70. Invocation.

- 1) In order to solemnize proceedings of the City Commission, it is the policy of the City Commission to allow for an invocation to be offered before its meetings for the benefit of the City Commission.

- 2) No member or employee of the City Commission or any other person in attendance at the meeting shall be required to participate in any invocation that is offered and such decision shall have no impact on the ability of the person to actively participate in the business of the City Commission.
- 3) No member or employee of the City Commission will direct the public to stand, bow or in any way participate in the invocation, although the official overseeing the meeting may invite only those who wish to do so to stand for the observation of the Pledge of Allegiance and invocation.
- 4) The invocation shall be voluntarily delivered by an eligible representative of a congregations list for the City of Fruitland Park. To ensure that such person (the “invocation speaker”) is selected from among a wide pool of representatives, on a first-come, first serve and rotating basis, the invocation speaker shall be selected according to the following procedure:
 - A. The City Clerk shall compile and maintain a database (the “Congregations List”) of the religious congregations with an established presence in the community of Fruitland Park having a zip code of 34731 that regularly meet for the primary purpose of sharing a religious perspective.
 - B. The congregations list shall be compiled by using reasonable efforts, including research from the Internet, to identify all congregations, places of worship, churches, synagogues, temples, mosques or other religious congregations in the City of Fruitland Park, and in the area of the City of Fruitland Park having a zip code of 34731. All religious congregations with an established presence within the City of Fruitland Park or in the area of the City of Fruitland Park having a zip code of 34731 are eligible to be included in the congregations list, and any such religious assembly can confirm its inclusion by specific written request to the City Clerk.
 - C. The congregations list shall also include any religious assembly located outside the City of Fruitland Park if such congregation is regularly attended by at least one resident of the City of Fruitland Park and such resident requests including of the congregation by specific written request to the city clerk.
 - D. The policy is intended to be and shall be applied in a way that is all- inclusive of every diverse religious congregation serving the citizens of the City of Fruitland Park. The congregations 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 city’s invocation and participate. Should a question arise as to the authenticity of a religious assembly, the city clerk shall refer to criteria used by the Internal Revenue Service in its determination of those organizations

that would legitimately qualify for Section 501(c)(3) tax- exempt status.

- E. The congregations list shall be updated, by reasonable efforts of the city clerk, on or about the month of November of each calendar year.
- F. Within thirty (30) days of the effective date of this policy, and on or about December 1 of each calendar year thereafter, the city clerk shall mail an invitation addressed to the “religious leader” of each congregation listed on the congregations list.
- G. The invitation shall be dated at the top of the page, signed by the city clerk at the conclusion of the invitation, and read as follows:

Dear Religious Leader,

The City Commission of the City of Fruitland Park makes it a policy to invite members of the clergy or religious representatives in the area of the City of Fruitland Park having a zip code of 34731 to voluntarily offer an invocation before the beginning of its commission meetings, for the benefit and blessing of the city commission. As a representative of one of the religious congregations with an established presence serving in the City of Fruitland Park or in the area of the City of Fruitland Park having a zip code of 34731, or as the religious leader of one or more City of Fruitland Park residents, you are eligible to offer this important service at an upcoming meeting of the city commission.

If you are willing to assist the city commission in this regard, please send a written reply at your earliest convenience to the city clerk at the address included on this letterhead. Clergies are scheduled on a first-come, first-served basis and thereafter, on a rotating basis. The dates of the city 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, the city commission 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 City Commission of the City of Fruitland Park, I thank you in advance your considering this invitation.

Sincerely,

City Clerk

Attachment: Date of Commission meetings

- 5) The respondents to the invitation shall be scheduled on a first-come, first-served basis to deliver the invocation, and thereafter on a rotating basis.
- 6) In the event an eligible representative of a congregation believes the city clerk has not complied with the terms of this policy, the representative has the right to have the matter reviewed by the City Commission.
- 7) No invocation speaker shall receive compensation for his or her service.
- 8) Neither the Commission nor the city 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) The city clerk shall make every reasonable effort to ensure that a variety of eligible invocation speakers are scheduled for the City Commission's meetings.
- 10) This policy is not intended, and shall not be implemented or construed in any way, to affiliate the City Commission with, nor express the City Commission's preference for, any faith or religious denomination. Rather, this policy is intended to acknowledge and express the City Commission's respect for the diversity of religious denominations and faiths represented and practiced among the citizens of the City of Fruitland Park.
- 11) In the event that a representative from the Congregations list is unable to give the invocation at a meeting, then a citizen volunteer from the audience will be solicited. If a citizen volunteer is not forthcoming, then a volunteer from staff will be solicited.

Section 3. Conflicts And Ordinances Repealed.

All ordinances or parts of ordinances in conflict are hereby repealed.

Section 4. Severability.

If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

Section 5. Codification.

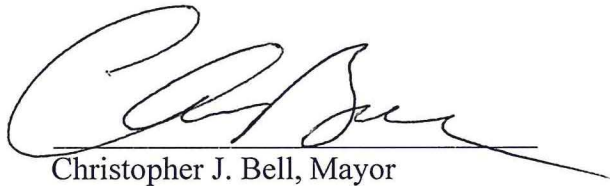
It is the intent of the City Commission of the City of Fruitland Park that the provisions of this chapter shall become and made a part of the Fruitland Park Code of Ordinances; and grants authority to the codifier to renumber or re-letter sections, and change the words in this ordinance to section, article, chapter or such other appropriate word or phrase in order to accomplish such intentions.

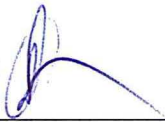
Section 6. Effective Date.

This Ordinance shall become effective immediately upon adoption.

PASSED AND DULY ADOPTED by the City of Fruitland Park, Lake County, Florida this

14th day of January 2016.


Christopher J. Bell, Mayor

Attest: 

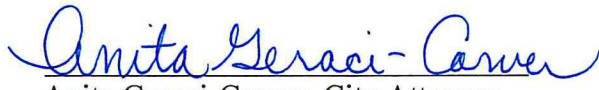
Esther Coulson, City Clerk

Commissioner Cheshire / (Yes), (No), (Abstained), (Absent)
Vice-Mayor Gunter / (Yes), (No), (Abstained), (Absent)
Commissioner Lewis / (Yes), (No), (Abstained), (Absent)
Commissioner Ranize / (Yes), (No), (Abstained), (Absent)
Mayor Bell / (Yes), (No), (Abstained), (Absent)

First Reading December 10, 2015

Second Reading January 14, 2016

Approved as to form and legality:


Anita Geraci-Carver, City Attorney