

Meeting Date
August 19, 2014



Section	New Business
Item No.	V.F.1

AGENDA REPORT

BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Approval of the Board of County Commissioners for the Chair to send a letter of response to David Williamson, Central Florida Freethought Community.
DEPT/OFFICE:	District 4 Commission Office

Requested Action:

It is requested that the Board of County Commissioners grant permission for the Chair to sign and send on behalf board the attached letter of response to David Williamson, Central Florida Freethought Community.

Summary Explanation & Background:

The District 4 Commission Office received a letter (attached) requesting permission to offer an invocation at an upcoming Brevard County Board of County Commissioners meeting. Because of the referenced to recent Supreme Court decisions, our office sought advice from the County Attorney on this issue.

Contact: Pat Woodard
 Phone/e-mail: 633-2044 / Patrick.woodard@brevardcounty.us

Clerk to the Board Instructions:

Exhibits Attached: Letter from Mr. Williamson; Letter to Mr. Williamson

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

County Manager	Assistant County Manager, Mel Scott	Department Director / Extension
Stockton Whitten	Assistant County Manager, Venetta Valdengo	



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972

August 20, 2014

MEMORANDUM

TO: Mary Bolin Lewis, District 4 Commissioner Attn: Pat Woodard

RE: Item V.F.1., Approval of Chairman to Send Letter of Response to David Williamson, Central Florida Freethought Community

The Board of County Commissioners, in regular session on August 19, 2014, authorized you to sign and send a letter of response on behalf of the Board of County Commissioners to David Williamson, Central Florida Freethought Community. Enclosed is the original Letter of Response for your action.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge

Tammy Etheridge, Deputy Clerk

/ds

Encl. (1)

cc: County Manager
County Attorney



David Wiliamson
Central Florida Freethought Community
PO Box 621123
Oviedo, FL 32762

Dear Mr. Williamson:

Thank you for your request.

The Invocation portion of the agenda is an opening prayer presented by members of our faith community. The prayer is delivered during the ceremonial portion of the County's meeting and typically invokes guidance for the County Commission from the highest spiritual authority, a higher authority which a substantial body of Brevard constituents believe to exist. The invocation is also meant to lend gravity to the occasion, to reflect values long part of the County's heritage and to acknowledge the place religion holds in the lives of many private citizens in Brevard County.

Your website leads us to understand your organization and its members do not share those beliefs or values which, of course, is your choice under the laws of the United States. However, this Commission chooses to stand by the tradition of opening its meetings in a manner acknowledging the beliefs of a large segment of its constituents. Your claims to the contrary notwithstanding, over the years this Commission has heard invocations from a variety of religious faiths in our community, including Catholic, Protestant, Jewish, Muslim, Mormon and Adventist. "Even those who disagree as to religious doctrine may find common ground in the desire to show respect for the divine in all aspects of their lives and being." (Justice Anthony Kennedy, writing for the Court in *Galloway v. Town of Greece*)

This Commission respectfully takes issue with the claim that members of your organization are being excluded from presenting their viewpoint at County Commission meetings. You or your Brevard members have the opportunity to speak for three minutes on any subject involving County business during the Public Comment portion of our meeting. County business clearly includes the subject of pre-meeting prayers at County Commission meetings. As a practical matter, there are no restrictions on what is said during those three minutes. During Public Comment presentations, this Board has politely listened to Bible readings; political points of view of all varieties; and some of our citizens' sharpest critiques and criticisms of County staff and the County Commission, among other things.

During that segment, members of your organization are free to speak their views and beliefs, or even a closing supplication. You or your members are also free to invoke whatever authorities they choose, including but not limited to, those you have quoted on your website. To paraphrase Justice Kennedy: the Establishment Clause in the United States Constitution “requires an inquiry into the opportunity as a whole” and a violation of the Establishment Clause is not “made out any time a person experiences a sense of affront from the expression of contrary religious views in a legislative forum, especially where any member of the public is permitted to offer views reflecting his or her own convictions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary Bolin Lewis", written in black ink. The signature is positioned above a horizontal line.

Mary Bolin Lewis, Chair
(as approved by the Board on August 19, 2014)

During that segment, members of your organization are free to speak their views and beliefs, or even a closing supplication. You or your members are also free to invoke whatever authorities they choose, including but not limited to, those you have quoted on your website. To paraphrase Justice Kennedy: the Establishment Clause in the United States Constitution "requires an inquiry into the opportunity as a whole" and a violation of the Establishment Clause is not "made out any time a person experiences a sense of affront from the expression of contrary religious views in a legislative forum, especially where any member of the public is permitted to offer views reflecting his or her own convictions.

Sincerely,

A handwritten signature in cursive script that reads "Mary Bolin Lewis". The signature is written in dark ink and is positioned above a horizontal line.

Mary Bolin Lewis, Chair
(as approved by the Board on August 19, 2014)



These invocations are included on the following pages and have already been conducted in nearby cities and counties. Video links are provided as well as the duration and word count.

- **17 July 2014 – City of Eustis (FL) Commission Meeting**
- **14 July 2014 – Winter Park (FL) City Commission**
- **7 July 2014 – Groveland (FL) City Council**
- **3 July 2014 – Volusia (FL) County Council**
- **23 June 2014 – Orlando (FL) City Council**
- **17 June 2014 – Martin County (FL) Board of Co. Comm.**
(Arranged for by the Humanists of the Treasure Coast, not the Central Florida Freethought Community)
- **16 June 2014 – Osceola (FL) Board of Co. Comm.**

These invocations are planned for the near future.

- **Lake County - August 26, 2014**
- **Seminole County - September 9, 2014**
- **City of Ocoee - October 7, 2014**
- **City of Tavares - December 3, 2014**
- **Town of Lady Lake - December 1, 2014**

17 July 2014 – City of Eustis (FL) Commission Meeting

David Williamson: 212 words - 1 min 14 sec

As the community gathers this evening, let us briefly reflect on the things you, as a Commission, bring with you to do the business of improving the City of Eustis for residents, the many businesses, and its cherished visitors.

Compassion is essential for effective public service and it is cultivated through a lifetime of learning about the needs of everyone in the community and the harm that follows when those needs are neglected.

Your integrity and honesty are earned through life lessons you take from family, friends, and your own personal experiences of these principles in everyone around you.

Wisdom is often called for during an invocation, however all the knowledge needed is already right here in this chamber. Your fellow commissioners, the hard-working city staff, as well as citizens and business owners come to serve along with you and to be a resource to call upon.

As we unite with the common goal of improving the lives of all stakeholders and even those who will be affected by this evening's decisions for generations to come, take solace in the fact that on our own we can do this, because of who we are, because we have one another, and simply because it must be done.

We are all in this together. We will make it happen.

http://eustis.granicus.com/MediaPlayer.php?publish_id=ddcd541e-0eb4-11e4-bdc2-00219ba2f017

14 July 2014 – Winter Park (FL) City Commission
Chris Allen: 201 words - 1 min 12 sec

Let us give thanks for the opportunities we have to strive to reach our potential, to create happiness for ourselves and others.

Using the means we have within ourselves, determination, passion, intelligence, and sincerity in purpose, we can do more than dream.

Each person has the potential to persevere, to reach one's goals, and to make the best use of the life they have.

Our ability to achieve fulfillment should also be linked to a strong desire to help the less fortunate among us.

Helping others with no expectation of reward is noble but more importantly a means for one to achieve personal happiness.

Happiness, of course, is a goal for every person. By giving ourselves our time, talents, and treasures we can achieve greater joy.

If we judge a community in terms of the welfare of the weakest among us then personal giving, caring, and sharing are vital individual traits that when combined with others who care create and sustain a thriving civil society.

Let us realize and believe in our hearts that in order to improve ourselves and our families and to elevate the human condition each of us has to be that someone who does something for others.

<http://youtu.be/ghFoe4iaC4U>

7 July 2014 – Groveland (FL) City Council
Paul Tjaden: 300 words - 1 min 57 sec

For tonight's invocation I would ask that instead of bowing your heads you would just take a moment to look around at others who are here tonight. Fifty years ago, had you done that, the people you would be looking at would be people you had known most of your lives. They would be old friends from school or the church you attend on Sunday.

But since then, our community has seen incredible growth, with people moving here from other states and from countries around the world. We have citizens who are Christian, Jewish, Hindu, Muslim, Buddhist, Wiccan, and people who profess no religious belief at all. I believe that any prayer in this diverse setting would cause at least *some* of our citizens to feel like outsiders, that they had entered a place where their requests or problems might be considered with suspicion or indifference because their beliefs differed from the majority.

Because of this and in respect to all of our citizens, I come before you to invoke the spirit of goodwill between all of us. To be sure, we do not agree about everything and we often feel fiercely protective of what we do believe. But there is one thing on which we all agree: We share the goal of making our community the best place it can be. We unite here with that aim and common purpose.

It is my hope that, at this council meeting and others, we will work together to make positive changes in our community. It is my hope that we challenge ourselves and others to improve our quality of life. It is my hope that respect is always extended to others. And it is my hope that logic and reason guide the decisions of all within and outside of this room.

<http://youtu.be/Wu2XxIKJXjw>

3 July 2014 – Volusia (FL) County Council
Jack Maurice: 221 words - 1 min 27 sec

Ladies and Gentlemen, I don't ask you to close your eyes, but to keep your eyes open to the serious issues this county government can and should solve or improve. I don't ask you to bow your heads, but to look up at what you can accomplish by applying your considerable talents and experience to the problems that confront you.

We gather here today on this eve of our celebration of independence to not only meet with our colleagues and friends with attention to a common goal but also to hopefully to commemorate the 238th anniversary of the publication of the Declaration of Independence from Great Britain in 1776.

I and other non-religious citizen's thank you, for allowing a secular humanist to have this opportunity to "invoke" a minority point of view.

Consider this: each of us is a minority with respect to something. Each of us is also part of some majority.

Whether we have a minority or majority viewpoint we must pledge our best efforts to help one another and to defend the rights of all of our citizens and residents.

As you work together on behalf of all who live in this great city of DeLand may you gain strength and cooperation from one another through reason and compassion.

To all, have a great and safe holiday weekend.

http://youtu.be/AeNysEQ_mEE

23 June 2014 – Orlando (FL) City Council

Chris Allen: 193 words - 1 min 15 sec

Let us give thanks for all that we have, cherish and possess--especially for the capacity to care and love, to improve ourselves, our families and community.

Whatever one's viewpoint, either derived from faith or from reason informed by science, having the capacity to appreciate and thank others is ingrained in the DNA of The Human Condition.

We give thanks to the volunteers, the heart and soul of our community, who donate their time and talents to help the less fortunate.

And, in this setting, let's recognize and laud the sacrifices made by many government workers, especially firefighters and police officers who risk their lives to safeguard others, no matter where residents live or if they are rich or poor.

Understanding the awesome responsibility of public service, we thank you, the mayor and city council members for using compassion and fairness, and for not acting for personal gain, or out of fear or favor.

As citizens and voters, we possess great hope that our elected officials make choices that give all people in this community, to the extent they can, an opportunity to achieve The American Dream...and to help build a greater Orlando.

<http://youtu.be/1hmrLEhbw8?t=29s>

**17 June 2014 – Martin County (FL) Board of Co. Comm.
Joe Beck: 228 words - 1 min 42 sec**

Martin County is a diverse community representing a wide spectrum of religious, secular, political, ethnic, and racial perspectives. Despite our diversity we are united by the democratic principles of equal treatment for all as contained in our Constitution and Bill of Rights. We are also united in our desire to develop policies and legislation for the benefit of Martin County and its residents.

We come to this meeting with divergent points of view that need to be discussed and carefully evaluated to ensure that wise decisions are made. While we may believe that our perspectives on issues like All Aboard Florida or the Indian River Lagoon are preferable, it is important that we express ourselves in ways that demonstrate respect for others as we plant the seeds of cooperation that are necessary for us to work together for the common good.

Let us be guided by reason and compassion in our quest to solutions for life's problems. Should we find ourselves becoming displeased over what someone has said it can be helpful to remember that harsh words don't educate others about our points of view. They only create tension and interfere with decision making.

Let us be guided by the advice that Aristotle offered the world twenty-four hundred years ago when he said, "We should conduct ourselves towards others as we would have them act towards us.

http://martin.granicus.com/MediaPlayer.php?view_id=18&clip_id=2612

16 June 2014 – Osceola (FL) Board of Co. Comm.

David Williamson: 199 words - 1 min 17 sec

Through the millennia we as a society have learned the best way to govern the people is for the people to govern themselves. Today, in this tradition, we travel from our homes and businesses across the county; citizens, staff, and those elected converge on this chamber to work as one community united and indivisible by nearly every measure. Each of us arrives as individuals with unique ideas and experiences but all with a need or, in a spirit of goodwill, to fulfill the needs of others.

Citizens request assistance and offer their concerns and we are ever grateful for their interest and for their trust in the process. Staff provides invaluable expertise in their particular field and we truly appreciate their continued service. Elected officials listen, debate, and choose the path forward for us all out of a sincere desire to serve and honor the people of Osceola County while shaping its future. We all offer our thanks in that often thankless task.

When we leave this chamber this evening let us carry with us this same spirit of service and goodwill tomorrow and every day that follows.

This is how we assemble to serve and to govern, ourselves.

<http://youtu.be/DGeGw8XV0-U>



CENTRAL FLORIDA
FREETHOUGHT
COMMUNITY

July 22, 2014

SENT VIA MAIL & EMAIL

D4.Commissioner@brevardcounty.us

The Honorable Mary Bolin Lewis
Chairwoman, Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way
Building C, Suite 214
Viera, FL 32940

Re: Discrimination against a religious minority

Dear Chairwoman Lewis:

You may recall our correspondence via email and certified mail requesting permission to offer an invocation at an upcoming Brevard County Board of County Commissioners meeting. In our letter, we requested that you notify us in writing about the next opportunity for us to offer the invocation at an upcoming meeting. The original letter and email were sent on May 9, 2014, yet over 60 days have passed and we have received no response.

The Central Florida Freethought Community is a local educational organization of more than two hundred members, many of whom reside in Brevard County. We are a chapter of the Freedom From Religion Foundation and an affiliate of the American Humanist Association.

If the Brevard County Board of County Commissioners continues to open its meetings with invocations by invited guests and clergy, it must not categorically exclude certain faiths from inclusion in the practice. In this case, the Board is excluding members of our organization, that of a minority religion, from the same opportunity as members of majority religions.

In the recent Supreme Court decision, *Town of Greece v. Galloway*, 134 S. Ct. 1811, 1823-25 (2014), the Court emphasized that the government must maintain "a policy of nondiscrimination" and it must make reasonable efforts to include invocations from all members of the community, regardless of their faith. In fact, the completely open and non-discriminatory selection process was crucial to the prayer practice being upheld: "The town at no point excluded or denied an opportunity to a would-be prayer giver. Its leaders maintained that a minister or layperson of any persuasion, including an atheist, could give the invocation. *Id.* at 1816 & 1824. Indeed, "any member of the public [was] welcome in turn to offer an



invocation." *Id.* at 1826. The Court reasoned: "Congress . . . acknowledges our growing diversity not by proscribing sectarian content *but by welcoming ministers of many creeds.*" *Id.* at 1820-21 (emphasis added). Therefore, excluding a particular faith group such as Humanists and Atheists from the invocation practice is unconstitutional. See *Pelphrey v. Cobb County*, 547 F.3d 1263, 1277-79, 1281 (11th Cir. 2008) (holding county's invocation selection process unconstitutional because "certain faiths were categorically excluded" and rejecting argument that "the selection process is immaterial when the content of the prayer is constitutional[.]"). See also *Atheists of Fla., Inc. v. City of Lakeland*, 713 F.3d 577, 592 (11th Cir. 2013); *Simpson v. Chesterfield County Bd. of Supervisors*, 404 F.3d 276, 284-85 (4th Cir. 2005) (selection of invocation-givers must "not 'stem from an impermissible motive'"); *Snyder v. Murray City Corp.*, 159 F.3d 1227, 1234 (10th Cir. 1998) (same); *Jones v. Hamilton County*, 891 F. Supp. 2d 870, 886 (E.D. Tenn. 2012) ("Even when operating under a facially neutral policy, a legislature may not select invitational speakers based on impermissible motives or sectarian preferences."); Cf. *Galloway*, 134 S. Ct. at 1824 (selection process upheld because it did not reflect "an aversion or bias on the part of town leaders against minority faiths").

Justice Alito's concurrence in *Galloway* further supports the majority's ruling, noting: "the mistake [of excluding the Rochester area] was at worst careless, and it was not done with a *discriminatory intent*. (I would view this case *very differently* if the omission of these synagogues were intentional.)" 134 S. Ct. at 1830-31 (emphasis added). The Ninth Circuit employed the same reasoning in upholding a practice identical to Greece: "Here, as in *Joyner*, 'there is no evidence to suggest that the [City] attempted to . . . ensure that only Christian prayer would be offered.'" *Rubin v. City of Lancaster*, 710 F.3d 1087, 1099 n.12 (9th Cir. 2013) (citations omitted).

This Board's exclusion of our members from the invocation selection process seems premised solely on religion since every invocation offered at the Board meetings in the previous twelve months has been a prayer performed by Christian clergy.

Unlike the governments in *Marsh v. Chambers*, 463 U.S. 783 (1983) and *Galloway*, Brevard County has not "made reasonable efforts" to be inclusive. *Galloway*, 134 S. Ct. at 1824. In *Galloway*, the Court could not fault the town for the fact that the majority of the prayers were Christian because this was a product of *availability*. In Greece, "all the houses of worship listed in the local Community Guide were Christian churches" and there were "no synagogues[.]" *Id.* at 1828 (Alito, J., concurring). In contrast, non-Christian invocation-givers are available in the county here, yet the county refuses to include these members in the selection process.



CENTRAL FLORIDA
FREETHOUGHT
COMMUNITY

As such, this letter demands that Brevard County permit a member of our organization to deliver an invocation and to ensure its selection procedures for invocations comport with the Constitutions of Florida and of the United States. Given the serious nature of the County's actions, we request a response by July 31, 2014.

Sincerely,

David Williamson
Founder and Chair