



CITY OF SURPRISE
Regular City Council Work Session
16000 N. Civic Center Plaza
Surprise, AZ 85374
Tuesday, June 18, 2019 @ 4:00 PM
COUNCIL CHAMBERS

- A. Call To Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Proclamation and Community Acknowledgements
- E. City Manager Report
- F. City Clerk Report
- G. Call To The Public

INSTRUCTIONS: In order to address the City Council, you will need to fill out a Call to the Public Form available at the front counter, and then turn it in to the City Clerk before the meeting begins.

[Download the Call to the Public form](#) (PDF download requires Adobe Acrobat Reader)

[Fill out the Call to the Public form online](#) If submitting form electronically, please submit to City Clerk at least one hour before the meeting start time.

The Call to the Public form is also available at the front counter.

Note: A.R.S. 38-431.01(H)- During this time members of the public may address City Council only on issues within the jurisdiction of the City Council which are not an item on the agenda. At the conclusion of the open call, City Council may respond to criticism, may ask staff to review the matter or may ask that the matter be put on a future agenda. No discussion or action shall take place on any item raised.

Approval of items on the Consent Agenda – all items with an asterisk (*) are considered to be routine matters and will be enacted by one motion and one roll call vote to the City Council. There will be no separate discussion on these items unless a Councilmember requests, in which event the item will be removed from the consent agenda and considered in its normal sequence on the agenda.

Please be aware that Council Members may not discuss or respond to matters raised during call to the public that are not specifically identified on the agenda. Council Members may however, in their discretion, discuss or respond to relevant matters raised during a noticed public hearing or agenda item.

H. Regular City Council Meeting Agenda

CONSENT AGENDA:

REGULAR AGENDA ITEM - PUBLIC HEARING:

REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

- | | | | |
|----|----------|--|------|
| 1. | Citywide | Presentation and discussion pertaining to Council Meeting invocations. | None |
|----|----------|--|------|

Ken Remley
David Sanders
Legal

2.	Citywide	Surprise Center Development Company Update on the City Center Master Plan	None
			Jeanine Jerkovic Economic Development

I. Other Business and Future Agenda Items

J. City Council Reports

K. Executive Session

For information Purposes; Upon a public majority vote of a quorum of the City Council, the Council may hold an executive session, which will not be open to the public, but for only the following purposes:

- discussion or consideration of personnel matters (A.R.S. §38-431.03 (A)(1));
- discussion or consideration of records exempt by law from public inspection (A.R.S. §38-401.03 (A)(2));

L. Adjournment

SHERRY ANN AGUILAR, CITY CLERK, MMC

POSTED: June 13, 2019 at 8:20 AM

SPECIAL NOTE: PERSONS WITH SPECIAL ACCESSIBILITY NEEDS, INCLUDING LARGE PRINT MATERIALS OR INTERPRETER, SHOULD CONTACT THE CITY CLERK'S OFFICE @ 623.222.1200 OR TTY 623.222.1002, BY NO LATER THAN 24 HOURS IN ADVANCE OF THE REGULAR SCHEDULED MEETING TIME.



CITY OF SURPRISE Regular City Council Work Session

Council Meeting Date: June 18, 2019
Submitting Department: Legal
Staff Recommendations: None

Contact Person: Ken Remley, David Sanders
District: Citywide

Consent: No Regular: No Public Hearing: No Report/Discussion: No

Agenda Wording:

Presentation and discussion pertaining to Council Meeting invocations.

Motion:

N/A

Background:

In 2017, during the November 7 council meeting, Council Member Remley requested that the topic of invocations be placed on a future agenda for discussion. The City Attorney presented the matter on the December 5, 2017 Regular Council Work Session. At that time, based on the presentation, Council took no action to adopt an invocation policy.

At the May 7, 2019, Regular Council Meeting, Council Member Remley again requested that the matter be placed on a future agenda for discussion and possible action; Council Member Sanders seconded.

Objective Analysis:

The United States Supreme Court has on several occasions upheld as legal, i.e. not violating the First Amendment's establishment clause, legislative body invocations. However, the adoption of an invocation policy is not without legal implications or restriction. These legal implications and requirements will be addressed during the presentation.

Policy Compliant:

To implement an invocation practice, Council would need to expand its policies and adopt a policy setting forth a procedure for invocations. The City Attorney's Office has drafted a potential policy based on the City of Lancaster, California, invocation policy which was upheld as Constitutional by the 9th Circuit Court of Appeals.

Financial Impact:

N/A

Budget Impact:

N/A

FTE Impact:

N/A

ATTACHMENTS:

1. 17.11.13 Invocation Presentation version 5
 2. 19.06.06 Invocation policy
-

INVOCATIONS AND THEIR IMPLICATIONS

City Attorney's Office



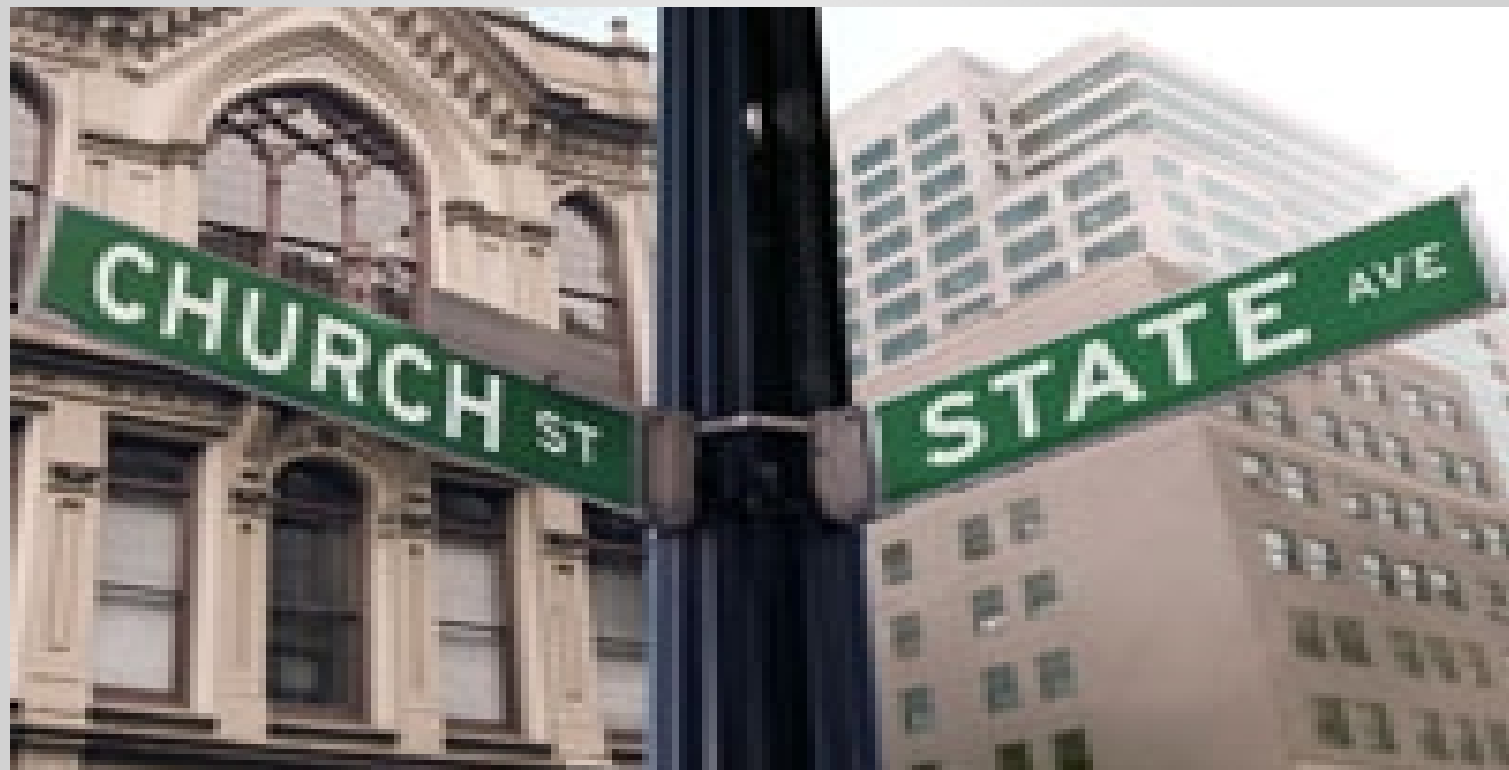
The First Amendment to the United State Constitution

- The Establishment Clause
- Free Exercise of Religion
- Freedom of Speech Clause

The First Amendment to the United States Constitution, applicable to states by virtue of the Fourteenth Amendment to the United States Constitution, provides, in pertinent part, that “Congress shall make no law respecting an establishment of religion...” (the Establishment Clause).



- More than three decades ago, the United States Supreme Court held in ***Marsh v. Chambers***, 463 U.S. 783, 103 S. Ct. 3330, 77 L. Ed. 2d 1019 (1983) that the opening of sessions of state legislatures with prayer is deeply embedded in the history and tradition of this country and does not violate the Establishment Clause.



- The *Marsh* decision made clear that an invocation may not be, “...exploited to proselytize or advance any one, or to disparage any other faith or belief.”
- But caused confusion and a conflict amongst the circuit courts regarding the scope of the holding and to what extent sectarian prayers were constitutional.

9th Circuit's Approach

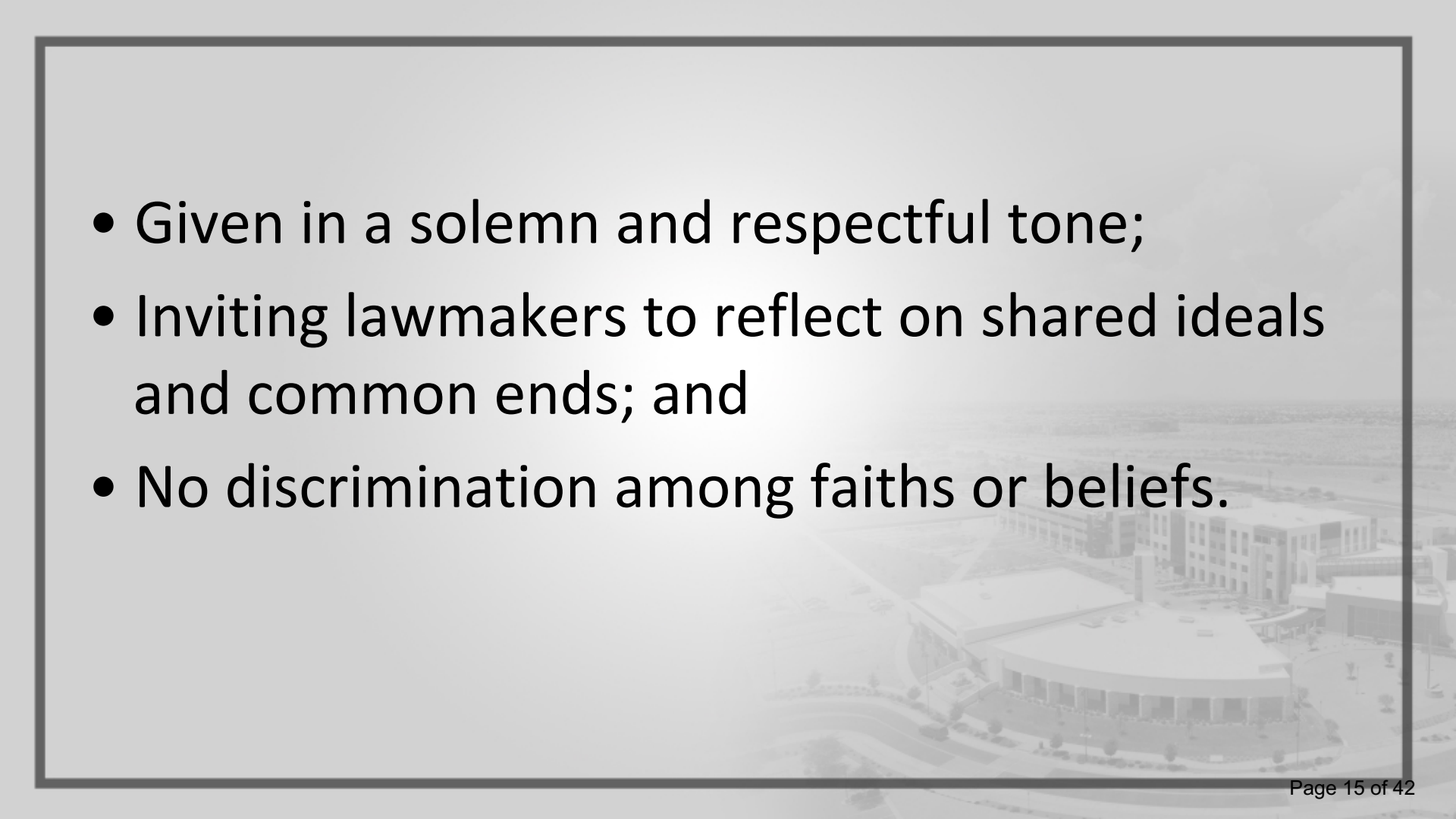
- ***Rubin v City of Lancaster***, 710 F.3d 1087 (9th Cir. 2013)
- Upheld sectarian prayers where city exercised no control over the content of prayers and no person who offered to pray was ever denied.

Town of Greece v Galloway, 134 S. Ct. 1811 (2014)

- Disposed of the notion that an invocation must be nonsectarian, “[*Marsh*] nowhere suggested that the constitutionality of legislative prayer turns on the neutrality of its content.”

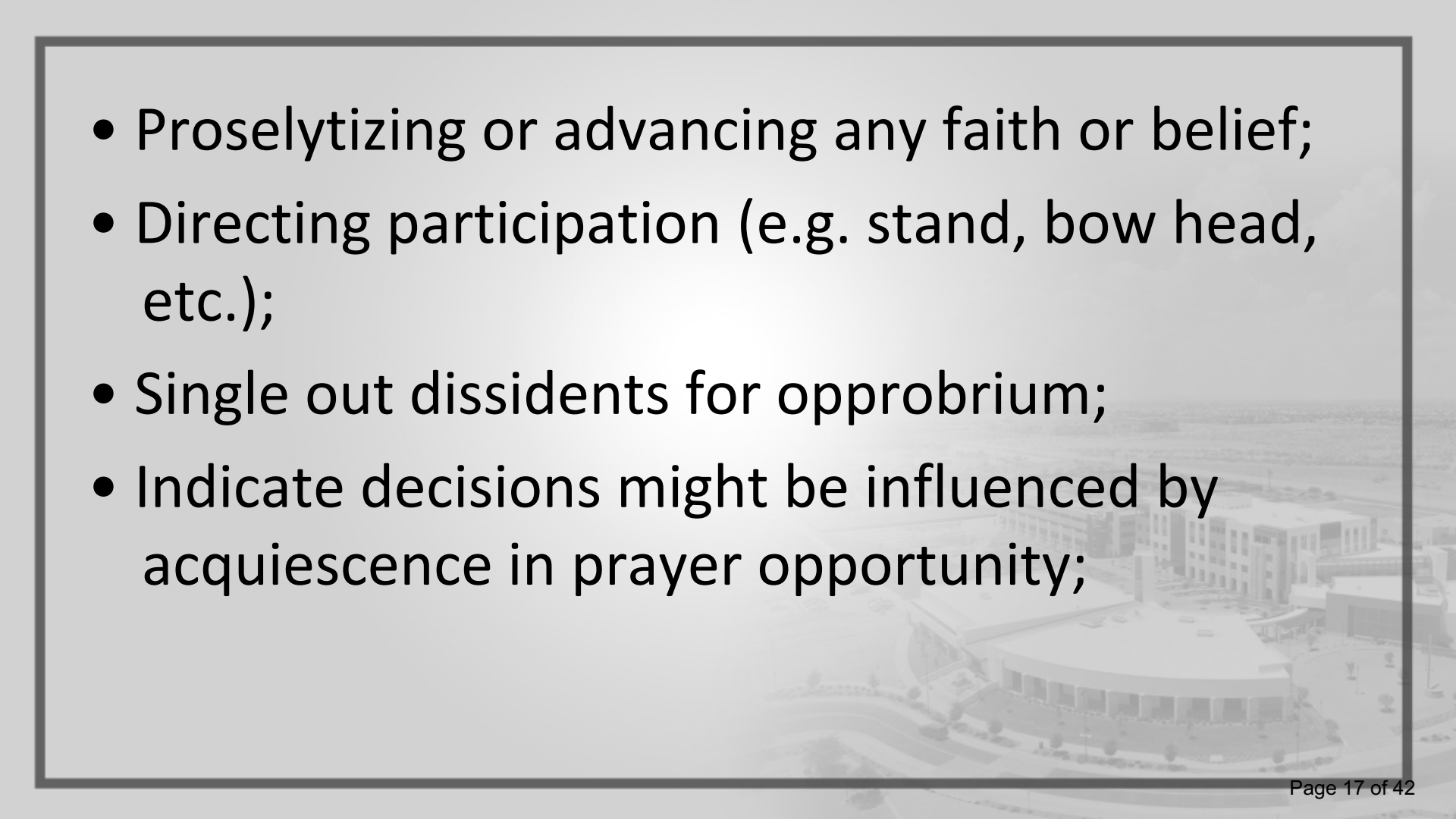
Guidance on critical elements of constitutional invocation policy:

- Given at session opening;
- To lend gravity to the occasion;
- Reflecting the values of the Nation [in the City's case the local Community];

- 
- Given in a solemn and respectful tone;
 - Inviting lawmakers to reflect on shared ideals and common ends; and
 - No discrimination among faiths or beliefs.

The plurality also provided guidance as to what pattern of activity will render a policy unconstitutional:

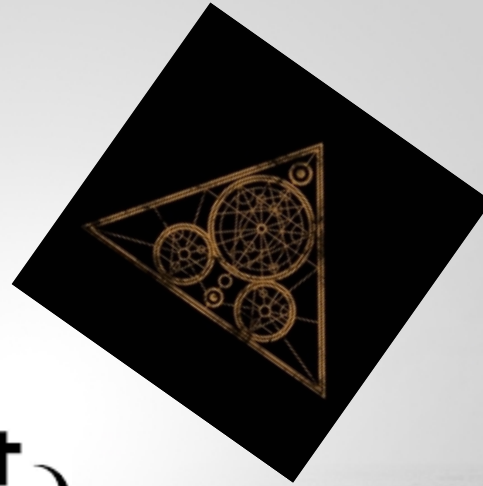
- Denigration/disparagement of any religion;
- Threatened damnation;
- Preaching conversion;

- 
- Proselytizing or advancing any faith or belief;
 - Directing participation (e.g. stand, bow head, etc.);
 - Single out dissidents for opprobrium;
 - Indicate decisions might be influenced by acquiescence in prayer opportunity;

- Classify citizens based on religious views;
- Attempt “lengthy debate on religious dogma”;
- Refuse any request to offer a prayer; or
- Schedule prayer in temporal proximity to administrative or quasi-judicial activities.

If Council is pro-invocation...

- Adopt a written policy;
- Neutral policy and practice that makes no distinction regarding the particular faith of the speaker;
- Must request no proselytizing, advancing, or disparaging any other faiths or beliefs;
- City Officials/staff must be prohibited from taking any action to interfere with the neutral policy and practice;
- Must be inclusive of all beliefs and forms of prayer.



Case in point...

February 17, 2016 Satanic Temple's request to give the City of Phoenix invocation resulted in a 5-4 vote to discontinue Phoenix's invocation.

If a policy is adopted, there can be no prior restraints, no weighing of, or analysis of the legitimacy, of beliefs by the City.



QUESTIONS OR COMMENTS?

Thank You

SURPRISE CITY COUNCIL INVOCATION POLICY CITY OF SURPRISE

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

WHEREAS, legislative bodies in America have long maintained a tradition of solemnizing proceedings by allowing for an invocation or opening prayer before each meeting;

WHEREAS, since incorporation, the City Council has, from time to time, and until some point in 2007, maintained a practice of invocations at the opening of City Council meetings;

WHEREAS, the City Council desires to re-implement a practice of opening Regular Council Meetings with prayer or invocations and adopt this formal, written policy to clarify and codify the invocation practice to ensure inclusion of all individuals or groups, regardless of particular faith, belief, doctrine, dogma, or lack thereof; to participate, or refrain from participation, as their own conscience dictates; and

WHEREAS, the City Council recognizes its constitutional duty to interpret, construe, and amend this policy to comply with constitutional requirements as they are announced.

NOW, THEREFORE, the following shall be known as the “Surprise City Council Invocation Policy” and shall control the process and procedures pertaining to opening invocations before Regular Meetings of the City Council.

1. This policy is not intended, and shall not be implemented or construed in anyway to affiliate the City Council with, nor express the Council’s endorsement or preference for, any faith or religious denominations. Rather, this policy is intended to acknowledge and express the City Council’s respect for the diversity of both organized and unorganized religious denominations, as well as other faiths, belief systems, or the lack thereof, represented and practiced among the citizens of the City of Surprise.

2. In order to solemnize proceedings of the City Council, it is the policy of the City Council to allow for an invocation or prayer, not to exceed three minutes in length, to be offered to open its meetings for the benefit of the City Council and the community.

3. The invocation shall not be listed or recognized as an agenda item for the meeting so that it may be clear the invocation is not considered a part of the public business. However, the agenda will notice the following:

Any prayer or invocation that may be offered before the start of the Regular Council Meeting is a voluntary offering by a private resident of Surprise; has not been previously reviewed or approved by City Council or City staff; should not be considered an endorsement of any particular religion by the City or its officials, as the beliefs, viewpoint, and content are personal to the speaker; and no participation by any person in attendance is required. A list of volunteers is maintained by the office of the City Clerk and interested persons should contact the Clerk’s Office for further information.

4. Shortly before the opening gavel that officially begins the meeting and the agenda/business of the public, the Mayor shall introduce the invitational speaker.

5. No member of the City Council, City employee, or any other person in attendance at a meeting shall be required to participate in any invocation or prayer that is offered.

6. Neither the City Council, City Clerk, nor City staff shall engage in any prior inquiry, review of, restriction, or involvement in, the content of any prayer or invocation to be offered.

7. In the event the scheduled invitational speaker fails to appear or there is no scheduled speaker, the City Council shall observe a moment of silence.

8. To maintain a spirit of respect and ecumenism, the invocation shall not be exploited as an opportunity to proselytize nor disparage any faith or belief, or lack thereof, different than that of the invitational speaker.

9. Any invitational speaker who violates this policy shall be subject to disqualification from offering future invocations.

10. To ensure that invitational speakers are selected without preference to any specific religion, belief, faith, or ideology, from amongst a diverse pool of the Surprise citizens, volunteers shall be selected according to the following procedure:

a. The invocation shall be voluntarily delivered, without compensation, by any person who is a resident of Surprise and on the list of volunteers, which shall be maintained by the City Clerk's Office. The City Clerk shall include any resident on the list upon submission of written request including the person's local address and contact information, including e-mail.

b. Within thirty (30) days of the adoption of this policy, and on or about July 1 of each calendar year thereafter, the City Clerk shall e-mail one invitation addressed to the volunteer group which shall include each person on the list of volunteers as follows:

The City Council makes it a policy to invite residents of the City of Surprise to voluntarily offer an invocation or prayer not to exceed three minutes in length before the beginning of its meetings.

If you are willing to assist the City Council in this regard, please send a reply at your earliest convenience to the City Clerk. Volunteer invitational speakers are scheduled on a first-come, first-serve basis. The dates of the City Council's regularly scheduled meetings for the upcoming fiscal year are listed on the following, 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 and ecumenism, the City Council requests only that the opportunity not be exploited as an effort to proselytize, i.e., convert others to the particular faith of the speaker, nor to disparage any faith or

belief different than that of the speaker.

On behalf of the City Council, I thank you in advance for considering this invitation.

c. Respondents to the invitation shall be scheduled by the City Clerk on a first-come, first-serve basis. The City Clerk shall schedule and notify the volunteer, by e-mail, of the date and time the speaker should be prepared to offer the invocation or prayer. The notice shall remind the speaker of the duty not to proselytize nor disparage others' religions, faiths, beliefs, or lack thereof, and of the three minute time limitation.

d. No invitational speaker shall be scheduled to offer an invocation at consecutive meetings, or at more than three Council Meetings in any calendar year.

ADOPTED THIS ____ DAY OF _____, 2019.

Attest:

Skip Hall, Mayor

Sherry Aguilar, City Clerk



CITY OF SURPRISE
Regular City Council Work Session

Council Meeting Date: June 18, 2019

Contact Person: Jeanine Jerkovic, DIRECTOR -
ECON DEV

Submitting Department: Economic Development District: Citywide

Staff Recommendations: None

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Surprise Center Development Company Update on the City Center Master Plan

Motion:

No motion. The work session presentation is for discussion purposes only.

Background:

The City of Surprise Economic Development Department has been in coordination with Surprise Center Development Company for more than a year on the renewed master planning process, facilitating a robust public outreach process. The one-square mile City Center opportunity is located at the center of the City of Surprise and allows for many mixed use development opportunities.

Objective Analysis:

The master plan update presentation by Surprise Center Development Company will be introduced by Economic Development Manager Mike Hoover and will be for discussion purposes only.

Policy Compliant:

The master plan update presentation is policy compliant.

Financial Impact:

The work session presentation is for discussion purposes only. No financial impact to report.

Budget Impact:

The work session presentation is for discussion purposes only. No budget impact to report.

FTE Impact:

The work session presentation is for discussion purposes only. No FTE impact to report.

ATTACHMENTS:

1. City Council Presentation June 18th
-

Surprise Center Development Company, LLC

Surprise Downtown Master Planning
City Council Workshop
June 18th, 2019

Introduction

- * Origins of the Process
- * RFQ
- * RFP
 - * Norris Design

Public Outreach

- * 12 different opportunities for public interaction
- * 2 more meetings proposed
- * Students, residents, businesses, staff
- * Access to my email and phone number

Key Development Philosophy

- * Downtown as a thriving, adapting, vibrant place
- * Timeless
- * Streets and Open Spaces defining the experience
- * Retail, Residential, Medical, Professional Office, Recreation, Entertainment, Arts, Public Spaces
- * Market Driven
 - * Must be Feasible
- * Multi-Phase
 - * Long term perspective is critical

What is a Master Plan?

- * A plan identifying key elements of an area
- * General in nature, with focus on possible land use, transportation, open space, public and community facilities.
- * Design elements
- * Theming
- * Focus on streets

End Result

- * Updated plan to be used by the Surprise Center Development Company
- * Marketing material for the benefit of SCDC and the City of Surprise
- * A revised framework for project discussion
- * Graphics communicating concepts

What it isn't...

- * Zoning
- * Unchangeable
- * Inflexible

Highlights of Community Feedback

- * Visual Preference Survey
- * Questionnaires
- * Table work
- * Common Elements

Highlights of Community Feedback

- * Shade, walkability, water, oasis, restaurants, Saturday market, stuff to do, unique businesses, sense of history, preserve views, regional destination, art walk, amphitheater, river walk, boat rides, tourism, entertainment, small town feel, museums, green spaces, healthy lifestyle, colorful, farmers market, safe, good for families, unique architecture, trails, roses, night life, shopping, amusement park, skate park, water park, classy, JOBS, “lit” rec center, bars, live music venues, lights, fun, outdoor living, lots of parking, parking garages, seating areas, quiet spaces, wine bar, creeks, senior housing, condos, townhomes, cool houses, college town feel, carousel, meeting places, grow up/grow old, people oriented activities, upscale, lofts...

Favorite Images



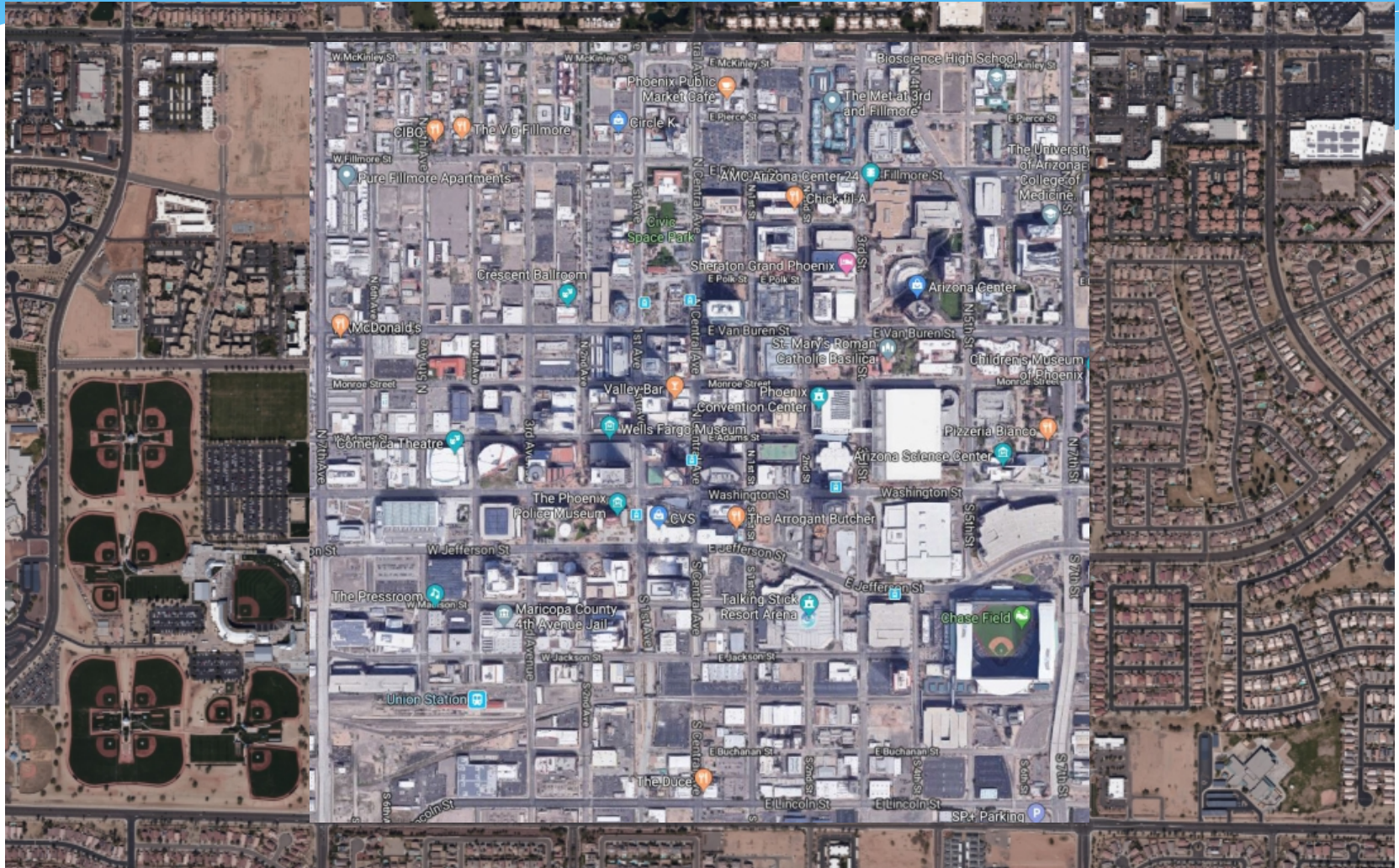
Least Favorite Images



How Do We Address These Things?

- * Walkability, shade, green spaces, healthy lifestyles, quiet spaces, meeting places, amphitheaters, water, lakes...
- * Jobs
- * Restaurants, live music, unique shopping, architecture, condos, lofts....

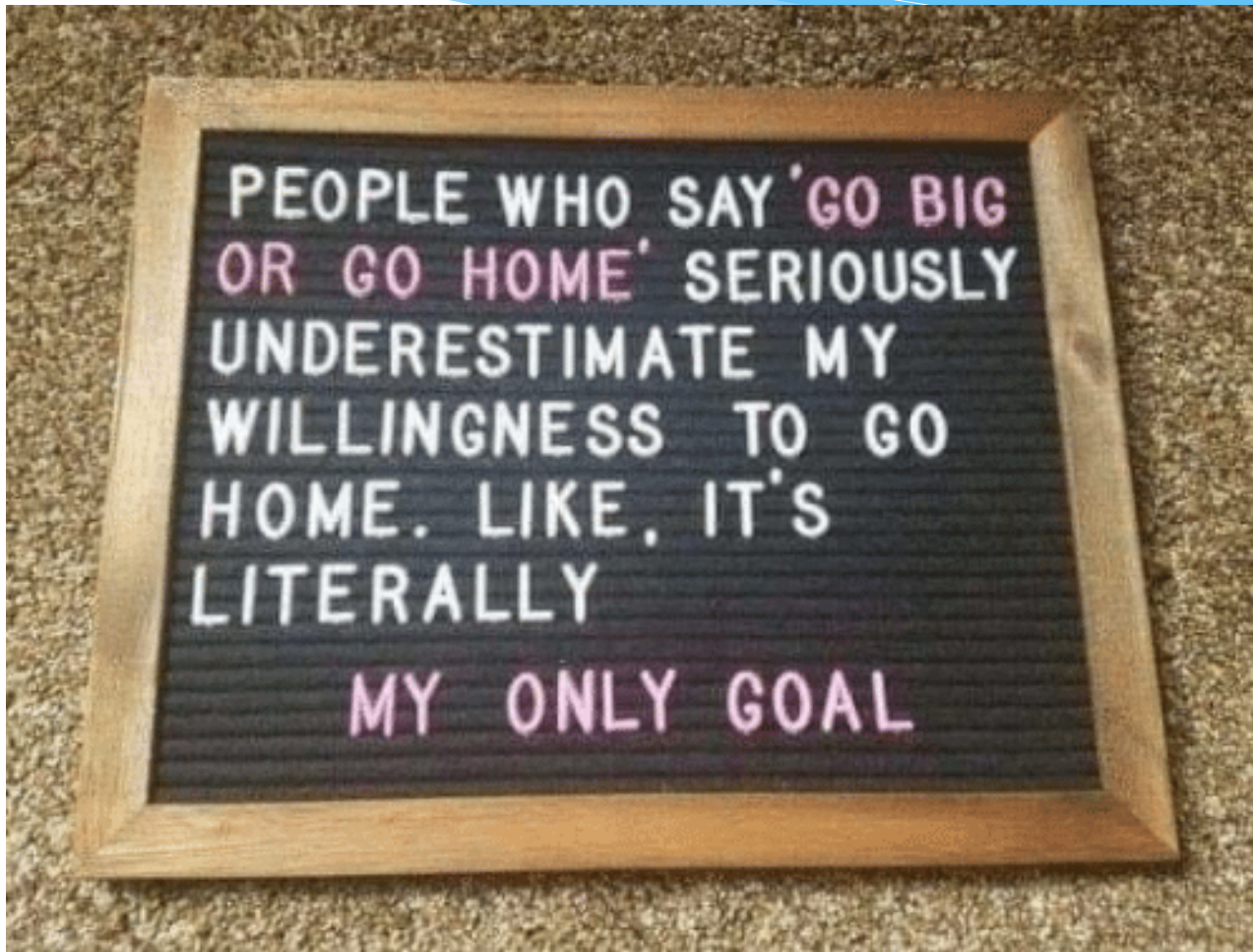
Context



The Book

- * A quick look at progress
- * Streets
- * Water
- * Open Spaces

Go big or....



Contact

- * Scott Phillips – 623.308.0633
- * sphillips@carefreepartners.com