

**RESOLUTION NO. 2013-08**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE PHELAN PIÑON HILLS COMMUNITY SERVICES DISTRICT  
ESTABLISHING A POLICY REGARDING INVOCATIONS AT ITS MEETINGS**

**WHEREAS**, the Phelan Piñon Hills Community Services District (“District”) is a Community Services District organized and operating pursuant to California Government Code Section 61000 et seq.; and

**WHEREAS**, the District is governed by its Board of Directors (“Board”), a duly elected legislative and deliberative public body, serving the residents within the District’s jurisdictional boundaries; and

**WHEREAS**, legislative bodies in America have long maintained a tradition of solemnizing proceedings by allowing for an opening prayer before each meeting, for the benefit and blessing of the Board; and

**WHEREAS**, the Board now desires to adopt a formal, written policy to establish a practice of selecting a member of local clergy to provide invocations at Board meetings; and

**WHEREAS**, such prayer 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 Supreme Court further held, “To invoke divine guidance on a public body ... is not, in these circumstances, an ‘establishment’ of religion or a step toward establishment; it is simply a tolerable acknowledgment of beliefs widely held among the people of this country.” *Id.*, at 792; and

**WHEREAS**, the Supreme Court affirmed in Lynch v. Donnelly, 465 U.S. 668 (1984), “Our history is replete with official references to the value and invocation of Divine guidance in deliberations and pronouncements of the Founding Fathers and contemporary leaders.” *Id.*, at 675; and

**WHEREAS**, the Supreme Court further stated, “Those government acknowledgments of religion serve, in the only ways reasonably possible in our culture, the legitimate secular purposes of solemnizing public occasions, expressing confidence in the future, and encouraging

the recognition of what is worthy of appreciation in society. For that reason, and because of their history and ubiquity, those practices are not understood as conveying government approval of particular religious beliefs.”*Id.*, at 693 (O’Connor, J., concurring); and

**WHEREAS**, the Supreme Court also famously observed in Zorach v. Clauson, 343 U.S. 306(1952), “We are a religious people whose institutions presuppose a Supreme Being.”*Id.*, at 313-14; and

**WHEREAS**, the Supreme Court acknowledged in Holy Trinity Church v. United States, 143 U.S. 457 (1892), that the American people have long followed a “custom of opening sessions of all deliberative bodies and most conventions with prayer ...”*Id.*, at 471; and

**WHEREAS**, the Supreme Court has determined, “The content of [such] prayer is not of concern to judges where ... there is no indication that the prayer opportunity has been exploited to proselytize or advance any one, or to disparage any other, faith or belief.”Marsh, *supra*, 463 U.S. at 794-795; and

**WHEREAS**, the Supreme Court also proclaimed that it should not be the job of the courts or deliberative public bodies “to embark on a sensitive evaluation or to parse the content of a particular prayer” offered before a deliberative public body.*Id.*; 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, as such government efforts would violate the First Amendment rights of those speakers.*See, e.g., Lee v. Weisman*, 505 U.S. 577, 588-589 (1992); and

**WHEREAS**, the Board intends to adopt a policy that upholds an individual’s “free exercise” rights under the First Amendment; and

**WHEREAS**, the 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 Speech and Free Exercise and Clauses protect.” Bd. of Educ. of Westside Cmty. Sch. v. Mergens, 496 U.S. 226, 250 (1990); and

**WHEREAS**, the Board 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 Board recognizes its constitutional duty to interpret, construe, and amend its policies and ordinances to comply with constitutional requirements as they are announced; and

**WHEREAS**, the policy set forth herein mirrors the policy adopted by the City Council of the City of Lancaster, which was expressly held to be constitutional by the Ninth Circuit United

States Court of Appeals pursuant to its published opinion in Rubin v. City of Lancaster, 2013 DJDAR 3981 (2013), filed on March 26, 2013.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Phelan Piñon Hills Community Services District that the Board does hereby adopt the following written policy regarding opening invocations prior to the commencement of its meetings:

1. In order to solemnize Board meetings, it is the policy of the Board to allow for an invocation or prayer to be offered at its meetings for the benefit of the Board and the community.

2. No member of the Board or District employee or any other person in attendance at the meeting shall be required to participate in any prayer that is offered.

3. The prayer shall be voluntarily delivered by an eligible member of the clergy/religious leader in the District, ordained by their individual intentional faith community. To ensure that such person (the “invocational speaker”) is selected from among a wide pool of the District’s clergy/religious leaders, on a rotating basis, the invocational speaker shall be selected according to the following procedure:

a. The District’s General Manager shall compile and maintain a database (the “Clergy List”) of said clergy and religious leaders with an established presence within the jurisdictional boundaries of the District.

b. All religious organizations with an established presence within the jurisdictional boundaries of the District are eligible to be included in the Clergy List, and any such organization can confirm its inclusion by specific written request to the District’s General Manager.

c. The Clergy List shall also include the name and contact information of any chaplain who may serve one or more of the public safety agencies located in the District, any nearby military facilities, fraternal organizations, or serve the community-at-large in another chaplaincy field of labor.

d. The Clergy List shall be updated annually by reasonable efforts of the District’s General Manager.

e. Within thirty (30) days of the effective date of this policy, the District’s General Manager shall mail an invitation addressed to the “religious leader” of each organizational contact listed on the Clergy List, as well as to the individual chaplains included on the Clergy List.

f. The invitation shall be dated at the top of the page, signed by the District’s General Manager at the bottom of the page, and read as follows:

*Dear religious leader,*

*The Board of Directors (“Board”) of the Phelan Piñon Hills Community Services District (“District”) makes it a policy to invite members of the clergy to voluntarily offer a prayer at the beginning of its Board meetings, for the benefit and blessing of the Board and the citizenry. As the leader of one of the religious organizations with an established presence in the local community of the District, or in your capacity as a chaplain for one of the public safety agencies or fraternal organizations operating in our District, you are eligible to offer this important service at an upcoming meeting of the Board.*

*If you are willing to assist the Board in this regard, please send a written reply at your earliest convenience to the District’s General Manager at the address included on this letterhead. Clergy are scheduled on a first-come, first-serve, or other random basis. The dates of the Board’s scheduled meetings for the upcoming 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 Board requests only that the prayer opportunity not be exploited as an effort to convert others to the particular faith of the invitational speaker, nor to disparage any faith or belief different than that of the invitational speaker.*

*On behalf of the Board, I thank you in advance for considering this invitation.*

*Sincerely,  
District General Manager*

g. Consistent with paragraph 6 hereof and, as the invitation letter indicates, the respondents to the invitation shall be scheduled on a first-come, first-serve, or other random basis to deliver the prayers.

4. No invitational speaker shall receive compensation for his or her service.

5. The District’s General Manager shall make every reasonable effort to ensure that a variety of eligible invitational speakers are scheduled for the Board meetings. In any event, no invitational speaker shall be scheduled to offer a prayer at consecutive meetings of the Board, or at more than three (3) Board meetings in any calendar year.

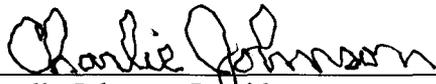
6. Neither the Board nor any District employee shall engage in any prior inquiry, review of, or involvement in, the content of any prayer to be offered by an invitational speaker.

7. This policy is not intended, and shall not be implemented or construed in any way, to affiliate the District with, nor express the Board's preference for, any faith or religious denomination. Rather, this policy is intended to acknowledge and express the Board's respect for the diversity of religious denominations and faiths represented and practiced among the residents within the District.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that this policy shall become effective immediately upon approval by the Board of Directors of the Phelan Piñon Hills Community Services District.

**ADOPTED this 19<sup>th</sup> day of June, 2013, by the following vote:**

AYES: Brandon, Fahrlander, Johnson, Morrissette, Roberts  
NOES: None  
ABSENT: None  
ABSTAIN: None

  
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Charlie Johnson, President

ATTEST

  
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Allyson Beran, Administrative Technician II