

# **Exhibit 1**



9 May 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: Invocation Request

Dear Chairwoman Lewis:

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.

One of the organization's objectives is to educate the public on the need for equal treatment of non-believers and the value of Humanism; a world view which relies on reason and science as the best decision-making tools humankind has at its disposal. To this end, we have recently participated with members of the Interfaith Council of Central Florida in a discussion series, *Religion 201*, at the Holocaust Memorial and Resource Education Center in Maitland. Alongside clergy and religious leaders of many faiths our members represented Humanism.

In the recent Supreme Court decision, *Town of Greece v. Galloway*, the Court emphasized that a government's prayer practice must be "nondiscriminatory" and it must make reasonable efforts to include invocations from all members of the community, regardless of their faith. Note that Humanism is recognized as a religion under the First Amendment in numerous cases<sup>1</sup> and excluding a particular faith group from consideration is unconstitutional.<sup>2</sup>

In light of these facts, it is clear that local government meetings should include Humanist invocations as well as those from any other religious minorities. Therefore, we respectfully request the opportunity to offer invocations at your meetings.

With one-fifth of the U.S. population and one-third of all adults under the age of 30 identifying themselves as "none" (i.e. none of the above) according to the Pew Research Center in 2012, our request presents an opportunity for the Brevard County Commission to demonstrate that it seeks to celebrate diversity with its actions and does not discriminate on the basis of religion. Additionally, you will be providing your Humanist and other non-religious

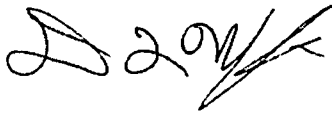


constituents with a voice and an equal opportunity to be included in the ceremonial portion of business meetings on a regular basis.

We request that you notify us in writing at your earliest convenience about the next opportunity for us to offer the invocation at an upcoming meeting. If you require, we can identify persons in Brevard County to offer this invocation, however, we have several members of our organization who are endorsed by The Humanist Society, a religious organization, or who are otherwise ordained and accorded the same rights and privileges granted by law to traditional clergy.

Please contact me if you have any questions.

Sincerely,



David Williamson  
Founder and Chair

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<sup>1</sup> See, e.g., *Gillette v. U.S.*, 401 U.S. 437, 439, 461-62 (1971) (entertaining free exercise claim “based on a humanist approach to religion”); *U.S. v. Seeger*, 380 U.S. 163, 176 (1965); *Torasco v. Watkins*, 367 U.S. 488, 495 n.11 (1961) (“Buddhism, Taoism, Ethical Culture, [and] Secular Humanism” are “religions”); *Newdow v. United States Cong.*, 313 F.3d 500, 504 n.2 (9th Cir. 2002) (“recognized religions exist that do not teach a belief in God, e.g., secular humanism.”); *U.S. v. Ward*, 989 F.2d 1015, 1017-18 (9th Cir. 1993) (many “believe in a purely personal God, some in a supernatural deity; others think of religion as a way of life envisioning as its ultimate goal the day when all men can live together in perfect understanding and peace.”) (citations omitted); *Grove v. Mead School Dist.*, 753 F.2d 1528, 1534 (9th Cir. 1985); *Smith v. Board of Sch. Comm’rs*, 827 F.2d 684, 689 (11th Cir. 1987); *Chess v. Widmar*, 635 F.2d 1310, 1318 n.10 (8th Cir. 1980) (“Secular Humanism” is a “religion”); *In re Weitzman*, 426 F.2d 439, 457 & n.5 (8th Cir. 1970); *U.S. v. Meyers*, 906 F. Supp. 1494, 1499-1500 (D. Wyo. 1995); *Crockett v. Sorenson*, 568 F. Supp. 1422, 1425 (W.D. Va. 1983); *ACLU v. Eckels*, 589 F. Supp. 222, 227 (S.D. Tex. 1984); *In re “E”*, 59 N.J. 36, 55 n.4 (N.J. 1971); *Welker v. Welker*, 24 Wis. 2d 570, 575-76 (Wis. 1964); *Fellowship of Humanity v. County of Alameda*, 153 Cal. App. 2d 673 (1st Dist. 1957).

<sup>2</sup> See, *Pelphrey v. Cobb County*, 547 F.3d 1263, 1276 (11th Cir. 2008).

# **Exhibit 2**



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 invocational 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).

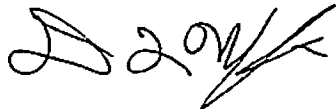
This Board’s exclusion of our members from the invocation selection process seems premised solely on religion since every invocation offered at the Board meetings in the previous twelve months has been a prayer performed by Christian clergy.

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.



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

# **Exhibit 3**



Meeting Date
August 19, 2014



ADD ON	
AGENDA	
Section	New Business
Item No.	V.F.1

**AGENDA REPORT**  
*BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS*

<b>SUBJECT:</b>	Approval of the Board of County Commissioners for the Chair to send a letter of response to David Williamson, Central Florida Freethought Community.
<b>DEPT/OFFICE:</b>	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

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



FLORIDA'S SPACE COAST



COMMISSIONER DISTRICT IV, 2725 Judge Fran Jamieson Way, Melbourne, FL 32940 6698

Telephone: (321) 633-2044  
Fax: (321) 633-2121

David Williamson  
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 black ink, appearing to read "Mary Bolin Lewis", written over a horizontal line.

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

# **Exhibit 4**

**From:** [ronald.gordon](#)  
**To:** [Commissioner, D3](#)  
**Subject:** Re: Yes to Freethought Invocation  
**Date:** Wednesday, August 27, 2014 8:21:30 PM

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Commissioner Infantini,

I sent you the below email last week, but I have not received a response. I am an Atheist living in Brevard County and I would like to give an invocation.

Respectfully,

Ron

Ronald Gordon  
2572 Diane Ave SE  
Palm Bay, FL 32909

On Wed, Aug 20, 2014 at 6:48 PM, ronald.gordon <[run.gordon@gmail.com](mailto:run.gordon@gmail.com)> wrote:  
Commissioner Infantini,

I am an Atheist in Brevard County and I am willing to give an invocation.

Respectfully,

Ron

Ronald Gordon  
2572 Diane Ave SE  
Palm Bay, FL 32909

On Tue, Aug 19, 2014 at 4:11 PM, Commissioner, D3  
<[d3.commissioner@brevardcounty.us](mailto:d3.commissioner@brevardcounty.us)> wrote:

Ron,

Would you like to give the invocation?

**Trudie Infantini, CPA**

**District 3 County Commissioner**

**1311 E. New Haven Avenue**

**Melbourne, FL 32901**

**321-952-6300**

**From:** [run.gordon@gmail.com](mailto:run.gordon@gmail.com) [mailto:[run.gordon@gmail.com](mailto:run.gordon@gmail.com)]

**Sent:** Monday, August 18, 2014 9:00 PM

**To:** Commissioner, D3

**Subject:** Yes to Freethought Invocation

Commissioner Infantini, please allow a member of the Freethought Community to deliver an Invocation.

Respectfully,

Ron

Ronald Gordon BSN, RN

CPT / FLARNG / Retired

2572 Diane Ave SE

Palm Bay, FL 32909

**321-537-0298**

Sent from Windows Mail

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**Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.**

**From:** ronald gordon run.gordon@gmail.com  
**Subject:** Re: Yes to Freethought Invocation  
**Date:** September 12, 2014 at 2:40 PM  
**To:** Commissioner, D3 d3.commissioner@brevardcounty.us

Commissioner Infantini,

On August 19 you asked if I would like to give an invocation at a Brevard County Commission meeting. I responded on August 20 and again on August 27 that I am an Atheist living in Brevard County and I would like to give an invocation.

I truly appreciate the opportunity and would appreciate a response to my acceptance of your offer.

Respectfully,

Ron

Ronald Gordon  
2572 Diane Ave SE  
Palm Bay, FL 32909

On Tue, Aug 19, 2014 at 4:11 PM, Commissioner, D3 <d3.commissioner@brevardcounty.us> wrote:

Ron,

Would you like to give the invocation?

**Trudie Infantini, CPA**  
**District 3 County Commissioner**  
**1311 E. New Haven Avenue**  
**Melbourne, FL 32901**  
**321-952-6300**

**From:** run.gordon@gmail.com [mailto:run.gordon@gmail.com]  
**Sent:** Monday, August 18, 2014 9:00 PM  
**To:** Commissioner, D3  
**Subject:** Yes to Freethought Invocation

Commissioner Infantini, please allow a member of the Freethought Community to deliver an Invocation.

Respectfully,

Ron

Ronald Gordon BSN, RN  
CPT / FLARNG / Retired  
2572 Diane Ave SE  
Palm Bay, FL 32909

# **Exhibit 5**



Florida



**BY FACSIMILE & REGULAR U.S. MAIL**

RECEIVED

JUL 10 2014  
DISTRICT 4  
COMMISSION OFFICE

REGIONAL CHAIR  
SCOTT NOTOWITZ

Commissioner Mary Bolin Lewis  
Chairman  
Brevard County Commission  
2725 Judge Fran Jamieson Way  
Building C Suite 214  
Viera, Florida 32940

REGIONAL STAFF  
HAVA LEIPZIG HOLZHAUER  
REGIONAL DIRECTOR

Yael K. Hershfield  
Senior Associate Regional Director

Debbie Hammer  
Director of Planned Giving,  
Legacy and Endowments

Laurence R. Milstein  
Director of Corporate Development

Lanny Wilk  
Associate Regional Director

Robert Tanen  
Associate Regional Director

Lily Medina  
Education Project Director

Claudia Rodriguez  
Education Associate Project  
Director

Michele Sheppard  
Assistant Director of Development

Caron Shutan  
Associate Director of Development

Candy Yeung  
Associate Director of Development

NATIONAL STAFF  
DAVID L. BARKEY  
SOUTHEASTERN AREA COUNSEL &  
RELIGIOUS FREEDOM COUNSEL

NATIONAL OFFICERS  
BARRY CURTISS-LUSHER  
NATIONAL CHAIR  
ABRAHAM H. FOXMAN  
NATIONAL DIRECTOR

Dear Commissioner Lewis,

On behalf of the Anti-Defamation League (“ADL”), we write to express our concern about the Brevard County Commission’s recent unanimous decision to bar a local atheist from delivering an opening prayer or invocation before public Commission meetings.

For over a century, the Anti-Defamation League (ADI.) has been an ardent advocate for religious freedom of all Americans – whether in the majority or minority. ADL firmly believes that our nation’s religious diversity has flourished because of the separation of church and state mandated by both the Establishment and Free Exercises Clauses of the First Amendment. As such, government should neither promote nor be hostile to religion.

The Commission’s decision to prohibit an atheist from delivering an invocation would most likely violate the standards set forth in the U.S. Supreme Court’s recent decision in *Greece v. Galloway*, 134 S. Ct. 1811 (U.S. May 5, 2014).

Although this decision significantly broadens the types of opening prayers at meetings of local legislative bodies, invocation practices are not without limitation. Indeed, the Court required that a legislative body must implement a non-discrimination policy with respect to prayer givers. This means that the person who gives an invocation or prayer - whether a public official, member of the clergy, or an ordinary citizen - cannot be denied the prayer opportunity based on his or her faith, including a minority religion or atheism.

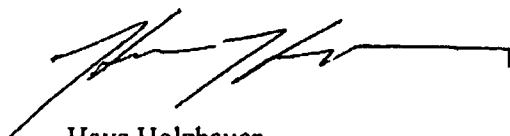
Indeed, the U.S. Supreme Court and lower courts have ruled that under the First Amendment to the U.S. Constitution atheism or humanism are sincerely held religious beliefs. See *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Torcaso v. Watkins*, 367. U.S. 488 (1961); *Kaufman v. McCaughtry* 419 F.3d 678 (7th Cir. 2005). Therefore, barring an atheist or humanist from the invocation opportunity at public Commission meetings would likely run afoul of the *Galloway* decision’s requirements and violate the Constitution. We therefore, urge the Commission to reconsider its vote on this matter.

We also stress that the *Galloway* decision in no way requires legislative bodies to open meetings with prayers, whether sectarian or non-sectarian. If the Commission continues its practice of opening meetings with prayer, we firmly believe that invocations or prayers should respect the community's diversity by being inclusive of all faith traditions. Inclusivity and respect for diversity also will help ensure compliance with constitutional requirements. We, therefore, urge you to adhere to the following guidelines:

- A prayer or invocation should contain no reference to a particular deity, sect or denomination, or to any of the central religious figures associated with any particular religious belief.
- The words chosen for the invocation or prayer should consist of a general appeal to divine, spiritual or moral guidance, which would be in harmony with the tenets of some or all religions. The prayer should not be expressed in terms specifically associated with any particular faith, denomination, sect or creed.
- If clergy from the community are asked to offer the invocation or prayer, they should be advised and asked to abide by these principles. Furthermore, in order to promote community harmony and diversity, any invitation to clergy should be extended to clergy of all faiths represented in the community on a non-discriminatory, rotating basis.

Please know that we provide this letter and these guidelines based on our century-old perspective of religious freedom for all Americans. Thank you for your attention to this matter. We look forward to your response.

Sincerely,



Hava Holzhauer  
Florida Regional Director

# **Exhibit 6**

**ADD ON**

Meeting Date
November 6, 2014



AGENDA	
Section	New Business
Item No.	V B

**AGENDA REPORT**  
*BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS*

<b>SUBJECT:</b>		Response to Anti-Defamation League recommendation that the Commission reconsider its prior action deferring atheist supplications to public comment portion of the agenda and to implement the ADL's suggested pre-meeting prayer protocols.	
<b>DEPT/OFFICE:</b>		Commissioner Mary Bolin Lewis, District 4 Commissioner	
<b>Requested Action:</b>			
Board approval of proposed response to the Anti-Defamation League.			
<b>Summary Explanation &amp; Background:</b>			
<p>Attached is a letter from the Anti-Defamation League recommending that the Commission reconsider its prior action deferring atheist supplications to public comment portion of the agenda and, alternatively, implement the ADL's suggested pre-meeting prayer protocols.</p> <p>As Chair, I would request the Board to respond to the ADL letter in the manner set forth in the attached proposal, which sets forth a point by point rebuttal consistent with and amplifying the prior letter expressing the Board's position and policy for addressing the pre-meeting prayer request by the Central Florida Free Thought Community.</p> <p>Option 1: Approve letter for Chair signature</p> <p>Option 2: Decline to approve letter</p> <p>Fiscal Impact: NONE</p>			
<b>Clerk to the Board instruction:</b>			
<b>Exhibits Attached:</b>			
<b>Contract /Agreement (If attached):</b>		Reviewed by County Attorney	Yes <input type="checkbox"/> No <input type="checkbox"/>
County Manager's Office	Department		PR <input type="checkbox"/>
Stockton Whitten, County Manager			



FLORIDA'S SPACE COAST



COMMISSIONER DISTRICT IV, 2725 Judge Fran Jamieson Way, Melbourne, FL 32940-6698

Telephone: (321) 633-2044  
Fax: (321) 633-2121

Hava Holzhauer  
Anti-Defamation League  
One Park Place  
621 NW 53<sup>rd</sup> Street, Suite 450  
Boca Raton, FL 33487-8283

Dear Mr. Holzhauer,

We are in receipt of your recent letter (attached) requesting the Brevard County Board of County Commissioners to reconsider its decision to respectfully deny the opportunity to provide a pre-meeting invocation but, rather, afford atheists the opportunity to speak or provide a supplication during the public comment section of the Board's agenda.

Essentially, you have recommended that the Board of County Commissioners violate the decision of the United States Supreme Court in *Town of Greece v. Galloway*.

1. Although your letter clearly recognizes the first amendment principle that a governmental body like the County Commission cannot show hostility toward religion, your suggestion to allow atheists to provide the invocation would, in fact, show hostility toward the faith-based community—as evidenced by the content on social media webpages maintained by Central Florida Free Thought Community and the Freedom from Religion Foundation, an organization identifying CFFTC as an active chapter. Therefore, this Board has no desire to follow your suggested action since that action could be easily construed, either overtly or by implication, as evidencing vicarious disdain, scorn or disrespect for the beliefs of our faith-based community.

2. It follows that the Board's decision to avoid hostility toward the faith-based community precludes any claim of discrimination. Indeed, if your characterization of secular humanism as a religion is valid, modifying the county's time-honored pre-meeting tradition by affording a secular humanist the opportunity to recite a secular "prayer" during the faith-based invocation portion of the Board's agenda could be perceived as an endorsing a specific religion—*secular humanism*—in violation of the Establishment Clause because all Board actions at the meeting held following such a *secular "prayer"* invariably involve an underlying *secular purpose*. Atheists or secular humanists are still afforded an opportunity to speak their thoughts or supplications during the secular business portion of the agenda under "public comment". Contrary to your assertions of discrimination, the separation between faith and secular

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presentations on different parts of the agenda recognizes both elements of the community and is entirely consistent with, and symbolic of, the very the stated goal of both the Anti-Defamation League and CFFTC—the literal separation of church and a secular state.

3. You have suggested that clergy from the community should be advised to abide by your recommended principles that a prayer or invocation should a] contain no reference to a particular deity, sect or denomination, or to any of the central religious figures associated with any particular religious belief; and b] the words chosen for the invocation or prayer should consist of a general appeal to divine, spiritual or moral guidance, which would be in harmony with the tenets of some or all religions; and c] the prayer should not be expressed in terms specifically associated with any particular faith, denomination, sect or creed. In short, you recommend censorship of prayer content in express violation of the law laid out by the U.S. Supreme Court opinion in *Town of Greece v. Galloway* [Government must permit a prayer giver to address his or her own God or gods as conscience dictates]

This Board has no intention of violating the U.S. Supreme Court by following your flawed interpretation of the Court's ruling in the *Town of Greece* case.

Respectfully,

The Brevard County Board of County Commissioners

By: \_\_\_\_\_  
Mary Bolin Lewis, Chair  
(as approved by the Board on November 6, 2014)

# **Exhibit 7**



(202) 466-3234  
(202) 898-0955 (fax)  
www.au.org

1301 K Street, NW  
Suite 850, East Tower  
Washington, DC 20005

January 26, 2015

**By U.S. Mail and Email**

Commissioner Robin Fisher  
Chair  
Board of County Commissioners  
400 South Street  
Suite 1-A  
Titusville, FL 32780  
D1.Commissioner@brevardcounty.us

Commissioner Jim Barfield  
Vice Chair  
Board of County Commissioners  
Merritt Island Service Complex  
2575 North Courtenay Parkway  
Suite 200  
Merritt Island, FL 32953  
D2.Commissioner@brevardcounty.us

Commissioner Trudie Infantini  
1311 E. New Haven Avenue  
Melbourne, FL 32901  
D3.Commissioner@brevardcounty.us

Commissioner Curt Smith  
2725 Judge Fran Jamieson Way  
Building C Suite 214  
Viera, FL 32940  
D4.Commissioner@brevardcounty.us

Commissioner Andy Anderson  
1515 Sarno Road  
Building B  
Melbourne, FL 32935  
D5.Commissioner@brevardcounty.us

*Re: Nontheists' Delivery of Opening Invocations*

Dear Brevard County Board of County Commissioners:

As you know, the Board of County Commissioners of Brevard County has long maintained a policy of having its meetings opened with an invocation by a religious leader from the community. To date, all of the invited individuals have been theists, i.e., believers in a deity; requests from nontheists have been denied on the ground that belief in a higher power is a precondition to offering the invocation. In light of the recent change in the Board's leadership, we write on behalf of several national legal organizations to ask that you reconsider this limitation. In particular, we ask that the following individuals—each of whom is a leader in the nontheist community—be added to the roster of invocation-givers:

- *David Williamson*: Mr. Williamson is Founder and Chair of the Central Florida Freethought Community. In August 2014, the Board denied Mr. Williamson's request to deliver an invocation to the Board on the grounds that "allow[ing] atheists to provide the invocation would, in fact, show hostility to the faith-based community" and that permitting a secular humanist invocation would constitute an establishment of religion and would therefore be unconstitutional under the Establishment Clause of the First Amendment. *See Ex. A.*



- **Rev. Ann Fuller:** Rev. Fuller is an ordained clergyperson who has served Brevard County humanists as a minister since 2006. She has been affiliated with the Unitarian Universalist Church of Brevard in West Melbourne and the Unitarian Universalist Congregation of Cocoa. On August 21, 2014, District 3 Commissioner Trudie Infantini declined Rev. Fuller's request to be allowed to give an invocation, stating that an invocation is, by definition, "seeking guidance from a higher power." See Ex. B.
- **Chase Hansel:** Mr. Hansel is President of the Space Coast Freethought Association and is a leader of Brevard Atheists. This is the first time that he has requested to deliver an invocation to the Board.

The exclusion of nontheists from the prayer opportunity runs contrary to the United States Constitution. In *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014), the U.S. Supreme Court held that a prayer practice does not violate the Establishment Clause "so long as the town maintains a policy for nondiscrimination" and does not demonstrate a bias against minority viewpoints. *Id.* at 1824. In that case, the town "made it clear that it would permit any interested residents, *including nonbelievers*, to provide an invocation, and the town ha[d] never refused a request to offer an invocation." *Id.* at 1829 (Alito, J., concurring) (emphasis added). In light of *Greece*, a federal district judge in the Middle District of North Carolina recently warned a county board that "it may not discriminate for or against any religion in drafting or implementing its [new] prayer policy." Ex. C, at 30. The judge explained that the board must strive to prevent the denigration of religious minorities and nonbelievers, and must ensure a policy of nondiscrimination to avoid the appearance of aversion or bias. *Id.* at 31. That is in keeping with the general Establishment Clause principle that "the government may not favor one religion over another, *or religion over irreligion*." *McCreary Cnty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 875-76 (2005) (emphasis added).

In a similar vein, religious discrimination is "inherently suspect" under the Equal Protection Clause. *City of New Orleans v. Dukes*, 427 U.S. 297, 303 (1976) (per curiam). The government can justify drawing distinctions along religious lines only when it does so with a compelling reason and in the least restrictive fashion. "Absent the most unusual circumstances, one's religion ought not affect one's legal rights or duties or benefits." *Bd. of Educ. of Kiryas Joel Village Sch. Dist. v. Grumet*, 512 U.S. 687, 715 (1994) (O'Connor, J., concurring).

No such unusual circumstances exist here; governmental bodies around the country have seen fit to allow nontheistic individuals to deliver opening invocations without consequence. For example, the following invocation was delivered before the Seminole County, Florida Commission on September 9, 2014:

Thank you Mr. Chairman, board members, fellow citizens of Seminole county.

I would ask that you survey the room and regard our community gathered here.

This moment of reflection is to remind us that we are here to work in harmony even when there may be honest disagreement. We gather together this morning to share our collective wisdom to face the needs of our county. We are here to consider many issues and find the optimum solutions.

As you work through the agenda today, be confident that what you are doing serves to build a better Seminole County. In the words of Albert Einstein, "Nothing truly valuable can be achieved except by the unselfish cooperation of many individuals."

THAT is what is happening here today.

The success of our government stems from commitment of you, your staff to serving the people. It isn't in strength in numbers, but strength in our actions. May we learn from how we faced our past challenges, and in this meeting this morning, may each of us here give and receive the supportive communication we need to develop and grow our county, together.

I would like to close with a quote from Henry Ford.

"Coming together is a beginning.

Keeping together is progress.

Working together is success."

May today's meeting be nothing but successful.

Thank you.

David Williamson delivered the following invocation before the Osceola, Florida Board of County Commissioners on June 16, 2014:

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, in a spirit of goodwill, rather, 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.

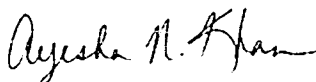
This is how we assemble to serve and to govern, ourselves.

These and other nontheistic invocations that have been delivered before governmental bodies around the country can be found at *Secular Reflections*, CENTRAL FLORIDA FREETHOUGHT COMMUNITY, <http://cflfreethought.org/secular-reflections/> (last visited Jan. 21, 2015).

The invocations that would be delivered by the individuals described above, like the invocations that have been delivered by other nontheists around the country, would be contemplative in tone and respectful of other faith traditions. Refusing to allow them this opportunity, on the basis of their religious viewpoint, cannot be reconciled with core principles of the U.S. Constitution.

Accordingly, we ask that you add the above individuals to the list from which invocation-givers are drawn, and modify your policy going forward to allow nontheists to participate to the same extent as theists. We further ask that you inform us of your intentions on or before February 6, 2015. Meanwhile, if you have any questions or concerns, please feel free to contact Murat Kayali at [kayali@au.org](mailto:kayali@au.org).

Sincerely,



Ayesha Khan, Legal Director  
Murat Kayali, Legal Fellow  
Americans United  
for Separation of Church and State  
1301 K Street NW, Suite 850, East  
Tower  
Washington, DC 20005  
(202) 466-3234

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4500 Biscayne Blvd. Suite 340  
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Madison, WI 53701  
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Daniel Mach  
Director  
ACLU Program on Freedom of Religion  
and Belief  
915 15th Street NW  
Washington, DC 20005  
(202) 548-6604

# **Exhibit 8**



(202) 466-3234  
(202) 898-0955 (fax)  
www.au.org

1901 L Street, NW  
Suite 400  
Washington, DC 20036

May 26, 2015

**By U.S. Mail and Email**

Commissioner Robin Fisher  
Chair  
Board of County Commissioners  
400 South Street  
Suite 1-A  
Titusville, Florida 32780  
D1.Commissioner@brevardcounty.us

Commissioner Jim Barfield  
Vice Chair  
Board of County Commissioners  
Merritt Island Service Complex  
2575 North Courtenay Parkway  
Suite 200  
Merritt Island, Florida 32953  
D2.Commissioner@brevardcounty.us

Commissioner Trudie Infantini  
1311 E. New Haven Avenue  
Melbourne, Florida 32901  
D3.Commissioner@brevardcounty.us

Commissioner Curt Smith  
2725 Judge Fran Jamieson Way  
Building C Suite 214  
Viera, Florida 32940  
D4.Commissioner@brevardcounty.us

Commissioner Andy Anderson  
1515 Sarno Road  
Building B  
Melbourne, Florida 32935  
D5.Commissioner@brevardcounty.us

*Re: Nontheists' Requests to Deliver Opening Invocations*

Dear Commissioners Fisher, Barfield, Infantini, Smith, and Anderson:

On January 26, 2015, we sent you a letter requesting that certain nontheists, including David Williamson and Chase Hansel, be permitted to deliver invocations at the opening of Board of County Commissioners meetings. We did not receive a response to this letter. You previously denied, through a resolution enacted on August 19, 2014, a request made to you directly by Mr. Williamson that he, or other members of his organization Central Florida Freethought Community, be permitted to deliver invocations.

We now supplement our January 26, 2015 letter by requesting that the nontheist individuals listed below, or other representatives or members of the nontheist organizations listed below, be permitted to deliver nontheistic invocations at the opening of Board of County Commissioners meetings:

- Keith Becher, a resident of Satellite Beach and District 4 of Brevard County. Mr. Becher is an atheist and a Secular Humanist. He is an ordained Humanist Celebrant. He is the President and Organizer of Humanist Community of the Space Coast (described below), and a member of the boards of directors of Central Florida

**Freethought Community and Space Coast Freethought Association (described below).**

- **Ronald Gordon, a resident of Palm Bay and District 3 of Brevard County. Mr. Gordon is an atheist/agnostic. He e-mailed Commissioner Infantini requests to be permitted to deliver an invocation, on August 20, August 27, and September 12, 2014, but he did not receive a response to those e-mails.**

- **Jeffery Koeberl, a resident of West Melbourne and District 5 of Brevard County. Mr. Koeberl is a Secular Humanist and an atheist. He is an ordained Humanist Celebrant and Humanist Chaplain. He is the Co-Organizer of Humanist Community of the Space Coast, and a member of Central Florida Freethought Community and Space Coast Freethought Association.**

- **Space Coast Freethought Association ("SCFA"), a non-profit organization headquartered in Palm Bay and District 3 of Brevard County. SCFA describes itself as a**

**community of reason-based individuals organized to facilitate social interaction, promote the non-theistic, rationalist viewpoint as a valid contribution to public discourse, reinforce the First Amendment guarantee of separation between government and religion through education and activism, and work in coalition with like-minded organizations where joint action is needed to achieve these goals.**

**Most of SCFA's members reside in Brevard County and characterize themselves as atheists, though SCFA's membership also includes people who additionally or instead characterize themselves as Humanists, agnostics, and/or freethinkers.**

- **Humanist Community of the Space Coast ("HCSC"), an association headquartered in Satellite Beach and District 4 of Brevard County. HCSC's mission statement and organizational description is:**

**We would like to build a supportive and safe community for adults and families who acknowledge that ethical living does not require belief in supernatural, scriptural, or religious dogma. We welcome all who strive to better our communities through kindness, compassion, empathy, reason, science and rationality. Through volunteer efforts, community outreach and positive activism we look to advance secular values, government, and secular humanism as a whole. "Give to every human being every right that you claim for yourself." ~ R. G. Ingersoll**

**Most of HCSC's members reside in Brevard County. HCSC welcomes as members people who identify themselves as Humanists, agnostics, freethinkers, church-state separation advocates, and other nontheists.**

We further reiterate the prior requests you have received that the nontheist individuals listed below, or other representatives or members of the nontheist organizations listed below, be permitted to deliver nontheistic invocations at the opening of Board of County Commissioners meetings:

- David Williamson, a resident of Oviedo, Florida. Mr. Williamson is an atheist and a Secular Humanist. He is an ordained Humanist Celebrant. He is the founder and Chair of Central Florida Freethought Community and a member of Space Coast Freethought Association and Humanist Community of the Space Coast.

- Chase Hansel, a resident of Melbourne and District 3 of Brevard County. Mr. Hansel is an atheist and a Secular Humanist. He is the President of Space Coast Freethought Association.

- Central Florida Freethought Community ("CFFC"), a non-profit organization that is headquartered in Winter Park. CFFC has many members in Brevard County. Its members include people who characterize themselves as atheists, agnostics, Humanists, and freethinkers. More details about CFFC are set forth in its letters to you of May 9 and July 22, 2014.

Please let us know by June 16, 2015 whether you will permit the nontheist individuals listed above, or other representatives or members of the nontheist organizations listed above, to deliver nontheistic opening invocations at your meetings. We will treat a failure to respond to this letter as a denial of our requests, in accordance with the resolutions you passed on the issue of nontheistic invocations at your August 19 and November 6, 2014 meetings. Thank you for your attention to this matter.

Sincerely,



Alex J. Luchenitser  
Associate Legal Director  
Americans United for Separation of  
Church and State  
1901 L Street NW, Suite 400  
Washington, DC 20036

Rebecca S. Markert  
Andrew L. Seidel  
Attorneys  
Freedom From Religion Foundation  
PO Box 750  
Madison, WI 53701

Daniel Mach  
Director  
ACLU Program on Freedom of Religion  
and Belief  
915 15th Street NW  
Washington, DC 20005

Nancy Abudu  
Legal Director  
ACLU of Florida  
4500 Biscayne Blvd. Suite 340  
Miami, FL 33137

# **Exhibit 9**





**BOARD OF COUNTY COMMISSIONERS**

County Attorney's Office  
2725 Judge Fran Jamieson Way  
Building C, Room 308  
Viera, Florida 32940

May 28, 2015

Alex J. Luchenitser  
Associate Legal Director  
Americans United for Separation of  
Church and State  
1901 L Street NW, Suite 400  
Washington, DC 20036

RE: Your letter dated May 26, 2015

Dear Mr. Luchenitser:

We are in receipt of your letter dated May 26, 2015, wherein you requested a response from the Board of County Commissioners by June 16, 2015. Unfortunately, the Brevard County Board of County Commissioners does not have a regular meeting again until July 7, 2015, at 9:00 a.m. At that time, I will be bringing your letter to the Board seeking a response.

We appreciate your patience in this matter.

Sincerely,

Scott L. Knox  
County Attorney

cc: Commissioner Robin Fisher, *via email*  
Commissioner Jim Barfield, *via email*  
Commissioner Trudie Infantini, *via email*  
Commissioner Curt Smith, *via email*  
Commissioner Andy Anderson, *via email*

# **Exhibit 10**

**REPLACEMENT**

AGENDA	
Section	New Business
Item No.	<b>VI.F.1</b>

Meeting Date
July 7, 2015



**AGENDA REPORT**  
**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**

<b>SUBJECT:</b>	Pre-Meeting Invocation Policy
<b>DEPT/OFFICE:</b>	District 4 Commission Office
<b>Requested Action:</b>	
Adopt the attached resolution formalizing the Board's Pre-Meeting invocation policy and authorize County Attorney to seek Declaratory Judgment	
<b>Summary Explanation &amp; Background:</b>	
<p>Board members have received a joint letter from Americans United for Separation of Church and State (AUSCS), The Freedom from Religion Foundation (FFRF), the ACLU of Florida, and the ACLU Program on Freedom of Religion and Belief (collectively called "the ACLU) in behalf of specifically named individuals who are held out to be atheists, agnostics or secular humanists and that letter requests the Board to allow the named atheists, agnostics and secular humanists to give a pre-meeting invocation at a regular Board meeting. Although the Board has previously authorized the Chair to send a letter setting forth an informal policy that would allow secular supplications during the Public Comment section of the agenda, the Board has never formalized a policy.</p> <p>The County Attorney Office research of the secular humanist and atheist organizations requesting an opportunity to give the pre-meeting invocation is set forth in the proposed resolution. Based on that research and the strategies that have been used by these organizations in the past with regard to their disagreements with local governments over separation of church and state issues, it seems very likely that the Board's pre-meeting invocation process will end up in litigation. For that reason, as District 4 Commissioner, I am recommending two actions.</p> <p>First, it is recommended that the Board adopt the attached resolution setting forth our research on the organizations as a backdrop for a formalized and clarified pre-meeting prayer policy. The policy allows the traditional faith-based invocation prior to the beginning of the Board's secular business agenda and subsequent "secular invocations" during the Public Comment section of that secular agenda.</p> <p>Second, it is recommended that the Board authorize the County Attorney to seek a declaratory judgment to determine the validity of the Board policy.</p> <p>Option 1: Adopt resolution and authorize a declaratory judgment action by the County Attorney's Office                  Option 2: Decline to adopt resolution and, or authorizing a declaratory judgment action.</p> <p>Fiscal Impact: NONE except court filing fees and possibly costs for depositions</p>	
<b>Clerk to the Board Instructions:</b>	
<b>Exhibits Attached:</b>	
<b>Contract /Agreement (If attached):</b> Reviewed by County Attorney    Yes <input type="checkbox"/> No <input type="checkbox"/> PR <input type="checkbox"/>	
County Manager	Assistant County Manager
Stockton Whitten	Assistant County Manager
Curt Smith, District 4 Commissioner 	

**Resolution No. 2015-\_\_\_\_\_**

**A RESOLUTION OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE BOARD OPERATING PROCEDURES SET FORTH IN RESOLUTION 05-332, AS AMENDED BY RESOLUTION 14-219; ADOPTING A FORMAL POLICY RELATING TO TRADITIONAL CEREMONIAL PRE-MEETING PRAYER.**

**WHEREAS**, the Board of County Commissioners in Brevard County has had a longstanding tradition of calling for an invocation before commencing a regular meeting of the County Commission at which the secular business of the County will be reviewed and acted upon; and

**WHEREAS**, the Board has previously responded in writing to requests made by atheists seeking to perform a pre-meeting prayer and, in so doing, has identified an informal policy addressing the issue of pre-meeting prayer; and

**WHEREAS**, the Board has not yet enacted a formal policy relating to pre-meeting prayer; and

**WHEREAS**, Board members have received a joint letter from Americans United for Separation of Church and State (AUSCS), The Freedom from Religion Foundation (FFRF), the ACLU of Florida, and the ACLU Program on Freedom of Religion and Belief (collectively called "the ACLU) in behalf of specifically named individuals who are held out to be atheists, agnostics or secular humanists and that letter requests the Board to allow the named atheists, agnostics and secular humanists to give a pre-meeting prayer at a regular Board meeting; and

**WHEREAS**, the Board wishes to formalize a policy on invocations that is not hostile to faith-based religions and that does not endorse secular humanism or non-belief over traditional faith-based religions comprised of constituents who believe in God;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida:

Section 1. Findings:

**Brevard County Tradition of Pre-meeting Invocations**

1. For at least the past forty-four years, the Brevard County Board of County Commissioners has observed the tradition of calling for a ceremonial invocation in the form of a short prayer delivered prior to the commencement of the Board's business agenda at regular meetings of the Board. (See Board Minutes attached as Exhibit A)

2. The invocation is not part of the Board's business agenda, an agenda that invariably involves entirely secular business presented to and acted upon by the Board.
3. All regular meetings of the Board of County Commissioners are open to the public and televised.
4. On a rotating basis, individual Board members have predominately selected clerics from monotheistic religions and denominations—including Christian, Jewish and Muslim—to present the invocation.
5. Prior to the invocation, in recognition of the traditional positive role faith-based monotheistic religions have historically played in the community, the Board through one or more of its member, typically interacts with the presenting cleric by offering the cleric the opportunity to tell the Board, meeting attendees and the viewing audience something about their religious organization, which may include the organization's location and ongoing and future programs or events that might be of interest to the community at large.
6. Virtually all invocations and opportunities to speak afforded to clerics during the invocation segment prior to a regular meeting last less than five minutes.

#### **Relevant Demographics in Brevard County**

7. In Brevard County the faith-based community is a minority component of the larger majority community represented by the Board of County Commissioners.
8. According to *The Association of Religious Data Archives (ARDA), County Membership Report, Brevard County*, in 2010 the population of Brevard County was 543,376.<sup>1</sup> (See attached Exhibit B)
9. According to the ARDA report, cited above, out of the 543,376 people living in Brevard County in 2010, only 189,430 people (including church members, their children and others who regularly attend services) claimed to be adherents to any religious faith, which was 34.9% of the County's total population.<sup>2</sup> (See attached Exhibit B)
10. According to *City Data.com*, as of 2002, Brevard County religious adherents represented 39.4% of the total population in Brevard County,<sup>3</sup> as compared to a 50.2% average for all counties in the United States. (See attached Exhibit C)
11. According to *The Association of Statisticians for American Religious Bodies*, in the year 2000, the percent of population claimed by all religious groups in Brevard County was between 35% and 44.9%.<sup>4</sup> (See attached Exhibit D)

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<sup>1</sup> Excerpt from: The Association of Religious Data Archives: County Membership Report, Brevard County, 2010 [http://www.thearda.com/rcms2010/r/c/12/rcms2010\\_12009\\_county\\_name\\_2010.asp](http://www.thearda.com/rcms2010/r/c/12/rcms2010_12009_county_name_2010.asp); (retrieved June 18, 2015)

<sup>2</sup> The Association of Religious Data Archives: County Membership Report, Brevard County, 2010 [http://www.thearda.com/rcms2010/r/c/12/rcms2010\\_12009\\_county\\_name\\_2010.asp](http://www.thearda.com/rcms2010/r/c/12/rcms2010_12009_county_name_2010.asp); (retrieved June 18, 2015)

<sup>3</sup> Brevard County, Florida (FL) Religion Statistics Profile - Palm Bay, Melbourne, Titusville, Merritt Island, Rockledge, <http://www.city-data.com/county/religion/Brevard-County-FL.html> (retrieved June 18, 2015)

12. Brevard County is known as Florida's Space Coast due to the presence of NASA and the world-renowned Kennedy Space Center. The County's major industries are aerospace related and include such high profile companies as Lockheed-Martin, Boeing, Northrup Grumman and Embraer.

13. Brevard County is the home to a large population of rocket scientists including aerospace and aviation engineers; mechanical engineers; computer engineers; biological scientists and environmental scientists. Brevard County is also home to the only independent technological university in the Southeast, Florida Institute of Technology which offers programs and research in rocket science, biological science, marine biology, aerospace and mechanical engineering, environmental science, physics, space science, civil engineering, aeronautical science and aviation, and computer science.

### The Request

14. In behalf of specifically named individuals who are held out to be atheists, agnostics and, or Secular Humanists, the Freedom from Religion Foundation (FFRF) has joined together with Americans United for the Separation of Church and State (AUSCS) and the ACLU to present a written request to the Board members asking that the specifically named atheists, agnostics and Secular Humanists be allowed to present a pre-meeting prayer.

15. With one exception, the named individuals are members of Humanist Community of the Space Coast—the avowed purpose of which is to advance secular values and secular humanism—the Central Florida Freethought Community and, or the Space Coast Freethought Association. (See attached Exhibit E)

16. The Central Florida Free Thought Community is affiliated with the Freedom from Religion Foundation and American Humanist Association (AHA). (See: <http://cflfreethought.org/>)

17. The Humanist Community of the Space Coast is affiliated, under sponsorship, with the Central Florida Free Thought Community and the American Humanist Association (AHA). (See attached Exhibit F)

18. FFRF sponsors a webpage that invites persons to sign up for the opportunity to post "Your Godless quotes" on a "cyberboard campaign" designed to allow participants to proclaim that they are "a freethinker and why". (See attached Exhibit G)

19. Apparently, the FFRF staff then selects certain "Godless quotes" to post on their website at their [www.ffrf.org/out/staffpicks](http://www.ffrf.org/out/staffpicks) page of that website. Many of the quotes selected for the FFRF "staffpicks" page are openly scoffing, mocking, demeaning, extremely hostile and even hateful toward traditional faith-based monotheistic religions,

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<sup>4</sup> "Percent of Population Claimed by All Religious Groups: Adherents as Percent of Population". *The Association of Statisticians for American Religious Bodies*. <http://www.rcms2010.org/maps2000/005.jpg> (retrieved June 18, 2015)

such as those that are represented before the Board during the invocation presented at any regular Board meeting. Examples of these quotes posted as of June 21, 2015, (attached as Composite Exhibit H), include:

- a. "Religion is the most devastating weapon ever used against humanity";
- b. "Superman is objectively better than Jesus, because Superman will save you whether you believe in him or not."
- c. "God-The most vengeful, jealous, pernicious, unloving dead beat Dad ever. Who also has superpowers to see and hear everything you do. Really? Who wants to sign up for that?"
- d. "The Bible is just a story. It's not even a very good one."
- e. "The church is a charity in precisely the same way that a tapeworm is a weight loss program."
- f. "I am a nonbeliever because there is historical and empirical proof that all religions are evil."

20. FFRF has engaged in this cyberboard campaign at least back to September of 2014 where other hostile quotes were posted at [www.ffrf.org/out/stack/stack/2/](http://www.ffrf.org/out/stack/stack/2/). The same types of scoffing, mocking and hostile comments appeared on that page. (See Composite Exhibit I) Examples of those statements (the first of which omits the full spelling of a common epithet) include:

- a. "Your God is an a\_\_\_\_\_, for the Bible tells me so."
- b. "Ditch God belief and re-join the real world."
- c. "I view religion like cancer. Just because a bunch of people have it doesn't make it a good thing."
- d. "How can I be good without God? I am not a socio-path."
- e. "History shows that as scientific knowledge increases, the need for the super natural decreases."

21. Americans United for Separation of Church and State (AUSCS) operates and maintains a website that makes clear the organization's calculated goal to aggressively monitor local governments with the express intent of eliminating any activity the AUSCS considers to violate their views of what the principles of separation of church and state should be, including their view of pre-meeting invocation protocols and prayers that do not conform to the AUSCS interpretation of such principles. (See attached Exhibit J)

22. Exhibit J also demonstrates that AUSCS's website evidences the intent to create extensive political pressure on local government elected officials in an effort to make the tradition of pre-meeting prayer such an inflammatory and controversial political issue that local officials will be intimidated into either capitulating to the organization's views on pre-meeting invocations or eliminating such invocations altogether.

23. The AUSCS website content shown in Exhibit J also demonstrates that the organization's strategies include political, legal and judicial attacks against local

governments and local government officials that do not adhere or submit to the AUSCS interpretation of separation of church and state principles including the organization's views on who should be able to present an pre-meeting prayer at a regular public meeting of the local government governing body.

24. In the past, FFRF and its affiliate, Central Florida Freethought Community (CFFC), have engaged in a strategy of asserting the organizations view of issues involving the separation of church and state through litigation with local governments who do not share their views.

25. An example is the FFRF and CFFC collaboration to challenge local government policies relating to the inclusion of the religious community, a recent case being the FFRF suit against the Orange County school board where the FFRF sought to prevent tables set up for the passive distribution of Bibles in Orange County Schools. FFRF responded with a letter asking the school board to stop the practice, and then asked to distribute materials that are critical of the Bible. When the school board refused to allow FFRF materials to be distributed, FFRF sued. While the suit was pending FFRF contacted The Satanic Temple (TST)<sup>5</sup>—the Tenets of which include “compassion and empathy towards all creatures in accordance with reason” and “[b]eliefs should conform to our best scientific understanding of the world. We should take care never to distort scientific facts to fit our beliefs.” TST then approached the School Board with the demand to distribute Satanic Temple literature. David Williamson—one of the persons seeking to give an invocation before this Board—labelled this strategy “Lucien’s Law.” Andrew Seidel, the lawyer for FFRF and signatory to the letter before this Board, describes Lucien’s Law as follows:

“Lucien’s Law states that governments will either (1) close open forums when The Satanic Temple asks to speak, or (2) censor The Satanic Temple, thereby opening itself to legal liability. It is “like the nuclear option of church/state separation cases.” By

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<sup>5</sup> According to its website, the fundamental tenets of TST are:

- One should strive to act with compassion and empathy towards all creatures in accordance with reason;
  - the struggle for justice is an ongoing and necessary pursuit that should prevail over laws and institutions;
  - one’s body is inviolable, subject to one’s own will alone;
  - the freedoms of others should be respected, including the freedom to offend;
  - to willfully and unjustly encroach upon the freedoms of another is to forgo your own;
  - beliefs should conform to our best scientific understanding of the world. We should take care never to distort scientific facts to fit our beliefs;
  - people are fallible. If we make a mistake, we should do our best to rectify it and resolve any harm that may have been caused;
  - every tenet is a guiding principle designed to inspire nobility in action and thought. The spirit of compassion, wisdom, and justice should always prevail over the written or spoken word.
- [www.thesatanictemple.com/?page\\_id=15](http://www.thesatanictemple.com/?page_id=15)



November 2014, it became clear that the school board was going to choose option #1 and close the forum, which they eventually did in February 2015.”<sup>6</sup>

Mr. Seidel subsequently noted that: “From the first letter we sent in January 2013, we made it clear we were trying to “halt all distributions” from the bible to atheist literature.”<sup>7</sup> (See attached Composite Exhibit K)

### **Secular Humanism**

26. The stated purpose of the signatory organizations and named representatives seeking to deliver an invocation is to advance secular humanism and the humanist view of separation of church and state.

27. The Council on Secular Humanism website asserts that “Secular humanism is *nonreligious*.”

28. The Council on Secular Humanism website describes Secular Humanism in the following terms:

#### **A comprehensive, nonreligious lifestance**

Secular humanism is comprehensive, touching every aspect of life including issues of values, meaning, and identity. Thus it is broader than atheism, which concerns only the nonexistence of god or the supernatural. Important as that may be, there’s a lot more to life ... and secular humanism addresses it.

Secular humanism is nonreligious, espousing no belief in a realm or beings imagined to transcend ordinary experience.

Secular humanism is a lifestance, or what Council for Secular Humanism founder Paul Kurtz has termed a cupraxsophy: a body of principles suitable for orienting a complete human life. As a secular lifestance, secular humanism incorporates the Enlightenment principle of individualism, which celebrates emancipating the individual from traditional controls by family, church, and state, increasingly empowering each of us to set the terms of his or her own life.

#### **A naturalistic philosophy**

Secular humanism is philosophically *naturalistic*. It holds that nature (the world of everyday physical experience) is all there is, and that reliable knowledge is best obtained when we query nature using the scientific method. Naturalism asserts that supernatural

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<sup>6</sup> Seidel, Andrew. “What I Learned from Fighting Back Against Public School Bible Distributions”. Patheos.com, *Friendly Atheist Blog* (<http://www.patheos.com/blogs/friendlyatheist/2015/05/05/what-i-learned-from-fighting-back-against-public-school-bible-distributions/> )

<sup>7</sup> Ibid.

entities like God do not exist, and warns us that knowledge gained without appeal to the natural world and without impartial review by multiple observers is unreliable.

**A cosmic outlook rooted in science**

Secular humanism provides a *cosmic outlook*—a world-view in the broadest sense, grounding our lives in the context of our universe and relying on methods demonstrated by science. Secular humanists see themselves as undesigned, unintended beings who arose through evolution, possessing unique attributes of self-awareness and moral agency.

**A consequentialist ethical system**

Secular humanists hold that ethics is *consequential*, to be judged by results. This is in contrast to so-called command ethics, in which right and wrong are defined in advance and attributed to divine authority. “No god will save us,” declared *Humanist Manifesto II* (1973), “we must save ourselves.” Secular humanists seek to develop and improve their ethical principles by examining the results they yield in the lives of real men and women.<sup>8</sup>

29. Three of the five persons seeking to perform nontheistic invocations are represented as being ordained Humanist Celebrants and, in one case, a Humanist Chaplain. All three of these individuals are also represented as being Secular Humanists

30. CFFC-affiliated speakers giving invocations at other local government meetings have exploited the opportunity to proselytize and advance their own beliefs while disparaging the beliefs of faith-based religions. (See Composite Exhibit L). For example, speakers have said:

- a. “When an invocation takes on the form of public prayer, it is also a violation of the very principles upon which our country and Constitution were founded. Although we are dismayed that the practice of public prayer by governing bodies charged with representing all citizens still continues in violation of the Constitution . . .” (Composite Exhibit L, sub-exhibit #1)
- b. “I speak in the name of the overwhelming majority, including anyone I’ve ever met who do not want their government to decide for them regarding anything regarding religion or any gods. I speak as well for those political leaders who despair that success in politics cannot be achieved without hypocritical piety . . . I invoke all of these people to urge Chairman Samuel S. Olens, Commissioner Helen Golen, Commissioner Bob Ott . . . to please avoid the arrogance of thinking you can or ever should express any religious beliefs other than your own. . . For any of you who are made uncomfortable by my remarks . . . [p]lease join me in urging that the Cobb County commissioners and planning commissioners cease to open their meetings

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<sup>8</sup> “What is Secular Humanism”; <https://www.secularhumanism.org/index.php/3260>

- with public religious invocations of any kind.” (Composite Exhibit L, sub-exhibit #2).
- c. “I would prefer that the practice of invocations be discontinued . . . I ask that you do not look upward for guidance from some higher power which is most likely an outgrowth of our own fear of mortality . . . It’s important to remember that you don’t need a god to hop, to care, to love, or to live. And we certainly don’t need one to help conduct city business.” (Composite Exhibit L, sub-exhibit #3).
  - d. “People in the later ages eventually became obsessed with power and greed, driven by their beliefs that their higher powers were better than any others . . . Put it simply as, ‘My Sky Cake is better that [sic] your Sky Baklava.’” (Composite Exhibit L, sub-exhibit #4).
  - e. “[F]or the bounty of logic, reason, and science, we simply thank the atheists, agnostics, Humanists . . . Let us, above all, love one another, not to obtain mythical rewards for ourselves now, hereafter, or based on superstitious threats of eternal damnation, but rather, embrace secular-based principles of morality . . . And so we pray. So what?” (Composite Exhibit L, sub-exhibit #5)
  - f. “When we need to find wisdom, let’s look to the documents of government, the Constitution . . . the Bill of Rights, and yes, the first amendment which in one sentence provides for the separation between church and state . . . In the face of adversity, we need not look above for answers . . .” (Composite Exhibit L, sub-exhibit # 6)

31. According to Defendant CFFC’s own Facebook page, it strategically seeks to offend faith-based religions in open forums in order to pressure the local government into closing the forum or censoring the content and exposing itself to liability. In a post by CFFC on its Facebook page, it asked the question: “Should Atheists be More Confrontational When Giving Secular Invocations at Government Meetings?” and linked to the eponymous article posted on “The Friendly Atheist” blog. Composite Exhibit M. In the article, the writer says: “What is the purpose of these secular invocations? We want to get rid of them altogether.” (Composite Exhibit M, p.4). He goes on to say “when atheists are granted the chance to lead invocations, we have an opportunity to put the Christian majority in a very uncomfortable place. Why should we squander it?” (Composite Exhibit M, p.4).

32. In a prior Board-approved letter responding to CFFC founder David Williamson’s request to deliver a Humanist invocation at the beginning of a regular Board meeting, the Board promulgated an informal policy allowing secular humanists or atheists to present any supplication, redress of grievances or proposed instruction to the Board on matters relating to County business—including instruction about their views relating to pre-meeting prayer, as well as their philosophy—during the public comment

portion of the secular agenda where secular business is reviewed and acted upon by the Board. (See attached Composite Exhibit N)

33. The letter to Mr. Williamson reflects a longstanding practice of the Board to provide a limited public forum under the Public Comment section of its business agenda at regular meetings of the Board, which occurs twice during the course of a regular meeting—once after the consent portion of the business agenda has been acted upon and a second time at the end of the meeting. The limited public forum during Public Comment implements Article I, section 5 of the Florida Constitution which provides that “the people shall have the right...to instruct their representatives, and to petition for redress of grievances”.

34. The Board has not and does not censor or restrict what is said during Public Comment agenda as long as it relates to matters within the broad range of subjects identified in the Public Comment Policy set forth in this Resolution. The Board does restrict each Public Comment speaker to three minutes of speaking time.

35. The underlying policy for the Public Comment section of the business agenda is set forth in Resolution 14-219. In accordance with that policy, “[p]ersons speaking under the public comment portion of the agenda may address topics or issues under the jurisdiction or control of the County Commission or that are relevant to business of the County Commission” and “to those items where the Board has traditionally expressed a position for the betterment of the community interest.” The Board’s existing policy notes that “it is the policy of the Board of County Commissioners to respect minority views as well as differing opinions conclusions backgrounds and beliefs.” The underlying purpose for the policy is the Board’s finding “that input from differing perspectives enriches public discussion and helps to build a better consensus.”<sup>9</sup>

### Conclusions

36. Based upon findings 1 through 37, above, the Board finds that yielding to FFRF and AUSCS views by supplanting traditional ceremonial pre-meeting prayer before the Board’s secular business agenda at regular Board meetings—a segment reserved for the acknowledgement and interaction with the county’s faith-based community—with an “invocation” by atheists, agnostics or other persons represented by or associated with FFRF and AUSCS could be viewed as County hostility toward monotheistic religions whose theology and principles currently represent the minority view in Brevard County. The Board concludes that such action may be deemed to violate the Constitution of the State of Florida.

37. Based upon findings 1 through 37, the organizations requesting the substitution of Secular Humanists or atheists to conduct a pre-meeting invocation by displacing representatives of the minority faith-based monotheistic community which has

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<sup>9</sup> Brevard County Resolution 2014-219

traditionally given the pre-meeting prayer, could be viewed as the Board endorsement of Secular Humanist and Atheist principles in view of:

- a. the overwhelmingly secular nature of the Board's business meeting following the invocation; and
- b. the evidence suggesting that the requesting organizations are engaged in nothing more than a carefully orchestrated plan to promote or advance principles of Secular Humanism through the displacement or elimination of ceremonial deism traditionally provided by monotheistic clerics giving pre-meeting prayers.

38. All of the organizations seeking the opportunity to provide an invocation have tenets or principles paying deference to science, reason and ethics, which, in most cases, are the disciplines the Board must consider, understand and utilize when acting upon secular items presented for consideration during the Board's secular business agenda.

39. Therefore, the Board finds that deferring consideration or presentation of a secular humanist supplication during the Public Comment portion of the agenda immediately after the consent agenda—which is the first item on the secular business agenda is acted upon—does not deny or unreasonably restrict the opportunity of the requesting parties to present their Secular Humanist or atheistic invocations, supplications, instruction, petitions for redress of grievances or comments, all of which can be presented during the portion of the agenda reserved for secular business matters.

## Section 2. Amendment of Resolution 05-332.

Resolution 05-332, as amended by Resolution 14-219, is hereby amended by adding a new section 9.1(c) to read as follows:

“(c) The Board's findings and conclusions set forth in the Resolution Adopting a Formal Policy Relating to Traditional Ceremonial Pre-Meeting Prayer, enacted on July 7, 2015, are hereby incorporated into this policy. In view of the requests by secular, humanist, atheist and Secular Humanist organizations to provide a secular, Secular Humanist or an atheist invocation, the Board hereby clarifies the intent of the Board's existing policies allowing Public Comment to include individual or representative comments intended to instruct the Board; to petition for redress of grievances; to comment upon matters within the control, authority and jurisdiction of the Board; and to comment on matters that are relevant to business of the County Commission, as well as matters upon which the Board has traditionally expressed a position for the betterment of the community interest. Secular invocations and supplications from any organization whose precepts, tenets or principles espouse or promote reason, science, environmental factors, nature or ethics as guiding forces, ideologies, and philosophies that should be observed in the secular business or secular decision making process involving

Brevard County employees, elected officials, or decision makers including the Board of County Commissioners, fall within the current policies pertaining to Public Comment and must be placed on the Public Comment section of the secular business agenda. Pre-meeting invocations shall continue to be delivered by persons from the faith-based community in perpetuation of the Board's tradition for over forty years."

**Done and Resolved, this 7<sup>th</sup> day of July, 2015.**

Brevard County Board of County Commissioners

By: \_\_\_\_\_

Robin Fisher, Chairman  
(as approved by the Board on July 7, 2015)

Attest:

\_\_\_\_\_  
Scott Ellis, Clerk