
**CITY OF COSTA MESA
CEO'S OFFICE
INTEROFFICE MEMORANDUM**

TO: CITY CHARTER COMMITTEE
FROM: THOMAS R. HATCH, CHIEF EXECUTIVE OFFICER
BY: KELLY SHELTON, EXECUTIVE ASSISTANT TO THE CEO
DATE: JULY 19, 2013
SUBJECT: MOMENT OF SOLEMN EXPRESSION



At the last City Charter Committee meeting held on July 10, 2013, the Committee requested an item placed on the next meeting agenda to address the topic of Moment of Solemn Expression and whether or not it should be included on the meeting agenda.

Council Policy 000-12 (Attached) sets City Council policy relative to a Moment of Solemn Expression at City Council meetings, but does not set policy or address Commission or Committee meetings. It has been past and current practice to not have this Expression at Commission or Committee meetings. If the Charter Committee desires to have a Moment of Solemn Expression included on their agenda, a Council Policy would be required or the existing one amended to include Commissioners and/or Committees approved by the City Council before inclusion on future Charter Committee agendas. There are certain procedures in place to ensure that the City does not violate the Establishment Clause as noted in the existing Council Policy which need to be adhered to by any Commission or Committee.

CITY OF COSTA MESA, CALIFORNIA

COUNCIL POLICY

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
CITY COUNCIL AGENDA – MOMENT OF SOLEMN EXPRESSION	000-12	3/1/04	1 of 1

BACKGROUND

A California Court of Appeal has ruled¹ that any sectarian invocation given at a City Council meeting would violate the “Establishment Clause” of the First Amendment of the U.S. Constitution² when the legislative prayer has the effect of affiliating the city government with a specific religion or belief.

PURPOSE

The City Council still wishes to begin its meetings by publicly acknowledging the solemn responsibility being undertaken during these democratic gatherings, and yet wishes to avoid any violations of the Establishment Clause. This can be done by setting aside a time at the beginning of each meeting as a designated public forum during which a member of the community may present a moment of solemn expression to assist the Council Members to remember the seriousness of their oaths and obligations they have as elected servants.

POLICY

The City Council of Costa Mesa shall begin its regular meetings with a moment of solemn expression lasting no more than three minutes. As determined through a first come, first served sign-up process, a member of the audience will be invited to deliver the solemn expression. The City Council disclaims any intent to sponsor, endorse, advance, or favor any particular faith or belief expressed during a solemn expression, or to disparage any other views. Content of the expressions will not be monitored, except for compliance with this policy.

PRACTICES AND PROCEDURES

1. The City Clerk shall establish a sign-up list on a first come, first served basis containing the names of persons who volunteer to present a moment of solemn expression at a Council meeting. Prior to each Council meeting the clerk shall notify the next person on the list that it is that person’s turn to present the solemn expression and shall obtain verification of the person’s availability.
2. The presenter of a solemn expression may take up to three minutes for the presentation.
3. Any member of the community may participate, regardless of belief or religious persuasion, to deliver a sectarian or secular message.
4. The Council agenda for each regular meeting shall have a time for the Solemn Expression where it presently lists the Invocation.

¹ See case of *Rubin et al. v. City of Burbank* (2002) 101 Cal. App. 4th 1194.

² Reference to the “Establishment Clause” is a shorthand way of referring to the prohibition in the First Amendment to the U.S. Constitution, which states: “Congress shall make no law respecting an establishment of religion . . .” This prohibition is made applicable to state governments by the Fourteenth Amendment.