

# Kenai Peninsula Borough Assembly

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## MEMORANDUM

**TO:** Wayne Ogle, Assembly President  
Members, Kenai Peninsula Borough Assembly

**FROM:** Kelly Cooper, Assembly Member (B) for K.L.  
Wayne Ogle, Assembly President (B) for W.O.  
Dale Bagley, Assembly Vice-President (B) for D.B.

**DATE:** November 8, 2018

**RE:** Resolution 2018-053, Amending the Assembly Policy Regarding  
Invocations Before the Borough Assembly Meetings (Cooper,  
Ogle, Bagley)

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This resolution would amend the borough assembly's invocation policy adopted in resolution 2016-056. In the decision and order entered on October 9, 2018, Judge Andrew Peterson ruled that the existing invocation policy violates the Establishment Clause of the Alaska Constitution, finding that it excludes minority faiths from participating in the invocation practice. Judge Peterson indicated that only two groups are eligible to provide an invocation at assembly meetings under that policy:

- (1) any chaplain who serves a fire department, law enforcement agency, hospital or similar organization in the borough; and,
- (2) any association that has an established presence in the borough, that regularly meets for the purpose of sharing a religious perspective, and that qualifies for I.R.C. §501(c)(3) tax exempt status.

In his decision Judge Peterson stated that while the resolution is meant to provide an invocation that is all-inclusive of every diverse religious association serving the residents of the Kenai Peninsula Borough, individuals that do not fall into either eligible category are denied the opportunity to give the opening invocation.

This proposed resolution would make the opportunity to give invocations to the assembly available to any individual borough resident. Like the existing invocation policy, it authorizes people to sign up for only one invocation at a time. Additionally, it limits each person to providing no more than four invocations in a year to help ensure slots are available for a variety of different faiths.

It should be noted that if the assembly authorizes the administration to appeal Judge Andrew Peterson's decision to the Alaska Supreme Court, it is anticipated that amendments to this resolution will be proposed to help prevent a dismissal of the appeal based on the adoption of this resolution changing the policy. Your support of this resolution would be appreciated.