

Flag Display Policy Review Ad Hoc Committee
Battle Creek City Hall
10 N. Division St.
Virtual-ZOOM
Monday, February 27, 2023
2:00 P.M.

Committee Members Present: Comm. Ballard, Comm. Simmons, Comm. Lance, and Vice Mayor Sofia all attending remotely from Battle Creek, MI.

Staff Present: Rebecca Fleury, City Manager; Jill Steele, City Attorney; Shawna Beach, Clerk's Office

Committee Members Absent: None

Call to Order: Shawna Beach, Clerk's Office, called the meeting to order at 2:03 pm. noting a quorum was present.

Election of Chairperson:

Comm. Lance nominated Vice Mayor Sofia to serve as Chairperson of the Flag Display Policy Review Ad Hoc Committee. Comm. Simmons supported the nomination of Vice Mayor Sofia. There were no other nominations. All yes, none opposed. Motion carried.

Flag Display Policy Discussion:

Comm. Ballard noted his agreement with the recommendations submitted by City Attorney Steele.

Comm. Simmons voiced his concern with the potential for contentious issues to arise with requests, noting he would like to rescind the policy all together. Comm. Simmons mentioned residents and city staff have reached out to him and suggested leaving the Federal, State and City flag alone at City Hall and find an alternate location on City property to display commemorative flags for a short period of time with a more formal mechanism for an entity to submit a request.

Comm. Lance stated in order to fly a flag it must pass by resolution. Comm. Lance asked for clarification on the process to put a resolution on the agenda for approval for a flag to be flown.

City Attorney Steele clarified the process to put a resolution on the agenda – A City Commissioner, with at least 2 other Commissioner's support, city staff or the City Manager can put a resolution on an agenda for Commission approval.

Comm. Lance noted he voted against having a flag policy stating he needs to refer to his notes from back then regarding his concerns.

Vice Mayor Sofia stated she would like to have an open dialog with fellow Commissioners on this conversation. Vice Mayor Sofia noted she voted against the flag ordinance to begin with. Vice Mayor Sofia asked if there were court cases that could shed light on this issue.

City Attorney Steele shared information on a Supreme Court decision in June 2022 – Shurtleff v. Boston, the Court ruled that the City of Boston violated the First Amendment by denying Shurtleff's application to fly the Christian flag outside Boston City Hall. Attorney Steele noted the City of Boston had no written policy limiting use of the flag pole(s) based on the content of the flag, which opened it up to be considered a limited public forum by allowing citizens to fly their flags with no policy in place.

Vice Mayor Sofia voiced concern that our ordinance does not require the flag to be a recognized organization(s) flag.

City Attorney Steele shared research and background information from other municipalities regarding flag display policies.

Vice Mayor Sofia suggested only allowing flags related to Commission Proclamations. Vice Mayor Sofia stated she would like to see prohibition of political flags in the policy.

Comm. Ballard stated he does not believe the Pride Flag to be political. Comm. Ballard shared his disagreement with moving the flag to a different location, suggesting putting up another flag pole at the current location.

Vice Mayor Sofia suggested the next meeting focus on concepts and tweaks to the current policy.

Comm. Simmons stated he would like to see a more formal mechanism to submit requests.

City Attorney Steele recommended not changing the policy to allow people to apply, noting there are concerns once you open it up to an application process.

Future Meeting Needs and Dates: The City Manager's Office will send out a Doodle-Poll and will set the next meeting based on everyone's availability.

Public Comments: There were none.

Adjournment: Vice Mayor Sofia adjourned the meeting at 2:59 pm.