

Flag Display Policy Review Ad Hoc Committee
Battle Creek City Hall
10 N. Division St.
Virtual-ZOOM
Monday, March 13, 2023
4:00 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: Vice Mayor Sofia, called the meeting to order at 4:03 pm. noting a quorum was present.

Approval of Minutes:

A motion was made by Comm. Lance, supported by Comm. Simmons, to approve the February 27, 2023 Flag Display Policy Review Ad Hoc Committee minutes. All yes, none opposed. Motion approved.

Flag Display Policy Discussion:

City Attorney Steele shared additional information regarding the 2022 case, *Shurtleff v. Boston*, noting the Supreme Court ruled, because the City of Boston created a limited public forum by not having a policy and allowing citizens to apply to fly a flag, they could not discriminate based on the speech because it was not considered "Government Speech". City Attorney Steele read an excerpt from that case where the court rejected the City's argument that the flag flying policy was government speech but made clear that "nothing prevents Boston from changing its policies going forward". The court also suggested that the City might clarify, as other cities did, that "flag poles are not intended to serve as a forum for free expression by the public" and that flags approved for flying, are selected "as an expression of the City's official sentiment". City Attorney Steele noted both suggestions are in our current policy.

City Attorney Steele reiterated the importance to not allow people to apply or submit an application to fly a flag.

Comm. Lance suggested streamlining the process by requiring the support of three Commissioners to submit a request to draft a resolution to fly a flag.

Comm. Simmons suggested making the current policy more workable, stating there needs to be a clear delineation on how requests come to us. Comm. Simmons stated he supported what Comm. Lance had suggested with requiring three Commissioners to support bringing the request to fly a flag and to create a resolution.

Comm. Ballard stated he is in favor of leaving the policy as it is. Comm. Ballard stated he didn't think putting the requests into the Commissioner's hands would be streamlining the process.

City Attorney Steele discouraged having requests go to the Commissioners, noting it feels like an application process. City Attorney Steele recommended leaving the request process as it is.

Comm. Simmons noted his concern with the Commission not being notified of requests if the policy is left as it's currently written.

City Manager Fleury stated the previous requests have come through the City Manager's Office or through the Mayor, noting most of the time it has been a dual contact between the Mayor and the City Manager's Office. City Manager Fleury stated that most of the time she will mention the request in the weekly update to Commissioners or in the one on one meetings.

Vice Mayor Sofia asked how many requests we have had, and how many have been approved.

City Manager Fleury stated they have had four requests, noting only one did not advance to the Commission. City Manager Fleury explained the request for the Sanctity of Life flag did not advance due to the religious nature described to her by the requester.

Vice Mayor Sofia voiced her concern with not knowing what the flags look like until they are displayed.

City Attorney Steele suggested requiring a flag be tied to a Federal holiday or proclamation.

Comm. Simmons voiced his concern with not being able to hoist the City Flag due to the commemorative flags being flown in place of our City Flag for 30 days, noting if twelve requests were received, we could potentially not be able to fly the City Flag at all. Comm. Simmons suggested flying the commemorative flags under the City Flag or erecting another flag pole for the commemorative flags near the existing flag poles at City Hall.

Comm. Ballard suggested putting a second link on the City Flag pole for the commemorative flags to fly beneath the City Flag.

Vice Mayor Sofia voiced her concern regarding political party flags since there is no specific prohibition of that type of flag in the current policy.

Comm. Lance suggested requests go through the City Manager's Office and that all Commissioners be notified of all requests.

Vice Mayor Sofia requested that we make a requirement to include a clear depiction of what the proposed flag would look like.

Comm. Simmons suggested limiting the period of time to fly a flag to two weeks.

City Attorney Steele reviewed items, based on the Committee's discussions, to revise in the policy.

Future Meeting Needs and Dates:

City Attorney Steele will work on the policy revisions and send it to the Commissioners to review. If all Commissioners agree with the revisions there will be no need for another meeting and the revised policy will then be presented to the Commission as a resolution to amend the policy. If further discussion is needed, the City Manager's Office will reach out to schedule another meeting.

Public Comments: There were none.

Adjournment: Vice Mayor Sofia adjourned the meeting at 5:01 pm.