



City of San Leandro

Meeting Date: March 17, 2014

Staff Report

File Number: 14-090

Agenda Section: CITY COUNCIL REPORTS

Agenda Number: 12.A.

TO: City Council

FROM: Chris Zapata
City Manager

BY: City Council

FINANCE REVIEW: Not Applicable

TITLE: Update by City Council Ad Hoc Committee on Flag Raising and Staff Report for Proposed Amendments to San Leandro Administrative Code Chapter 1.7 on Flag Policy

SUMMARY AND RECOMMENDATIONS

Staff recommends that Council discuss the matter and provide direction to staff regarding modifications to the existing Flag Policy.

BACKGROUND

Existing policies governing the lowering and raising of flags at City Hall are outlined in Section 1.7 of the San Leandro Administrative Code. Section 1.7.205, which governs the raising of *special designation flags* at City Hall specifically states:

“As a general rule, special designation flags (such United Nations flag, flag of a Sister City, Children’s Memorial Flag, etc.) will be raised only upon the direction of the Mayor or City Manager. Such flags will only be flown at City Hall, and when raised, shall replace the flag of the City of San Leandro, not the flag of the United States or the flag of the State of California.”

As a general practice, three flags are regularly raised in front of City Hall whenever the building is open: the U.S. flag, the flag of the State of California, and the flag of the City of San Leandro. On occasion, alternative flags have been raised. At the March 18, 2013 regular meeting, the City Council unanimously voted to direct staff to raise the Rainbow Flag in place of the City Flag on March 26 and March 27 (i.e. the same days that the U.S. Supreme Court was hearing oral arguments regarding Proposition 8 and the Defense of Marriage Act).

On September 16, 2013, the City Council directed staff by a vote of 4-3 to raise the Flag of the People’s Republic of China on October 1st, in honor of National Day, a Chinese public holiday commemorating the founding of the People’s Republic of China in 1949.

Following substantial public discussion, the Mayor exercised his authority to suspend implementation of the above action, per Section 305(h) of the City Charter. Per the Charter, this action was subsequently reconsidered by Council on October 7, 2013. At that meeting, Council referred the matter to an ad hoc committee, comprised of Mayor Cassidy, Council Member Lee, and Council Member Cutter, who were tasked with developing a policy for raising the flags of other nations and celebrating other cultures.

This ad hoc committee subsequently convened a publically-noticed meeting on February 24, 2014. Following public testimony, the ad hoc committee voted 2-1 to return the matter to the City Council with a recommendation to make no changes to existing policy. Council Member Cutter also requested that staff return with an estimate of the cost to install an additional flag pole either in front of City Hall, or at an alternative City-owned site, such as Root Park or Marina Park. Based upon preliminary discussions with Public Works staff, it is estimated that the costs of such an installation would not be significant.

City Manager Recommendation

The City Manager recommends that Council modify the existing flag policy to require applicants requesting the raising of a special designation flag or flag of a foreign nation to provide a detailed assessment of the ancillary needs associated with their request. For example, if a ceremony were to be held along with the raising of the flag, the applicant would be directed to provide an overview of the requested location and duration of the event, the specific timing of the event, the number of anticipated attendees, or any other associated logistical needs that would impact City resources or staff.

Additionally, the City Manager recommends that the decision to raise such special designation flags or flags of foreign nations rest solely with the City Council. As such, the policy should be revised to remove the City Manager from the approval process.

ATTACHMENTS

- October 7, 2013 Memo to Council regarding Flag policies of other Bay Area cities
- Existing Flag Policy

PREPARED BY: Eric Engelbart, Assistant to the City Manager, City Manager's Office

MEMORANDUM

TO: Mayor Cassidy and City Council Members

FROM: Eric Engelbart, Assistant to the City Manager

DATE: October 7, 2013

RE: Flag Policies of Other Bay Area Cities

At the direction of the City Manager, staff distributed an inquiry to all Alameda County municipalities, as well as several other cities in the Bay Area that are known to have raised the flags of foreign nations in order to determine what, if any, policies or procedures they may have adopted in order to govern such ceremonies. Additional details are provided below.

Existing Policy in San Leandro¹:

Per Section 1.7.205 of the San Leandro Administrative Code: "As a general rule, special designation flags (such United Nations flag, flag of a Sister City, Children's Memorial Flag, etc.) will be raised only upon the direction of the Mayor or City Manager. Such flags will only be flown at City Hall, and when raised, shall replace the flag of the City of San Leandro, not the flag of the United States or the flag of the State of California."

Summary of Flag Policies, by City:

City of Alameda: According to the City's Community Development Coordinator, The City of Alameda has no formally adopted policies regarding the raising of foreign flags, nor has the City Council ever formally authorized a foreign flag raising ceremony. However, for a number of years, the Alameda Sister Cities Association (a private organization) has sponsored an event that took place in front of city hall each October 1st in which the flag of the People's Republic of China was raised alongside the American Flag on two portable flag poles that were erected for the event. This year's event was cancelled due to public protests.

City and County of San Francisco: According to the Mayor's Director of Protocol, there is a flag pole outside the second floor balcony of the Mayor's office that is regularly used for the raising of foreign flags by the Mayor or his staff. Although the City has no formally adopted policy on the issue, the unwritten policy of the Mayor's Office has been to authorize the raising of the flag of any nation that has full diplomatic relations with the United States and who also has a consulate in San Francisco. Due to the presence of 72 consulates, the Mayor's Office raises approximately 72 flags per year. In some instances, a formal ceremony will be held when asked by consular officials. On September 25th of this year, the flag of the People's Republic of China was raised at the request of consular staff. According to

¹ Per the City Manager, staff wishes to inform the Council that there also is a provision in Appendix D of the City Council Members Handbook, which states: "The City Council as a group will not adopt a formal position in favor of or in opposition to ballot measures or legislation unless such ballot measure or legislation has a direct benefit on a significant portion of the community of San Leandro or the City of San Leandro."

the Mayor's Office, the San Francisco Board of Supervisors has never provided any policy guidance on the use of this flag pole.

City of Berkeley: According to the City Clerk, Berkeley does not have any adopted policies or procedures regarding the raising of foreign flags. However, when requests for the raising of foreign flags are received, they are brought forward to the City Council for consideration of a draft resolution. In commemoration of the Tibetan National Uprising Day, Berkeley has for many years raised the Tibetan Flag at Civic Center Park. According to records maintained by the City Clerk, the flag of the Union of Burma was raised in 2008 and the flag of Ethiopia was raised in 2010.

City of Milpitas: According to adopted city policy, the raising of foreign flags must be authorized by the City Council and such flags shall only be raised on the City's ceremonial flag poles located at Higuera Adobe Park, located approximately three miles from city hall. These flag poles are to remain unused at all times other than during City-approved ceremonies. Any party interested in conducting a flag raising ceremony must submit an application to the City Manager's Office at least 30 days prior to the event.

Hayward: According to the City Clerk, the City of Hayward has never raised the flag of a foreign nation. The City does have an adopted flag policy, although it relates only to lowering flags at half-mast during periods of mourning.

Piedmont: According to the City Clerk, Piedmont has no formal flag policy. The City flies the U.S., State and City flags in front of their City Hall, and any order to raise an alternative flag is in lieu of the City flag is given by the City Administrator. To the Clerk's knowledge, Piedmont has never flown another nation's flag, nor have they received any requests to do so.

Newark: The City of Newark has an adopted administrative regulation that applies to the display of foreign flags, which states: "when two or more nations [flags] are displayed, they are to be flown from separate staffs of the same height. The flags should be of approximately the same size." To the City Clerk's knowledge, Newark has never flown another nation's flag, nor have they received a request to do so.

Oakland: Staff contacted the Oakland City Administrator's Office and Office of the Mayor regarding this issue, but to date has not received a response.

cc: City Manager Chris Zapata
Assistant City Manager Lianne Marshall
City Attorney Richard Pio Roda
City Clerk Marian Handa

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TITLE 1 CITY COUNCIL

Chapter 7 Flag Policy

ARTICLE 1—POLICY ON LOWERING FLAGS

§1.7.100: POLICY ON LOWERING FLAGS ON CITY PROPERTY TO HALF-MAST. The purpose of this administrative policy is to establish a uniform policy to govern the lowering of the United States, State and City flags to half-mast on City-owned property to pay homage to the deceased.

§1.7.105: APPLICABILITY. As a general rule, City flags shall be placed at half-mast during periods of mourning declared by the Governor of California or the President of the United States. Flags shall also be lowered upon the death of a current or former City elected official and of a current City employee as set forth below. All other situations are to be referred to the City Manager.

§1.7.110: PROCEDURES. The Public Works Services staff will be responsible for the lowering of the United States, State and City flags to half-mast at City Hall. For City Hall only, the Mayor or City Manager will make the determination to lower the United States, State and City flags to half-mast.

For all other City facilities (community centers, libraries, corporation yard, sanitation plant, parks, etc.), the respective department head will designate specific staff to do the same under the following circumstances*:

- (a) {Reserved};
- (b) When prescribed by the President of the United States for days of national mourning, or by the Governor of California;
- (c) Thirty days after the death of a President or former President;
- (d) Ten days after the death of the U.S. Vice President, the Chief Justice, or a retired Chief Justice, or the Speaker of the House of Representatives;
- (e) From the day of death until the burial of an Associate Justice, a Secretary from an executive or military department, or the governor of a state;
- (f) From the day of death until the burial of a California Senator; the Congressional Representative for San Leandro; the State Senator or Assemblymember representing San Leandro; and/or the County Supervisor representing San Leandro.

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TITLE 1 CITY COUNCIL

Chapter 7 Flag Policy

- (g) When prescribed by the City Manager, or in his/her absence the Assistant City Manager, in accordance with the following guidelines:
- (1) From the day of death until burial of any:
 - (i) City Councilmember of the City of San Leandro, past or present;
 - (ii) City employee whose death occurred during the discharge of duty;
 - (iii) City employee or retiree having served the City for 25 or more years.
 - (2) Upon authority issuing from the City Manager's Office, similar recognition may be given in the case of a prominent citizen not holding or having held public office, whose accomplishments and contributions to the community clearly demonstrated a commitment over and beyond that which would be normally associated with the performance of work.
 - (3) Flags will be lowered to half-mast as soon as practicable following notification of death of the above, and will ordinarily be continued until after the conclusion of burial services. In the event current notice is not given or the date of funeral is unknown, as is frequently the case, flags will be lowered for 48 hours from the day of notification.
 - (4) Any person having definite knowledge of a death requiring City acknowledgment should immediately advise the City Manager's Office as the central point for notification of those responsible for handling our flags. Should contact with this office be impracticable, the information should be given, in order, to the Director of Public Works Services or to the Police Chief, who will then become responsible for taking action in conformity with the policy herein outlined.

§1.7.115: COUNCIL ACTION. The City Council, upon notification of the death of the above stated, may elect to adjourn a City Council meeting in respect of the deceased.

* Reference: U.S. Flag Code, adopted by the United States Congress, as amended by Congress and the President of the United States.

SAN LEANDRO ADMINISTRATIVE CODE

TITLE 1 CITY COUNCIL

Chapter 7 Flag Policy

ARTICLE 2—POLICY ON RAISING FLAGS

§1.7.200: POLICY ON RAISING FLAGS AT CITY HALL. The purpose of this administrative policy is to establish a uniform policy to govern the raising of special flags at City Hall.

§1.7.205: APPLICABILITY. As a general rule, special designation flags (such United Nations flag, flag of a Sister City, Children’s Memorial Flag, etc.) will be raised only upon the direction of the Mayor or City Manager. Such flags will only be flown at City Hall, and when raised, shall replace the flag of the City of San Leandro, not the flag of the United States or the flag of the State of California.

§1.7.210: PROCEDURES. Requests for raising of special designation flags will be made in writing to the City Manager’s Office. Such requests will include the length of time the special designation flag is to be flown. The City Manager will notify the City Council of the request and his/her action.

In the case that the request is directed to the City Council in writing, the item will be referred to the City Manager for action.

Upon approval, the Public Works Services staff will be responsible for raising the special designation flag. Public Works will also be responsible for either storing the flag or returning the flag to the requestor, as appropriate.

Children’s Memorial Flag. In 1997, the County Board of Supervisors advised the City that the City was expected to fly the Children’s Memorial Flag on two occasions. The first would be in the event of the death of a child due to violence in San Leandro. City Hall and County offices would be expected to fly the flag on the Friday following the death. The second is a standing annual event where every City, School District and County office is asked to fly the flag on the fourth Friday of each April. Otherwise, there is no expectation to have the flag flown at City Hall.

Legislative History:

Resolution No. 98-127, 10/05/1998 [§§1.7.100-1.7.115]; Resolution No. 98-156, 12/07/1998 [§§1.7.200-1.7.210]; Resolution No. 2005-156, 11/21/2005 [§1.7.110(a)]