



CITY COUNCIL AGENDA REPORT

MEETING DATE: May 7, 2019

ITEM NUMBER: **NB-3**

SUBJECT: ADOPTION OF A CITY COUNCIL FLAG DISPLAY POLICY AND A RESOLUTION AUTHORIZING THE ANNUAL DISPLAY OF THE PRIDE FLAG AT CITY HALL

DATE: APRIL 25, 2019

FROM: CITY MANAGER'S OFFICE

PRESENTATION BY: TAMARA S. LETOURNEAU, ACTING CITY MANAGER/ASSISTANT CITY MANAGER

**FOR FURTHER INFORMATION CONTACT: ALMA REYES, SENIOR MANAGEMENT ANALYST
(714) 754-5090**

RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt Resolution No. 19-xx (Attachment 1), which implements City Council Policy 000-15 relating to the display of flags at City facilities (Attachment 2).
2. Consider adoption of Resolution No. 19-xx, which authorizes the annual display of the Pride Flag at City Hall from May 22 to June 30 (Attachment 3).

BACKGROUND:

At the April 2, 2019 City Council meeting, Council Member Reynolds requested that staff bring back a resolution for City Council consideration relating to authorizing the annual display of the Pride Flag at City Hall to commemorate Harvey Milk Day and Lesbian, Gay, Bisexual and Transgender (LGBT) Pride Month.

Historically, the City of Costa Mesa has displayed the United States Flag, the California State Flag, the POW-MIA Flag, and the City of Costa Mesa Flag at City Hall and other City facilities in accordance with Federal and State law. However, the City does not have a formal policy regarding the display of such flags or the display of commemorative flags, such as the Pride Flag.

Staff prepared two resolutions for the City Council's consideration. The first resolution adopts a City Council Policy relating to the display of flags. The Council Policy outlines the procedures and standards for the display of flags at City facilities, including the display of commemorative flags at City Hall. Contingent upon City Council adoption of the first resolution, staff also prepared a second resolution, which would authorize the annual display of the Pride Flag in accordance with the proposed flag display policy.

ANALYSIS:

Historically, the City has displayed flags in accordance with Federal and State law. The proposed flag display policy would augment existing practice by outlining procedures and standards for the display of the United States Flag, the California State Flag, the POW-MIA Flag, and the City of Costa Mesa Flag, and provide a process for the display of commemorative flags at City Hall. Per the proposed policy, commemorative flags may be displayed only as authorized by resolution of the City Council and as an expression of the City's official sentiments. Upon City Council adoption of a resolution to authorize the display of a commemorative flag, the City would purchase the flag and display it below the City of Costa Mesa Flag at City Hall during the designated period.

The City's flagpoles are not intended to serve as a forum for free expression by the public. Rather, the City's flagpoles are to be used exclusively by the City, where the City Council may display a commemorative flag as a form of government expression. The City will not display a commemorative flag based on a request from a third party, nor will the City use its flagpoles to sponsor the expression of a third party.

The Government Speech Doctrine, defined by the United States Supreme Court, establishes that a government organization, such as the City of Costa Mesa, may advance its own expression without requiring viewpoint neutrality when the government itself is the speaker, so long as its expression does not show religious preference or encourage a certain vote in an election. Therefore, the City could, by adoption of a resolution, display a commemorative flag as a form of government expression, so long as the commemorative flag does not show religious preference or encourage a certain vote in an election. Consequently, if the City Council adopts a resolution to display a commemorative flag, the display of the commemorative flag would be an exercise of government expression, where the City is the speaker.

Display of the Pride Flag

According to the Library of Congress, Lesbian, Gay, Bisexual and Transgender Pride Month ("LGBT Pride Month") is currently celebrated each year in the month of June to honor the 1969 Stonewall riots in New York City. The Stonewall riots were a tipping point for the Gay Liberation Movement in the United States. In the United States, the last Sunday in June was initially celebrated as "Gay Pride Day," although the actual day was flexible. Eventually, in major cities across the nation, the "day" grew to encompass a month-long series of events. Today, celebrations include pride parades, picnics, parties, workshops, symposia and concerts. Memorials are also held for those members of the community who have been lost to hate crimes or HIV/AIDS. The purpose of the commemorative month is to recognize the impact that lesbian, gay, bisexual and transgender individuals have had on history locally, nationally and internationally.

Harvey Milk is recognized as the first openly gay individual to be elected to public office in a major city, serving on the San Francisco Board of Supervisors from 1977-1978. In 2009, the State of California established an official day of significance in his honor, Harvey Milk Day, to be observed on May 22, Milk's birthday.

The proposed resolution, contingent upon City Council's adoption of the resolution adopting a flag display policy, would authorize the annual display of the Pride Flag at

City Hall from May 22 through June 30, in recognition of Harvey Milk Day and LGBT Pride Month.

ALTERNATIVES:

1. The City Council may adopt the City Council Policy but not adopt the Pride Flag display resolution.
2. The City Council may provide alternative direction to staff.

FISCAL REVIEW:

If the City Council authorizes the annual display of the Pride Flag, staff will purchase the Pride Flag for display at City Hall. The cost of such flag is approximately \$500; there is sufficient funding in the FY 2018-19 City Council's budget for this item.

LEGAL REVIEW:

The City Attorney's Office reviewed this report and has reviewed and approved the resolutions and Council Policy as to form.

CONCLUSION:

Staff recommends that the City Council:

1. Consider adoption of Resolution No. 19-xx (Attachment 1), which adopts City Council Policy 000-15 relating to the display of flags at City facilities (Attachment 2).
2. Consider adoption of Resolution No. 19-xx, which authorizes the annual display of the Pride Flag at City Hall from May 22 to June 30 (Attachment 3).

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- ATTACHMENTS:
1. [Proposed Resolution Adopting City Council Flag Display Policy](#)
 2. [Proposed City Council Policy](#)
 3. [Proposed Resolution Authorizing Display of Pride Flag](#)