

City of Biddeford
Diversity, Equity and Inclusion Committee
June 12, 2023 5:30 PM
Mayor's Office - City Hall

Please click the link below to join the webinar:

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Status: In Person - Mayor's Office and via Zoom

- 1. Call to Order**
- 2. Welcome Shelly Gibson, DEI Coordinator**
- 3. Minutes**
 - 3.1. May 8 Meeting Minutes
[May 8, 2023 DEI Committee Meeting Minutes](#)
- 4. Public Comment - 3 Minutes Per Speaker**
- 5. Discussion Items**
 - 5.1. Flag Policy
[20230612 Flag Policy Memo for DEI Committee.pdf](#)
[Flag Policy with April 25 Policy Committee Edits.pdf](#)
[05172023 Email on Flag Policy.pdf](#)
- 6. Report Subcommittee Updates**
 - 6.1. Policy Subcommittee
 - 6.2. Outreach/Education Subcommittee
- 7. Adjourn:**

DEI Committee Meeting Minutes – May 8th, 2023

Meeting Called to Order at 5:35 PM

Present: Liam, Sydney, Irene, Danica, Martha, Andrew, Flo, Kayla, Anne, Liam, Bistra

Motion to accept minutes made by Irene and seconded by Flo. Unanimous passing.

Public Attendance & Comment: Patrick Conlon from Bike Biddeford-Saco for a Pride Ride- Anne will coordinate with HoB to get it on the organization list. Thursday June 1st leaving at Sunset ~8pm

Agenda Items:

1. Subcommittee Report Out:
 - a. Policy Subcommittee:
 - i. How will we find topics to discuss and work on?
 1. Comprehensive city plan-survey sent out to households in Biddeford
 2. City wide WI-FI
 - ii. Public participation and citizens advisory committee
 - iii. Government interfaces with the public
 - iv. Building a master list of topics-living document
 - b. Education & Outreach Subcommittee:
 - i. Creating visual calendar & deciding which events should have a DEI committee presence
 - ii. Setting boundaries for how much we take on
 - iii. Defining our role
2. Pride Event Update-Anne
 - a. June 3rd 11:30-3pm flag raising- DEI table, location TBD
 - b. The flag situation: someone requested to fly the Christian flag during the month of June to prevent the pride flag from being flown- **May 16th @ 6pm** a city council meeting about the pride flag flying for the whole month.
 - c. "Because the intention was nefarious"
 - d. Motion made by Anne to fly both flags at the same time, seconded by Irene and passed unanimously.
3. D.E.I. Coordinator interviews-Flo
 - a. Over 100 applicants, 4 finalized interviewees from very different backgrounds- only 3 showed
 - b. Opportunities for deeper conversation and reflection

- c. Position was offered and accepted!
- 4. Implicit Bias Training
 - a. Mixed feelings because it confirms the biases and can be difficult for people of those populations
 - b. Some people were able to take the modules while some were not- aiming for next month
- 5. Calendar events:
 - a. Juneteenth-Anne about local events but **cannot be related to alcohol** and Kayla writing a little excerpt
 - b. Summer Solstice- Sydney
 - c. Pride related events happening- a proclamation?
 - i. Anne made a motion to recommend the mayor make a proclamation that June is pride month, seconded by Martha, and passed unanimously.
 - d. Caribbean Heritage Month: Flo will interview a person possibly and Bistra will talk to her neighbor.

Upcoming Dates: next meeting: June 12th, policy subcommittee: May 26th at 5:30pm, education & outreach subcommittee: May 23rd at 5:30pm.

Motion to adjourn made by Flo and seconded by Kayla, passed unanimously



Diversity, Equity and Inclusion Committee

Meeting Date: June 12, 2023

Meeting Time: 6:00 PM

Agenda Item No: 5.1

Item Description: Flag Policy

Submitted by: Danica Lamontagne, Assistant to the City Manager

Supporting Information/Documentation:

Flag Display Policy as Amended by Policy Committee on April 25, 2023

Email from Jane Harrell on Suggested Flag Policy Changes

Detailed Review:

The City of Biddeford has a Flag Display Policy which was first adopted in August 2021. The policy includes a section guiding the display of "Special Flags and Banners" which allows citizens to submit requests to provide a special flag to display on a City flagpole for a period of time.

As the policy became more well-known in the community, the City began receiving an increasing number of requests. Many of these requests caused challenges for staff because they were not in line with the perceived intention of the policy. For example, staff received multiple requests to fly the same flag for long periods of time throughout the year, and requests were being submitted many months in advance in an effort to "reserve" the flagpole at certain times.

The Policy Committee reviewed the Flag Display Policy at their April 25 meeting and adopted the following modifications to the policy in an effort to provide more clarity to staff:

- Flags can now be displayed for a maximum of **seven days** (previously, the policy allowed flags to be displayed for up to 30 days).
- The same flag cannot be displayed more than twice per calendar year.
- Requests can be submitted no more than 90 days in advance.

The strikethrough Flag Display Policy document included in your agenda packet shows the original policy language with the April 25 updates in red.

The City received two flag requests for the full month of June, one of which was the LGBTQ+ Progressive Pride Flag due to June's designation as Pride Month. Under the revised policy, each of these flags would be able to fly for a maximum of seven days.

The citizen who requested the display of the Pride Flag contacted my office to ask for an exception to the newly revised flag policy. This appeal was sent to the City Council on May 16, and the Council voted to make an exception to allow the flag to fly for the full month of June alongside the other flag that was requested for the month.

The Council heard quite a bit of public comment during the May 16 meeting. It is clear from the comments received that many community members find having a flag that they identify with flying on a public flagpole to be a meaningful statement. The duration of the display was specifically noted as important, especially in cases such as Pride Month where the recognition period is observed for longer than the 7-day maximum period that a flag is allowed to fly per the policy. The DEI Committee has the opportunity to contribute to this conversation and determine how the community's expressed needs can be better met by this policy moving forward.

The email included in your agenda packet is from Jane Harrell, who submitted the request for the Pride Flag in June. She is a policy professional and shared thoughts on a potential significant rewrite of the policy. Jane has been invited to attend the June 12 meeting to discuss her suggestions and her offer to assist the City with policy review.

Before making policy recommendations, the committee should be aware of the legal landscape surrounding municipal flag display. Supreme Court Case *Shurtleff v. Boston*, which was decided in May 2022, asked the Court to answer the question of whether flag-flying outside of a municipal building is an act of the government or of the private parties that ask to raise the flag. This case specifically stemmed from a request to fly the Christian flag, which the City of Boston had denied out of concern regarding the separation of church and state.

The Supreme Court's decision hinged on whether the City of Boston had "meaningful involvement" in the selection of the flags or the crafting of their messages. Because it was found that Boston did not, the Court determined that the flag raising was considered private speech and was protected by the First Amendment. Therefore, Boston could not decline to fly the Christian flag because it violated the requester's First Amendment right to freedom of expression.

Staff's interpretation of the ruling and its application to our existing process for flying Special Flags and Banners is that the current flag raisings would be classified as private speech.

City of Biddeford Flag Display Policy

1. PURPOSE

It is the intent of the City of Biddeford to establish a citywide policy, which follows the United States and State of Maine provisions governing the display of flags, including the United States flag, the State flag, the City flag, and the POW/MIA flag. Any additions must be approved by the Biddeford City Council as per Section 4.

2. REFERENCE

United States and State of Maine provisions governing the display of flags. These can be found in the United States Code, Title 4, Chapter 1 and the Maine Statutes Annotated, Title 1, Chapter 9 (hereinafter “Flag Code and Protocol”).

3. APPLICATION

This Policy applies to all buildings owned or controlled by the City of Biddeford and all individuals employed by or who volunteer with the City of Biddeford, unless a provision of the policy conflicts with a contract or statute (e.g., Collective Bargaining Agreement, Civil Service Rule, or Memorandum of Understanding, etc.).

4. GUIDANCE

a. Display and Care of Flags:

The City of Biddeford follows the Federal and State of Maine Flag Code and Protocol governing the display and care of flags.

b. Display of Additional Flags Indoors or Outdoors:

- i. In addition to the above flags, other “Special Flags or Banners” may be displayed on either the flagpole located on the left side of City Hall directly outside of the Mayor’s office or other available flagpoles. Such Special Flags or Banners may only be displayed upon approval from the Biddeford City Council.

1. Examples of Special Flags or Banners include, but are not limited to, sister city flags, Heritage Month flags (e.g., Black History Month, Pride Month, Asian/Pacific American History, National Hispanic Heritage, and Indigenous peoples’ heritage), flags received in recognition of awards, flags received from visiting groups, or flags designating an event or accomplishment.
2. When selecting or approving a request for flying a Special Flag, the City Council shall consider and make a determination that the Special Flag meets at least one or more of the following criteria:
 - a. Whether the United States or State of Maine has recognized the flag through statute or proclamation;

- b. Whether the flag represents an organization dedicated to the public good for the Citizens of Biddeford;
 - c. Whether the flag represents a National, State, or City interest;
 - d. Whether the flag is an historic American flag that has or continues to have a primary positive message of American history and unity;
 - e. Whether the flag promotes unity and community with another city, state, country, or other jurisdiction; or
 - f. Whether the flag represents a positive interest or value worthy of public recognition.
 - ii. Unless otherwise stated or determined by the City Council, all Special Flags or Banners shall be flown or displayed for a limit of ~~thirty~~ **seventy seven (307)** contiguous calendar days after a defined start date. **Requests may be submitted no more than ninety (90) days prior to the defined start date.**
 - iii. **The same Special Flag or Banner may not be flown more than twice every calendar year. Special Flags or Banners will be considered to be the same if they have the same design and/or represent the same organization or interest.**
 - iv. The Mayor has the discretion to fly an appropriate flag, as per the criteria listed in 4.b.i.2., above, for a single day if he or she determines that a public purpose is served by flying the flag.
 - v. Any Special Flag or Banner flown from a flagpole at City Hall must not be larger than the flag of the United States of America and must be located beneath the flag of the United States of America when flown on the same staff.
- c. Display of the Flags at Half-Staff
- 1. All flags shall be flown at half-staff as prescribed or consistent with this policy or as directed by the proper federal or state officials.
 - 2. In addition to any federal or state protocols or directions, the Mayor (or designee) or council president in the absence of the mayor, may order the City of Biddeford flag to be flown at half-staff for one week under the following circumstances:
 - a. On the death of any of the following individuals:
 - i. Biddeford Mayor, ex-Mayor, or Mayor-elect;
 - ii. Current member of Biddeford City Council;

- iii. Current head of any City Department or current employee;
 - iv. Any other local official, citizen, or other individual deemed by the Mayor to have made significant contributions to the benefit and welfare of the City and citizens of Biddeford.
 - b. Any instance where a City of Biddeford employee has been killed in the line of duty or has died as a direct result of injuries incurred while in the performance of official duties.
3. The Mayor shall state the reason or name of the individual in whose honor the flag or flags have been or are to be lowered to half-staff at the first available public meeting of the Biddeford City Council.

From: Jane Harrell <jane.harrell@gmail.com>

Sent: Wednesday, May 17, 2023 2:29 PM

To: LaFountain, Liam; Belanger, Norman

Subject: Flag Policy Follow-up

Hi Norm and Liam,

Thank you both again for your deep-thinking around last night's flag exception request. While we may not all agree on the best path forward, I think we all recognize the importance of taking the issue seriously and the good discussion that can come out of such challenges.

As I mentioned last night, I'd like to offer my and my company's professional expertise to help Biddeford craft a sustainable path forward with the flag policy. **Please let me know if there's any interest. My company has the time in July to work on this, but after that heads into our busy season until Jan 1.**

I have over 15 years experience personally writing policy for various social media outlets and working with large organization's legal teams to outline policies that endorse free speech while keeping the organization and its communities safe from legal action and intimidation. (We typically charge about \$500/hr for this kind of work, but I'd comp our fees.)

In the meantime, I've drafted a quickie policy revision below that I'd be happy to discuss live with both Policy and/or the DEI committee and added a few notes about additions to the policy that I'd suggest to help stop these kinds of issues from coming to council every few months. This is to just show you some of what we've found is helpful for other orgs.

In recognition of:

- the City of Biddeford's strong tradition of flying the Irish Flag on the city flag pole since 1962, and
- the nature of a flag as a symbol and sign of community, **which is by its very nature political and polarizing while simultaneously being unifying to specific members of the community**, and
- the desire of our community, its diverse voices and opinions to be recognized and represented, and
- the increasing likelihood that flag requests may overlap, especially for recognition of religious holidays and/or memorials, and
- the desire of our community to unite and provide a safe space for all its citizens, no matter religion, race, ethnicity, sexual orientation, nation of origin, physical ability or other, and
- the way limitation of representation to a single symbol (flag) may be used to (inadvertently or purposely) fly symbols of intimidation and of a divisive nature to specific members of the community

we hereby propose that the City of Biddeford flag policy be adjusted as follows:

- As a show of unity and plurality of voices within our community, the flagpole shall fly up to 3 (?) flags at any given time.
- Flags will be flown top-down in the order of requests received and/or in the order easiest for display, to be determined by the city approver. While imperfect, this solution allows as many people as possible to be represented. [YOU CAN ALSO DO WHAT YOU'VE DONE FOR JUNE and flip-flop them or order them by amount of time they'll fly]
- In order to be approved, flag requests must have a time-bound element, meaning tied to a specific date or current event related to the dates being requested. For example, a local or national current event, a specific holiday and/or a national day of remembrance. Flags without time-bound elements will be denied even if all other criteria are met.
- Biddeford-based organizations representing many citizens may put in multiple requests for flags. Individual Biddeford households will be limited to one approved flag request per year to allow space for others.
- Flags may be flown for no more than one full calendar month, unless given special exception by the City Council.
- From time to time, a flag request that otherwise would be approved may be denied due to the potential perception of intimidation and/or antagonization toward another group. For example, flags representing one group with a historical background of intimidation and/or abuse of another group that is going to fly a flag at the same time. In these cases, the requestor will be asked to choose a different date for their flag to fly. Examples may include but are not limited to flying the British flag on Saint Patrick's Day, the Ancient Roman Flag on Good Friday or the Red Sox/Yankees flags during a playoff. If a citizen feels a flag has been approved for a time that may be perceived as intimidation or antagonization of another group, this can be reported to [HOW TO REPORT]. Historical backup of the claim will then be requested and evaluated by the City of Biddeford DEI Coordinator or other appropriate personnel. If founded, the flag may be removed and requestor will be asked to choose a different time for it to fly.
- Flags for specific political-party affiliations are not permitted, but flags encouraging civic engagement or service (such as "vote" flags) are allowed so long as other criteria are met.

In addition to the above, we'd encourage the City outline a process by which "unity" and "primarily positive" messages will be evaluated. This could be something VERY simple or elaborate, but having a written explanation of how these terms will be evaluated can help other groups self-select if trying to fly flags that are more controversial. For example, the DEI committee could be tagged with evaluating flag requests for these metrics if a flag request otherwise meets criteria... This would then be a group of people living in Biddeford who can weigh the pros and cons individually.

Best,

-Jane