



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO COUNCIL

#### **SUBJECT**

Adopt a Resolution authorizing display of the Prisoners of War/Missing in Action (POW/MIA) flag on Armed Forces Day, Memorial Day, Flag Day, Independence Day, National POW/MIA Recognition Day and Veterans Day

#### **BACKGROUND**

At a City Council meeting held on December 3, 2019, Council adopted Council Policy 7.3.30 (Display of Ceremonial and/or Commemorative Flags at City Hall). At the meeting, it was further requested that staff return with a resolution for Council consideration for approval to fly the POW/MIA flag.

#### **EXISTING POLICY**

Council Policy 7.3.30 (Display of Ceremonial and/or Commemorative Flags at City Hall)  
Administrative Policy 6.2 (Display of Flags at City Buildings)

#### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental, organizational or administrative activity that will not result in direct or indirect changes in the environment.

#### **DISCUSSION**

The POW/MIA flag has existed since approximately 1970, when Mrs. Michael Hoff, an MIA wife and member of the National League of POW/MIA Families, recognized the need for a symbol of POW/MIAs. Following the approval of the League's Board of Directors in 1972, POW/MIA flags were manufactured for distribution. Wanting the widest possible dissemination and use of this symbol to advocate for improved treatment for and answers on American POW/MIAs, the group did not seek copyright or trademark protection and as a result, widespread use of the League's POW/MIA flag is not restricted legally.

There is a long history of federal legislation related to display of the POW/MIA flag. It was flown over the White House on National POW/MIA Recognition Day 1988, and was subsequently installed in the US Capitol Rotunda on March 9, 1989 as a result of legislation passed overwhelmingly on a bipartisan basis during the 100th Congress. In 1990, the 101st Congress passed US Public Law 101-355, which recognized the League's POW/MIA flag and designated it "*the symbol of our Nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner, missing and unaccounted for in Southeast Asia, thus ending the uncertainty for their families and the Nation*". The 1998 Defense Authorization Act required that the League's POW/MIA flag fly at certain federal properties on six days each year: Armed Forces Day, Memorial Day, Flag Day, Independence Day, National POW/MIA Recognition Day and Veterans Day.

On November 7, 2019, the President signed into law the National POW/MIA Flag Act to require the POW/MIA Flag be displayed whenever the American flag is displayed on prominent federal properties. The Department of Veterans Affairs voluntarily displays their POW/MIA flag 24/7.

There is no law requiring local government agencies to fly the POW/MIA flag and no required criteria for determining when to fly the POW/MIA flag if an agency so chooses. Thus, the Council has discretion in determining the number of days they wish to fly the POW/MIA flag. Staff is recommending flying the flag on the six days it was historically flown on federal properties prior to the change in law in 2019: Armed Forces Day, Memorial Day, Flag Day, Independence Day, National POW/MIA Recognition Day and Veterans Day.

#### **FISCAL IMPACT**

None.

#### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

#### **RECOMMENDATION**

Adopt a Resolution authorizing display of the POW/MIA flag on Armed Forces Day, Memorial Day, Flag Day, Independence Day, National POW/MIA Recognition Day and Veterans Day.

Prepared by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

#### **ATTACHMENT**

1. Resolution Authorizing Flying the POW/MIA Flag