

# Approaches for Addressing Existing and Emerging Protocol Issues

## ISSUE

Each year, the City of Saskatoon receives several requests for flag raisings and proclamations. The City does not currently have a comprehensive policy dealing with these issues. What approaches can the City of Saskatoon take to better address existing and emerging protocol issues and requests?

## BACKGROUND

### 2.1 History

On September 4, 2015 the Executive Committee (now Governance and Priorities Committee) directed the Administration to report on the issue of protocols in other cities.

### 2.2 Current Status

The Administration has reviewed a number of protocol related issues that have arisen internally in the City of Saskatoon, and conducted research on how protocol matters are treated in other Canadian cities. The Administration has found a number of areas that may benefit from inclusion in a comprehensive protocol policy, including more detailed guidance on procedures for flag raising and proclamations, and criteria for determining whether to approve applications for those items.

### 2.3 City of Saskatoon's Current Approach

Applications for proclamations are currently governed by Council Policy No. C01-004, *Proclamations*. No such similar policy exists in respect of flag raising requests. However, the *Proclamations Policy* has been used for guidance in considering such requests.

Currently, proclamations may be issued to charitable and non-profit organizations. This is done to increase public awareness of their causes, to promote fund-raising activities, to support major sporting, cultural and entertainment programs of significance to the City and civic initiatives. Application for proclamations promoting hatred, involving illegal activity or containing inflammatory, obscene or libelous statements are denied.

Flag raising and proclamation requests are currently received by the City Clerk's Office. Requests are reviewed by the City Clerk prior to placing them on the Council Public Hearing Agenda for approval. Many requests are annual and so there is a precedent that they have been approved.

Those for which there is no precedent are reviewed for compliance with the policy criteria and alignment with similar requests that have previously been approved. From time to time, the City Solicitor's Office is called upon to provide assistance to the City Clerk in vetting a request that has not been previously approved and for which there is some concern as to its compliance with the *Proclamations Policy*. Flag raising or proclamation requests for which there is a precedent and which fall within the existing *Proclamation Policy* criteria are placed on the next Public Hearing Agenda of Council for approval.

If a proposed proclamation is problematic because it does not appear to fit within the *Proclamation Policy*, the City Clerk will advise the applicant that it will not be going forward. In this event, the City Clerk places a copy of the application and response in the Councillors' central repository. In the case of flag raising applications, the use of civic square is required for the event. The *Use of City Hall Lobby and Civic Square Policy* is administered by the Communications Department and, in this context, application denials for flag raising requests are communicated through that Department.

From time to time, a request is received for a flag raising or proclamation which is to happen prior to the next Council meeting. If it is an annual-type request, the City Clerk asks the Mayor or City Manager to approve the request and the approval is included as information on the next Council Agenda. If a pre-Council approval is necessary for a request that has not been received in the past, the City Clerk consults with the City Manager or Mayor for direction.

After the Council meeting, the City Clerk's Office notifies Communications web mail and maintenance staff of the approval and the approved proclamations and flag raisings are implemented.

### **2.4 Approaches in Other Jurisdictions**

The following cities were included in the protocol review:

- Regina;
- Calgary;
- Edmonton;
- Winnipeg;
- Toronto;
- Ottawa;
- London;
- Surrey; and
- Halifax.

### **Flag Raising**

Most of the surveyed jurisdictions have some form of policy on flag raising and related ceremonies. As Appendix 1 describes, the most detailed policies are found in Regina, Calgary, Toronto, Ottawa and London, and address the following key issues:

- positioning of flags in relation to each other to signify order of precedence;
- half-masting;
- description of the application process for ethnic, cultural or community organizations' requests to have a flag raised;
- criteria that is used in determining whether an organization's application will be accepted; and
- listing the flag raising and half-masting events that are observed annually.

In all of these jurisdictions, Council has delegated the approval of flag raisings to either the City Clerk, a protocol office or officer, or a similar body or person. Some provide for an appeal of the decision to another body and others do not.

In contrast, the City of Surrey's policy is unique in that it does not allow the flying of any non-governmental flags at civic facilities. Winnipeg and Halifax do not appear to have a specific bylaw or policy document relating to flag raisings.

Many jurisdictions provide substantial detail on both procedural matters and the criteria used to evaluate applications, including specific criteria that would prevent flag raising for political, religious or highly controversial purposes or groups.

### **Proclamations**

Regina, Calgary, Edmonton, Toronto, Ottawa, London and Surrey all have some form of policy or bylaw provision related to proclamations. In these jurisdictions, as explained in Appendix 2, the determination of whether to issue a proclamation is generally at the Mayor's discretion as limited by the relevant policy or bylaw.

Calgary, Toronto and Ottawa's proclamation policies are the most detailed in setting out acceptable types of proclamations. These policies not only set out the common disqualifiers, such as political or commercial overtones and causes which are contentious or divisive, but they also set out positive qualifications required of the proposed subject of proclamation. On the other hand, London's proclamation provisions are unique in stating that "no proclamations shall be issued on behalf of the City of London, except those required by law to be issued".

Many jurisdictions have a great amount of detail on both procedural matters and criteria used to evaluate applications, including specific criteria that would prevent proclamations for political, religious or highly controversial purposes or groups.

### OPTIONS

This section of the report proposes three possible options for Council's consideration on existing and emerging protocol issues. The Options range from continuing with the City's existing approach to the adoption of a comprehensive protocol policy. The third Option essentially reforms the City's existing approach to addressing protocol issues.

#### **Option 1 - Maintain the status quo**

This Option proposes no changes to the City of Saskatoon's current protocol policy environment. Existing protocol issues would be guided by Council Policy No. C01-004, *Proclamations*, and Administrative Policy No. A09-026, *Use of City Hall Lobby and Civic Square*. Any emerging protocol issues would be addressed on an ad-hoc basis and would likely require approval by Council on a case by case basis.

#### **Implications**

Financial: There are no new financial implications resulting from the adoption of this Option. The program is managed within the City Clerks Office's existing resources.

Legal: There may be legal implications to maintaining the status quo. A lack of clear criteria may make the City susceptible to a legal challenge.

There are no environmental or social implications resulting from this Option.

#### **Advantages**

- No disruption to current approach.
- Specific coverage to frequent protocol issues.

#### **Disadvantages**

- Lacks a comprehensive approach to managing requests and protocol issues.
- No clear criteria for considering flag raising and proclamation requests.
- Leaves the City susceptible to legal challenge.

#### **Option 2 - Targeted approach by prohibiting the flying of guest flags and the issuance of proclamations**

This Option proposes that Council would enact a policy that prohibits the flying of guest flags and the issuance of proclamations. It largely follows the approach taken by cities such as Surrey and London. As noted in Appendices 1 and 2, the

City of London prohibits the flying of non-government flags and the issuance of any proclamations other than those required by law to be issued. Surrey similarly prohibits the flying of non-governmental flags. Proclamations, however, are identified as an alternative to a flag raising despite that Surrey appears to have no specific bylaw or policy speaking to proclamations. Most recently, the City of Prince Albert has chosen this approach resulting from a controversy and a court challenge related to its refusal to fly a particular pro-life flag on its guest flag pole.

### **Implications**

Financial: There are no new financial implications resulting from the adoption of this Option. The program would be managed within the existing resources of the City Clerk's Office.

Social: The implementation of this Option could create opposition from some stakeholders. However, it could also eliminate potential public controversy for flying the flags of controversial groups or causes.

Legal: The implementation of this would require amendments to Bylaw No. 9170, *The Procedures and Committee Bylaw, 2014*.

There are no environmental implications resulting from the implementation of this Option.

### **Advantages**

- Eliminates the potential for controversy and legal challenge.

### **Disadvantages**

- Removes longstanding venues for public recognition currently enjoyed by various community and non-profit groups and causes.
- Lacks a comprehensive approach to managing protocol issues.

### **Option 3 - Adopt a comprehensive approach resulting in an all-encompassing protocol policy**

This Option proposes that Council take a comprehensive approach to addressing existing and emerging protocol issues. More specifically, this Option proposes the adoption of a protocol policy that covers several topics relating to protocol matters. It would provide for the application of consistent standards and address other basic requirements relating to protocol. Fundamentally, it would serve as an easy reference for protocol-related decisions.

In the short term, however, the scope of the policy would be limited to addressing flag raising and proclamation applications. It would be robust enough to include consistent standards for content and procedure while identifying responsibilities relating to flag raisings and proclamations issued by the City of Saskatoon. Over the longer term, the policy would become more comprehensive and cover such

issues as: awards and formal recognitions, use of civic square, parking passes for visiting dignitaries and ceremonial lighting of civic structures.

With respect to flag raisings and proclamations, the policy would set out the positive qualifications of the proposed subject and disqualifiers. It is intended that flag raising and proclamation requests would be denied if:

- a) the organization or application involves a commercial enterprise;
- b) the organization is a political party or the request is in support of a political party;
- c) the organization's undertakings or philosophy are, or the request is:
  - i) contrary to City policies or bylaws;
  - ii) contrary to the *Canadian Charter of Rights and Freedoms*;
  - iii) espousing of hatred, violence or racism;
  - iv) politically or religiously motivated;
  - v) controversial, contentious or divisive within the community; or
  - vi) inflammatory, obscene or libelous.

In addition, the policy would delegate approval of flag raisings and proclamations to the City Clerk's Office. Appeals would be directed to the Governance and Priorities Committee. This approach would work as follows:

- The City Clerk would receive flag raising and proclamation requests and approve or deny applications in accordance with the clear criteria set by Council.
- All applications that are compliant with the policy would be approved, without any further determination being made by Council. In other words, Council's authority would be delegated to the City Clerk.
- This delegation could include a requirement that the City Clerk report approved flag raisings and proclamations to Council for information.
- In the event of a dispute between the applicant and the City Clerk's Office, the policy could provide for an appeal to the Governance and Priorities Committee.

### **Implications**

**Financial:** There are no new financial implications resulting from the adoption of this Option. The program would be managed within the existing resources of the City Clerk's Office.

Social: The implementation of this Option could create opposition from some community or stakeholders regarding some flag raisings and proclamations.

Legal: The implementation of this would require amendments to Bylaw No. 9170, *The Procedures and Committees Bylaw, 2014*. A clear set of criteria would help the City properly vet these requests and prevent legal challenges.

There are no environmental implications resulting from the implementation of this Option.

### **Advantages**

- Provides clear guidance as to the criteria against which applications are to be considered.
- Decreases the likelihood as to differing criteria or application of criteria.
- Ensures information is identifiable and easily accessible.
- Reduces the potential for legal challenges respecting the denial of requests.

### **RECOMMENDATION**

That the Governance and Priorities Committee recommend to City Council that:

1. The Administration be directed to draft a comprehensive protocol policy addressing flag raising and proclamations, including establishing detailed criteria for determining which applications can be accepted.
2. The approval of flag raising and proclamation requests be delegated to the City Clerk's Office with an appeal mechanism to the Governance and Priorities Committee.
3. The City Solicitor make any necessary amendments to Bylaw No. 9170, *The Procedures and Committees Bylaw, 2014*.

### **RATIONALE**

The City of Saskatoon currently only has Council Policy No. C01-004, *Proclamations*, and Administrative Policy No. A09-026, *Use of City Hall Lobby and Civic Square* to provide direction on protocol-related issues. The City's existing *Proclamations Policy* was passed in 1978 and has not been updated since 2010. It lacks the necessary elements contained in protocol policies in other Canadian jurisdictions and thus, an overhaul is timely. A comprehensive protocol policy would assist in resolving ambiguities with respect to addressing existing and emerging protocol issues.

More importantly, the absence of any policy direction in respect of flag raisings in particular has left the Administration and City Clerk's Office without clear guidance and direction. A clear goal of the approach proposed in Option 3 is to establish useable criteria for determining which flag raising and proclamation requests are acceptable.

Moreover, Option 3 would maintain flag raisings and proclamations as venues for public recognition, which have long been enjoyed by many groups and causes. This Option optimally ensures that the City can continue providing those venues into the future, but with much clearer guidance than is available under the current policy framework.

Delegating the approval of flag raising and proclamation requests would allow the expeditious approval of applications by the City Clerk's Office. Council's policy direction as to causes and organizations worthy of special recognition would be identified in the context of the more comprehensive approval criteria contained within the policy rather than through the approval of individual flag raising and proclamation requests.

### **ADDITIONAL IMPLICATIONS/CONSIDERATIONS**

If Council agrees with the Administration's recommendations, then a policy would be drafted and brought back for approval. The Administration will report in the future on other protocol-related decisions to be added to the comprehensive protocol policy.

### **COMMUNICATION ACTIVITIES**

It is anticipated that any process changes would be communicated through the City Clerk's Office. Corresponding changes to Bylaw No. 9170, *The Procedures and Committees Bylaw, 2014* would be preceded by the appropriate public notice.

### **APPENDICES**

1. Flag Raising
2. Proclamations

#### Report Approval

Written by: Andrew Glum, Solicitor  
Christine G. Bogad, Director of Legal Services

Approved by: Cindy Yelland, City Solicitor

Reviewed by: Jeff Jorgenson, City Manager  
Joanne Sproule, City Clerk  
Mike Jordan, Chief Public Policy & Government Relations Officer