

City Council and the Police Chief discuss the City marijuana decriminalization ordinance (2)

The Bethlehem Gadfly Marijuana, Police July 1, 2020

 *Latest in a series of posts about the Bethlehem Police* 

Gadfly kinda lost yesterday to his day job. He wanted to follow up on his **Monday post** and do a series of posts close together on the interesting Public Safety committee meeting March 3 concerning the police enforcement of our new summary offense marijuana ordinance.

That was an interesting meeting in itself because of the good comments by our Councilors. This was one of those meetings in which you can get a good sense of what each Councilor is made of, what makes them tick. There was good conversation.

But the meeting also now has heightened interest because of the scrutiny of police departments in the post-GeorgeFloyd era. In a sense, Council was calling the police department on the carpet for under-using the City ordinance, and we get an opportunity to see the police respond. In that respect, the March 3 meeting might foreshadow the upcoming (no date set yet) Public Safety meeting generated by the Reynolds/Crampsie Smith memo about use-of-force directives and a Community Engagement Initiative.

Remember from the **last post** that the decriminalized marijuana ordinance was only used by Bethlehem police in about 10% of the cases, thus subverting Council's intent for the ordinance and creating unfairness compared to enforcement of the same violation on the Lehigh campus.

The Chief argued that he can't control the officers out on the street, that the ordinance gave them discretion about which statute to use — harsh state or softer city — and that, though half the department believes in decriminalizing marijuana, almost all said it should be done by the state, and the current situation left them open to charges of bias.

We saw Councilman Reynolds pushing back on that, intimating without elaboration, that the Chief had tools at his disposal to foster more use of

the City ordinance. Councilwoman Van Wirt goes much further down the road on this point, pretty clearly blaming the Chief in pretty direct and strong language for lack of leadership: “They are not following what we enacted here because the tone is set by the leader.”

Lets listen in again.

Councilwoman Van Wirt and Chief Diluzio

Audio Player not available in this archive

Councilwoman Van Wirt began with a question, “Chief, do you believe officers’ own belief systems should enforce how they apply the law?” The Chief replied with a qualified yes and reiterated that in this instance we have given them discretion. PVW said we have given officers the excuse to follow two different laws. On the Westside (Lehigh County) they follow state law per Lehigh County D.A.s orders. But in Northampton County, “you [the officers] are very strongly encouraged by your Chief of Police, who sets the tone and leadership example for his policemen, to follow the will of City Council, who’s enacting the will of the people. . . . We have given them the ability and indeed the encouragement to use the decriminalization ordinance to apply the law over here. They are not going to get in trouble when they follow geographic boundaries.” But, said PVW, assigning causation if not blame, “they are not following what we enacted here because the tone is set by the leader.” The Chief pushed back that he had talked with both D.A.s about our practice. In her second question, PVW then asked why we are applying the state ordinance to quantities less than 30 grams . There, she said, is the pivot point where we get unequal application of the law. PVW resisted the Pandora’s box argument the Chief has used to explain the difficulty the two different statutes have created. PVW said it’s clear what the law is on the west side of the Monocacy, and at the same time it is pretty clear what Council’s intent was on the east side. The Chief argued again that he could not order his guys to do something every time — they are not robots — and that in some cases the officers will make a compassionate decision and throw the marijuana away. “I can not order everybody to do one thing.” PVW ended with “These numbers are telling a very troubling story about the use of the state ordinance especially when compared with what Judge Matos Gonzalez highlighted over at Lehigh University. . . . I hope you

can understand why this Council is deeply concerned. . . . We're not waiting for Harrisburg. We believe in local power. . . . I hope you can consider the will of Council. . . . This is unequal justice."

Getting the picture? Our ordinance gives the officer discretion. The officers by-and-large are using that discretion to not apply the local ordinance and for an understandable if unwelcome reason. What to do if you are the frustrated City Council?

to be continued . . .