

Concern for public safety bumps up against safeguarding the First Amendment

The Bethlehem Gadfly City government, Gadfly's posts, Serious Issues June 17, 2019

(The latest in a series of posts on City government)

“Bethlehem is considering an ordinance that would require a prior permit if five or more people plan a demonstration in a public place like a sidewalk or park.”

[Bill 19-2019 Establish Article 961-Special Event Activity Permits-1](#)

The rationale is based on public safety, but there is concern over limitation of free speech.

Councilpersons Van Wirt, Negron, and Waldron have trouble with the number 5 triggering the need for a permit. They would like the number higher.

There was a [2-hour Public Safety Committee meeting](#) (CM Colon, chair, with CWs Van Wirt and Negron) on the proposed ordinance last week. Gadfly suggests that you watch 1:30:00 onward to focus on the important concluding discussion.

It is expected that the critics of the proposed ordinance with 5 people triggering the need for a permit will be introduced tomorrow night.

Local blogger Bernie O'Hare belted the proposed ordinance today in [“Bethlehem City Council Takes Aim at First Amendment”](#) (and you will enjoy seeing Bernie refer to the Gadfly as “very gentle”).

Expect a spirited debate tomorrow night at Council.

Nicole Radzievich, “Want to protest in Bethlehem? There could soon be a permit for that.” Morning Call, June 14, 2019.

A street preacher calling a passerby a whore. A nearly naked woman protesting a circus in town. Workers rights. Immigration. School shootings. Occupy Wall Street. Make America Great Again. Over the years, Bethlehem has witnessed more than a few headline-grabbing demonstrations as activists spread their message in a city that often teems with visitors attending festivals and special events on any given weekend.

Now, in the name of public safety, Bethlehem is considering an ordinance that would require a prior permit if five or more people plan a demonstration in a public place like a sidewalk or park. City officials say the goal is not to restrict free speech, but gather information. Police want to know where and when potential flare-ups may occur, and then deploy police and other emergency personnel accordingly. They say they’re concerned about the conduct of the demonstrators, not their message.

Pennsylvania ACLU attorney Mary Catherine Roper said she believes a threshold of just five people would not hold up in court. Some City Council members are considering increasing that threshold in the proposed ordinance to avoid a First Amendment conflict. “I have concerns about potential overreach,” Councilwoman Paige Van Wirt. She is concerned the requirement could deter small groups from speaking out.

Philadelphia has an ordinance similar to what Bethlehem is considering, but the permit requirement would be triggered by demonstrations of 75 people or more, and Pittsburgh’s limit is 50, according to a survey presented to City Council at a recent public safety committee meeting.

Bethlehem police Chief Mark DiLuzio said at a June 5 meeting those municipalities have police departments much larger than Bethlehem's 155-officer department. Ideally, he said he would like to have at least two officers for every protester, if they are uncooperative. DiLuzio said the city has about 20 officers working the South Side and 50 on the North Side during Musikfest. So, even a handful of people protesting during a festival can significantly divert resources, he said.

"You're putting police in position to confront American citizens over nothing more than a peaceful assembly," said Carroll, also the Republican nominee for Northampton County district attorney. "It's absurd."

Council President Adam Waldron said he appreciates the public safety argument, but it makes him nervous any time government "is tip-toeing up against the First Amendment."

Council could vote on the ordinance as early as Tuesday, which would put it in effect for Musikfest Aug. 2-11.