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As panhandling law looms in Northampton, questions arise

By *Chad Cain*

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NORTHAMPTON - Attempts to regulate where and when people are allowed to ask passers-by for money are causing some residents to accuse the city of discriminating against poor people and are provoking concerns about free speech.

Supporters of a proposed panhandling ordinance, however, say they have no desire to ban a constitutionally protected practice. They say the ordinance would put in place much-needed regulatory measures designed to curb aggressive and fraudulent panhandling, and cut down on complaints from residents who feel beleaguered by the intimidating way many panhandlers ask for money.

No city laws are on the books specific to panhandling, though there are laws prohibiting the blocking of sidewalks and doorways. And though the City Council won't weigh in on the idea for at least another month or two, that hasn't stopped many residents from voicing their displeasure about the proposal at the council's biweekly meetings.

"It's clear that this legislation does, de facto, criminalize panhandling, if not in the letter of the law, then in the spirit," said Catherine Simon, reading from a prepared statement at a recent council meeting.

Simon and about a dozen other city residents, many representing the Freedom Center's "Poverty Is Not a Crime" campaign, spoke out at the council's Oct. 2 meeting against the proposed ordinance. Some displayed signs for television cameras that read, "Out of sight, out of mind," and "Stop the anti-panhandling ordinance."

Chanting protesters with signs were out in force again Thursday night, with about 20 gathered outside the Puchalski building before the council meeting.

City officials and other supporters of the ordinance insist the rules would not ban panhandling.

"I want to be very clear about this. We're not saying that people can't panhandle," said Mayor Clare Higgins. "We are saying they need to do it in a reasonable time, manner and place. There's no desire here to infringe on First Amendment rights."

The city has grappled with the issue of panhandling for years, and has led numerous campaigns to encourage people to give money to organizations that help the needy instead of directly to panhandlers. Those campaigns have come and gone, yet city hall routinely receives complaints about panhandling from citizens, homeless advocates and business owners.

The ordinance would prohibit aggressive panhandling, soliciting for money at nighttime and making false or misleading statements, and would include a host of other regulations, such as the distance a panhandler must be from certain structures. Some of those downtown areas include outdoor seating for restaurants, ATM machines and parking lots.

Violators would face fines starting at \$50 for first-time offenders, followed by a \$100 penalty for a second offense, \$200 for a third offense, and \$300 for fourth and subsequent offenses.

Teri Anderson, the city's economic development director, said the ordinance is being revised based on discussions at meetings throughout the summer, including input from William Newman, who directs the western Massachusetts chapter of the American Civil Liberties Union.

Newman maintains that soliciting for money is a constitutionally protected activity and that there is no difference under the law between soliciting for an organization or for oneself. He said the numerous restrictions on where a person could legally solicit money would leave few areas downtown to do so and would violate First Amendment protected speech.

"I'm still extremely concerned about the way in which the various versions of this seem to violate First Amendment protection," he said. Additionally, many of the restrictions under the aggressive panhandling category are already against state and federal laws. The city has a right to have its own laws against aggressive panhandling, but simply having the law doesn't make enforcement easier, Newman said.

Business perspective

Judith Fine, who owns Gazebo at 14 Center St., points out that the ordinance is an attempt to regulate, not ban. She said that supporters have no intention to prohibit panhandling, even if they could. She - and others interviewed - maintain that many panhandlers are not homeless, nor do they want to seek the assistance of the many agencies in the city set up to help those in need.

"No one wants anyone to be hungry, homeless or without clothes," she said. "This is about aggressive panhandling."

Panhandling consistently remains the top issue for downtown business owners. At two informal meetings of a recently formed subgroup of the Greater Northampton Chamber of Commerce called the Downtown Business Community, business owners overwhelmingly cited panhandling as an issue that needs attention, said Fine. She said these business owners are responding to complaints from customers.

"It's the customers who are telling us that they are intimidated and don't want to come downtown," she said. "Business owners are responding to the customer complaints and the intimidation of panhandling."

Valerie Wilder, who owns Everything Optical at 104 Main St., agrees. She and Bill Brough, who owns Jewelry Design in the same Main Street space, feel that city officials have done little to address the problem over the years. Wilder said she's seen panhandlers yell at passers-by who don't give them money and many customers of the two shops say they don't want to shop downtown because of the tactics of panhandlers.

"This has been a thorn in everyone's side," Wilder said.

That said, Wilder and Karen Hulhut, manager at Jewelry Design, are skeptical the new ordinance will be effective.

"This ordinance won't do any good without enforcement," said Hulhut, noting that police are slow to respond when she calls to complain about panhandlers or street musicians violating the rules.

Supporters believe the new ordinance would give police the enforcement measures they need to take steps to stop the practice.

Opponents note that laws to stop aggressive panhandlers already exist, and they argue that panhandlers who harass the public are a small minority.

"There are laws already on the books," said Michael Pellerin, a street musician who lives at 222 King St. "Will cheerleaders or church groups have to follow these rules? If you are going to make the rule, make it for everyone."

While many business owners have been pushing for panhandling ordinance for years, not all shop owners are in favor of the change.

Business owner Rachel Hannah questioned whether more police presence against panhandlers is a message the city wants to send, and called for more dialogue with panhandlers.

"This is a discriminatory law based on class," Hannah said.

Western Avenue resident Loren Halman made a similar point.

"Are we a democratic city or a classless city?" he said. "Does Main Street rule? I support community need over business greed."

Simon, meanwhile, said the homeless and the poor are already the victims of economic violence.

"These homeless people are surviving the best they know how," she said. "Meanwhile, those who wish to stop panhandling do not have altruistic goals in mind - the businesses of Main Street and the politicians that support them would simply like to clear the streets for the tourist trade."

Chad Cain can be reached at ccain@gazettenet.com [1].

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