

“ I disapprove of what you say, but I will defend to the death your right to say it. ”

LETTERS TO THE EDITOR

Here are the facts on the COA levy

To the Editor:

We read with interest a letter published in the *Gazette* recently from Mr. Richard Jackson. We appreciate his letter because he raised issues about the proposed Senior Services Levy that may be on the minds of others and this provides the opportunity to respond directly and to provide another point of view.

Mr. Jackson raised two important issues: levy timing and cost, so here are the facts.

It is certainly not the Council for Older Adults' preference to be seeking approval of a tax levy during a time when the economy is as bad as it is today. The fact is that by state law senior services levies can last no longer than five years. Our last operating levy was approved in 2003 and it is now five years later. We do not have the option of waiting until the economy improves. If the senior services levy is not approved this year, there will be no money for services in 2009 and that would be a tragedy.

Our board had planned to be on the ballot last March, but due to a snafu at the county this became impossible. That left the organizations board the only choice to seek voter approval in August or November. Frankly, given the historic nature of the election this fall we feared that we would not have the ability to break through all of the competing communications from the political candidates. We want to educate voters about what we are doing with their money and the importance of senior services and we felt that August would give us the best chance to raise awareness. When the City of Delaware decided to place an issue on the ballot in August as well, this meant that the cost of this election would be shared. We agree with Mr. Jackson that the timing stinks, but we do not have the luxury of waiting until the economy improves. We feel a very strong commitment to doing everything possible to ensure that vital services for older adults will be available next year.

Concerning the issue of the levy cost, Mr. Jackson recommends that we simply "tighten our belt." This assumes that our belt is not already tightened. One need think about only one of our services, Meals on Wheels, to understand that we have been hit hard by rapidly rising costs of food and gas. We cook more than 16,000 meals each month and we drive 732 miles each day just to deliver these meals to homebound

clients. Our budget is very sensitive to the impact of today's economy.

We are requesting public support for an additional \$9.95 per year per \$100,000 of property valuation. I think it is safe to say that no one on our board wanted to ask for even an additional dime if it were not totally necessary. That is why we have been so careful about how these funds are spent. The Council has been operating without a millage increase since 1999 and during that time our clients have more than doubled

It would be great if we could continue to meet the needs of our rapidly growing older population from 2009 to 2013 with no additional funding than we have today, but that ignores an important reality. The numbers of frail and vulnerable seniors who need in-home care will continue to grow rapidly and we have no control over this fact.

The premise on which our community has supported in-home services is that people want to remain living in their own homes and that it is much less expensive — for all of us — when these services enable the older adult to avoid nursing home care. We already know how much the in-home care will cost and we have very good data to project the number of additional people who will need these services next year and beyond. We have requested only the amount of money that we believe will be needed in order to avoid putting frail people on a waiting list.

The Council has a hard earned reputation for being well governed, fiscally responsible, for providing high quality care and for delivering on its promises. We have always been straightforward with tax payers when it has come to saying what it will cost to ensure that in-home services will be available to those in our community who need them.

Now, especially is not the time to be penny wise and pound foolish. We are seeking less than an additional three pennies a day to ensure that current services remain available to those receiving them and that these same services will remain available to those who need them in the future. If history is any guide, the economy will turn around and we only hope that it will not be long. In the meantime, we ask that you support us so that we can be there for you in the future.

Respectfully,
Peter Shears, board president, Council for Older Adults

What others are saying

The (Findlay) Courier, on sanctions against Cuba:

Einstein is supposed to have defined insanity as "doing the same thing over and over again and expecting different results." Perhaps with that in mind, the European Union has decided to lift its longtime sanctions against Cuba, hoping to encourage the island to loosen up politically and implement reforms. ...

Predictably, the U.S. opposes this European outreach to a Communist dictatorship that routinely hosts and cooperates with other enemies of freedom like Venezuela's Hugo Chavez and Iran's Mahmoud

Ahmadinejad. ...

It's become apparent that our policy is ineffective. While we hold out for democratic change, the rest of the world is warming up to Cuba, particularly since Fidel Castro's retirement. ...

It's not only insane, it's hypocritical in the extreme to sanction Cuba when the U.S. has full diplomatic relations with communist China, where the Olympics will be held in August. ...

Increased contact with the free world has been gradually pushing China toward progress on human rights and freedom. The same could be true of Cuba, given a chance. ...



Carlin left his mark on Constitutional law

"If there were any reason to believe that the [FCC's] characterization of the Carlin monologue as offensive could be traced to its political content, First Amendment protection might be required."

— Justice John Paul Stevens
"Unlike other intrusive modes of communication, such as sound trucks, the radio can be turned off and with a minimum of effort."

— Justice William Brennan



David Hejmanowski
Case Study

Comedian George Carlin passed away this week. While most will remember him for his stand-up talents, lawyers will remember him for his impact on Constitutional law. In fact, Carlin died nearly 30 years to the day from a Supreme Court decision that he inspired.

In 1972 Carlin released an album entitled "Class Clown" which contained the skit "Seven Words You Can Never Say on Television" (or in a newspaper column about the skit). Later that year Carlin was arrested for disturbing the peace while performing the skit in Milwaukee. The following year, Carlin modified the act into another bit called "Filthy Words" which appeared on his album "Occupation: Foole."

This latter routine was played over the FM airwaves on Oct. 30, 1973 by WBAI radio in New York, a standard broadcast station. The routine was not played in the evening hours, but at two o'clock in the afternoon. A man who had been traveling in his car with his young son, wrote a letter to the Federal Communication Commission complaining that he had found the words to be offensive and that his son had heard several before he was able to change the station.

Because the man had turned on the broadcast midway through its twelve minute duration, he missed the warning at the beginning that the program contained, "sensitive language which might be regarded as offensive to some." The FCC decided that the broadcast was "patently offensive though not necessarily obscene" and warned that the station could be punished if it played the album again.

For its part, the station's parent company, Pacifica Foundation, said that Carlin was a "significant social satirist" and compared him to Mark Twain. Pacifica said it had received no other complaints and that Carlin was not simply swearing, he was "merely using words to satirize as harmless and essentially silly our attitudes toward those words."

Pacifica appealed the decision and the case

eventually went to the United States Supreme Court.

The nine members of the Supreme Court could not agree on whether the First Amendment prohibited the FCC from regulating Carlin's speech. They could not agree on whether the FCC could regulate the time of day in which Carlin's comedy could be broadcast. They could not agree on whether the speech was obscene or simply indecent — a precise legal distinction. They could not even agree on whether the case was more like a pig in a parlor or like burning down a house in order to roast a pig inside (actual language used by Justices Stevens and Brennan).

But the court did decide, by a vote of 5-4, that the FCC was empowered to regulate the speech. Three justices found that Carlin's language was indecent and that its broadcast was of a distinct character in that radio waves are "uniquely accessible to children" and that people have a right not to be "confronted" with such language in their own homes by the broadcasting of such words into their radios. The other two justices in the majority said that the only problem was the timing of the broadcast and the fact that it was likely to be heard by children. They objected to any weighing of whether Carlin's words had societal value or not.

The dissenters said that it was ridiculous to say that someone was assaulted by radio waves coming into their home when all they have to do is reach out and hit the off button. They said that while the Justices in the majority might not like Carlin's words, other people might not mind them at all. They also noted that barring the words would prevent the broadcast of Shakespeare, Hemingway, Chaucer and the Nixon tapes. They concluded that since the words were not obscene, the FCC could not bar them.

All of the justices agreed that the FCC could not censor speech in advance and that it could not seek to censor or suppress political speech. And while the seven words might have been too offensive for WBAI, they aren't too offensive for the court record. The entire Carlin monologue, as broadcast on WBAI, is attached to the Supreme Court decision as an appendix.

David Hejmanowski is a Magistrate at the Delaware County Probate/Juvenile Court and a former assistant prosecuting attorney.

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