



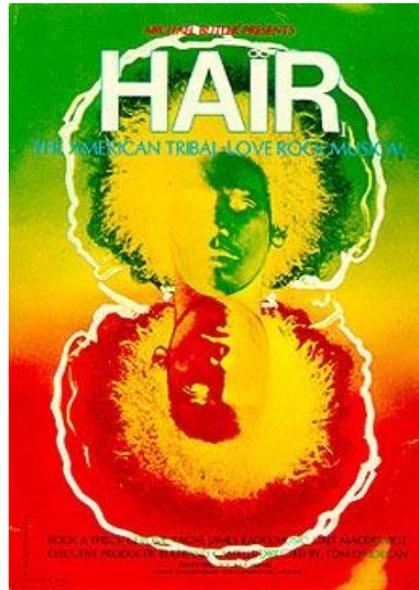
Public Forum Workshop
February 27, 2015



To establish the procedures and determine the conditions for public use of the City's common areas, rental spaces and rights-of-way.



The Issue



The City of Chattanooga refused to rent out its auditorium for a production of the then controversial musical *Hair* because of concerns about the content, especially the possibility of public nudity or obscenity.

The United States Supreme Court criticized Chattanooga officials for making unfounded assumptions about *Hair* incorporating nudity and obscenity. Southwestern Promotions, Ltd v. Conrad, 420 U.S. 546, 561 and n.11 (1975)

Thursday 14th August, 2014

Councilman Tom Leonardo has a problem with Insane Clown Posse in Fort Myers using a city facility.



“I Googled Juggalos and did not like what i saw”. “I don’t know that there’s a place for that in Fort Myers using a city facility,” said Leonardo. “I think this goes way beyond what Zombiefest was all about.”



City facilities available for public use

- City Hall (including the building, grounds and parking areas)
- Morgan Family Community Center
- George Mullen Center
- Fire Station 81
- Educational Center
- Scout House at Dallas White Park
- Warm Mineral Springs
- Music Suite (North Port H.S.)
- Right-of-way



Representative Sampling of Regular Renters or Users of City Facilities.

- Veteran's Administration
- North Port Chamber of Commerce
- 1199 Service Employees International Union
- Awaken Church
- North Port Democratic Club
- North Port Republican Club
- Bahia Faith Church
- Knights of Columbus
- Jacob's Well Church



The Issue:

The City has no written rules, regulations or policies governing the public's use of city facilities.

- Facility Rental Agreement (Copy in back-up material)
- Appendix A of the City Code for the City of North Port – City Fee Structure.
- § 53-265 of the Land Development Code provides for temporary uses and special events citywide.



The City has three options:



1. It can allow all groups and messages



2. It can prohibit all groups and messages



3. It can set reasonable restrictions that are viewpoint and content neutral.







“[T]he First Amendment does not guarantee access to property simply because it is owned or controlled by the government.” United States Postal Service v. Greenburgh Civic Association, 453 US 114, 129 (1981).



“When the State establishes a limited public forum, **the State is not required to and does not allow persons to engage in every type of speech**. The State may be justified ‘in reserving [its forum] for certain groups or for the discussion of certain topics.’ Good News Club v. Milford Central School, 533 US 98, 106 (2001), quoting Rosenberger v. Rector and Visitors of Univ. of Va., 515 US 819, 829 (1995).



“The restriction must not *discriminate against speech on the basis of viewpoint* [citing Rosenberger] and the restriction must be ‘reasonable in light of the purpose served by the forum.’ Id., at 106-107, quoting Cornelius v. NAACP Legal Defense & Ed. Fund, Inc., 473 US 788, 806 (1985).



The draft policy in the materials borrows from 3 existing policies:

- Franklin County Courthouse Policies and Procedures (January 12, 2015)
Freedom From Religion Foundation, et al. v. Franklin County, Indiana
Case No. 1:14-cv-02047-TWP-DML (2014)
- Bay County, Florida Board of County Commissioners Northwest Regional Library System Meeting Room Use Policy (August 2014)
- Fairfax County, Virginia's Government Center Use Regulations (June 25, 2009)
Warren v. Fairfax County, 196 F.3 186 (4th Cir. 1999)

IN SUM: DRAFT POLICY provides:

A. COMMISSION CHAMBERS. Commission Chambers are available for use by the City Commission and City Boards and Advisory Committees.

B. CITY HALL MEETING ROOMS. City Hall meeting rooms are available to City, County, State, or Federal Agencies or community groups for non-commercial purposes.

C. CITY HALL GROUNDS (Including the building, grounds and parking areas) City Hall grounds are available to activities sponsored by city departments; celebrations, community events; cultural, educational, and historical activities; displays, demonstrations, exhibits, marches, rallies, press conferences, speeches, and vigils related to government or public issues; memorial services, performances, wedding ceremonies, and other expressive activities.

D. GEORGE MULLEN ACTIVITY CENTER, MORGAN FAMILY COMMUNITY CENTER, SCOTT HOUSE, WARM MINERAL SPRINGS, FIRE RESCUE TRAINING ROOM, THE FAMILY SERVICE CENTER, THE EDUCATION CENTER. - Priority in the use of meeting rooms will be given to City sponsored events and programs. When not required for City use, meeting rooms may be made available to City, County, State, or Federal Government agencies or private and business groups for commercial and non-commercial purposes.

E. NEWSRACKS - Board of Commissioners will prepare a map indicating the areas available for News racks. The areas designated will be no larger than 3' wide by 5' long. No individual rack will be any larger than 2' wide by 3' deep by 4' tall. The maximum number of racks that can be accommodated in any one location is 6. No particular organization will be issued more than one space.



Fort Myers Councilman Tom Leonardo