



Topless transgenders cause a stir

Indecent exposure incident underlines 'ridiculous' standards

By Wallace McKelvey • Staff Writer • June 9, 2010

REHOBOTH BEACH -- An indecent exposure incident that caused a stir in the city and made national headlines has called attention to the contradictory legal status of transgendered individuals.

Police Chief Keith Banks said officers were called to the beach near Queen Street at about 4:40 p.m. May 29, where several individuals with male genitalia and breast implants were standing topless.

After officers explained their behavior was disruptive to other beachgoers, Banks said the individuals covered up and no citations were issued.

"If they identify themselves as women, we respect that," he said. "But if they choose that gender, they should follow that gender's rules."

Steve Elkins, executive director of the lesbian, gay, bisexual and transgender community organization CAMP Rehoboth, said the individuals used common sense in covering up, but the incident reflects a larger dichotomy between what's acceptable and what's not.

"Why should an obese man be given more leeway than a woman in that situation?" he said. "I think it's ridiculous."

While the transgendered individuals may consider themselves female, Banks said they are legally classified as male. Had they not voluntarily covered their breasts, he said the officers would not have been able to charge them with indecent exposure.

"That's why no arrest was made," he said. "(The officers) simply asked for cooperation."

It's a situation that reflects not only Rehoboth Beach's ordinance, but state and federal laws, Banks said. The only alternative would have been a charge of disorderly conduct.

"It's kind of a catch-all, but it's not the type of thing we like to do," he said. "I'd much rather everyone work together."

Currently, city code states that females over the age of 5 shall not wear a topless bathing suit or fail to cover their breasts. Men are permitted to expose their torso, but not their genitals or buttocks.

If a person decides that their gender is different from the one they were born with, Elkins said they should be recognized as a member of that gender, both by society and the law.

"They can't qualify as a woman until they've gone through a complete sex change," which would entail sexual reassignment surgery on the individual's genitals, he said. "That's the problem. Until the laws don't discriminate based on whether you're male or female, we'll have these problems."

Elkins said he does not believe the individuals were purposefully flouting a "gray area" in the law, but were having a good time and forgot the social norms.

"It certainly wasn't done as an in-your-face protest," he said. "They wanted to have a nice time, which is why they were gracious enough to understand (they needed to cover their breasts)."

Douglas Marshall-Steele, who operates the LGBT

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civil rights website TowardEquality.org from his Milton home, said the incident reflects the vulnerable position transgendered people hold in society.

While the individuals should have conformed to the social conventions of the women they are, he said transgendered people in general have a rough road to travel.

"I do feel that's a grave problem in America," he said. "We don't interact with transgenders according to the gender they perceive themselves to be."

And while the state passed a sexual orientation-based nondiscrimination law last year, Marshall-Steele said the same has not been done for gender identity.

"I feel that gender identity should have been included when the bill was passed," he said. "Right now, they're totally vulnerable in the state of Delaware to discrimination."

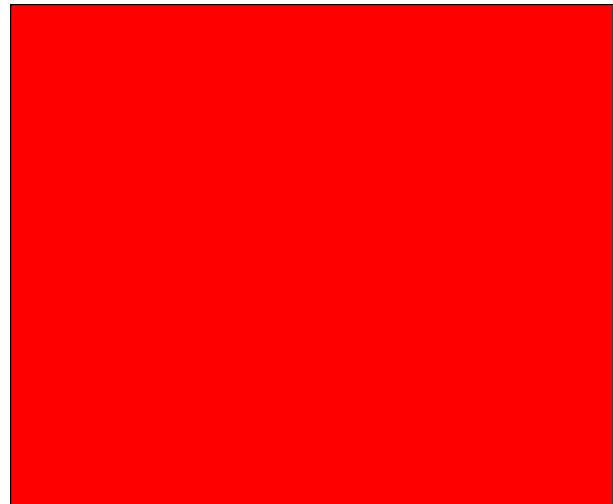
Commissioner Kathy McGuinness said she is unaware of any plans to alter the city code. She believes the City Council will address the issue if it becomes a recurring problem.

"They were looking for attention," she said. "Clearly, they got it."

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