Book ’em, Danno: Illegal Cupcake Sales in New Castle, NY

Many stories in vogue these days involve overzealous politicians caught in egregious attempts to apply the law. On a local scale, one of the latest of these attempts occurred last month in New Castle, New York, when two middle-school students had the police called on them by a town councilman. Their crime? They were selling homemade goods for $1.00 apiece at Gedney Park — cupcakes, cookies, brownies, and Rice Crispy treats which they had baked themselves.

The two 13-year-old boys, Andrew DeMarchis and Kevin Graff, had intended to begin earning money toward the eventual purchase of a restaurant with the help of two other boys. With the optimism of youth, they felt they could accomplish this with enough sales over enough years. Unfortunately, the young entrepreneurs had no idea that a permit might be necessary to conduct these sales at a public park.

Enter, stage left, Town Councilman Michael Wolfensohn. According to The *Journal News*/LoHud.com:

> Their first day was wildly successful, the boys said. They netted $120, of which they invested $60 to buy a cart from Target and added water and Gatorade to their offerings on their second day, the next Saturday, Oct. 9.
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> After about an hour of brisk business, during which DeMarchis and Graff … said they made $30, police arrived at their stand and asked them to shut it down.
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> “The police officer was extremely pleasant. He said he was sorry to have to do this, but that he was following up on a report filed over the phone by a Town Board member,” said Suzanne DeMarchis, Andrew’s mother, who was called to the scene. “Kevin was so upset, he was crying all the whole way home. He was worried if he was going to get arrested or have a criminal record.”

Council member Wolfensohn, who had called the police, later stated, “All vendors selling on town property have to have a license, whether it’s boys selling baked goods or a hot dog vendor.”

The *Journal News* article also explained:

> While a New Castle parks use permit requires a $1 million certificate of insurance and a fee ranging from $150 to $350 per two hours, New Castle Recreation and Parks Superintendent Robert Snyder said permits are given on a “case-by-case basis.”
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> “If it’s the Girl Scouts selling cookies or the local youth organization raising money for charity, the fee can be waived,” Snyder said. “But if Sally and Judy wanted to make money to go to the movies,

> there might be a charge, and their parents would have to be involved."
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> More importantly, the parks department needs to be informed, he said.
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> "We need to know who is in the park and what they are doing. What if there was work going on that was dangerous?" Snyder said. "But I do understand why parents would think they can do this. People may not be aware that they need a permit."

A local paper, the *Chappaqua-Mount Kisco Patch*, observed that the story had taken on a life of its own, reaching not only outlets in New York City but also the Associated Press and even the *Telegraph* in Britain.

In retrospect, Councilman Wolfensohn later issued a written statement expressing some regret: "The permits are issued to protect both the vendors and the Town. In hindsight I should have gotten into my car and gone back to the park to speak to the boys but I felt the policeman would handle it appropriately, better than I could, as he did."

All the attention has had a negative impact on everyone involved, especially Wolfensohn's family. Kevin Graff's mother, Lauren, is now hoping the matter will be dropped. It is a small town and the councilman's children attend school with her children. As for her son's plans of bake sales and restaurants, she notes, "they are on hold."

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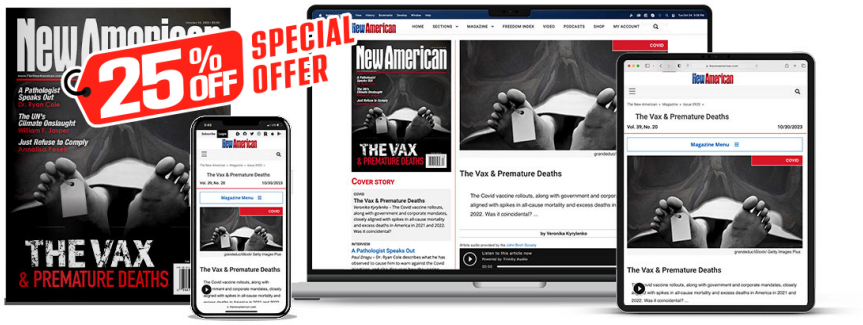

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