

Fire tax election call ruled valid

An assistant county counsel has rejected arguments made by an Aptos resident that the Aptos fire directors acted improperly in adopting a special fire service fee ordinance.

The ordinance will now go to a special election June 7 for voter ratification, acting Fire Chief Al Forbes said Monday.

The ordinance, if approved by two thirds of the voters at the June election, will allow district directors to impose fire service fees that could be as much as \$80 a year for single family homes, \$50 for mobile homes, and up to

\$250 for businesses.

Directors would be allowed to impose the fees only if the state cuts back on the amount of "bailout" funds allocated to the fire and other special districts in the state.

Assistant County Counsel Jonathan Wittwer made his rulings after the district received a letter, dated March 2, from Henry H. (Hap) Hasty, questioning the legality of the procedures used by the district board of directors in adopting the ordinance in February.

Hasty complained that the ordinance had not been "approved as

to form" by the county counsel's office, had not been dated, had not been published in a local newspaper before adoption, and had been amended by the board at a special meeting.

Wittwer, in a 2¼-page letter, dealt with each of Hasty's complaints.

Wittwer said the ordinance had been drafted and approved by the county counsel's office.

It doesn't matter that the ordinance isn't dated, Wittwer said. There is no legal requirement for such a date, and the minutes of the board suffice to date the ordinance.

The critical point is the effective date of the ordinance, Wittwer added, which is June 7, if the ordinance is approved by two thirds of the voters.

So far as publication is concerned, Wittwer said state law is vague on whether an ordinance be published before or after it is adopted, but Wittwer strongly recommended that the district publish the ordinance immediately.

The special meeting held by the fire board on Feb. 24, Wittwer added, was held in

accordance with the provisions of the state Ralph M. Brown Act. He said there is no question that a board that has the power to adopt an ordinance has the power to amend the same ordinance.

"In conclusion, it is our opinion that the district has acted properly in proposing the fire protection fee ordinance to the voters for approval," Wittwer said.

"If Mr. Hasty desires to challenge the placement of this election on the June 7, 1983 ballot, he would be well advised to do so immediately."