

No candle 'busts' on Christmas Eve

By BOB SMITH

No on-site inspections of churches will be made on Christmas Eve this year by the Aptos fire department.

The department's crack-down last year on the use of hand-held candles during the Christmas Eve services at two Aptos area churches resulted in statewide notoriety for the department, but no legal sanctions against the churches involved. Phil Harry, then District Attorney, refused to prosecute the churches for violations of the state's Title 19, saying he believed it was an infringement on the federal Constitution's guarantees of

freedom of religion.

Aptos Fire Chief Nick Baumgartener told his board of directors Tuesday night that he will not order the inspections this year.

"At this point," he said, "I do not plan to make an inspections."

But he added he has urged the pastors of the churches involved to take some safety precautions.

Included would be cautionary announcements that the use of hand-held candles is extremely hazardous, and also recommending the posting of one church member with a 2½-gallon

water fire extinguisher in case a fire accidentally starts.

The ban against the use of hand-held candles "in places of public assembly" is written into Title 19 of the California Administrative Code, and also in the Uniform Fire Code adopted by the Aptos fire district.

Baumgartener said he contacted State Fire Marshal Phil Favro, asking for a ruling on the enforceability of the state law.

"The state fire marshal does not condone the use of hand-held candles," Baumgartener told the fire commissioners. And, he added:

"It is the responsibility of the local enforcing agency (the fire department) to uphold the law.

"This local agency is not out of step in enforcing it, but maybe other agencies (district attorneys and judges) are in not backing us up," Baumgartener said, paraphrasing the state fire marshal.

Baumgartener said he also called Los Angeles city officials who issue more citations for public assembly violations than any other department in California.

"They told me we probably could not get a citation past the district attorney's office, and in some cases, the judges there failed to act on a citation."

Baumgartener said he then contacted the local District Attorney's office, and added:

"The District Attorney, if necessary, will talk with people who are having candle light services and try to talk them out of it."

One problem facing local fire departments is a recent civil damage case in Marysville that held fire departments and other public agencies responsible for not notifying the public when a hazard exists, and someone is injured or killed.

"The District Attorney felt we would not be in trouble," Baumgartener told his board.

"I told both pastors the responsibility was theirs," Baumgartener added.

In another matter, the fire commissioners were told a warning notice will be posted at the Bay View Hotel by the fire department, warning the public and residents there of potentially hazardous conditions inside the historic old building. The hotel was cited recently by the fire department and the Santa Cruz County building department, for undisclosed hazards that exist in the building. Repair work, reportedly, is now underway. Bill Card, the district's legal adviser, and Baumgartener, will be deciding on the wording of the notice this week, the board was told.

The board also wants to meet with former fire chief Richard Chinn over a \$7,100 bill Howe Fire Apparatus Co. says the district owes for modifications Chinn ordered to an \$86,000 fire engine.

The district board met Tuesday night with two Howe Co. representatives about a long-standing dispute over the absence of a rapid build-up air brake system that was supposed to be installed on the new fire truck.

Federal regulations imposed after the truck chassis was ordered from the Peterbilt Truck Co. mandated an anti-skid brake system for the fire engine, and also specified that a rapid build-up system, standard on most fire engines, could not be added.

Without the rapid system, it takes up to one minute for sufficient air pressure to be built up in the truck's braking system to release the air brakes and allow the truck to move.

Howe representative Bill Childers said, because of the regulations, his company could not install the rapid build-up system, nor could Peterbilt. Howe is now trying to get Peterbilt to refund the money paid for the uninstalled system.

Childer said his company plans to bill the fire district for two items added to the truck during construction, apparently at the request of Chinn.

One extra was a sensor system for the water level of the truck's 2,000-gallon water tank. It shuts down the pumps when the water is too high or too low. That cost \$1,914, Childers said.

Howe, Childers said, also installed a new type of baffle system in the truck's water tanks. This, Childers said, was done at Chinn's insistence and was engineered by the Howe Co. During a test run, the tank ruptured and was replaced with a normal baffled tank. The cost was \$5,176.

"Without talking to Dick Chinn," said acting board chairman Stu Davis, "we are at a loss to know what was ordered and why. But a \$5,100 change would not have been legally ordered without board permission and no permission was granted."