

# Surfing in harbor to remain illegal

By TOM LONG

Sentinel Staff Writer

SANTA CRUZ — Romantic notions and reality clashed Tuesday night as the Santa Cruz Port Commission denied a request by attorney Austin Comstock to allow surfing in the Small Craft harbor entrance under any conditions. Instead, the commission voted to hold a public hearing to consider adding a Port ordinance prohibiting the practice.

"There are certain realities I just can't get beyond," said Harbormaster Steve Scheiblaue. "This is a boat harbor. It wasn't built for surfers."

But it certainly has hosted them for a number of years. And the law prohibiting surfing at the harbor mouth has only been enforced sporadically, despite what Scheiblaue called "literally hundreds of accidents directly due to surfers" between those on boards and those on board.

The controversy peaked with the arrest and subsequent acquittal on a technicality of legendary surfer Harbor Bill Mulcoy, who had evaded

prosecution for surfing the harbor for years until Scheiblaue stumbled across his last name in a surfing magazine last year.

Comstock served as Mulcoy's attorney and subsequently wrote a letter to the commission asking for a re-evaluation of the Port's policy on surfing.

"Consider the history," Comstock told the commissioners at their monthly meeting in the Coast Guard Auxiliary building. "This has gone on for a long time.

"This is a very well-known, man-made wavebreaker out here, and some of the best surfing in California. I'm proposing that there be some recognition of this resource.

"You're really making criminals out of these people and all they're doing is surfing."

Comstock proposed flying a flag at times when it was unlikely that boats would be using the harbor, indicating to surfers that it would be a proper time to hit the water.

Harbor Bill Mulcoy sat silent through the proceedings, but a few

surfers in the audience — who said they could have packed the small room with supporters but on Comstock's advice chose not to — spoke up to agree with Comstock.

"Most mature surfers respect Steve's position on this," one said. "No one wants to get hurt."

"But people come from all around the world to surf this area," he added. "You'll never stop it. It's something that's going to continue to grow."

"Maybe if we can sit down and talk about it we can work something out," said another. "It doesn't hurt to sit down and talk."

But the talk surfers then heard from both boating enthusiasts and the Port Commissioners must have made them feel as if they'd wiped out in their efforts.

"I think it makes as much sense to let a surfer surf the harbor as it does to let skateboarders use Highway 17," said boater Arnold Wechter.

"I don't think you should jeopardize a \$100,000 piece of equipment just so some guy can get his kicks," said another boat owner.

Scheiblaue had outlined his objections to permitting surfing in the harbor in a letter to the commissioners, citing the possibility of lawsuits from injured surfers and boaters, the fact that the harbor is used nearly every day of the year, and the lack of controls on surfers.

When it came the commissioners' turn to discuss the problem there was no dissension.

"Who would control the surfers?," asked Joe Townsend. "There isn't any entity that controls surfers."

"We won't go boating in Steamer Lane if they don't go surfing in our harbor," added J.J. Meehan.

Commissioner Ed Flavell, a senior surfer himself, said that he was initially brought to Santa Cruz by the waves, but still couldn't agree to permit surfing in the harbor entrance.

"The break there is unique," he said. "But it isn't the only one in the area."

After the commission decided that no action would be taken to encourage surfing in the harbor, the surfing contingency walked out of the hall, leaving those in attendance to discuss the next item on the commission's agenda — a new Port ordinance prohibiting surfing in the harbor.

The new ordinance would augment the state laws that harbor officials have been using to prosecute surfers. Under the state law, violators are charged with a misdemeanor, which can carry a fine of up to \$500 and a six month jail sentence. The new ordinance would simply call the offense an infraction and carry a fine of \$100.

After worrying about the proposed ordinance's wording for a few minutes, the commission voted to hold the public hearing needed before it could become law at its next regular meeting on June 24.