

City Council 8-1702

# Local politics take a turn for the 'weird'

## Liquor case from 1914 could affect council bids

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SANTA CRUZ — Longtime Santa Cruz residents don't need to be told that local politics can get very weird.

But it doesn't get much weirder than this: A long-forgotten 1914 dispute about booze sales in Calaveras County could influence the outcome of Santa Cruz's latest City Council election.

Peculiar as it may seem, that 88-year-old controversy about liquor is being dusted off as a legal reference point to resolve a dispute regarding the re-election eligibility of City Council candidates Mike Rotkin and Cynthia Mathews.

First, some background:

Rotkin and Mathews, both former mayors, announced their candidacy last month, pledging a return to politics after a two-year absence. The two of them, along with councilman Tim Fitzmaurice, are the only candidates in town with political experience and widespread name recognition.

But political newcomer Aldo Giacchino, one of 12 candidates vying for three City Council seats, went public Wednesday with claims that Rotkin and Mathews are, in fact, not eligible. Why? Because of a clause added in 1948 to the city's charter.

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ter, stating "no member of the council shall be eligible for re-election for two years after the expiration of the second consecutive full term for which such person was elected."

This has led to a surreal argument in town about what constitutes a year. Is it 365 days? Is there any flexibility? Is there a difference between a political year and a calendar year?

Giacchino said the letter of the law is clear: Since Rotkin and Mathews served two consecutive terms and those terms expired on Nov. 28, 2000, they won't be able to run again until Nov. 28, 2002 — blowing their chances, in his view, at being contenders in the Nov. 5 election.

The city, however, doesn't see it that way. While the city has made no formal announcement denying Giacchino's position, its approach focuses not on the

letter of the law, but what the city considers to be the intent: to keep politicians from running for too many consecutive terms, while allowing them to run again after taking a break for at least one election cycle.

And that is where the musty old case about Calaveras County boozing comes into play. This liquor-related case, appropriately titled "Hops v. Poe," went before the state's Third District Court of Appeals in 1914.

The case resolved whether Calaveras County could hold an election to determine "whether the sale of alcoholic liquors was to be licensed in the supervisorial district."

A general election on this subject was held on Nov. 5, 1912. Apparently the measure flopped, because a second general election on the same topic was set for Nov. 3, 1914. Challengers said that the second election could not be held, according to statutes saying a full two years must pass between any referendum on the same topic.

But the appellate court saw the matter differently and allowed the election to go on as planned. That dust-up over booze happened so long ago that even a clerk at the Calaveras County Historical Society was hard-pressed to give any information Friday. And the historical archives are closed until further notice.

Tony Condotti, Santa Cruz's assistant city attorney, is researching the matter but said the case appears to support the idea that exactly two years don't have to pass for a second election to be held, and that there is a bit of interpretive flexibility here. He said the old case "supports the notion that a statute can either mean 'calendar year' or 'political year' depending on the context."

The 1914 case was cited, to great effect, in 1985, when political contender and former Santa Cruz councilman Joe Ghio decided to run for re-election but was challenged by people who said he was not eligible, for the same reasons that Rotkin and Mathews are facing.

Ghio had left office on Nov. 15, 1983, after serving two consecutive terms. According to critics' interpretations, Ghio therefore could not run on Nov. 5, 1985, because two full years had not passed since his last day of office. In fact, he was 10 days short.

"I had a hell week," Ghio said Friday. "I was hanging in the air, waiting to be on the ballot."

At the time, the assistant city attorney, Neal Anderson, said there is a "possibility" Ghio couldn't run based on the California government code, which defines "a year" as 365 days, with no wiggle room whatsoever. However, Anderson then dug up that musty old 1914 booze citation. Ghio was vindicated and was allowed to run as scheduled.

Ghio said this week that he is "amazed that there is no institutional memory of this."

Rotkin had no comment on the liquor-related case, but called Giacchino's charges a cheap publicity ploy.

He called Giacchino's claims "absurd.

How likely would they have worded it the way they did, to make it sound like (candidates) should wait out one election cycle if really they meant two election cycles?" He also said that if Giacchino did file a lawsuit, he wonders if the candidate will spend more than the \$19,100 maximum for candidates.

"As long as we're throwing around things that are totally wacko, I'll challenge his spending limits," Rotkin said.

Giacchino, who called Rotkin and Mathews "recycled politicians," said he still planned to file suit.

"If years could be interpreted as 'political years,' and if there was flexibility in the use of the term 'year,' this would be reflected in the charter's language," Giacchino said. "There is no approximation here. There is no such thing as a 'political year' in this charter. This is ridiculous."

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