

Capitola council rejects anti-smoking ordinance

By BOB SMITH
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Calling it "vague," "unenforceable" and "discriminatory," the Capitola City Council Thursday night rejected a smoking-control ordinance.

The action came after strong protests from the city's major restaurant owners, who said the requirement for separate smoking and non-smoking areas in restaurants would impose a burden on the restaurants.

Instead, the council said it might consider an ordinance regulating smoking in publicly owned buildings, such as the Capitola City Hall and police department.

Two weeks ago, the council seemed ready to pass an ordinance that would have required restaurant owners and employers to set aside non-smoking areas in their businesses.

The ordinance rejected by the council last week was essentially identical to one approved by the County Board of Supervisors and the city of Santa Cruz.

But restaurant owners argued that they had not seen the demand by the non-smoking public for separate seating.

"If restaurants do not have a non-smoking section and are losing business," Shadowbrook restaurant owner Ted Burke told the council in a letter read by Shadowbrook general manager Charles Halliday, "they will establish one very quickly."

Others argued that the ordinance would create "internal organizational problems."

The smoking control advocates, led by Acting County Health Officer Dr. Arnold Less and Betsy McCarty, director of nursing and chief of public health for the county, argued that secondhand smoke, the cigarette smoke breathed by non-smokers in restaurants, offices and other public or quasi-public areas, was a serious health hazard.

"Three hundred thousand people die nationally (every year) from smoking," McCarty told the council. "But you can't see the carnage.

"The only way to approach this problem is in small bites. This ordinance changes the norm to making non-smoking the norm," she said. "It sets the example for our children and grandchildren," she added.

"We don't believe it is unreasonable to ask people to control when and where they smoke," she added.

American Heart Assn. board member Jim Novotny told the City Council that heart attacks are still the "number one" killer of young adults in the United States.

"The leading causal agent in heart attacks is smoking," Novotny said. "I'm asking you to take a stand and provide a smoke-free environment."

Burke, in his letter to the council, contended that if a smoking-control ordinance was passed, then exceptions should be made for restaurants that install electrostatic precipitators — air filters that clean the air of the smoke particles.

But Novotny told the council: "The last time I went to the Shadowbrook, there was too much smoke."

Asked how he would test the effectiveness of air filtration or ventilation equipment, Dr. Less said he'd probably ask for air sample analyses of the amount of carbon monoxide (CO) in a restaurant.

"We put catalytic converters on automobiles," Novotny said, referring to the national campaign to clean up the environment, "but we don't put anything on cigarettes."

The opposition by the local restaurants, and from Santa Cruz Area Restaurant Assn. president Greg Dunn, took Less by surprise.

He said his department had the votes to pass a county smoking-control ordinance requiring restaurants to set aside 50 percent of their seating for non-smokers. "We compromised with the restaurant association in return for their support in front of the cities," Less said.

The compromise was to not require a specific percentage of non-smoking seats.

Restaurant Assn. president Greg Dunn, owner of the Deer Park Tavern, told the council, "the Restaurant Association, if they had their choice, would have no ordinance at all.

"But if there is to be an ordinance, then the one passed by the county is one we can live with," Dunn added.

Acting City Attorney Don Haile said he was concerned about the vagueness in some portions of the county ordinance, particularly the non-smoking set-aside requirement.

It was that vagueness in the number of seats required for non-smokers in restaurants, that turned Councilman Jerry Clarke, a smoker, against the ordinance.

"Last time, I was in support of this ordinance," Clarke told the other councilmembers. "But our attorney has some questions about the vagueness and I've even found one (vague) section. At this point, I feel there is so much vagueness that it is not going to work, that it is more of a headache."

Councilman Bob Bucher, another smoker, agreed. "You don't have to go to a restaurant or a theater if you don't like (cigarette) smoke," Bucher argued. "But you can find non-smoking restaurants."

Mayor Michael Routh, a non-smoker, said the county ordinance was too vague.

"Instead of an ordinance, you have a philosophical statement. I haven't heard any complaints about smoking in restaurants," he said.

Councilwoman Stephanie Harlan, seeing the ordinance going down to defeat, chided her fellow councilmembers.

"I'm disappointed and think you're missing the point.

"This is an ordinance saying people can work in a smoke-free environment. The people of Capitola, if you polled them, would be in favor of this ordinance.

"The ordinance is not vague — it is open-ended and that was part of the compromise.

REFERENCE