

# Festus is told smoking ban can't go on ballot

By Peggy Scott  
and Patrick Martin  
For the Leader

Festus voters won't see a smoking ban on the April ballot, but the councilman who proposed asking voters for their opinions says he will continue to work for smoke-free restaurants in the city.

Ward 4 Councilman Sam Richards originally called for two public meetings followed by an April vote to collect public input on the idea of banning smoking in Festus restaurants. While the ballot question wouldn't have been binding, it would have given the council direction on what Festus residents want.

However, the Missouri Municipal League says that Festus, as a third-class city with a city administrator, can't put such an initiative issue on the ballot.

Festus City Clerk Kerry Patek got advice from the MML.

"We cannot put any issue like that on the ballot," she said. "The only things we can put on are tax increases or bond issues or things like that."

The only way to impose a smoking ban at restaurants is by an ordinance of the City Council, but Richards said he isn't sure he has enough support on the council. Five of eight votes would be needed.

Ward 1 Councilman Paul Schaffer and Ward 2 Councilman George Vogt have said they oppose legislating a ban on smoking. They prefer to let businesses

owners decide the matter for themselves.

Ward 3 Councilman Kevin Dennis and Ward 4 Councilman Dale Persch have said they want to hear what the people say about the issue.

"I'm certainly not going to let the issue die," Richards said. "It's just going to take more work. A lot of my enthusiasm was that we take this to the people. I still think we need a no-smoking ordinance in restaurants."

Richards said he hopes to go ahead with public meetings in Festus, which haven't been scheduled.

Currently, five Festus restaurants allow smoking: Tanglefoot Steakhouse, Peit Paree, Ruby Tuesday, White Grill and Waffle House.

Richard's proposal would require them to become smoke-free by Jan. 2, 2011, the same day St. Louis County and the city of St. Louis restaurants are scheduled to go smoke-free.

At the Dec. 16 work session, council members engaged in a pointed debate about the proposed ban.

"Why are we doing this?" Ward 1 Councilman Paul Schaffer said.

Richards responded: "Ever heard of secondhand smoke? Is there any other reason to do it?"

Schaffer questioned if the city should legislate business decisions.

"We're telling them how to run their business," Schaffer said. "I've never run a restaurant. I'm not qualified as a councilman to tell a business how to run their business — their private business."

Richards said secondhand smoke isn't a choice. "You can't control it," he said. Richards said the Centers for Disease Control has many studies citing the dangers of secondhand smoke.

Vogt said an ordinance would be a hardship for the restaurants.

"To me, we're targeting five individuals," he said.

He said people who fear secondhand smoke should frequent businesses where smoking isn't allowed.

"If you don't want your children exposed to secondhand smoke, don't take them in," Vogt said.

Schaffer asked why the council can't go ahead and decide the smoking ban.

"Why leave it up to the citizens? Do we not have the cojones to vote?" he asked.

Persch said city government regulates businesses all the time. However, he said, the smoking issue is a bigger question.

"I think it should be left up to the people, not eight personal opinions," he said.

Dennis said he hasn't made up his mind on the issue and would like to hear what Festus residents think about the proposal.

At the Dec. 16 work session, councilmen voted 5-2 in a straw poll to hold a public meeting. Richards, Persch, Dennis, Ward 3 Councilman Bobby Venz and Ward 1 Councilman Jim Collier voted in favor. Schaffer and Vogt voted no. Ward 2 Councilman Mark Potratz was absent.



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