

Truce in sight in long-standing bureaucratic squabble

By BUD O'BRIEN

Santa Cruz County's Civil Service Commission will probably decide next month whether it considers George Newell qualified to serve as the county's administrative officer.

Newell has been the "acting" CAO for more than three years. During that time the Civil Service Commission has adamantly refused to decide on his qualifications because of a disagreement between the commission and the Board of Supervisors over the interpretation of the law dealing with the appointment of a CAO.

That law, everybody agrees, gives the commission the power to determine whether or not an individual or individuals are qualified to serve as CAO. But, says the Board of Supervisors, that's the limit of the commission's powers in the CAO selection process.

In other words, the board maintains — with

the support of its legal advisor, the county counsel — that the commission is empowered to determine whether Newell is qualified to serve as CAO, and nothing more. And, the board notes, the qualifications needed for the job are themselves spelled out in the law, so that the commission's prerogatives in that regard are also considered by the law.

That's just a misreading of the law and its intent, the commission says. The commission interprets the law to mean that it has the power to determine the procedures for selecting a CAO — whether it be by open recruitment, etc. — and to screen applicants, then to submit the list to those qualified to the board.

The supervisors have made it abundantly clear that they will not accept an interpretation that takes from their hands the responsibility of choosing the CAO. As a result, both sides have

come up with suggestions for "clarifying" the law.

Not suprisingly, the commission's "clarification" would give it in clear language the power it already claims to have, while the board's "clarification" would clearly limit the commission's role to that of passing on the qualifications of a CAO candidate chosen by the board.

Meanwhile, because of a general feeling that acting CAO Newell has been unfairly caught in the middle of this bureaucratic feud, the commission has agreed to separate his status from the hassle and make a decision on his qualifications.

(The commission, ironically, is appointed by the Board of Supervisors, with each supervisor making an appointment.)

The commission didn't make that decision at its September meeting, held last Wednesday, but indicated it probably will at its Oct. 13 meeting. One of the five commission-

ers, Gaylord Noblitt, was not present last week and in a letter pleaded with his fellow commissioners not to take any action on the Newell appointment until he could be present.

Noblitt, a Watsonville realtor who was first appointed to the commission by the late Pajaro Valley Supervisor Cecil Smith Jr., has been the most vocal, if not necessarily the staunchest, advocate of the commission's side of the argument through the years. And, despite the fact that the commission purports to be motivated in the dispute solely by legal considerations, Noblitt hasn't hidden his disdain for what he believes to be the "big government" tendencies of Newell.

Noblitt has told newsmen in the past that he believed Newell not only lacks the qualifications for the post, but that he believed the acting CAO to be too far to the left politically for his taste.

In his letter asking the commission to delay any

decision on Newell yesterday, Noblitt made it clear that his mind hasn't changed, despite the fact that in his 3½ years as acting CAO Newell has won the support of all the supervisors, liberal and conservative.

"George's abilities are in serious question," Noblitt wrote, noting there were "several Grand Jury reports" critical of the CAO, and the fact that Newell presided over "the largest budget in history, yet the county is 'broke.'"

Commission Chairman Ron Berry, who was appointed to the commission by Marilyn Liddicoat when she was the Midcounty supervisor, has sided with Noblitt on the issues, though in a more circumspect manner. Berry gave no indication last week how he felt about Newell, except to ask that confirmation of Newell's academic credentials be brought to the commission at its next meeting.

Berry also said he'd gotten some telephone calls from people who had criticisms of Newell and said he'd asked them to put their complaints in

writing.

Commissioner Kathy Beiers interjected, however, that it was not the commission's job to pass on the day-to-day performance of Newell, but only on his qualifications. She said complaints about his performance should be addressed to his bosses, the supervisors. The commission agreed that it should not serve as a public forum for complaints about Newell's performance, but that it would receive letters from people who wanted to comment on his qualifications.

As for the question of coming up with a new law acceptable to both sides, there was some indication a compromise could be reached.

Chairman Berry said it was his understanding that hard-liner Noblitt would not agree to any substantive change unless it was submitted to the voters, who first adopted the civil service system codes nearly 30 years ago.

Berry indicated he was sympathetic to that position, but left open the possibility that he could agree to a compromise short of submitting some-

thing to the voters. Ms. Beiers, who is Supervisor Gary Patton's appointee, said that submitting this issue to the voters would indicate a certain selectivity on the part of the commission, since it had made a number of substantive changes in regulations in the past without deeming it necessary to appeal to the voters in a costly election.

Commissioner Shelley Emerson, who is San Lorenzo Valley Supervisor Joe Cucchiara's appointee (and a lawyer), also seemed amenable to settling the issue without going to the voters.

Indeed, all four of the commissioners present insisted that they weren't trying to cut into the prerogatives of the Board of Supervisors and that they sympathized with the position of the board that it should have hiring-and-firing authority over the CAO, who is the board's chief executive. It was only the disagreement over the law and its intent that kept them from agreeing with the board's position, they said.

If that's so, said Supervisor Patton, who was present to represent the

governing board, it shouldn't be too difficult to come up with mutually agreeable language. But Patton made it unmistakably clear that, while the board was willing to give the commission a role in the certification of a CAO candidate's qualifications, it would not accept any dilution of its prerogative (as the board sees it) to select its candidate or candidates for the office.

In the end, the commission agreed to allow Commissioners Emerson and Jack Samuelson to work with Patton on mutually acceptable wording that would do away with the ambiguity of the existing language in the law.

If they can't agree on such language, the law is likely to remain as it is and the two sides will probably continue to disagree on its meaning. But, since the commission has agreed to pass on the qualifications of the acting CAO, the question will be academic until the time comes to appoint another CAO.

That is, provided the commission certifies Newell as qualified, which seems likely if not certain.