

Mayor selection clouded by court

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SANTA CRUZ — The position of mayor in this beach-and-university town can be considered a small plate of political potatoes.

The mayor doesn't have any special powers, other than presiding over meetings of the City Council, but each year a mayor is chosen and some of them go back for seconds.

The mayor is not elected by voters but is picked by a majority vote of the seven-member council.

The City Charter makes clear the position is one of title. He or she is "the titular head" of city government for all ceremonial purposes and is recognized by the governor for purposes of military law but has no regular administrative duties.

But the selection of a new mayor in recent years has kindled political spirits and underscored divisiveness on the council between "progressives" and "conservative-moderates."

This year's selection — to take place tonight at a meeting of the council — again promises to attract considerable attention and a large turnout is expected.

Tonight's selection has an added political quirk.

The councilwoman who stands next in line for mayor — Jane Weed — has just been declared illegally-elected in a ruling by the First District Court of Appeals in San Francisco.

State appellate justices Friday overturned the 1983 election victory of Weed on the basis her victory margin came from illegal votes cast at UC Santa Cruz precincts.

Justices declared her opponent, Wilson H. "Bill" Fieberling, the winner in place of Weed.

But Weed says she will appeal the decision to the Supreme Court, an action that stays the appellate decision. Until the high court rules, Weed is legally on the council and her votes will count.

Weed's supporters on the council say the court decision has not short-circuited their support for Weed as next year's mayor. They say the court decision was based on a technicality caused by confusing residency requirements in the elections' code.

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Weed's election was challenged by

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supporters of a slate of moderate-conservative candidates, called the All Santa Cruz Coalition. The coalition maintained there were enough illegal votes cast at university precincts to nullify the victory of progressive-candidate Weed and to give it, instead, to Fieberling, a Coalition candidate.

A local superior court ruled for Weed but that decision was overturned by Friday's appellate court ruling.

If the Supreme Court refuses to take the case or upholds the appellate decision, the council's political philosophy will swing toward the right.

Wormhoudt says Weed's challengers "are trying to win

through the courts on a technicality, what they couldn't win at the polling places (and) that's very troublesome to people."

Councilman Joe Ghio, a minority member on the council, said he expects majority-member Weed to be selected as mayor tonight and that his choice, Councilman Arnold Levine, will lose out again.

Levine, the top vote-getter in the 1983 election, was passed over for mayor last November by majority members in favor of Michael Rotkin. Weed was elected to serve as this year's vice-mayor.

Ghio doesn't believe anyone "from my side" will be selected as vice-

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mayor tonight because if Weed is ordered from the council by the courts, the vice-mayor would become mayor for the rest of the year.

Ghio's "side" includes Katy Sears-Williams and Levine, although at times they vote independently of each other.

Ghio said that since the appellate court has declared Fieberling the winner, he should sit on the council until the Superior Court makes its decision. He said the selection of mayor has been "put under a cloud" by the court decision.

Levine also expects a majority-member will be selected vice-mayor to serve with Weed and he expects it will be Laird.

Levine said he wants to be mayor but would vote for Weed "on a second or third ballot" in the spirit of cooperation.

However, Levine doesn't know if he will even be at the meeting. He was in Community Hospital Monday night after an attack of "appendicitis" that turned out to be diverticulitis, a lower bowel disorder.

Weed's supporters rail against the appellate court's order that she pay court costs incurred at the superior court level. Costs are estimated at about \$15,000 for the coalition's court case. Weed said her defense costs in court ran about \$9,000.

The coalition's attorney Tim Morgan said the costs were driven up by Weed's attorneys' demand that all those voters who were challenged had to testify. About 360 witnesses were called.

Commented Wormhoudt: "I can't imagine who would want to run for public office if they thought they would be held accountable for legal

fees from a trial involving people's votes."

In his opinion, Justice James Scott said the illegal voters fell into several categories:

- voters who intended to live on campus but who were living temporarily downtown.

- Voters who left campus housing before 1983 for other local residences, which they intended to leave at a future date.

- Voters who lived on campus in the woods or parking lots, and had not been shown to register in the precincts where they lived.

Wormhoudt said the disqualified voters were "disenfranchised because they were confused by where they were supposed to vote.

"I really hope the Supreme Court takes the case. There are significant issues that need to be taken up."