

**From:** Chris Prevatt [mailto:CLP@ChrisPrevatt.com]  
**Sent:** Sunday, January 06, 2008 5:34 PM  
**To:** Markley, Pat  
**Subject:** RE: Additional Information

Dear Pat,

Thank you for your response to our questions. I hope that your vacation was restful.

Unfortunately, the answers we have received from you regarding this matter seem to raise more questions than they answer.

Of particular note is the statement that only one position was loaned to Supervisor Nguyen's office in June, which was filled by a person for three weeks and then by Ms. Banken starting in August. This directly contradicts CEO Mauk's statement as reported in a Red County/OCBlog story on December 17<sup>th</sup>. Here is the excerpt that I am referencing:

**What Mauk Said**

Here's what Mauk told me:

**His office arranged to loan some positions** -- including the one from HCA -- to Sup. Nguyen **when she first took office. She had no staff and needed to get up-to-speed immediately.** He said it is of the highest priority for the County CEO to ensure the supervisors can effectively serve their districts, and took responsibility for the decision to loan the position to Sup. Nguyen's office.

The HCA staffer who accompanied that HCA position eventually returned to HCA, and the position remained open for a period of time. Mauk wasn't exactly sure of the timing or duration, but thought the position was open for 6-8 weeks during the summer.

Yet you have indicated that only a position was loaned and that no individual from HCA ever accompanied that position. Further, you stated that the position was loaned in June, which is approximately three months after Supervisor Nguyen took office.

I can understand a rationale in loaning a staff "person" to a Supervisor's office to get them up and running, but it defies logic that only a position would be loaned when Supervisor Nguyen had numerous vacant positions already budgeted and that the funding for that position would not be charged to the Supervisor's budget.

Further, I again request an answer **to the very simple and direct question of how much money has been diverted from the HCA budget to support staff**

**for Supervisor Nguyen's office.** I am not asking for the salary data for this staff person. I am asking how much in funds allocated to the Health Care Agency have been spent thus far to support this Supervisor's office? Since the budgets are public, and the staffing allocations are public for board offices, it is reasonable to request disclosure of this information.

I mentioned that your answers raised additional questions. To that end; how many staff members are currently supporting Supervisor Nguyen's office?

You also indicated that the CEO has the authority under Article 6, Sec. 1-2-64 of the County Ordinances to direct that funds from an agency budget be expended to support the staffing needs of another department (in this case the office of a member of the Board of Supervisors) essentially off the books.

I'm unable to find where such authority is delegated in that section of the code. In fact, such authority appears to be a violation of the purpose of the public process of budgeting for a public entity. If funding from one budget can be used to support another budget, then why have budgets at all? The section of County Code that does apply to this matter is Article 6, Sec. 1-2-65 which states:

**Sec. 1-2-65. Limitation upon authority.**

No provision of this article is intended to vest in the County Executive Officer any duty or grant to him or her any authority which is vested by law in any other County officer or employee. Nothing herein shall be construed to delegate to him or her any authority or duty required to be performed by the Board of Supervisors. The County Executive Officer shall have no power to bind, obligate or commit the County of Orange or the Board of Supervisors in connection with any contractual obligation.

Since the budgets for all departments of the County of Orange require the approval of the Board of Supervisors, such actions appear to be expressly prohibited by this section of code.

In response to my questions 6 & 7 you answered:

6. The transition costs were handled in the normal budget process.
7. The position was loaned at the discretion of the CEO and the funding will be handled in the normal budget process.

What normal budget process would that be? Would that be the normal budget process that just eliminated more than 30 positions from the Health Care Agency budget? We are seven months into the fiscal year and this action initially occurred in June of 2007. When exactly was this "budget revision" planned to be addressed?

The Red County/OCBlog story I cited earlier brought up this very valid analysis of the issue here and the problem I am having with the explanation I have received thus far.

As Supervisor Chris Norby has pointed out -- as well as OCEA General Manager Nick Berardino [on Red County Radio](#) -- there's a transparency issue at stake here. Supervisors shouldn't have staff positions that are "off-the-books" so to speak. Unless this practice is nipped in the bud, it can become the camel's nose under the tent, because once one supervisor uses it to augment his or her staff, other board members will likely follow suit over time. Since staff and budget are significant denominations in the political currency of power, such an eventuality is more likely than not. And the rationales being advanced to justify using Health Care Agency funds to underwrite Janet's extra staff position are so elastic any other supervisor could drive a truckload of extra staffers through it.

At that point, a supervisor's public office budget becomes unreliable as a means for the public to determine how much a supervisor is spending on their office operations. You could literally have a situation where a Supervisor shifts funding for some office positions to various county agencies on the pretext of the nature of their issue responsibilities, while claiming to voters to have *reduced* his or her office budget and staff.

I am hoping that there is a simple explanation for the inconsistencies here. It concerns me deeply that the CEO would have the authority to move staff positions and funding for those positions from one budget to another and conceal those actual costs from public disclosure.

I await your response.

Chris Prevatt  
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