

Wingspread initiative won't kill the project, County Counsel says

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SANTA CRUZ — An initiative aimed at killing Palo Alto developer Ryland Kelley's controversial Wingspread Beach project by blocking county financial participation in the development has missed the mark, according to County Counsel Dwight Herr.

Nothing in the ballot measure would bar county involvement in the development if Kelley signs over his lease on the Porter-Sesnon property to the county as a gift, according to Herr.

And, Herr has suggested, supervisors would not be breaking faith with initiative backers if they adopted the measure as a county ordinance, accepted the lease and went ahead with a concession deal with Kelley.

Supervisors must decide Tuesday whether to adopt the so-called "Fiscal Responsibility Initiative" as a county ordinance or put it on the November ballot.

The board's impending decision comes against a background of last-minute wheeling and dealing between county officials and Kelley, aimed in the main at rendering the initiative academic.

County Administrative Officer George Newell indicated today that he was hopeful that supervisors would have the results of those negotiations before them Tuesday.

Asked this morning if he would have a deal to present to the board Tuesday, Newell said, "I think we will, yeah."

Opponents of Kelley's plans to build a condominium/conference center-performing arts facility on

the 66-acre Porter-Sesnon site in Aptos mounted a drive to qualify the initiative for the ballot after supervisors voted 3-2 in April to authorize Newell to negotiate a purchase/lease-back deal with the developer.

Newell was authorized then to negotiate with Kelley for purchase of the developer's 99-year Porter-Sesnon lease. The CAO had proposed that the county purchase the lease and then lease the property back to Kelley, who would construct and operate the Wingspread project at Porter-Sesnon under a concession agreement with the county.

More than 11,400 county residents subsequently signed petitions in support of the Fiscal Responsibility Initiative, which would bar the county from using local or state funds to participate "in any form what-

soever" in Kelley's ambitious project.

With supervisors poised last week to decide what to do about the ballot measure, it was announced by Newell's office that Kelley was considering simply giving his Porter-Sesnon lease to the county.

Pat Busch, a top aide to Newell, indicated then that if Kelley went ahead with the gift it would be possible for the board to both adopt the initiative and go ahead with the CAO's proposed concession arrangement, because no public funds would be involved in the deal with the developer.

Action on the initiative was postponed last week amid warnings from supervisors Gary Patton and Joe Cucchiara — the board's two Wingspread opponents — that such a

deal would be considered "sneaky" by voters and would amount to a "subversion" of the will of initiative petition signers, who, they said, were opposed to Wingspread.

But according to County Counsel Herr, it would be wrong to assume that petition signers were opposed to the development.

Herr, who offered his opinion in a memo to supervisors, said the Fiscal Responsibility Initiative, as written, would block county financial involvement in Wingspread, but would not actually prohibit the project.

Nor would the measure bar county participation in the development if no public funds were involved, he said.

"The initiative," wrote Herr, "does not purport to prohibit the

Wingspread project, nor does it appear to prohibit county participation ... which would not involve the use of public funds ... such as receipt of a gift of a portion or all of the property."

Since the measure was written to prohibit public financial involvement in the project, but not the project itself, said Herr, it could not be assumed that petition signers were opposed to the Wingspread project.

"Any intent of the (initiative) circulators which was not expressed in the initiative ... is irrelevant," said Herr, who suggested it was to be "presumed" that those who signed petitions to get the measure on the ballot knew what they were supporting — a measure aimed at blocking public financial involvement in Wingspread, but not the development itself.

WINGSREAD

REFERENCE

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