

County adopts Wingspread measure

WINGSPREAD

Developer's gift makes effect unclear

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SANTA CRUZ — The Board of Supervisors voted unanimously today to adopt as a county ordinance a ballot initiative aimed at blocking county financial participation in Ryland Kelley's Wingspread Beach project.

The action came as the Palo Alto developer dangled a tantalizing carrot in front of supervisors: an offer of an outright gift of land worth between \$4.6 and \$6.6 million, and millions of dollars in concession revenues, in exchange for final approval of the controversial project.

The board's action was taken on the heels of assurances from County Counsel Dwight Herr that supervisors could, in effect, have their cake and eat it too.

Herr advised supervisors last week that if the Wingspread properties were given to the county, the board could enact the initiative as an ordinance — and avoid the strife and cost of an election — and still go ahead with a proposed concession deal which the ballot measure was intended to stop.

He said nothing in the ballot measure would bar such a deal because the initiative only prohibited the county from becoming financially involved in Wingspread.

The county counsel's opinion was disputed this morning by

Wingspread opponents and supervisors Gary Patton and Joe Cuciara, who said the new ordinance, which is to receive final approval next week, would effectively bar any county involvement in the development.

Kelley wants to build an extensive condominium/conference center-performing arts complex on 72 acres of land which he leases and owns next to New Brighton Beach State Park in Aptos.

The project has already been "conceptually" approved by supervisors, who agreed in March to let Kelley proceed, provided the developer complies with a lengthy set of conditions.

A month after approving the project in concept, supervisors authorized County Administrative Officer George Newell to negotiate with Kelley for purchase of the developer's 99-year lease on the 66-acre



Ryland Kelley walks the Porter-Sesnon property earlier this year.

Dan Coyro/Sentinel

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REFERENCE



Porter-Sesnon property, the main site for the Wingspread project.

Newell had proposed that the county buy the lease from Kelley and then lease the property back to the developer, who would construct and operate Wingspread under a concession agreement.

The CAO said the county would receive more revenue under the purchase/lease-back/concession deal than it would get if Kelley proceeded with his project as an independent developer.

More than 11,400 county residents subsequently signed petitions in support of a ballot measure circulated by Wingspread opponents. Entitled the "Fiscal Responsibility In-

itiative," the measure barred the county from using any local or state funds to participate "in any form whatsoever" in Kelley's ambitious project.

Last week, with supervisors poised to decide whether put the initiative on the November ballot or adopt it as a county ordinance, Kelley said was considering giving his Porter-Sesnon lease to the county.

Indicating that they believed the developer's proffered gift would enable them to get around the ballot measure's restrictions, county officials asked the board to put off their decision on the initiative for a week.

Today, with the deadline for action at hand, details of the gift-concession deal emerged.

Under the deal tentatively worked out between Newell and Kelley, the developer would give the county both his Porter-Sesnon lease and title to the adjacent six-acre Widera property, which Kelley and his brother, William Kelley, own outright.

The terms of the tentative agreement call for Kelley to turn the land over to the county when construction begins on the Wingspread development.

Kelley leased the Porter-Sesnon land from the University of California in 1979 for \$1.75 million. The state currently stands ready to purchase the Porter-Sesnon lease for \$4 million and annex the property to

New Brighton Beach State Park. Kelley says the Porter-Sesnon parcel is now worth \$6 million.

He and his brother purchased the Widera property in 1981 for \$430,000. That parcel has been valued at over \$600,000 by the county assessor.

The land donation would net Kelley a substantial tax writeoff.

Newell said today that Kelley had agreed to deliver both properties to the county "free and clear."

Kelley currently has \$3 million in outstanding mortgages at least partially secured against his Porter-Sesnon lease.

Once the county obtained title to the two properties, the land would be leased back to Kelley, who would pay the county a \$1 million deposit on his lease and construct and operate Wingspread as a concessionaire.

For the first nine years of the lease, Kelley would pay the county a minimum of \$1 million annually in concession revenues.

Thereafter, the developer would pay the county an increasing percentage of the project's gross income, but no less than \$1.5 million annually up to the 20th year of the lease, no less than \$2 million a year for the next 10 years, and at least \$2.5 million annually thereafter.

The Wingspread Arts Foundation, which would own and operate the facility's performing arts complex, would receive at least \$500,000 an-

nually under the proposed agreement.

Still to be negotiated, according to both Newell and Kelley, are the ultimate length of the developer's lease and to what extent, if any, the minimum concession fee payments will rise with the inflation rate.

County Counsel Herr's opinion that the county could both enact the Fiscal Responsibility Initiative and enter into a gift-concession deal with Kelley was denounced as "incorrect" by Wingspread opposition spokesman Mitchell Page today.

The attorney said the measure's language was broad enough to bar any county involvement in the development, including ownership of the land, even if the county spent no money to acquire it.

That view was seconded by Cucchiara and Patton, the board's two steadfast Wingspread opponents.

Cucchiara said Herr's opinion was "legally and ethically flawed."

Patton said that the initiative's "operative language" would prohibit Newell's proposed concession deal, no matter how the county came into possession of the Porter-Sesnon and Widera properties.

Said the supervisors chairman, as he voted with the rest of the board to enact the initiative, "I think what the words mean is what they say."