

Wharf dispute in Capitola heats up

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State officials may get involved in a suit filed against the city of Capitola to halt purchase of the Capitola Wharf concession lease.

In a new development, a cross-complaint alleging invasion of privacy and libel, and requesting \$1 million in punitive damages, has been filed against those bringing the suit.

There is also some question as to whether a March 5 payment of \$41,000 in back rent owed by the leaseholder, Old Capitola Wharf Inc., may change the character of the suit.

Plaintiffs in the suit, however, said the latest developments will not prevent them from taking the city to court on

charges of misuse of public funds.

Capitola attorney and former Councilman Dennis Beltram, and Shirley Pereira, filed suit against the city in December, after the City Council voted 4-1 in favor of buying the lease for \$290,000 from Old Capitola Wharf Inc., headed by Planning Commissioner Rick Karleen.

Also named in the suit were the four council members who voted for the purchase — Mayor Bob Bucher and councilmen Ron Graves, Michael Bucher and Jerry Clarke.

Beltram at the time strenuously objected to the purchase. He contended the city should foreclose on Karleen for two years of unpaid back rent, rather than assuming Old Capitola Wharf Inc.'s debts by purchasing the lease.

Beltram also leveled charges of favoritism against Bucher, Graves, Routh and Clarke. He called the purchase plan a "sweetheart deal" and an attempt by councilmen to save their friend, Karleen, from financial ruin.

Councilmen denied those charges, countering that Beltram filed suit to further his political career. City officials called the wharf purchase a bargain.

However, the city's plans were temporarily halted last month when Santa Cruz County Superior Court Judge Bill Kelsay granted Beltram's request for a preliminary injunction until a trial can be held.

The trial is set for 9 a.m. Monday in Superior Court. City Attorney Richard Manning said Kelsay would probably postpone the trial to Tuesday to see if an out-of-court settlement could be reached first.

Despite the \$41,000 rental payment, Beltram and Pereira say the basis of their suit has not changed.

They estimate at least another \$10,000, and possibly as much as \$20,000, is still owed on the rent.

Karleen has also failed to maintain the buildings on the wharf under the terms of the lease, Beltram said. He also charged Karleen with violating conflict-of-interest laws by doing business with the city while he is employed by the city as a planning commissioner.

Perhaps most important, the city's original proposal was to purchase the lease for \$290,000, out of which the corporation's back rent would be paid the city. Even though the back rent has supposedly all been paid, Beltram said, the city still proposes to pay \$290,000 for the lease.

"What they're doing is, they're playing games," Beltram said, "and they're playing games with the public's money."

Not only is the money of Capitola citizens at issue, he said, but the state's money as well.

Capitola acquired the wharf from Karleen in 1980, in exchange for the 26-year concession lease, because Karleen could not afford to make structural repairs to the wharf. As a public entity, the city was able to obtain a grant, which it used along with city money to complete \$1 million in repairs.

Therefore, Beltram said, state residents also have a stake in the Capitola Wharf. And ultimately, the state owns the wharf because it owns the tidelands on which the wharf is situated.

A decision on whether the state will join in the suit against the city should be made this afternoon, said Jack Rump, assistant chief counsel with the State Lands Commission.

Attorney Manning said the issue of ownership is complicated. The city's obligation to the state to place rent monies in a "wharf account" was not violated, he said.

Nor has Karleen violated conflict-of-interest laws, he said, because he has not made any decisions in his role as planning commissioner that

affected his corporation.

Manning called Beltram's arguments "a simplistic and incorrect characterization," and said the suit is groundless.

He also said the city has the opportunity to profit by \$4,000 to \$5,000 a month from the wharf lease. The purchase price is still \$60,000 less than the wharf and buildings cost Karleen, he said.

Attorney Jeffrey Almquist — representing Old Capitola Wharf Inc. — went much further than calling Beltram's allegations "incorrect."

He threatened in a letter to Beltram to file suit for "malicious" statements made against Karleen. "In your effort to make political hay," Almquist wrote, "you have recklessly trod on the rights of my individual clients without regard to the economic injury that your quixotic quest might cause them."

Pereira termed charges listed in the cross-complaint "legal blackmail thinly disguised."