

Supervisor's lawyer calls city-county deal illegal

AUTO PLAZA-

S.C.

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SANTA CRUZ — Live Oak-Soquel Supervisor Jan Beautz has enlisted a Los Angeles-based attorney who specializes in redevelopment law in her effort to derail a proposed deal between the county and the owners of four Santa Cruz auto dealerships.

The attorney, Murray Kane, has advised Beautz that the county's proposed agreement with the auto

dealers and a side deal between the county and the city of Santa Cruz are probably illegal.

County Administrative Officer George Newell wants to spend \$15 million in Live Oak-Soquel redevelopment funds to help the dealers lease — and ultimately buy — the 14-acre Skyview Drive-In. The drive-in is located in the redevelopment district, across Highway 1 from Live Oak.

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Under a proposed "disposition and development agreement" between the auto dealers and the Redevelopment Agency, the agency would pay all but about \$1.8 million of the \$16.7 million cost of a 15-year lease-purchase agreement the dealers have negotiated with the drive-in's owners.

The payoff on the county's investment, according to the auto dealers, would be \$27 million — \$21 million, after adjustments for inflation and business cycle fluctuations — over the life of the dealers' lease.

A separate proposed agreement between the county and the city of Santa Cruz calls for the county to pay the city \$330,000 annually, in exchange for the city's agreement to terms which would make annexation of the Skyview property by Santa Cruz highly unlikely.

In a letter which he faxed to Beautz Monday, Kane warned, according to Beautz, that the county "could not legally enter into the disposition development agreement" with the auto dealers or the Santa Cruz agreement. And, the agreements "would have no legal effect" if approved by the board.

Supervisors are scheduled to consider the two agreements at a public hearing set for 9:30 a.m. today.

Beautz declined to release Kane's letter, because, she said, portions of it were "confidential," relating to matters discussed by supervisors in closed-door, executive sessions.

The supervisor said Kane had advised her that the proposed agreement with the auto dealers could not be justified or defended simply on the basis of the sales-tax revenues the new auto center was expected to net the county's general fund.

Beautz said that according to Kane, supervisors were obliged to evaluate the proposal "as a redevelopment project, on its own merits." That meant, she said, that

the board must evaluate the economic opportunity for the car dealers, development costs, and how much the car dealers can afford to pay for the project.

"There must be facts to show that (the agreement) is necessary," said Beautz. "We don't have facts in our disposition development agreement; we have conclusions."

Beautz also said that Kane had advised her that the county should retain an "independent economic consultant" to evaluate the dealers' revenue projections.

Quoting from Kane's letter, Beautz said that the attorney had advised her that the CAO's proposed agreement with the car dealers is legally "defective" because it "fails to comply" with state redevelopment law requirements for a showing of "substantial evidence" that the deal is justified.

Moreover, she said, Kane had also advised her that the proposed development agreement with the car dealers is legally flawed because it "facilitates a land use which is in conflict with the redevelopment plan."

Beautz explained that the Live Oak-Soquel redevelopment plan had incorporated a county General Plan land-use designation which calls for residential development of the Skyview property. She said Kane had advised her that before supervisors could approve an agreement with the car dealers, they would have to change the redevelopment district's land-use plan.

"That hasn't been done," she said.

Newell advised supervisors last week that the payments to the city of Santa Cruz could be made either out of sales-tax receipts from the auto center, or from redevelopment funds.

But Beautz said Monday that Kane had advised her that "there is absolutely no legal authority to permit Redevelopment Agency revenues ... to be paid to the city of

Santa Cruz or any other agency outside ... the jurisdiction of the Redevelopment Agency for the purposes set forth" in the proposed agreement between the city and the county.

Kane is the second attorney to warn that the county's proposed agreement with the car dealers may be illegal. A similar warning was issued to the dealers last week by Hodge L. Dolle, a Los Angeles-based attorney who represents the drive-in's owners.

Beautz, who is a lawyer, said Monday that she expected to receive a bill from Kane for his services, and planned to pay the lawyer out of her own pocket.

"I really was out of my league," she explained, "and I didn't have time to look at (the agreements) at budget time."