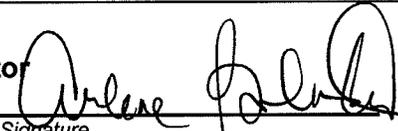


STAFF REPORT
COUNCIL MEETING DATE
SEPTEMBER 12, 2011

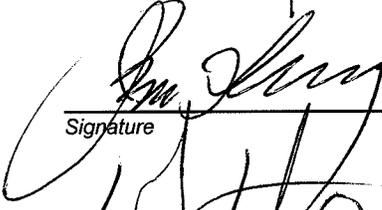
ITEM FOR COUNCIL CONSIDERATION

APPROVING AND ADOPTING RESOLUTION NOS. 5333 AND 5338 CONCERNING TAX DEFERRING MEMBER PAID CONTRIBUTIONS AND REPORTING BASED ON THE CHANGED VALUE OF THE EMPLOYER PAID MEMBER CONTRIBUTION TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

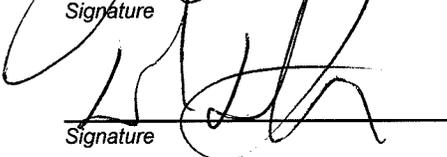
Report prepared by: Arlene Balmadrid, HR Administrator


Signature

Reviewed by: John Thornberry, Administrative
Service and Finance Director


Signature

Reviewed by: Dave Durflinger, City Manager


Signature

STAFF RECOMMENDATION

Action Item ; Non-Action Item

1. Approve Resolution No. 5333 adopting tax deferral of member paid contributions to the California Public Employees' Retirement System.
2. Approve Resolution No. 5338 approving payments and reporting based on the change in the value of the employer paid member contributions to the California Public Employees' Retirement System.

Motion: I move approval of Resolutions Nos. 5333 and 5338 as read by title only, to tax defer member paid contributions pursuant to section 414 (h) (2) of the Internal Revenue Code and to pay and report the changed value of the employer paid member contributions to implement Government Code section 20636 (c)(4) pursuant to section 20691.

I. BACKGROUND

At its regular meeting on May 31, 2011, through adoption of Resolution Nos. 5319 and 5320, the City Council approved the conditions of employment for management and miscellaneous personnel. Additionally, through adoption of Resolution No. 5324, the City Council approved the

Memorandum of Understand for Fiscal Year 2011-2012 between the City of Carpinteria and Service Employees International Union (SEIU) Local 620, representing employees in the general service and public works bargaining units.

Resolution Nos. 5319, 5320 and 5324 provided provisions that all employees who are members of the California Public Employees' Retirement System shall pay three percent (3%) of the Employer Paid Member Contribution ("EPMC") effective the first full pay period after July 1, 2011.

II. DISCUSSION

Although the implementation of the provisions offered by section 414 (h) (2) of the Internal Revenue Code is not required by law, adoption and implementation of section 414 (h) (2) will result in tax benefit savings for employees.

III. FINANCIAL CONSIDERATIONS

The three percent (3%) employee contributions to the California Public Employees Retirement System agreed to previously is tax deferred and will benefit employees. There is no cost to the City for the tax changes proposed.

IV. LEGAL ISSUES

This change concerning member contributions affects contributing employees' tax status only and does not bind the City of Carpinteria in any way with regards to future labor negotiations.

V. ATTACHMENTS:

- A. Resolution No. 5333
- B. Resolution No. 5338

RESOLUTION NO. 5333

**A RESOLUTION OF THE CITY OF CARPINTERIA CITY COUNCIL
APPROVING TAX DEFERRAL OF MEMBER PAID CONTRIBUTIONS
IRC 414 (h)(2)**

WHEREAS, the City of Carpinteria has the authority to implement the provisions of section 414(h)(2) of the Internal Revenue Code (IRC); and

WHEREAS, the Board of Administration of the Public Employees' Retirement System adopted its resolution regarding section 414(h)(2) IRC on September 18, 1985; and

WHEREAS, the Internal Revenue Service has stated in December 1985, that the implementation of the provisions of section 414(h)(2) IRC pursuant to the Resolution of the Board of Administration would satisfy the legal requirements of section 414(h)(2) IRC; and

WHEREAS, the City of Carpinteria has determined that even though the implementation of the provisions of section 414(h)(2) IRC is not required by law, the tax benefit offered by section 414(h)(2) IRS should be provided to its employees who are members of the Public Employees' Retirement System;

NOW THEREFORE, BE IT RESOLVED:

- I. That the City of Carpinteria will implement the provisions of section 414(h)(2) Internal Revenue Code by making employee contributions pursuant to California Government Code section 20691 to the Public Employees' Retirement System on behalf of its employees who are members of the Public Employees' Retirement System. "Employee contributions" shall mean those contributions to the Public Employees' Retirement System which are deducted from the salary of employees and are credited to individual employee's accounts pursuant to California Government Code section 20691.
- II. That the contributions made by the City of Carpinteria to the Public Employees' Retirement System, although designated as employee contributions, are being paid by the City in lieu of contributions by the employees who are members of the Public Employees' Retirement System.
- III. That employees shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the City of Carpinteria to the Public Employees' Retirement System.
- IV. That the City of Carpinteria shall pay to the Public Employees' Retirement System 4% of the 7% in contributions designated as employee contributions from the same source of funds as used in paying salary.

V. That the amount of the contributions designated as employee contributions and paid by the City to the Public Employees' Retirement System on behalf of an employee shall be 4% of the 7% contribution required of the employee by the Public Employees' Retirement Law (California Government Code sections 20000, et seq.)

VI. That the contributions designated as employee contributions made by the City of Carpinteria to the Public Employees' Retirement System shall be treated for all purposes, other than taxation, in the same way that member contributions are treated by the Public Employees' Retirement System.

This Resolution supersedes any prior resolution inconsistent with the terms of this Resolution.

PASSED, APPROVED AND ADOPTED this 12th day of September, 2011, by the following called vote:

AYES: COUNCIL MEMBER
NOES: COUNCIL MEMBER
ABSENT: COUNCIL MEMBER

Al Clark
Mayor, City of Carpinteria

ATTEST: _____
Fidela Garcia
City Clerk,
City of Carpinteria

I hereby certify that the foregoing was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 12th day of September, 2011.

Fidela Garcia
City Clerk, City of Carpinteria

Approved as to form:

Peter Brown
City Attorney

RESOLUTION NO. 5338

**A RESOLUTION OF THE CITY OF CARPINTERIA CITY COUNCIL
ADOPTING A CHANGE TO THE PAYMENT AND REPORTING VALUE OF
EMPLOYER PAID MEMBER CONTRIBUTIONS**

WHEREAS, the City Council of the City of Carpinteria has the authority to implement Government Code section 20636(c)(4) pursuant to section 20691;

WHEREAS, the City Council of the City of Carpinteria has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation;

WHEREAS, one of the steps in the procedures to implement section 20691 is the adoption by the governing body of the City of Carpinteria of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions (EPMC);

WHEREAS, the City Council of the City of Carpinteria has identified the following conditions for the purpose of its election to pay EPMC;

- This benefit shall apply to all regular and full-time employees of the City of Carpinteria.
- This benefit shall consist of paying 4% (four percent) of the normal contributions as EPMC, and reporting the same percent (value) of compensation earnable (excluding Government Code section 20636(c) (4) as additional compensation.
- The effective date of this Resolution shall be September 12, 2011.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Carpinteria elects a change to the payment and reporting value of EPMC, as set forth above.

This Resolution supersedes any prior resolution inconsistent with the terms of this Resolution.

PASSED, APPROVED AND ADOPTED this 12th day of September, 2011, by the following called vote:

AYES: COUNCIL MEMBER:
NOES: COUNCIL MEMBER:
ABSENT: COUNCIL MEMBER

Al Clark

Mayor, City of Carpinteria

ATTEST: _____

Fidela Garcia
City Clerk,
City of Carpinteria

I hereby certify that the foregoing was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 12th day of September, 2011.

Fidela Garcia
City Clerk, City of Carpinteria

Approved as to form:

Peter Brown
City Attorney