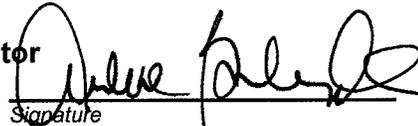


STAFF REPORT
COUNCIL MEETING DATE
AUGUST 27, 2012

ITEM FOR COUNCIL CONSIDERATION

RESOLUTION NO. 5405, APPROVING THE TAX DEFERRAL OF MEMBER PAID CONTRIBUTIONS
IRC 414(H) (2) AND REPEALING RESOLUTION NO. 5348

Report prepared by: Arlene Balmadrid, HR Administrator


Signature

Reviewed by: Dave Durflinger, City Manager


Signature

STAFF RECOMMENDATION

Action Item X; Non-Action Item ___

Adopt Resolution No. 5405 approving the Tax Deferral of Member Paid Contributions and repealing Resolution No. 5348.

Motion: I move to adopt Resolution No. 5405 as read by title only, approving Tax Deferral of Member Paid Retirement Contributions and repealing Resolution No. 5348.

I. BACKGROUND

At its regular meeting on June 25, 2012, through adoption of Resolution Nos. 5396, and 5397, the City Council approved the Conditions of Employment for Management and Miscellaneous Personnel. Additionally, through adoption of Resolution No. 5398, the City Council approved the Memorandum of Understanding for Fiscal Year 2012-2014 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. 5396, 5397 and 5398 provided provisions that all employees who are members of the Public Employees' Retirement System shall pay an additional one and half percent (1.5%) making it a total of four and a half percent (4.5%) of the Employer Paid Member Contribution ("EPMC") effective the first full pay period after July 1, 2012.

CalPERS has requested that Resolution No. 5348 be revised as follows:

- Add item V, which indicates that the amount of the contributions designated as employee contributions and paid by the City to CalPERS shall be the entire contribution required of the employee by CalPERS.
- Add item VI, which indicates that the contributions designated as employee contributions be treated for all purposes, other than taxation, in the same way that member contributions are treated by CalPERS.

These changes are not a substitute for and do not change the intent of the City Council. Instead, they simply represent a response to the preferred format and wording as requested by CalPERS.

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 this provision will result in tax benefit savings for employees.

III. FINANCIAL CONSIDERATIONS

The four and a half percent (4.5%) employee contribution to the California Public Employees Retirement System (agreed to previously) is tax deferred not counting toward an employee's taxable gross wages. Income taxes are paid on the contributions after an employee retires or begins receiving a pension distribution. There is no cost to the City for the tax changes.

IV. LEGAL ISSUES

N/A

V. ATTACHMENTS:

Resolution No. 5405

RESOLUTION NO. 5405

**A RESOLUTION OF THE CITY OF CARPINTERIA CITY COUNCIL
APPROVING TAX DEFERRAL OF MEMBER PAID CONTRIBUTIONS – IRC
414(H)(2) EMPLOYER PICK UP AND REPEALING RESOLUTION NO. 5348**

WHEREAS, the governing body of 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 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 all employees who are members of the California 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 California Public Employees' Retirement System on behalf of all its employees or all its employees in a recognized group or class of employment who are members of the California 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 California Public Employees' Retirement System, although designated as employee contributions, are being paid by the City of Carpinteria in lieu of contributions by the employees who are members of the California 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 California Public Employees' Retirement System.
- IV. That the City of Carpinteria shall pay to the California Public Employees' Retirement System the 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 of Carpinteria to the California Public Employees' Retirement System on behalf of an employee shall be the entire contribution required of the employee by the California 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 California 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 27th day of August, 2012, 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 27th day of August, 2012.

Fidela Garcia
City Clerk, City of Carpinteria

Approved as to form:

Peter Brown
City Attorney