

**City of Carpinteria
City Council Minutes
Regular Meeting
Council Chambers
Monday, February 13, 2012**

ROLL CALL

The meeting was called to order by Mayor Al Clark at 5:30 p.m.

Councilmembers present:

Councilmember Carty
Councilmember Reddington
Councilmember Armendariz (arrived at 7:33 p.m.)
Vice Mayor Stein
Mayor Clark

Staff members present:

Dave Durlinger, City Manager
Beth Collins-Burgard, Deputy City Attorney
Fidela Garcia, City Clerk
Kevin Silk, Assistant to the City Manager
Erin Maker, Environmental Coordinator
Jackie Campbell, Community Development Director
John Thornberry, Administrative Services Director

PLEDGE OF ALLEGIANCE

All present were led in the salute to the flag by Mayor Clark.

INTRODUCTIONS, PROCLAMATIONS AND PRESENTATIONS

1. Presentation by Cox Cable Representative Sara Clark Regarding the Government Access Television Channel Change

Sara Clark, representing Cox Cable, provided a PowerPoint presentation regarding the transition of analog to digital cable television and new channel lineup beginning March 1, 2012. Kevin Silk, Assistant to the City Manager, presented the new Channel 21 City TV Logo.

PUBLIC INFORMATION REPORTS AND ANNOUNCEMENTS

Erin Maker, Environmental Coordinator, noted that the City and the Watershed Stewards worked on a creek bank restoration project by the Eighth Street Bridge to fill in

native species where invasive species had taken root. She stated that Allison Crist and Andrea Blue, Watershed Stewards, worked in partnership with the Department of Fish and Game, the California Conservation Corp, the South Coast Habitat Restoration, and local volunteers to plant approximately 100 plants including Blackberry, California Rose, Monkey Flower, and rye grass on the side of Calle Ocho bridge. She also stated that the Boys Scout would soon help with planting on the Eighth Street side of the bridge. She acknowledged the volunteers for their help.

CITY MANAGER'S REPORT

- A mixed breed dog, approximately three to four years old, is in need of adoption. The dog is very playful and is a special needs dog as she is hearing-impaired. Anyone interested may contact City Hall.
- Project will embark next week for the removal of Tipuana Tipo Rosewood trees on Linden Avenue. Concrete repair project to repair damaged sidewalks will follow after City Council awards the project.
- Second Design Review Team Meeting for Linden and Casitas interchanges project scheduled on February 15 to be held at the Catelino Elementary School at 5:30 p.m.

PRESENTATIONS BY CITIZENS/PUBLIC COMMENT

Beth Collins-Burgard, Deputy City Attorney, stated that the Federal Constitution protects rights of free speech very broadly; however, the California Constitution has even broader protection. She noted that the Council Chambers qualified as a public forum similar to a park or street where the public has a right to express opinions. She stated that the subject matter or content of speech cannot be limited; however, the speech can be limited to the extent that it is off topic, repetitious, or causes unreasonable delays in the meeting, or if it is disruptive to the good order of the meeting. She also stated that the Mayor has the right to ensure that the meeting proceeds in a good and orderly fashion and that the meeting is held in a calm manner, specifically there should be no fighting words, words that incite confrontation with a reasonable person, and no tone or conduct that threatens the good orderly meeting.

William Connell stated that he wanted to address four recent issues regarding Councilmember Armendariz for the City Council to consider on whether to censure him for these conducts: 1) Humane Society case regarding Councilmember Armendariz's dog; 2) multiple nude and semi nude photographs that appeared on Councilmember Armendariz's Facebook and was sent via cyberspace through his cell phone; 3) written comments made by Councilmember Armendariz regarding all of the Councilmembers and especially the Mayor that he would submit because he believed them to be inappropriate; and 4) a question as to whether it would be appropriate when a City has business with a company and Councilmember Armendariz, while married, would have had inappropriate contact with an agent, employee, or representative of that company that would force him into a position of voting a certain way. He commented that

Councilmember Armendariz forced him to air this dirty laundry due to many emails and a personal attack upon himself. He requested that the City Council consider these four issues under Resolution No. 5007 and that these items be agendaized so that Councilmember Armendariz may respond.

Tom Perry thanked the City Council for appointing him as an alternate to the Linden Casitas Pass Interchange Project Design Review Team. He stated that he believed this project would be the most important thing to hit Carpinteria in the next 80 years and that it will change the face of Carpinteria. He expressed that the important issue was the traffic flow on Road. He stated that he took an entire day to photograph the shuttle bus that runs in front of his home and that the daily traffic included service trucks, semi trucks, and speeding vehicles. He noted that he prepared a list that included 38 buses passing with 108 total passengers averaging three passengers per bus. He stated that he and his neighbors would like to have a gross vehicle weight posted on Ogan Road and eliminate or reroute bus travel on Ogan Road. He also stated that the shuttle buses were diesel instead of electric and that during the holidays the shuttle bus provided was diesel. He noted that an article in the Santa Barbara News Press reported that the Santa Barbara City Council was considering eliminating business and home projects along the freeway or where diesel fuel is a problem. He requested an immediate stop to MTD diesel buses running through his neighborhood.

Carol Leif stated that she was continuing her investigation into the pension situation and how it relates to freeway widening to urbanize the area. She noted that she met with the Chair of the Economics Department at University of California Santa Barbara and with Joe Nation who wrote the Stanford 2010 report regarding county pensions. She stated that there was close to \$3 million in unfunded pension liability and the only course of action that she could see at this point would be for the County to declare bankruptcy. She expressed that the County Board of Supervisors or the Santa Barbara City Council were not addressing this. She expressed her concern for the public unions who have been promised pensions and who have not saved adequately for retirement.

Vice Mayor Stein requested looking into why the City was getting the diesel buses versus electric because the City was always supposed to receive electric shuttle service. City Manager Dave Durflinger responded that it was his understanding that when the electric shuttle is down for maintenance that occasionally it is replaced with a diesel shuttle. He noted that timing was good to receive clarification from MTD because they are scheduled to provide their annual report at the next City Council meeting.

Mayor Clark inquired regarding large trucks traveling through Ogan Road. City Manager Dave Durflinger responded that staff would look into the designation of that street and will inform Mr. Perry whether there is an opportunity to assign the street or restrict traffic. He stated that staff would pass along to the Sheriff's Department the request for patrol in that location in terms of speeding vehicles.

Councilmember Reddington suggested that staff revisit gross weight limits throughout the City and look into how Ogan Road will remain a small neighborhood thoroughfare following the Linden Casitas Pass Interchange Project. She also suggested that staff look into the shuttle schedule so that it does not cause a nuisance to the neighborhoods.

CONSENT CALENDAR

Motion by Vice Mayor Stein, seconded by Councilmember Carty, to approve the Consent Calendar and resolutions as read by title only.

Upon voice vote, motion carried. Vice Mayor Stein abstained from Item 2. Councilmember Armendariz was absent.

Councilmember Reddington congratulated Karina Jouglu, Wade Nomura, and Roxanne Nomura on being named Carpinterians of the Year.

2. Minutes of the Regular Meeting Held January 23, 2012
3. Expenditures for the Period Ending February 8, 2012
4. Adopt **Resolution No. 5360**, as Read by Title Only, Authorizing Changes to the Staffing Plan of the Agreement to Provide Law Enforcement Services
5. Ratification of **Resolution No. 5356**, As Read by Title Only, a Resolution of the City Council Commending and Congratulating Karina Jouglu Upon Being Named Junior Carpinterian of the Year for 2011
6. Ratification of **Resolution No. 5357**, as Read by Title Only, a Resolution of the Carpinteria City Council Commending and Congratulating Wade and Roxanne Nomura Upon Being Named Carpinterian of the Year for 2011
7. Approval of Independent Auditor Report Fiscal Year 2010-11

ADMINISTRATIVE MATTERS: None

PUBLIC HEARINGS: None

OTHER BUSINESS:

8. City Council Options Regarding the Conduct of Councilmember Armendariz (Continued from 1/23/12, Agenda Item # 8)

Recommendation: Consider the options provided in the staff report and take any related action as determined appropriate.

Dave Durlinger, City Manager, and Beth Collins-Burgard, Deputy City Attorney, presented the staff report.

Vice Mayor Stein apologized for not being present at the previous meeting as he was ill.

Councilmember Reddington apologized for arriving late at the previous meeting as she was caught in traffic.

Miguel Checca stated that the citizens gave Councilmember Armendariz a pass in the 2008 election by not bringing up his DUI. He also stated that he participated in one of Councilmember Armendariz's campaigns where the DUI was never discussed and the citizens gave Councilmember Armendariz the benefit of the doubt that he was doing the right thing. He indicated that this time it was different and the citizens must protect their reputation and integrity and take effective action. He noted that when he spoke previously on December 12 he mentioned that he lost a niece due to an accident caused by a drunken driver. He asked the City Council to censure Councilmember Armendariz, remove him from representing the City in the five committees he serves, and take effective action tonight.

William Connell presented his written comments to the City Clerk. He stated that Councilmember Armendariz's health and mental well being were of great concern to many people in Carpinteria and that he would describe Councilmember Armendariz's life as a train wreck. He also stated that he took no joy in requesting Councilmember Armendariz to resign. He requested that he wanted the record to reflect that he supported Councilmember Armendariz in both of his past elections, he defended him after his first DUI, and he overlooked his drinking problem as did over 2,000 of his fellow Carpinterians who voted for Councilmember Armendariz's second term. He stated that he would comment strictly on Councilmember Armendariz's second DUI and quoted Councilmember Armendariz as saying that he did not drink anymore than any other people at the party. He commented that an alcohol level of 0.18 was more than that. He stated that attacking Councilmember Armendariz as Councilmember Armendariz had done to him would go nowhere and that attacking and speaking poorly of past and current Councilmembers would go nowhere. He also stated that Councilmember Armendariz should not have pointed his finger or attacked Greg Grandrud who served the City Council respectfully and well and brought an air of class to the City Council. He commented that Councilmember Armendariz should realize that this was all about him and nobody else. He noted that the December 2 incident was Councilmember Armendariz's second offense. He also noted that 146 people had been killed in California by drunk drivers, over 2000 had been injured as well, countless lives had been ruined, and dreams had been broken. He expressed his hope that the entire City Council would speak as one and have a unanimous vote. He requested that the City Council follow all options set forth in the staff report. He suggested that the City Council completely disregard Councilmember Reddington's suggestion as she comes late to this party and her goals do not represent the majority of people who live in Carpinteria.

He addressed Councilmember Reddington and stated that this was not what would Jesus do and asked that she be punctual for the City Council meetings and other meetings where she has been habitually late and where she has inconvenienced many people. He asked the City Council to strip down Councilmember Armendariz to his shirtless unbuttoned jeans with his hand on his private parts as shown on the photograph he submitted, and remove him of any responsibility whatsoever on any council and any committee. He stated that if Councilmember Armendariz wishes to fill his term that he would like to see his chair moved all the way to the end of the dais separate from the four Councilmembers who want to represent the City and who have done so honorably. He commented that Councilmember Armendariz brought this upon himself. He stated that depending on the outcome tonight he would or would not write an impact letter to the criminal court judge handling Councilmember Armendariz's second DUI case. He also stated that depending on tonight's outcome the City Council would either see him at every City Council meeting until Councilmember Armendariz's term is terminated. He commented that he had enough time to spend on this as he was very personally insulted because he introduced Councilmember Armendariz to hundreds of people and asked them to consider voting for Councilmember Armendariz. He stated that he knew Councilmember Armendariz had a lot of problems and he hoped his absence tonight meant that he was at the Betty Ford Clinic for a full recovery period of time. He commented that Alcohol Anonymous was not a recovery program and that he did not want Councilmember Armendariz to pull the wool over anyone's eyes. He stated that he wished Councilmember Armendariz well; however, he did not wish for him to be seated at the dais and if he is to be seated at the dais he would want his only responsibility to be emptying out the trash at the end of the City Council meeting.

Tom Truax stated that he did not necessarily agree with Mr. Connell's comments. He also stated that he did not vote for Councilmember Armendariz and he did not agree with many of his policies as he was less pro-growth as Councilmember Armendariz; however, he believed the people should be judging this matter on whether Councilmember Armendariz is executing his duties as a Councilmember and focus on whether he is representing his constituents well. He asked that the City Council keep this in mind and not get wrapped up on moral dilemma. He noted that President Bush used cocaine as a college student, Ulysses S. Grant was a drunk, and Edward Kennedy drove off a bridge and killed a girl. He stated that he believed what the people really needed to do in today's society was try not to judge people based on their religion or skin color, or in this case a personal behavior. He also stated that it might be appropriate to say that the City Council disagrees with Councilmember Armendariz's behavior and give him some sort of public reprimand; however, he believed that as long as Councilmember Armendariz is doing a good job as a Councilmember that the people should step aside and let it go at that.

Melinda (no last name given) stated that she was present solely to give her opinion. She commented that she did not condone what Councilmember Armendariz had done; however, she would piggyback onto Mr. Truax's comments. She stated that she believed the people needed to focus on what Councilmember Armendariz is doing as a

Councilmember and not focus on his personal life. She commented that if a person wanted to dig deep and find things out that perhaps Councilmember Armendariz does not want to be found out then perhaps that person was looking for it and she did not think that was fair. She stated that she believed Councilmember Armendariz was doing what he believed he should do as a person and she did not think the City Council would treat anybody differently if a person had another type of disease. She also stated that the City Council should focus on what Councilmember Armendariz is doing as a Councilmember and that she had not heard anything that he had in any way disgraced his duties. She suggested that if Councilmember Armendariz is doing his job that she believed this was what they needed to focus on and people should stay off his Facebook page and out of his personal business.

Margaret Lando stated that did not want to speak but felt she should speak based on the other people who had spoken. She noted that she enjoys having a margarita and she knows how many drinks she can safely have before she is impaired. She stated it appeared that people believe Councilmember Armendariz can make decisions that are valid and that he makes good judgment. She commented that it surprised her that people think that. She expressed that Councilmember Armendariz was begged to give up his keys at a party, but he refused, got to his car, retched, and then got in his car and drove away. She commented that Councilmember Armendariz did not have a sense of judgment that is working well and she did not know what votes he makes on the five committees he serves. She stated that it was hard for her not to question if the same decision making process was occurring. She also stated that she would call into question whether someone who has flawed judgment in one area could do so well in other areas and that she thought this point needed to be made.

Nancy Welty noted that she was present when this issue was brought up at previous meetings and that she was glad it was being conducted civilly tonight. She read some statements from some of his constituents that were written in the Coastal View stating that it was not the place of the Council to usurp the responsibility of citizens by limiting or voiding their ballots through an action to censure Councilmember Armendariz based on behavior outside of his elected position. She stated that she did not know if the people could do a recall. She noted that people were concerned about this and suggested circulating a petition so that the City would know what the rest of his constituents were thinking rather than having a few people who have made a lot of mistakes in their own lives judge Councilmember Armendariz. She stated that as far as she knew Councilmember Armendariz had been judged in a court of law, sentenced to 90 days, license suspension, and 30 days rehabilitation at a facility in Malibu, and that she believed he was pursuing that. She also stated that Councilmember Armendariz had already been held accountable in a court of law for his actions. She commented that she wanted to see people leave his personal issues for his family and his four children out of this because some of this was quite embarrassing and harmful to the children. She stated that if there is a chance to recall or make a petition that the people may wish to do so in order to determine how the community really stands on this issue. She also stated that she did not know if it was too late for this, but she had not seen any

action from the community for a recall or any petition to have Councilmember Armendariz removed from the City Council.

Mary McWhirter stated that she was not present to defend Councilmember Armendariz's behavior but that she was present as a constituent. She noted that she watches the City Council meetings and she campaigned for Councilmember Armendariz twice. She stated that she remembered that in the third year of his first term former Mayor Donna Jordan conceded in a social setting and admitted that Councilmember Armendariz was very beneficial to the City Council and that was the reason he was the top vote getter in the 2008 election. She noted that since she had watched all of the meetings she never once witnessed or heard Councilmember Armendariz ever being under the influence during any City Council meeting, while officially representing the City, or during a meeting of the Santa Barbara County Association of Governments (SBCAG). She stated that Councilmember Armendariz was probably under the influence at parties. She also stated that she was not defending him and that he had a problem. She noted that she and her husband sat down with Councilmember Armendariz three weeks ago for two hours and they asked him very personal questions because they had stood up for him. She stated that he answered the questions to their satisfaction and to their high standards. She noted that Councilmember Armendariz knows that he has blown it, he knows he has a problem, he is embarrassed, and he is ashamed. She also noted that he is also an excellent representative for many Carpinterians and he is probably one of the best representatives on SBCAG they had ever had. She urged the City Council not to censure him and not remove him from committees because the Carpinterians need him on those committees. She stated that unless someone could tell her that he had done something unbecoming in his official capacity that she would then urge the City Council to take that action. She commented that Councilmember Carty was the only Councilmember she had not heard stories about and it did not affect the Councilmember's ability to serve the people. She urged the City Council to reconsider approving the resolution because the City Council would be setting a precedent and a future City Council may be judged some day.

Natasha Lomas read from her prepared statement regarding Councilmember Armendariz's comments about not stepping down because he thinks he can still do a good job on the Council. She stated that normally she would agree and noted that Councilmember Armendariz had been instrumental in providing different viewpoints on many issues. She also stated that besides the numerous issues raised about Councilmember Armendariz's ethics that credibility was the present issue. She noted that after Councilmember Armendariz was asked during a City Council meeting about the photographs posted on Facebook he replied to the speaker that he did not know what he was talking about. She stated that this was a complete lie and Councilmember Armendariz said the lie while in the Council Chambers. She noted that Councilmember Armendariz had to admit to the photographs after Channel 3 News posted the photograph the following day. She stated that lying while sitting on Council was enough reason to admit that Councilmember Armendariz does not have the credibility to continue to sit on the City Council and on the various boards while representing the City

of Carpinteria. She commented that there was also a good chance that Councilmember Armendariz would receive jail time for his second DUI. She noted that during the time Councilmember Armendariz spends in jail he will not be able to attend or participate in City Council meetings or the various boards. She stated that the City needed to be able to find an alternate for Councilmember Armendariz's seat to prevent a lack of quorum. She also stated that she would strongly recommend that the City Council vote to verbally and formally reprimand Councilmember Armendariz, prevent him from driving to and from Council related activities, remove him from boards or committee assignment representing the City, and ask him to formally resign from the City Council. She inquired if the City Council were to send Councilmember Armendariz to rehabilitation as suggested by Councilmember Reddington who would pay for this rehabilitation. She also inquired whether the City would be responsible for the cost and whether the City could legally send a person to rehabilitation.

Carol Leif stated that she knew a little bit about alcoholism and noted that it was not a disease that starts and stops when a person is at work. She also stated that some people present seemed to feel that people who are alcoholics have two personalities, a personal life personality and a business life personality, and these two personalities never meet. She commented that this was not how this works and everything a person does is affected by drinking too much. She mentioned that if a person is hung over the next day that person will not make good decisions. She indicated that research would show that anyone who has had two drunken driving offenses in a car and has been arrested for it with an alcohol level of 0.18 is outrageous. She stated that this kind of person is an alcoholic and if the person is to recover that person would not be able to do so by having lot of pressure placed on him or her. She commented that a person would need to reflect and would need to step away. She noted that Councilmember Armendariz said some things to the paper indicating that he would need to be shot in order to get him to step down. She stated that Councilmember Armendariz had placed the City Council in an untenable situation in having them make this decision. She noted that a poll from the News Press indicated that 80 percent of the people want Councilmember Armendariz to resign. She stated that Councilmember Armendariz was elected by the people to represent them without impropriety and to have ethics. She commented that this was a clear ethics violation and it made the whole town look bad to tolerate someone such as this. She expressed that she would wonder how these people who have spoken in his defense would feel if their child would have been run over by Councilmember Armendariz the night he was drunk. She stated that Councilmember Armendariz did not want to go to rehabilitation at first and that he had indicated this to the newspaper. She also stated that Councilmember Armendariz said his drinking life was his own business. She commented that if a person really wanted to recover from alcoholism the person had to get out of denial and want to do it and that person should not do it because of being importuned by other people. She stated that she questioned Councilmember Armendariz's sincerity. She also stated that she liked Councilmember Armendariz personally, he is charming, and she is not surprised he received more votes than anybody else. She suggested that Councilmember Armendariz step down and that he could come back and run for office again. She also suggested that he get the

problem taken care of and if he does not he will make enemies of his friends as well as putting them in a position where they will have to vote against him. She stated that alcoholics in general need time to recover and they can recover. She also stated that she did not necessarily agree with Mr. Connell comments that Alcoholics Anonymous (AA) not being a total recovery program because she knows that it is. She noted that she had a husband who was sober for 30 years, she knows a lot about this disease, and people can recover totally with AA. She stated that she also knew that people would sign slips in AA and say a person was present at a meeting when they were not.

Don Riden stated that his perception of the City Council was when a person opens him or herself up and says he or she will sign a paper to be a Councilmember he or she is entering into a public life and he or she has now opened up his or her private life to the public. He also stated that the City Council needed to understand this. He noted that he is a business owner in Carpinteria, this is his business, and he is not in public office. He commented that when a person takes public office the person needed to understand that he or she is opening up themselves to public life and public scrutiny, as well as the accolades that come along with that. He stated that the office of Council is of honor and respect, and is a step above one's normal life. He commented that it was an honor to take on the responsibility of public office and that he believed this honor was disrespected. He stated that the public had the right to come and comment about it and see who represents them as a City, who represents their businesses, who represents their personal beliefs, and who represents how they want Carpinteria to run. He also stated that he did not believe that was being done by Councilmember Armendariz. He further stated that the people needed to know how the Councilmembers run their lives and that the City Council had the responsibility to do something.

Susan Allen stated that she knew Councilmember Armendariz would probably disagree with her but this had nothing to do with politics and had everything to do with how they consider their community. She also stated that the City had become a media circus. She noted that reporters from the News Press, KEYT, and the local radio station were in her face within the first half hour of her waking up that morning. She stated that she did not envy the City Council as this was a very difficult thing; however, this was about the community and how it is viewed. She also stated that she felt it was necessary for her to speak up. She indicated that she came forward with credentials and that she had an alcoholic aunt who killed herself with alcohol, an alcoholic ex-husband, and an alcoholic ex-father-in-law, and they were gun-toting alcoholics. She stated that this had left her with scars for more than 35 years. She also stated that she has since been in a happy marriage where alcohol has not played any kind of view, but those scars are still with her. She commented that what she learned was that everything is a learning situation and that people can enable, make excuses, and turn their heads and not talk about the elephant in the room, or they can stand up and say enough, I will not take it. She stated that she did that with an ex-husband and with an ex-father-in-law and she was proud she was able to do it. She noted that the City Council had the opportunity tonight to stand up and not enable someone. She stated that this had nothing to do with politics and it had everything to do with a man who got in a car, not once but twice. She

commented that Councilmember Armendariz was lucky he did not kill himself or anybody else or injure anybody. She stated that the City Council had a difficult task ahead of them. She noted that Councilmember Armendariz stated he would not step down. She stated that a recall would be costly to the City and no one wanted to go through that. She also stated that she wished Councilmember Armendariz well and that she knew he was in a battle that would last the rest of his life.

Councilmember Reddington inquired whether Councilmember Armendariz had been sentenced to a rehabilitation center in Malibu or if anyone knew what action the District Attorney had taken. Mr. Durflinger responded that staff did not have information regarding a sentence and staff had not made a request to the court to obtain that information.

Vice Mayor Stein addressed the people who said that Councilmember Armendariz represents them as a vote and inquired whether they would they still be here if Councilmember Armendariz had killed somebody that night. He also inquired whether the people would still support him or whether they would ask for more stringent measures. He stated that alcoholism is a disease and it affects a person's judgment on and off the dais. He also stated that a person could not separate political life from private life. He noted that he asked for Councilmember Armendariz's resignation the first time this happened a few years ago and it did not occur to him to do so. He stated that this time it was more serious and he questioned how many other times this had occurred. He noted that he was one for forgiving, but at this time it was time to step up and do the right thing. He commented that it was an honor to sit at the dais and he holds the public's trust. He stated that he leads by example and if this had him he would have resigned for the integrity of the office, for the great work that staff has done, and for the community who have done so many positive things. He suggested that Councilmember Armendariz close this chapter now, get help, and come back in a few years if that is the case. He stated that if he could he would not ask but force Councilmember Armendariz's resignation; however, the City Council is unable to do that. He commented that he did not think the sanctions that the City Council may impose were extreme, but they were the right thing to do. He stated that it was time for Councilmember Armendariz to step down, show the City he had some integrity left, and get some serious help instead of just going to AA meetings because otherwise someone will get hurt or killed in the future. He expressed his support on all five sections of the resolution and stated that he did not support the City paying for Councilmember Armendariz's rehabilitation. He also expressed his support in adopting the resolution without granting Councilmember Armendariz a leave of absence.

Councilmember Carty stated that as elected officials each of the Councilmembers are obligated to a high level of ethical conduct in both official and private affairs. He noted that the City has a formal ethics policy that demonstrates and memorializes the ethical standard of the City. He stated that it was the Councilmembers responsibility to uphold these standards. He expressed that he also supported Resolution 5358 in its entirety and that he was not interested in granting a leave of absence for Councilmember

Armendariz's rehabilitation. He stated that he wished Councilmember Armendariz the best and that he hoped Councilmember Armendariz would end up in rehabilitation and that things work out as good as can be.

Vice Mayor Stein noted that he had spoken with many people and the response was overwhelming that the City should not grant Councilmember Armendariz a leave of absence and that it would be up to Councilmember Armendariz to step up and seek rehabilitation.

Councilmember Reddington stated that her life was disrupted and destroyed by an irresponsible driver because someone hit her husband five years ago leaving him with a severe traumatic brain injury that ended 25 years of her life with her husband. She also stated that perhaps this was why she looked at this differently. She commented that this was Councilmember Armendariz's responsibility and purview to do this. She indicated that she would like Councilmember Armendariz to step down and resign and that this would be the responsible thing to do; however, Councilmember Armendariz has not done so. She stated that she would have appreciated knowing if the District Attorney had adjudicated this case. She questioned whether the City Council was trying someone here, what was the Council's role, and whether they were present to air dirty laundry about people being late and what the community has said about the Councilmembers. She commented that she was not sure if following this road was the best road in integrity as leaders. She questioned the City Council taking a man who works with them, strip him of his powers, and censure him before the District Attorney or anyone has sentenced him. She stated that she thought the timing was miserable and that they had conducted a witch hunt of sorts. She also stated that she did not believe that what the City Council was doing in their integrity as a Council was something that they should be doing at this time. She suggested that once Councilmember Armendariz is sentenced and once they know if he is going to rehabilitation that it would then be time to take this action. She commented that she thought the City Council was on a slippery slope and could be leading them to litigation to something unknown. She stated that she researched when and where any City Councilmember had ever been censured and the only one case she could find besides the one in Taft, California, was someone who had embezzled money and who was convicted. She also stated that she understood how a life could change by someone who acted irresponsibly in a car. She commented that she knew that the City Council could not make Councilmember Armendariz resign and that it was correct for the community to ask him to resign. She indicated that as Vice Mayor Stein said if had been her she would resign. She stated that she believed the Councilmembers hold a place of honor; however, she also felt that Councilmember Armendariz had not been convicted of this and perhaps the City Council was stepping out a little too soon. She expressed that she supported Councilmember Armendariz going to rehabilitation; however, she did know who should pay for it. She stated that the City Council should allow Councilmember Armendariz the opportunity to take a leave of absence, straighten things out, and come back to the Council. She also stated that she welcomed anyone to proceed with a recall or a petition and that she did not believe that at this point, as a Councilmember, that she

could partake in this other than granting the leave of absence for Councilmember Armendariz's rehabilitation and request that he resign. She expressed that she agreed with the community that Councilmember Armendariz's conduct showed his being arrested twice for drunk driving was not appropriate, but the City Council needed to wait until the sentence is in. She questioned whether they were about healing or about hurting, whether they were about solutions or about problems, or whether they were about complaining or helping and showing kindness.

Mayor Clark noted that there was a public document attached to the staff report that stated that in someone's opinion he beat his wife. He stated that this was not true and anyone could call his wife at 684-2246. He commented that all of the Councilmembers felt the weight in this matter and that this was not how he perceived his career as a Councilmember. He noted that the fact he was considering was that Councilmember Armendariz had a second DUI and with proven a blood alcohol level of 0.18. He also noted that Councilmember Armendariz was observed in the public with other elected officials present where he exhibited intoxicated and offensive conduct. He stated that subsequent to the December 2 event Councilmember Armendariz made a number of public statements in the news media where he admitted he has a problem with alcohol, he likes to drink, he cannot predict that he will not drink again, and that he has chosen not to resign. He further stated that this was a problem for the City because this conduct was becoming a growing and major distraction for the City's efficient and effective execution of the public's business. He expressed his concern that for the past two months this situation had spilled onto the newspaper headlines, discussed in the Council Chambers, and pushed City business so that the City Council could accommodate this agenda item. He commented that this conduct potentially exposes the City to various forms of liability including property damage, bodily injury, or death resulting from drinking and driving. He stated that this conduct is not appropriate for a Councilmember because a Councilmember represents the City and is a community leader. He also stated that the conduct was a poor reflection upon the City, the City Council, and the citizens of Carpinteria, and could also tarnish and damage the City's relationships with its neighboring jurisdictions. He further stated that the conduct was a negative role model for the citizens and youth. He noted that the City adopted an updated ethics code by resolution in July 2006 that was approved by five Councilmembers, including Councilmember Armendariz. He also noted that the relevant sections were that Councilmembers are bound to comply with the letter and spirit local and other laws in order to foster respect for government. He expressed that Councilmembers are bound to observe the highest levels of morality relating to conduct in both official and private affairs which should be above reproach in order to avoid the appearance of impropriety. He noted that the ethics code calls upon Councilmembers who have violated the code to voluntarily resign or suffer formal censure and lose committee assignments. He suggested that these problems would cease to exist if the Councilmember were to resign. He noted that the Council cannot force Councilmember Armendariz to resign. He commented that what was proposed in the resolution was important so that the Council could reassure the public that it does not support or condone this conduct and that the Council should distance and disassociate itself from

that conduct in question so as to maintain respect for government. He stated that he believed it was also appropriate that the Council restrict Councilmember Armendariz's driving privileges to protect public safety and to limit the City's exposure. He expressed his support for adopting the resolution and stated that he did not support a leave of absence for Councilmember Armendariz to attend rehabilitation because that was a separate issue. He stated that Councilmember Armendariz was a valuable member of the Council, he brings a different prospective, he is very talented and intelligent, and he has offered a lot of creative solutions; however, the Council must take these actions for the reasons he stated and he wished Councilmember Armendariz well.

Motion by Vice Mayor Stein, seconded by Councilmember Carty, to adopt Resolution No. 5358, as read by title only, and eliminating the part about the leave of absence.

Councilmember Reddington inquired how the Council's action would work since there had been no sentencing by the District Attorney's office. Mr. Durflinger responded that the facts that the Council would be basing its actions were included in the recitals of the draft resolution and were not based on court proceedings. Councilmember Reddington inquired whether the City Attorney found any cases that dealt with this kind of conduct. Ms. Collins-Burgard responded that there were not many cases where Councilmembers were censured. She noted that there was a case of censure in the City of Taft for disclosure of confidential employee records to the press which was contrary to the Public Records Act and that there were also cases of censure by various bodies.

Upon voice vote, Councilmember Carty, Vice Mayor Stein, and Mayor Clark were in favor. Councilmember Reddington was opposed. Councilmember Armendariz was absent. Motion carried.

The City Council recessed to a break at 7:25 p.m. and reconvened at 7:35 p.m. Councilmember Armendariz was present.

9. Comment Letter Concerning the Scope of Potential Environmental Impacts to be Studied by the State Lands Commission and Bureau of Ocean and Energy Management for the Carpinteria Offshore Field Redevelopment Project (Carone Petroleum Corporation)

Recommendation: Consider public comments and submit a comment letter on the scope of potential environmental impacts that should be studied in association with the proposed Carpinteria Offshore Field Redevelopment Proposed by Carone Petroleum Corporation.

Jackie Campbell, Community Development Director, presented the staff report and PowerPoint presentation.

Councilmember Reddington requested more control over the project as soon as possible from the various agencies. Ms. Campbell noted that this was the reason a

large part of the comment letter would be split into two parts with the first part asking many questions about the project description. She stated that until a response is received the City would be unable to determine if it will have a discretionary permit. Councilmember Reddington inquired regarding the timeline. Ms. Campbell responded that a timeline was not likely until the Environmental Impact Report (EIR) is prepared in order to receive the specifics of the proposed project in detail. She noted that subsequently the City would decide if it has a permit it may grant to the project and whether the City could assert itself as a responsible agency.

Beth Collins-Burgard, Deputy City Attorney, noted that under the California Environmental Quality Act (CEQA) there are two different types of agencies. She explained that there is a lead agency that prepares the EIR in the first instance and that in this situation it was the State Lands who is the lead agency. She noted that the question was whether the City is a responsible agency and the answer was that it would be if a discretionary action is required as addressed in the staff report; however, being a responsible agency was not the only way to participate in this CEQA process.

Susan Allen stated that she obtained the nine-page Notice of Preparation (NOP) which did not have a lot of information and that she located a 300-page document on the Internet. She also stated that it was her understanding that staging support and transport would be handled through Carpinteria via Venoco's property and the Casitas Pier. She indicated that she heard back from Cy Oggins from the State who assured her that this was not the case and that staging would take place in La Conchita. Further, the trucks would leave La Conchita and then leave the pier. She questioned whether it would be safe in La Conchita to have large trucks entering and exiting that area to come to Carpinteria. She stated that last week the seal watchers counted 1,200 visitors visiting the seals and she expressed her concern with how this would play into protection of the seals. She indicated that traffic should not be allowed to include personal vehicles on the pier and that literature and education should be mandatory to all workers. She suggested that performance requirements should be documented and vehicle traffic on the pier should be slow. She indicated that her comments were based on what they saw prior to Venoco taking over the property. She expressed that amplified noise from speakers to the pier should be prohibited and enforced and the crane should be well maintained. She stated that she believed a company called Day Corp had taken over management of the pier and that materials storage south of the railroad tracks had increased and was highly visible. She suggested that hours of operation should be limited. She also suggested that the City Council take into consideration the reworking of the wells. She mentioned that she noticed on Sunday there was a truck parked with an employee in the vehicle and when she returned at 3:00 p.m. he was still there, he went back to the truck, and he went to sleep. She expressed concern that there seemed to be some agreement between Ventura County Air Pollution Control District and Santa Barbara County Air Pollution Control District and that Ventura County was receiving credits for the dirty air even though the boats spend half of their time in Carpinteria. She requested that the City ask all the agencies involved to have a roundtable meeting and visit the plant, parking lot, and pier.

Fred Shaw asked the City Council to explore the following: 1) how will the Caltrans project that will run through Carpinteria impact the big rigs as they are coming up from La Conchita; 2) if this project is approved, will it cause a domino effect causing projects to become stalled; and 3) regardless of any type of emergency they might have and since Carpinteria is the closest community who will be the first responder and will it be the Fire District, public works, and the Community Emergency Response Team. He expressed that he was concerned that all the safety measures be put in place and that the applicant has enough financial backing to take care of any problems due to any kind of emergency.

Betty Songer thanked the City for preparing the scoping letter. She inquired whether the public could have access to a copy of the Casitas Pier lease agreement. She also inquired whether anyone had checked to see if the agreement was being violated because there was more activity seen at the pier than seen in many years. She expressed her concern with the reputation of Carone Oil and Pacific Offshore Operators. She noted that the Ventura County Star reported that Pacific Offshore Operators had more violations than anyone else and that in 2009 the State Lands Commission debated pulling Carone's lease. She questioned how these entities could be trusted.

Dick Weinberg inquired regarding drinking water and how far out would the project go if 25 wells are put in. He stated that it was his understanding that they could go out up to ten miles horizontally. He inquired how far the pipes could go under the mainland. He stated that his concern was that pipes are known to leak or fracture. He inquired what fracking would do to the rock structure that would allow seepage of chemicals, oil, water, or muds. He stated that this was a major concern and should be considered a tremendous risk to the aquifer or water supply to Carpinteria or surrounding area. He also stated that for him the most prized resource is water and he would hate to see it contaminated. He asked for clarification as to where these wells would go and where the wastewater created would go.

Ms. Campbell noted that the City's draft letter addressed many of the questions asked including the safety record of the applicant and the risk analysis to be compiled in the document. She also noted that the letter asked for information in the form of a traffic study that will give information regarding truck movement, traffic volumes coming through the City, and financial assurances if a risk should occur. She stated that staff obtained a copy of the pier lease agreement and the 1969 permit which she could provide to Mrs. Songer. She also stated that groundwater resource impacts were addressed in the draft letter.

Mr. Durlinger stated that staff could supplement the letter with a question on the length of the pipelines and how near the Carpinteria shoreline or land these proposed wells will be. Ms. Campbell added that the letter could include questions regarding the capacity

of local resources to respond to an upset condition and whether the Summerland Fire Protection District is equipped to respond to a local emergency.

Vice Mayor Stein suggested that rather than staging in La Conchita whether they could operate from the Rincon Plant off of Seacliff and also rather than staging at the Carpinteria Pier perhaps stage off the island off of Mussel Shoals. Ms. Campbell responded that this could be included as an alternative so that rather than sending the oil and gas to La Conchita and staging through La Conchita and Casitas Pier that they could use Rincon Island as an alternative.

Councilmember Reddington stated that many of the facilities had not been upgraded. She requested that the letter should ask what kind of improvements they intend to do to their infrastructure to support the increased production and what kind of money would they invest to upgrade their systems to assure the environmental security. She suggested that the City Council revisit Ordinance No. 75 to see if it needs to be revised to upgrade the City's ability to look at what the oil companies are doing and regulate them in real time before considering something such as this. Mr. Durlinger responded that the letter was broken up into two parts. He noted that one part asks questions to clarify what the project is and in particular how it will affect Carpinteria's facilities on matters that the City may or may not have permit authority over. He noted that on face value there were many things that do not involve Carpinteria such as sending oil to La Conchita or other places. He stated that on the other hand they may be shipping things through the Carpinteria Pier and accessing it and the City might see a change or increase in intensity of use. He noted that once this is answered the City could determine if there are any effects from this project on the existing permit or Ordinance No. 75; however, at the present time these were totally separate issues.

Councilmember Reddington requested that the City ask regarding the viscosity and speed and temperature of the oil. She stated that she would also like to see the terms of economic losses from being a tourism town to an oil town and how it will change the definition of commerce in this town in terms of tourist friendly and economy. Ms. Campbell inquired whether Councilmember Reddington was asking for economic impacts from increased industrialization. Councilmember Reddington responded that this was correct and that they explore how this will shift the City's economy.

Mayor Clark requested information regarding noise impacts to the pier itself and to the pier parking lot. Councilmember Reddington requested information on what equipment would fracking entail.

Motion by Vice Mayor Stein, seconded by Mayor Clark, to authorize the Mayor to sign the letter to the NOP/NOI with the changes so stated in this meeting.

Upon voice vote, motion carried.

10. Professional Services Agreement for Public Polling Concerning a Possible Transient Occupancy Tax (Bed Tax) Initiative

Recommendation: 1) Authorize the City Manager to enter into a professional services agreement with Fairbank, Maslin, Maullin, Metz & Associates, for public polling services in an amount not to exceed \$25,000; and 2) Appropriate \$25,000 from the City's Financial and Economic Uncertainty Reserve Fund for the subject contract costs.

Dave Durlinger, City Manager, presented the staff report. He introduced John Fairbank from Fairbank, Maslin, Maullin, Metz & Associates.

Mr. Fairbank stated that the goal of the City satisfaction survey, combined with exploration of additional financing, were two compatible areas of exploration for public opinion surveys. He noted that in order to assess the need for a financing measure the City would need to understand how residents and voters look at the City and how it looks at cuts in services. He stated that the methodology of the survey would be done by telephone with stratified random samples pulled from the voter registration files.

Councilmember Reddington inquired whether the firm would hire locally. Mr. Fairbank responded that they try not to hire a phone bank from people within the community; however, they would look into seeking phone bank from people in Santa Barbara. Councilmember Reddington inquired whether any local polling services were contacted to conduct this service. Mr. Durlinger responded that a Request for Qualifications was sent to firms with experience in this type of polling service and that to staff's knowledge no such firms exist in Carpinteria or the immediate Santa Barbara area.

Mayor Clark inquired whether a 20-minute survey would discourage participation. Mr. Fairbank responded that it would not and that they were finding that refusals on these types of polls were less when there are tough economic times. He stated that residents are very responsive when asked about local city services.

Councilmember Carty inquired what would be done to inform the community that they will be receiving a call. Mr. Fairbank responded that absolutely nothing would be done because they would like to call the community cold. He explained that they do not want to prepare the community, have them go to a web site, or become knowledgeable about city services. He stated that they want to obtain an honest, objective cold call about the issues that concern the City Council.

Pat Kistler, Carpinteria Valley Chamber of Commerce, asked that the City Council consider designating some funding towards tourism if the item is placed on the ballot and is passed by the voters.

Councilmember Armendariz stated that he was opposed to conducting a poll and spending \$25,000 of taxpayer money to ask the taxpayers what they believe. He suggested that they City Council should focus on how to generate revenue by creating a

bigger more dynamic economy by taking the existing Transient Occupancy Tax and refocusing it and reinvesting in the tourist infrastructure. He noted that the November ballot would include two large taxes measures for the County's oil tax and the Governor's sales tax. He stated that they were facing taxpayers fatigue and he questioned whether this was the right thing to do at this particular time or in this particular election year.

Vice Mayor Stein noted that the City was looking at cutting services and the City was subsidizing services across the board. He stated that he supported going forward with the survey.

Councilmember Reddington inquired how much revenue would the measure generate annually. Administrative Services Director John Thornberry responded that it was estimated to generate an additional \$250,000 annually.

Councilmember Armendariz inquired whether the firm would have a relationship with the campaign assuming that something is placed on the ballot. Mr. Durlinger responded that the City would not be involved in a campaign effort and that the firm would not be involved in a community involved campaign effort because their relationship is with the City. He noted that it was not uncommon for there to be a community outreach effort to educate the community about the need for a tax measure such as mailers or public meetings and workshops. He stated that the survey would assist the City Council in deciding whether there is a need for these types of services and outreach options could be considered after the City Council has received the survey results.

The City Council deliberated whether to spend \$25,000 for the survey and the timing required to place the measure on the ballot.

Motion by Vice Mayor Stein, seconded by Councilmember Carty, to authorize the City Manager to enter into a professional services agreement with Fairbank, Maslin, Maullin, Metz & Associates, for public polling services in an amount not to exceed \$25,000; and appropriate \$25,000 from the City's Financial and Economic Uncertainty Reserve Fund for the subject contract costs.

Upon voice vote, Councilmembers Carty, Vice Mayor Stein, and Mayor Clark were in favor. Councilmembers Reddington and Armendariz were opposed. Motion carried.

COMMITTEE REPORTS, INQUIRIES AND OTHER MATTERS PRESENTED BY COUNCILMEMBERS

Councilmember Reddington inquired whether the City would be willing to allocate funding toward the South Coast Homeless Advisory Committee warming centers and whether the City Council would entertain having a speaker come to explain how the

funding would be utilized to help the homeless. Mayor Clark indicated that he would support placing this on the agenda.

Councilmember Reddington inquired when the action taken tonight regarding Councilmember Armendariz would take effect. Mr. Durflinger responded that resolutions take effect immediately.

ADJOURNMENT

The meeting was adjourned at 9:50 p.m. by Mayor Clark.

Al Clark, Mayor

ATTEST:

Fidela Garcia, CMC
City Clerk