

**City of Carpinteria
City Council Minutes
Regular Meeting
Council Chambers
Monday, July 25, 2011**

ROLL CALL

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

ROLL CALL

Councilmembers present:

Councilmember Carty
Councilmember Reddington
Councilmember Armendariz
Vice Mayor Stein
Mayor Clark

Staff members present:

Dave Durlinger, City Manager
Peter Brown, City Attorney
Fidela Garcia, City Clerk
Erin Maker, Environmental Coordinator
Nick Bobroff, Associate Planner
Jackie Campbell, Community Development Director
Charles Ebeling, Public Works Director
Dylan Paul, Management Analyst

PLEDGE OF ALLEGIANCE

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

INTRODUCTIONS, PROCLAMATIONS AND PRESENTATIONS

1. Presentation of the City's Summer 2011 Outstanding Business Partner Award to Carpinteria Glass Company

Mayor Clark recognized Philip and Cecilia Barton-Grimley, owners of Carpinteria Glass Company, as the recipients of the City's Summer 2011 Outstanding Business Partner Award. Mr. Barton-Grimley thanked the City and noted that he had lived in the City for 30 years and that his children grew up in the City and attended Carpinteria schools.

2. Public Service Announcement Video "Clean & Green Smoke-Free" Presentation by Asa Olsson, Representative of Girls Inc.

Asa Olsson, representing Girls Inc., stated that some of the members of Girls Inc. would provide a presentation and show a rough version of their public service announcement. Ana Delgado, Jessica Irabon and Arianna Lopez provided a PowerPoint presentation of National Kick Butts Day for a Clean and Green Smoke-Free City.

PUBLIC INFORMATION REPORTS AND ANNOUNCEMENTS - None

CITY MANAGER'S REPORT

- Soil remediation project at the old nursery site at Dump Road near Carpinteria Avenue delayed until the week of August 1.
- Street work has begun for the Lagunitas Project on Via Real.
- August 8 Council meeting will include an item on the Casitas Plaza Remodel and Albertston's Expansion.

Erin Maker, Environmental Coordinator, reported that the South Coast Energy Efficiency Partnership, Southern California Edison's Comprehensive Mobile Home Program, would begin a new energy efficiency project in Santa Barbara County on August 15. She stated that Synergy would deliver multiple energy efficiencies and low-income assistance programs for lighting, water, and gas savings products and common area products such as LED exit lights, lighting, interior hardware fixtures for CFL bulbs, exterior fixtures with dawn to dusk sensors, low-flow shower heads, faucet aerators, pipe wrap, and duct testing and sealing. She also stated that the low-income program would offer weatherization, sealing of shelves, repair holes in walls, doors, windows, and plumbing penetrations, and carbon monoxide testing. She noted that qualified residents could receive a 20 percent reduction on electric and gas bills and replace old refrigerators under the CARE program. She also noted that customers must provide proof of income; homeowners must provide proof of ownership; and tenants must provide permission from landlords. She mentioned that information would be posted on the City's cable channel and website.

INQUIRIES & OTHER MATTERS PRESENTED BY COUNCILMEMBERS

Councilmember Reddington inquired regarding the reason for withdrawing the Paredon application and environment impact report. City Manager Dave Durflinger responded that the matter was on the agenda and that a letter was submitted by the Santa Barbara Environmental Defense Center for the City Council's consideration.

Councilmember Reddington spoke regarding the California Supreme Court's decision on Manhattan Beach's ban on plastic bags. She noted that the court ruled that Manhattan Beach would not be required to produce an environmental impact report (EIR) due to its population and because the impact to the environment would not be substantial enough to require an EIR. She stated that she hoped this would open the door for Carpinteria to draft an ordinance banning plastic bags. She noted that the City

of Santa Barbara had considered adopting an ordinance; however, there were not enough votes to move it forward. City Manager Dave Durflinger noted that at one time the City Council had considered a ban on single use plastic bags and deferred taking any action in order to see how case law and pending legislation would evolve. He stated that staff could provide a report on how the ruling could affect the City of Carpinteria in considering regulations. It was the consensus of the City Council for staff to provide information by email and to bring back a status report.

Councilmember Reddington inquired regarding the status of the old Carrows Restaurant property. City Manager Dave Durflinger responded that the property was up for sale and that the City routinely receives inquiries from prospective purchasers regarding allowable uses for the property.

Councilmember Reddington noted that SB 568, a bill placing a Statewide ban on Styrofoam food containers, was approved by the Senate and would be presented to the House in a few weeks. She requested that the City Council place this item on a future agenda for discussion for a letter of support.

Councilmember Reddington noted that at a recent conference of Mayors, Mayor Antonio Villaraigosa asked that cities write letters to encourage an early end to wars in Afghanistan and Iraq and to focus reinvestment on domestic job creation and addressing problems domestically. Councilmember Armendariz stated that he believed it would be a waste of time and that the Administration would not take the Mayor's advice on national security and foreign policy. He also stated that he had no problem with this being brought back for the City Council to debate. Mayor Clark stated that he would discuss this with the City Manager at a later date on how to proceed.

Councilmember Reddington inquired whether there was a City Ordinance regarding jet skis launching at the boat dock. City Manager Dave Durflinger responded that he would provide that information.

Councilmember Reddington announced Vacation Bible School for kindergarten through sixth grade at the Carpinteria Valley Baptist Church, July 25 through 29.

Councilmember Carty recommended that the City Council move *Inquiries and Other Matters Presented by Councilmembers* to the end of the agenda. Vice Mayor Stein stated that he agreed with the recommendation.

PRESENTATIONS BY CITIZENS/PUBLIC COMMENT

George Layton stated that there was discussion at the previous City Council meeting regarding replacing the City's aging sedans. He noted that the City had a policy for local preference for supply sources and expressed that he hoped that the City had a similar policy for replacing sedans. He provided brochures from an American car company and

stated that he was certain there were similar all-electric or hybrid vehicles available from American suppliers. He suggested that the City adopt a policy to buy American.

AGENDA MODIFICATIONS: None

ADMINISTRATIVE MATTERS: None

PUBLIC HEARINGS:

5. Request for Waiver or Adjustment of Development Impact Fees for the Carpinteria Arts Center Located at 855 Linden Avenue

Recommendation: Open public hearing, take public comment and continue the matter to August 8, 2011 City Council hearing; and uphold the assessment of the Development Impact Fees for the Carpinteria Arts Center in the amount of \$217,860.12.

Mayor Clark stated that he would recuse himself from this item because he was a member of Carpinteria Arts Council and although he was a nonvoting member there was a perceived conflict of interest.

Vice Mayor Stein stated the he would recuse himself from this item because he had a perceived conflict of interest because his wife, Carla, was the Chairperson of the Endowment Committee for the Carpinteria Arts Council.

Mayor Clark appointed Councilmember Carty as the Acting Mayor to run this portion of the meeting.

Mayor Clark and Vice Mayor Stein stepped down from the dais and exited the Council Chambers.

There were no disclosures of ex parte communications.

Nick Bobroff, Associate Planner, presented the staff report.

Gary Campopiano, Board Member of Carpinteria Valley Arts Council, read from a brochure developed by the Arts Council regarding development of an arts center and the Arts Council's vision for the community's Arts Center. He stated that the Arts Center would be an asset and would be placed equal to the Boys and Girls Club, Girls Inc., Carpinteria Bluffs, Salt Marsh, library, Sheriff's Substation, Fire Station, and church. He also stated that the Arts Council believed that because of the benefits that the Arts Center would provide that the development impact fees could be reduced or waived for the reasons stated in their June 14 request. He noted that at the time of the request the Arts Council was unaware that the City Council could grant a reduction or waiver of the \$16,000 Fire District fee. He stated that the Arts Council would request a 60 percent

reduction of the fee and he asked the City Council to consider the request for a reduction in the development impact fees.

Ginnie Brush, Director of the County Arts Commission, spoke regarding the economic impacts that arts centers bring. She noted that arts centers bring in income, affect quality of life, and engage the community. She also noted that arts centers provide a resource for people who may not have access to the arts, provides opportunities for cross generational learning, and gives people a taste of something that might one day be a future career. She encouraged the City Council to consider the request to waive or adjust the development impacts fees for this project.

Andy Neuman, architect for the project, thanked the City Council for providing the seed money to help purchase the land for this project. He thanked staff for their professionalism and for working with the Arts Center during this process. He suggested that the City Council should consider the community benefit as the main consideration, and he stated that he would appreciate the City Council's support in reducing the fees.

Acting Mayor Carty stated that the Arts Center would be a benefit, asset, and treasure for Carpinteria.

Councilmember Armendariz expressed concern with the methodology used in quantifying development impacts and commented that he believed the cost of construction for these types of infrastructure projects were too high. He stated that he agreed this project could be a valuable community resource. He noted that one year ago the City Council reduced the interchange and bridges fee by 50 percent and extended the reduction an additional 18 months in hopes of having a uniform benefit for all developers in the City.

City Attorney Peter Brown stated that the City wanted to have uniform applicability of the development impact fee ordinance. He noted that the staff report raised questions regarding policy direction that the City Council could provide if the Council felt there were reasons to make changes to the recommended fees. He also noted that the City Council could decide that for reasons particular only to the Arts Center project that some change in the fees is appropriate or the City Council could take a broader approach by looking at the fee program and create exceptions for some broad class of projects. He stated that if the City Council were to decide a different option that staff would need to ensure there is evidence in the record that is appropriate to support alternate action.

Councilmember Armendariz inquired whether the applicants could be allowed to pay the development impacts fees in installments. City Manager Dave Durflinger responded that this could be an option as long as there is a proper formal arrangement. He noted that the City Council would need to consider whether to give this consideration to other future projects. Councilmember Armendariz inquired whether this project could be addressed as a categorical issue and whether the City Council could create a special

category of projects for non-profit organizations. City Manager Dave Durflinger responded that this was included as Option 4, Part B to amend the program which would require an amendment to the Municipal Code to establish an exemption category for non-profits or projects that the City Council determines have certain public benefit. He stated that the City Council could direct staff to meet with representatives from the Arts Council to discuss the specific public benefits that would warrant reduction in fees. He noted that this was the approach taken when the City Council made the \$45,000 contribution for the property purchase. Councilmember Armendariz inquired regarding the funding source for the acquisition of the property. City Manager Dave Durflinger responded that the funds were from the Open Space Acquisition Fund.

Councilmember Reddington stated that development impact fees are collected because the City has a need for them. She expressed concern with waiving the fees at this time because it would create a categorical exemption that the City cannot afford. She stated that she would support the option to give the Arts Center a donation towards these fees but not to waive the fees as the City had maintenance needs for parks, streets, playing fields, and the pool.

Councilmember Armendariz inquired whether the development impact fees were calculated for current or future development. City Manager Dave Durflinger responded that the Development Impact Fee program was created to ensure adequate capacity for infrastructure for the long term and was an estimate of capital improvement needs based on a theoretical build-out of the community. He noted that development impact fees do not pay for needs that have not been met in the past and that they make payment for the capacity needs created only by new development. City Attorney Peter Brown added that when calculating development impact fees new development cannot be charged to pay for pre-existing defects and it could only be charged for its proportionate share. He noted that when the fee ordinance was adopted a fee study was prepared that considered the build-out in the General Plan, existing development, and deficiencies, and determined what proportion to assess new development.

Councilmember Armendariz stated that he believed the \$120,000 fee for highway interchanges and bridges was excessive and that he agreed that the open space acquisition fee should be eliminated as it was unnecessary in this situation. He suggested that rather than looking at a 60 percent across the board reduction that the City Council consider some of the fees individually and determine whether or not they are applicable in this situation and help this project go forward.

Acting Mayor Carty stated that there would be impacts based on this development; however, he agreed that the City Council should consider creating a non-profit category. He also stated that he agreed with eliminating the open space acquisition fee.

City Manager Dave Durflinger noted that Councilmember Reddington suggested upholding the fee, which suggests that there is a legal nexus between the fees and they could be supported under the existing program. He also noted that Councilmember

Armendariz suggested he did not believe there was any nexus to some of the fees, in particular the interchanges and bridges fee. He stated that under this suggestion staff would need to ask the City Council for specific basis for the determination that there is no link between the project's impacts and the development impact fees. He noted that Acting Mayor Carty suggested amending the Municipal Code to create a specific exempt category. He stated that it would take staff time to initiate a Municipal Code amendment to create the exemption and studies may need to be done in order to support an exemption. He noted that other cities have made exemptions and findings on a case-by-case basis to determine whether a nexus exists based on current projects.

City Attorney Peter Brown stated that the City Attorney's Office would recommend having an ordinance that is interpreted uniformly and if there is to be an exception there would need to be good evidence in the record. He noted that under the law if there is a development impact fee program that has been adopted by Council that the courts would defer to that and would not substitute their judgment for the City's judgment.

Acting Mayor Carty expressed support for elimination of the open space acquisition fee, reduction of interchange and bridges fee, and creation of a non-profit category exemption. Councilmember Armendariz stated that he believed that \$120,000 in development impact fees for interchanges and bridges to the Arts Center was not justifiable.

City Manager Dave Durflinger stated that in terms of direction that Councilmember Armendariz and Acting Mayor Carty suggested that there was no nexus on the proportional share to interchanges and bridges fee. He suggested that one option would be for the City Council to formally recognize a public benefit and staff could meet with the Arts Council to seek options for an agreement of guaranteeing these public benefits. He stated that this would allow for a policy to reduce the fees for the Arts Center and it would avoid the complexities of the nexus relationships and the potential precedence, and would avoid time and cost for amendment to the Municipal Code.

Councilmember Reddington expressed concern that anyone could argue the public benefit and the City Council would need to spend time, staff time, attorney time, and public time for other projects. City Manager Dave Durflinger responded that it was important to consider precedence; however, procedurally anyone would have access to this process, could ask for waivers, and could argue a lack of nexus.

Community Development Director Jackie Campbell stated that when looking at how the fee structure is set up there were three land use categories: residential, commercial, and industrial. She noted that this project falls under the commercial category which is the most intense. She also noted that when the original fee study was done it was calculated that a certain number of trips are generated per square foot based on the land use type. She stated that the nexus argument that the project would create some impact to highway interchanges and bridges was possible and perhaps not at the \$120,000 value contribution because an arts center would generate less traffic per

square foot than the square footage dedicated to a grocery store. She suggested that the City Council could direct staff to review the land use categories to find a nexus for lower traffic generation rate per square foot for this particular type of use because activities occur outside the peak hours and on weekends, and it would not cause the City to expand its intersections because they are not generating peak hour traffic

City Manager Dave Durlinger suggested that the City Council could amend the program to create exemption or create a unique category in terms of transportation impacts. Acting Mayor Carty expressed his support. Councilmember Reddington expressed that she was not interested in creating a special category for non-profits and that she wanted to consider allowing the Arts Center a 10 or 20 percent reduction in the fees. Councilmember Armendariz expressed that he wanted staff to bring back options for the City Council's consideration.

City Manager Dave Durlinger stated that this item would be brought back at the next meeting for formal action. He also stated that he wanted to make a correction to an earlier response that the \$45,000 actually came from the general reserve fund that was set aside for recreation projects.

The City Council recessed to a break at 7:36 p.m. and reconvened at 7:40 p.m. Vice Mayor Stein and Mayor Clark took their seats at the dais.

CONSENT CALENDAR

Motion by Vice Mayor Stein, seconded by Councilmember Armendariz, to approve the Consent Calendar as presented.

A voice vote was taken and the motion carried unanimously.

3. Minutes of the regular meeting held July 11, 2011
4. Expenditures for the period ending July 20, 2011

OTHER BUSINESS:

6. Status of the Paredon Project Application

Recommendation: Receive and file report, taking no further action at this time.

Jackie Campbell, Community Development Director, presented the staff report.

Dave Moore expressed support with closing the Paredon project application. He noted that 70 percent of Carpinterians voted against the Paredon project. He also noted that Venoco continued with serious fracking indiscretions in the North County which were currently being investigated by the County Board of Supervisors.

Vera Benson expressed support with closing the Paredon project application. She noted that the County would not allow the project to move forward with the suggestions included in the environmental impact report. She also noted that the fracking was not previously addressed, and that Venoco was purchasing more land in Kern County oil fields and may centralize their production at that location.

Councilmember Reddington suggested working with Venoco and terminating the Paredon project application as soon as possible. She stated that this would be a goodwill gesture for the company to work with the community and would say that in good faith Venoco does good things for the community.

Councilmember Carty inquired whether the City Council could choose to terminate the application. Community Development Director Jackie Campbell responded that the City may close the application based on past practice where applications have been dormant for a long period of time. However, the applicant could immediately resubmit the application.

Councilmember Reddington inquired whether there was any way in good faith to work with Venoco as they were part of the business community. Community Development Director Jackie Campbell responded that she spoke with Steve Gregg, Governmental Affairs Representative, and that she believed Venoco was taking the advice of the State Lands Commission and was looking at other alternatives as to how it might develop this field. She noted that when Venoco completes its research it would take an action to withdraw, revise, or resubmit its application. She noted that the City had the authority to withdraw the application and that typically staff sends a letter and offers a period of time within which to respond before the City closes the application. She also noted that this action does not generate goodwill and most applicants do not appreciate this action.

Councilmember Armendariz stated that it was not the City Council's function to determine in advance which proposals interest the City. He further stated that the City Council had a fiduciary responsibility to address these issues objectively and judiciously. He expressed concern that the City Council would place the City in a legal predicament by going on record by prejudging the project. He stated that the discussion this evening was a waste of time and politically driven and he would not support it.

Vice Mayor Stein noted that the State Lands Commission had given Venoco until February 2012. He inquired whether the Commission could extend the deadline. Community Development Director Jackie responded that it would be hard to say how the Commission would respond.

Councilmember Reddington noted that 70 percent of the voters voted against this project.

Vice Mayor Stein stated that he understood the frustration with this project and that he agreed with the process. He suggested that the City Council wait until the February 2012 deadline and then take appropriate action.

Mayor Clark stated that he agreed with Councilmember Reddington that 70 percent of the voters voted against this project. He also stated that he believed it made sense to wait on taking action after February 2012.

Vice Mayor Stein noted that he was a part of the 70 percent who voted against the project; however, the City Council was doing its due diligence and giving Venoco the benefit to do the right thing by pulling the application.

Councilmember Reddington inquired whether by terminating the project whether it would influence the State Lands Commission by showing that that 70 percent of the voters, including the City Council, have asked Venoco to terminate this project. Community Development Director responded that the State Lands Commission was aware of the outcome of the vote; however, it was running its own process and decided to give Venoco until February 2012 to decide how or if it will develop Paredon. She stated that if the City were to close the application she did not believe it would affect the State Lands Commission's position and that it would only affect the potential of the Maddy Bill applying to the project.

Councilmember Armendariz stated that the City Council had a different responsibility from the 70 percent of the people who voted against this project. He further stated that a private citizen is allowed to prejudge projects; however, the City Council has the fiduciary responsibility of the people who voted them in the position of decision making and to defend and protect the due process for every project applicant.

Mayor Clark stated that the City was asking to expedite this and not that the City Council was voting against it. He suggested waiting until February 2012 to take action.

No formal action taken.

7. Recruitment of Coordinator of Emergency and Volunteer Services

Recommendation: That the City Council authorize the recruitment and hiring of the Coordinator of Emergency and Volunteer Services position through the appropriate selection process to file the position.

Dave Durflinger, City Manager, presented the staff report.

Motion by Vice Mayor Stein, seconded by Councilmember Carty, to authorize the recruitment and hiring of the Coordinator of Emergency and Volunteer Services position through the appropriate selection process to fill the position.

A voice vote was taken and the motion carried unanimously.

8. Final Map No. 25,186; Marketing Plan; Inclusionary Housing Agreement; and Agreements for Land Development Improvements for the Lagunitas Residential Project – 6380 Via Real Residential Portion of File No. 07-1407-TM/TPM/DP/CDP/TEX

Recommendation: Allow for the recordation of the Final Map for the residential portion of the Lagunitas mixed use development; and authorize: a) the City Clerk to sign on behalf of the City Council; b) the City Surveyor to proceed with the recordation of the Final Map for the Lagunitas Residential Project, including the Inclusionary Housing Agreement and Marketing Plans; and the Mayor to sign the corresponding Agreement for Land Development Improvements.

Dylan Paul, Management Analyst, presented the staff report. He noted a clerical correction to Attachment C.

Mayor Clark noted that the staff report indicated that the office development, under separate ownership, will move forward at a later time; however, the marketing plan indicated that during the additional market unit period that units shall be exclusively available to persons who are employed within the offsite office building. He inquired how this would this process would work. Community Development Director Jackie Campbell responded that the office building does not exist at this time, but in order to be true to the conditions of approval the marketing plan was worded to reflect the requirement in the conditions. She noted that the first ring of priority purchasers would be to the employer or employees within that office building.

Mayor Clark inquired whether the traffic mitigations would depend on Condition No. 38. Community Development Director Jackie Campbell responded that a conservative analysis was done when traffic and air quality impacts associated with the project were considered. She noted that no credit in the environmental review were given for walk to work trips and that air emissions and vehicle trips calculations were based on standard office trip generations rates.

Councilmember Reddington inquired whether there was a way to require that as the properties are sold that preference is given to those who live in the area. Community Development Director Jackie Campbell responded that this was included in the conditions of approval. She explained that the second ring of priority purchasers would be to those employers and employees within the Mark Avenue industrial area, the third ring would go to anybody employed with the City of Carpinteria, and the fourth ring of priority goes to employees within the Carpinteria Valley,

Scott Tenevitz, applicant, stated that he was present to answer any questions. He noted that they were finalizing the map and moving forward with the development at this time. He also noted that they would be going through the Architectural Review Board

with the plans and that they have moved forward with the landscape plans. He noted that they were waiting for the map to record and that they hoped to move forward with development in the next few months.

Vera Benson, stated that it had been a long time in getting a plan for this area and that it seemed that as soon as a plan is approved it changes. She spoke regarding the property's zoning history which was originally zoned agriculture and subsequently zoned industrial. She noted that the City Council asked the developer to develop industrial and housing units and that CVA introduced a referendum to reduce traffic and air pollution impacts. She also noted that the referendum passed and a settlement was reached. She expressed her frustration that there were no guarantees that anything would be built.

City Attorney Peter Brown noted that this item was for approval of the final map; that it was a ministerial act; and that the final map complied with the tentative map.

Motion by Vice Mayor Stein, seconded by Councilmember Armendariz, to allow for the recordation of the Final Map for the residential portion of the Lagunitas mixed use development; and authorize: a) the City Clerk to sign on behalf of the City Council; b) the City Surveyor to proceed with the recordation of the Final Map for the Lagunitas Residential Project, including the Inclusionary Housing Agreement and Marketing Plans; and the Mayor to sign the corresponding Agreement for Land Development Improvements as revised.

A voice vote was taken and the motion carried unanimously.

COMMITTEE REPORTS

Councilmember Armendariz reported that he attended the Santa Barbara County Association of Governments meeting where they discussed the organizational management study to solidify the mission and vision statement.

Councilmember Reddington reported that she attended the South Coast Homeless Advisory Committee and stated that they were working on drafting a property upon arrest and release and homeless jail release for the homeless who are arrested and their property becomes lost. She also reported that she attended a BEACON meeting where they discussed the Manhattan Beach plastic bag ban ordinance. She also reported that she attended the Central Coast Division League of California Cities dinner meeting in Solvang where State Controller John Chiang was the guest speaker.

ADJOURNMENT

The meeting was adjourned at 8:42 p.m. by Mayor Clark.

Al Clark, Mayor

ATTEST:

Fidela Garcia, CMC
City Clerk