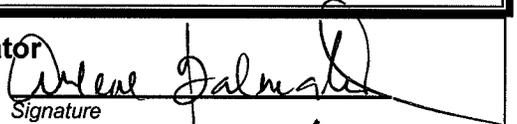


STAFF REPORT
COUNCIL MEETING DATE
NOVEMBER 28, 2011

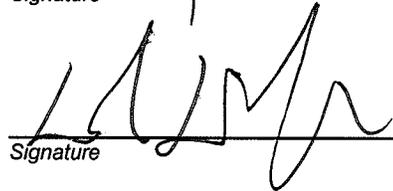
ITEM FOR COUNCIL CONSIDERATION

AMENDMENTS TO THE PAYMENT AND REPORTING VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS AND TAX STATUS OF THE MEMBER PAID CONTRIBUTIONS, ALL RELATED TO THE IMPLEMENTATION OF THE PREVIOUS COST SHARING PROVISION BETWEEN THE CITY AND ITS EMPLOYEES.

Report prepared by: Arlene Balmadrid, HR Administrator


Signature

Reviewed by: Dave Durlinger, City Manager


Signature

STAFF RECOMMENDATION

Action Item ; Non-Action Item

Pursuant to the Service Employees International Union (SEIU) Local 620 Memorandum of Understanding (MOU) 2011-2012 and the Conditions of Employment for the Management and Miscellaneous Personnel;

- 1) Adopt Resolution No. 5347, approving a Change in Employer Paid Member Contributions (EPMC) to the Public Employees' Retirement System from seven percent (7%) to four percent (4%) in contributions designated as employee contributions;
- 2) Adopt Resolution No. 5348, approving tax deferral of member paid contributions;
- 3) Repeal Resolution Nos. 5333 and 5338.

Motion: I move to adopt Resolution Nos. 5347 and 5348 as read by title only and repealing Resolution Nos. 5333 and 5338.

I. BACKGROUND

At its regular meeting of May 31, 2011, through adoption of Resolution Nos. 5319 and 5320, the City Council approved the Conditions of Employment for Management and Miscellaneous Personnel. Additionally, through adoption of Resolution No. 5324, the City Council approved the Memorandum of Understanding for Fiscal Year 2011-2012 between the City of Carpinteria and Service Employees International Union (SEIU) Local 620, representing employees in the general service and public works bargaining units.

Resolution Nos. 5319, 5320 and 5324 provided that all employees who are members of the Public Employees' Retirement System shall pay three percent (3%) of the Employer Paid

Member Contribution ("EPMC") effective the first full pay period after July 1, 2011. These resolutions also provided that if permitted by CalPERS, employees would contribute this same amount three percent (3%) to the employer's contribution rate, rather than to the member's contribution, at a later date.

The MOU for represented employees and the Conditions of Employment for the Management and Miscellaneous Employees also provided that although it was agreed that the City's contribution toward EPMC is reduced from seven percent (7%) to four percent (4%) of compensable earnings, the City will have the three percent (3%) employee contribution be made under the employer portion of the retirement contribution to CalPERS if it is legally possible.

In September 2011, the City Council approved the following:

- Tax Deferring Member Paid Contributions by Resolution No. 5333.
- Changing the Employer Paid Member Contributions to the Public Employees' Retirement System from seven percent (7%) to four percent (4%) by Resolution No. 5338.

CalPERS has requested that the above resolutions be revised as follows:

- Delete the designated four percent (4%) employee contributions of the city in items IV and V in Resolution No. 5333;
- Delete the language of four (4%) percent designated employee contributions;
- Indicate reporting four percent (4%) value of compensation earnable as additional compensation in Resolution No. 5338.

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.

Two revised Resolution Nos. 5349 and 5350 reflecting changes required by CalPERS are presented to the City Council for approval on November 28, 2011.

II. DISCUSSION

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

This benefit will consist of the City of Carpinteria paying four percent (4%) of the normal member contributions as EPMC as well as tax deferring the three percent (3%) Member Paid Employee Contributions. This benefit applies to all Management, Miscellaneous Personnel and represented employees.

III. FINANCIAL CONSIDERATIONS

The change in EPMC from seven percent (7%) to four percent (4%) is part of the cost savings initiatives to balance the City's budget for fiscal year 2011-12. Also, the three percent (3%) employee contributions to the California Public Employees Retirement System agreed to previously in the MOU's is tax deferred and will benefit employees. There is no cost to the City for the tax changes.

IV. LEGAL ISSUES

N/A

V. ATTACHMENTS:

Resolution No. 5347
Resolution No. 5348

RESOLUTION NO. 5347

**A RESOLUTION OF THE CITY OF CARPINTERIA CITY COUNCIL
APPROVING A CHANGE TO THE PAYMENT AND REPORTING VALUE OF
EMPLOYER PAID MEMBER CONTRIBUTIONS AND REPEALING
RESOLUTION NO . 5338**

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

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

WHEREAS, the City Council of the City of Carpinteria initially adopted said Change to the Payment and Reporting Value of Employer Paid Member Contributions by Resolution 5338;

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

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

- This benefit shall apply to all regular and full-time employees of the City of Carpinteria.
- This benefit shall consist of paying four percent (4%) of the normal contributions as EPMC, and reporting the four percent (4%) value of compensation earnable (excluding Government Code section 20636(c) (4) as additional compensation.
- The effective date of this Resolution shall be November 28, 2011.

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

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

PASSED, APPROVED AND ADOPTED this 28th day of November, 2011, by the following called vote:

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

Al Clark
Mayor, City of Carpinteria

ATTEST: _____
Fidela Garcia
City Clerk,
City of Carpinteria

I hereby certify that the foregoing was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 28th day of November, 2011.

Fidela Garcia
City Clerk, City of Carpinteria

Approved as to form:

Peter Brown
City Attorney

RESOLUTION NO. 5348

**A RESOLUTION OF THE CITY OF CARPINTERIA CITY COUNCIL
APPROVING TAX DEFERRAL OF MEMBER PAID CONTRIBUTIONS IRC
414 (h)(2) AND REPEALING RESOLUTION NO. 5333**

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

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

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

WHEREAS, the City of Carpinteria initially adopted said tax deferral by Resolution No. 5333; and

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

NOW THEREFORE, BE IT RESOLVED:

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

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

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

PASSED, APPROVED AND ADOPTED this 28th day of November, 2011, by the following called vote:

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

Al Clark
Mayor, City of Carpinteria

ATTEST: _____
Fidela Garcia
City Clerk,
City of Carpinteria

I hereby certify that the foregoing was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 28th day of November, 2011.

Fidela Garcia
City Clerk, City of Carpinteria

Approved as to form:

Peter Brown
City Attorney