

**STAFF REPORT**  
**COUNCIL MEETING DATE:**  
**March 8, 2010**

**ITEM FOR COUNCIL CONSIDERATION:**


A Resolution of the City Council taking an official position of opposition to Measure J2010, the Paredon Oil & Gas Development Initiative.

**Report prepared by:**

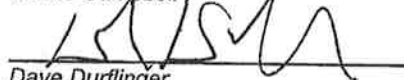
**City Attorney**

  
Peter Brown

**Community Development  
Director**

  
Jackie Campbell

**City Manager**

  
Dave Durlinger

**STAFF RECOMMENDATION:**

Adopt Resolution No. 5225, taking an official position of opposition to Measure J2010, the Paredon Oil & Gas Development Initiative.

**I. BACKGROUND/DISCUSSION**

At its regular meeting of February 16, 2010, the City Council considered whether to take a position on Measure J2010, what official position was appropriate, and whether an action would be adopted by Resolution or simply reflected in a minute order. The City Council considered all information received to date on the Measure, including an Elections Code 9212 report, as well as extensive public testimony. The City Council directed staff to prepare a Resolution that reflected its decision to take an official position of opposition to Measure J2010.

Staff has prepared Resolution No. 5225 for the City Council's consideration. Once adopted, the Resolution will be made available to the public along with other information about Measure J2010.

## **II. LEGAL CONSIDERATIONS**

Once adopted, Resolution No. 5225 will become a part of the public information available to voters on Measure J2010. The City may appropriately disseminate Resolution No. 5225 and other information about Measure J2010 as a part of its normal activities aimed at informing the public about important local public policy matters.

As has been discussed in prior reports to the City Council, government agencies may not use public funds to take sides in a campaign to advocate the passage or defeat of a ballot measure. However, the courts have taken care to distinguish permissible informational activities from impermissible campaign expenditures. Using normal City channels for communicating with the public to disseminate information about the City Council's official position on Measure J2010, is a permissible activity.

## **III. ATTACHMENT**

Resolution No. 5225

RESOLUTION NO. 5225

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA,  
TAKING A POSITION OF OPPOSITION TO MEASURE J2010  
THE PAREDON OIL AND GAS DEVELOPMENT INITIATIVE  
CERTIFIED FOR THE JUNE 8, 2010 BALLOT**

**WHEREAS**, the Paredon Oil and Gas Development Initiative ("Measure J"), a voter sponsored initiative prepared by Venoco, Inc., a private corporation, was submitted to the City Clerk on February 2, 2009;

**WHEREAS**, the City recognizes the value of the initiative process when it is used to advance the public health, safety and welfare;

**WHEREAS**, on November 23, 2009 the City Clerk certified that sufficient petitions had been signed to qualify the Initiative for a special election;

**WHEREAS** the City Council, at a public meeting on December 14, 2009, ordered a special election to be held on the Initiative and consolidated with the June 8, 2010 general election;

**WHEREAS**, the City Council ordered a report on the effects of Measure J under Elections Code section 9212, and between November 2009 and February 2010 received draft and final copies of a formal 9212 Report on Measure J, several staff reports and presentations, updates to the Report, and extensive public comment thereon;

**WHEREAS**, the City Council held a duly noticed public hearing on February 16, 2010 to consider whether or not to take a position on Measure J in light of the direct and indirect effects of Measure J on the community as identified by the 9212 Report and other sources;

**WHEREAS**, numerous members of the public urged the City Council to take an official position against Measure J because: (1) the City Council was elected to act as the citizens' voice on important public issues, (2) the Initiative has a direct impact on the City and its operations, and (3) the City Council has the resources and experience to evaluate and understand the complexities of the Initiative;

**WHEREAS**, the City Council determined that taking a position is an appropriate method of fulfilling its duty to protect the public health, safety and welfare of its residents; and

**WHEREAS**, the City Council has carefully considered the provisions of Measure J and determined that it does not advance the health, safety and welfare of our community;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1.** The City Council of the City of Carpinteria is opposed to Measure J on the June 8, 2010 election ballot for the following reasons:

**A. The Initiative Interferes with the City's Self-Rule.** The City incorporated 45 years ago to gain more control over local issues. Measure J takes away the City's local control by preventing the City Council from applying its comprehensive local permit and environmental review processes to the Paredon Project authorized by the Initiative. All other oil and gas development in Santa Barbara County has received review and regulation by local government to protect public health and safety and to ensure that the development is the best that it can be. Under Measure J, the Paredon Project will be approved in a manner unlike any other oil and gas project in Santa Barbara County and will create an unprecedented gap in local regulation. This is an abuse of the Initiative power and creates a dangerous model for future development in Carpinteria and in California.

**B. The Initiative Undermines Local Planning Laws.** The City's General Plan / Local Coastal Land Use Plan, zoning laws and other regulations form the basis for orderly land use development in Carpinteria and preserve the community as a "small beach town." These regulations apply equally to all properties and were adopted only after review and approval from the California Coastal Commission to ensure protection of the City's unique coastal resources. Measure J amends and overrides these important laws that protect the environment

and provide a healthy, balanced local economy, making special exceptions for Venoco. A private corporation's policies and priorities should never supersede those of the City.

**C. The Initiative Evades Environmental Review.** Under the California Environmental Quality Act (CEQA), every qualified development in Carpinteria must undergo environmental review, which results in the identification of mitigation measures that are necessary to protect both the environment and public health and safety. Measure J prevents the City from conducting environmental review of the Paredon Project. Instead, under the terms of the Initiative, Venoco imposes on itself only those environmental and safety measures that it alone created. Allowing an industrial applicant the exclusive authority to pick and choose for itself which environmental and safety measures will apply to its own business poses unnecessary risks to the community. The damage the Initiative's Paredon Project will cause through noise, odors, pollution, night lighting and potential catastrophic accidents, and the impacts to Carpinteria's unique natural resources including the ocean views, harbor seal habitat, and bluffs, are too important to be left unexamined and unaddressed.

**D. The Initiative Authorizes After-the-Fact Changes.** Measure J allows Venoco to change the Paredon Project development specifications, including the scope of the Project and the mitigation measures included in the Initiative, after the election without voter approval. As a result, the development that could ultimately occur at Venoco's oil and gas facility under the Initiative may not resemble the development that is presented to the voters under Measure J. The possibility that a "bait and switch" might occur deprives the voters of their rights to know exactly the nature of the project on which they are voting.

**E. The Initiative Does Not Benefit the Local Economy.** The Paredon Project as set forth in the Initiative is not expected to result in any substantial increase in jobs in Carpinteria over the life of the Project and represents a threat to the local economy in the event of an oil spill or accident.

**F. The Initiative Leaves Many Unanswered Questions.** The meaning of many aspects of Measure J will not be clear until long after it is approved. For example, while oil and gas development would produce royalties for the City, County and State, there are so many variables associated with calculating and allocating royalties that the amount the City can expect to receive is uncertain and speculative. In addition, the life of the project and procedures for abandonment of the oil and gas facility are also unknown. Further, Measure J raises legal questions regarding its implementation that will likely require litigation to resolve. The ambiguities built into Measure J make it impossible for the voters to accurately evaluate the costs and benefits of the Initiative.

**SECTION 2.** No public funds have been or shall be used in any campaign for or against Measure J;

PASSED, APPROVED AND ADOPTED this 8<sup>th</sup> day of March, 2010, by the following called vote:

AYES:           COUNCILMEMBER:  
NOES:           COUNCILMEMBER:  
ABSENT:        COUNCILMEMBER:

\_\_\_\_\_  
Mayor, City of Carpinteria

ATTEST:

\_\_\_\_\_  
City Clerk, City of Carpinteria

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 8<sup>th</sup> day of March, 2010.

\_\_\_\_\_  
City Clerk, City of Carpinteria

APPROVED AS TO FORM:

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City Attorney