

**CITY OF CARPINTERIA
5775 CARPINTERIA AVENUE
CARPINTERIA, CALIFORNIA 93013
(805) 684-5405**

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PRESS RELEASE

The City Council at its regular meeting of August 10, 2009, met in closed session with legal counsel regarding existing litigation between the City Attorney, Peter Brown, and Venoco Corporation.

In February, the City Clerk received a proposed initiative that would authorize the Paredon Project. The Paredon Project involves the operation of an on-shore oil drilling rig at Venoco's Carpinteria Oil & Gas Processing Facility. The initiative would accomplish this by amending the City's General Plan/Local Coastal Plan, adopting a new Specific Plan applicable to Venoco's property, and approving a Development Agreement, which is a contract between Venoco and the City that would give Venoco special rights. If adopted, the initiative would exempt the Paredon Project from most of the existing City regulations, guidelines, ordinances and code provisions that regulate land use and development in the City, and would require that the City issue a Coastal Development Permit and other permits for the project.

The first step in the initiative process is for the City Attorney to prepare a ballot title and summary for the proposed initiative. When the City Attorney reviewed the initiative, he concluded that it was unlawful in a number of respects. At the direction of the City Council, on February 17 the City Attorney filed litigation seeking a declaration from the Santa Barbara Superior Court as to whether the initiative was legal and exceeded the scope of the initiative power reserved to the people.

In filing the lawsuit, the City Attorney, City Council and City staff did not take a position on the merits of the Paredon Project itself. Instead, the City Attorney sought guidance from the court on specific legal questions about whether the proposed initiative was legally defective and therefore outside the power of the citizens to enact. Although the initiative presented a number of legal issues, a critical issue is that the initiative seeks to force the City to issue permits for the project (coastal development permit, building permit) without Venoco going through the normal review process for such permits. This would be as if a homeowner decided that he did not want to get a building permit to build a new house because he believes it will take too much time or money, so instead he circulates an initiative to have the people direct the City to issue him his building permit. The City Attorney believed that California law does not allow an initiative to be used for this purpose.

The City's motivation in seeking this early judicial determination of the initiative's validity was to avoid the circulation of a legally defective initiative, which would incur unnecessary expenditure of public and private funds and could mislead and frustrate the public by having them engage in a futile act of voting on an unconstitutional measure. The City also recognized and respected the importance of the people's right to propose and enact initiatives as a legitimate method for enacting legislation.

On July 28, 2009 Judge Anderle of the Santa Barbara Superior Court conducted the trial in this matter. The judge recognized that this case presented important legal issues and that the City Attorney and Venoco had a legitimate and honest dispute as to whether the initiative was lawful. After taking oral argument, the judge ruled that initiative measures are not to be stricken lightly and therefore ruled that much of the initiative was not legally defective. The judge did agree with the City Attorney that the Development Agreement portion of the initiative was unlawful, and he ordered that the Development Agreement be stricken from the initiative. Judge Anderle ordered that the initiative, without the Development Agreement, should go forward, and he ordered the City Attorney to prepare a ballot title and summary for the initiative by September 1, 2009.

The City Council has carefully considered the many important issues presented in this case. The City Council has also carefully considered the people's right to enact legislation through the initiative process.

After considering all the issues involved in this matter, the City Council has voted to appeal the decision to the California Court of Appeal. The initiative raises serious conflicts with the City's Local Coastal Plan and coastal program, which is the blueprint for development in our community. The Local Coastal Plan was created with extensive community involvement. However, the community's vision is only realized through the exercise of the City's normal authority over the issuance of required permits. The initiative as drafted represents an end run around the normal planning process, a process that has served our City well for many years. The initiative presents very important legal issues that were not fully addressed by the trial court and that must be resolved.

At the same time, the City does not wish to delay the circulation of the initiative while the City's appeal is pending. As a result, the City Council has directed the City Attorney to prepare the ballot title and summary for the initiative by the September 1st deadline. The proponents can then circulate the initiative in an effort to qualify the measure for an election, which would likely be held in 2010. We have heard from a number of you that you would like an opportunity to vote on the initiative, and our action today will allow the initiative process to go forward. If the Court of Appeal ultimately determines that the initiative is not lawful, at that point the initiative process will simply not proceed.

The City Council has not taken a position on the initiative. As the initiative process proceeds, there will be an opportunity for the Council to consider taking such a position if it wishes to.