City of Carpinteria
City Council Special Meeting Agenda
Thursday, May 23, 2013
Council Chamber, 5775 Carpinteria Avenue

3:00 p.m.

ESTIMATED TIME:

3:00 p.m. **CALL TO ORDER**

ROLL CALL

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT - The Council will receive public comment concerning the matters that are the subject of the special meeting.

Persons wishing to address the City Council should fill out a green Request to Speak form. The Public Comment period is limited to 15 minutes and divided among those persons desiring to speak. No person shall speak longer than three minutes; however, the Mayor may establish shorter periods based on the time available and/or the number of persons waiting to speak. Persons wishing to speak on a specific item will be recognized at the time the agenda item is considered.

The City and the City Council are not responsible for the content of statements made during the public comment period, or the factual accuracy of any such statements.

The City Council will meet for the following purpose:

3:17 p.m. 1. Filing an Objection with the Santa Barbara County Tax Collector for the Tax Sale of Certain Property within the City of Carpinteria and Authorizing the City Manager to Submit an Application to Purchase Tax-defaulted Property from the County

Recommendation: Adopt Resolution No. 5466, as read by title only, objecting to the sale of tax defaulted property designated by the County Assessor as APNs 001-170-010 and 001-170-013, pursuant to Revenue and Taxation Code Section 3695.4.

Staff presenter: Dave Durflinger, City Manager; Peter Brown, City Attorney; and Matt Roberts, Parks and Recreation Director

a. Staff Report
b. Public Comment
c. City Council Determination

4:00 p.m. **ADJOURNMENT**

The next regular meeting to be held on **Tuesday, May 28, 2013**, at **5:30** P.M., in the Council Chamber, City Hall, 5775 Carpinteria Avenue, Carpinteria, California.

In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact the City Clerk's Office at 684-5405, extension 403 or the California Relay Service at (866) 735-2929. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements for accessibility to this meeting.

This agenda was posted on Wednesday, May 22, 2103, in the City Clerk's Office, on the City Hall Public Notices Board, and on the Internet.

AGENDA SECTION: OTHER BUSINESS
AGENDA ITEM #1
REPORT # 13- 59

STAFF REPORT
SPECIAL COUNCIL MEETING DATE:
May 23, 2013

ITEM FOR COUNCIL CONSIDERATION:

Filing an objection with the Santa Barbara County Tax Collector for the Tax Sale of certain property within the City of Carpinteria and authorizing the City Manager to submit an application to purchase tax-defaulted property from the County.

Department: General Government

City Manager ______________________
Signature

City Attorney Arddle Gomez for Peter Brown
Signature

ACTION ITEM _X__; NON-ACTION ITEM __

STAFF RECOMMENDATION: Adopt Resolution No. 5466, objecting to the sale of tax-defaulted property designated by the County Assessor as APNs 001-170-010 and 001-170-013, pursuant to Revenue and Taxation Code Section 3695.4.

Sample Motion: I move adoption of Resolution No. 5466, as read by title only, thereby establishing the City of Carpinteria's objection to the tax sale of the subject property and authorizing the City Manager to submit an application to purchase the tax-defaulted property from the County of Santa Barbara.

I. BACKGROUND/DISCUSSION:

The City of Carpinteria has learned that property designated by the County Assessor as Assessor's Parcel Numbers 001-170-010 and 001-170-013, consisting of approximately 27.5 acres located between Carpinteria Avenue and the Pacific Ocean, adjacent to and east of Carpinteria City Hall, 5775 Carpinteria Avenue (see attached map), will be advertised for tax sale at public auction later this month.

Under State Revenue and Taxation Code Section 3695.4, the City of Carpinteria may submit a written objection to the sale of tax-defaulted property that is or may be needed for public use, along with an application to purchase the property and thereby halt the sale of the property at auction. The objection must specify whether fee or an easement is required and the public purpose to which the property is intended to be devoted.

The minimum purchase price is equal to the total of defaulted taxes and assessments, along with associated penalties, and redemption penalties and fees. Presumably using these figures for the subject property, the County has established a price of approximately $1.5 million. The County may also impose additional costs related to the sale. The City's application would be reviewed by the County Board of Supervisors for consideration of approval of a sale agreement, terms of which are negotiable. The sale agreement between the City and the County must be approved by the State Controller's Office.

The owner(s) of the property may redeem the property by paying back taxes and any associated penalties and fees prior to the consummation of the sale either at public auction or the effective date of the agreement to sell to a public entity such as the City. In addition, a bankruptcy proceeding by an owner of the property would stay the tax sale process unless the County seeks judicial approval to remove the stay.

The City of Carpinteria has historically had interest in the subject property and staff believes that the property presents unique opportunities for the City to address important policies of the Carpinteria General Plan and Local Coastal Program and use the property to achieve a number of public purposes.

The purpose of this Special Meeting is to allow the City Council the opportunity to consider objecting to a tax-default public auction of the subject property and to authorize filing an application to purchase the property from the County.

II. POLICY ANALYSIS:

The General Plan/Local Coastal Land Use Plan includes the subject property as a part of the Bluffs Area I Community Design Element subarea, which is described in the following Plan excerpt:

> *Bluffs Area I*
>
> *Bluffs Area I extends along the oceanfront from the eastern boundary of the Venoco Oil processing facility to the western boundary of the "Seven-Up" building. The existing terrain includes inter tidal and sub tidal reefs, harbor seal rookery and haulout area, coastal sage scrub and bluff scrub habitats, and windrows. The character of Bluffs I is established by its primary land use, the natural open space of the 53 acre Carpinteria Bluffs Nature Park. All other parcels included in Bluffs I are planned to be complementary to this primary use. To the west, the 23.4-acre parcel is intended for uses and development that are capable of providing a transition between the oil & gas plant and the passive open space park. To the north parcels located on either side of Bailard between Carpinteria Avenue and the freeway are intended for low intensity uses that will not obstruct views or create other negative impacts (e.g. noise, vibration, odor, light, glare) to the Park. South of the park along the coastal bluffs of Carpinteria, activity is intended to be limited so as to not disturb this unstable landforms or adversely impact its environmentally sensitive habitat. The land use designations established in support of this character are shown on Figure LU-1.*

As indicated, it has been recognized that the use and development of subject property would need to respond to a number of constraints including being located in between an oil and gas plant and a nature park. The subject property is also bisected by a railroad line and the portion south of the railroad includes a coastal bluff, coastal scrub habitat areas and a protected harbor seal haulout and nursery. The subject property has also historically been bisected by a trail used by the public to access the coastline. These constraints would undoubtedly affect the type, intensity and location of development on the property, and could serve to significantly limit the amount/extent of development.

In some cases the City may determine that public use and development of a property, or portion of property, can most effectively address important public policy interests. With regard to the subject property, it is expected that City ownership would provide greater opportunities and flexibility for addressing the resource protection, coastal access and recreation needs identified in City policies.

A similarly, highly constrained and strategically located property was acquired by the City in 2009. The City acquired the Farmer Parcel, one of the north parcels referred to in the description above, after determining that public acquisition would afford opportunities to protect important resources and to ultimately use the property in a manner that could complement the adjacent Viola Fields and Carpinteria Bluffs Nature Park.

Purchase of the subject property by the City for public purposes may be found consistent with City policies including but not limited to those listed below.

Land Use Element.

Objective LU-5: Maintain availability of agriculture, coastal - dependent industry and visitor-serving commercial development including hotels/motels, restaurants and commercial recreation uses.

Policies:
LU-5a. The City shall continue to give priority to agriculture, coastal-dependent industry and visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over residential, general industrial, or general commercial development.

Community Design Element:

Objective CDS6-2: Ensure that development is controlled to avoid impacts to significant viewsheds, vistas, and view corridors.

Policies:
CDS6-b. Development on the Bluffs shall not obstruct existing view corridors of the ocean and bluff top edge. In addition, views of the ocean and mountains for users of the Carpinteria Bluffs Nature Park and coastal trail(s), for bluffs area property owners and visitors, and for passing motorists, shall be maintained.

Implementation Policies
57. New structures shall be low intensity, and reflect the low-rise,

small-town feel of the surrounding area. New structures shall be designed to blend into the site and the rest of the city.

58. All structures, including ancillary structures, shall be appropriately placed so as to minimize their obtrusiveness, and to maintain existing view corridors. Existing views from Bailard Avenue, Carpinteria Avenue, and U.S. 101 to the ocean shall be preserved.

59. Development that is located on or adjacent to bluffs, beaches, or streams shall be designed and sited to prevent adverse impacts on the visual quality of these resources.

60. New development shall maintain existing topographic variations of the Carpinteria Bluffs, such as the ridgeline in Bluffs I and the terracing of Bluffs III. Development of Bluffs I should be designed to respect the viewshed from the bluff trail looking north toward the mountains and from the Bluffs Nature Park looking west. Location and design of buildings shall respect the topography and follow topographic forms whenever possible, visible variations in the ground plane are to be retained, avoiding a flat, mass graded appearance. These variations in the ground plane are also to be reflected in variations in the roof lines of individual buildings.

CDS6-d. Landscape Planning shall be respectful of the natural character of the Bluffs and enhance existing native plant communities and environmentally sensitive habitat areas.

83. Development within the Carpinteria Bluffs should fit quietly into the area's natural and introduced landscape, deferring to open spaces, existing natural features, and native and sensitive habitats.

Open Space, Recreation & Conservation Element.

Objective OSC-1: Protect, preserve and enhance local natural resources and habitats.

Policies:

OSC-1a. Protect Environmentally Sensitive Habitat Area(s) (ESHA) from development and maintain them as natural open space or passive recreational areas.

OSC-1b. Prohibit activities, including development, that could damage or destroy ESHA.

OSC-1c. Establish and support preservation and restoration programs for ESHA, including but not limited to Carpinteria Creek, Carpinteria Bluffs, Carpinteria Salt Marsh, seal rookery, Carpinteria reef, Pismo clam beds and the intertidal zones along the shoreline.

OSC-1d. Property including ESHA should be designated with a zoning category that allows for the protection of, and access to, the resource area, such as Open Space/Recreation or Public Facility zoning. Any development on property including ESHA should be designed and conducted to protect the resources. Within environmentally sensitive habitat only uses dependent upon those resources shall be allowed and the resources shall be protected against any disruption.

OSC-1f. Protect and restore degraded wetlands, butterfly habitat, native plant communities, and sensitive, rare, threatened or endangered species habitat on City-owned land to the maximum extent feasible.

8. Regulate all development, including agricultural development, adjacent to ESHA, in or adjacent to ocean-fronting parks or recreation areas, or contiguous to coastal waters, to prevent adverse impacts on habitat resources. Regulatory measures shall include, but are not limited to: setbacks, buffer zones, grading controls, noise restrictions, lighting restrictions, requirements for wildlife permeable fencing, and maintenance and establishment of native vegetation.

Objective OSC-2: Preserve and restore the natural resources of the Carpinteria Bluffs.

Policies:
OSC-2a. Maintain the Carpinteria Bluffs Coastal Access, Recreation, and Master Open Space Program.
OSC-2b. Maintain the publicly purchased portion of Bluffs I in public open space in perpetuity.
OSC-2c. Preserve all coastal bluff scrub habitat designated as open space with an appropriate buffer.
OSC-2d. Designate all significant areas of coastal sage and bluff scrub habitat as open space.
OSC-2e. Designate the riparian habitat area as open space with an appropriate buffer.
OSC-2f. Protect significant historical and archaeological resources within the Bluffs Area.
OSC-2g. Offset the impacts of private development to existing opportunities for public access and recreation by requiring that such development include public access and recreational improvements.
OSC-2h. Preserve public enjoyment of Carpinteria Bluff view sheds by ensuring that they are not significantly degraded through development. All development applications shall be required to provide information adequate to identify existing and future public views and to demonstrate how the project proposes to avoid significant disruption of the view sheds identified. The location, size and density of development on the Bluffs shall be determined in part by the view sheds identified and what is necessary to protect them.
OSC-2i. Preserve all windrow trees as one part of a contiguous and naturally preserved open space system across the whole of the Carpinteria Bluffs. Thinning, pruning and removal of trees shall be limited to what is necessary to maintain the trees in a healthful condition and to remove any hazardous condition. When a tree is approved by the City for removal, it shall be required to be replaced at a ratio appropriate to ensure infill of any gap created in the windrow and with a native, locally occurring tree, type and size to be approved by the City. Replacement trees that fail to survive within the first five years after planting shall be replaced. Programs for phased removal and replacement of tamarisk windrows with native tree windrows are encouraged. Development or other activity proposed on parcels including windrows shall be set back a minimum of 10 feet from the drip line of the trees and shall not result in compacting of soil or other potential damage to the trees' root system or water source.

III. FINANCIAL:

The cost to purchase the subject property is expected to be approximately $1.5 million; however, there is some uncertainty with regard to the price because terms of sale are to be negotiated. Additional expenses are expected to be limited to County fees and charges.

It is possible that liens exist or will be made on the property prior to City acquisition. Whether or not any such liens would survive the transfer of the property to the City and become a financial liability to the City is not known at this time. Further, although the City has quite a bit of historical information on the property, a remote possibility exists of environmental clean-up liability or liability related to current tenants Tee Time driving range and Johannes Flowers.

City staff has made contact with representatives of the Land Trust of Santa Barbara County and with the Citizens for the Carpinteria Bluffs. The City believes that a fundraising effort to contribute to the costs of acquisition would occur should the City pursue acquisition of the property from the County.

The City has reserves and special funds that are established by policy or statute for the acquisition of parks and open space land. Overall, reserves are adequate to support a purchase of the property should the price ultimately be similar to the minimum bid amount reflected in the County Tax collector information.

IV. ATTACHMENTS:

A. Property Map
B. Tax Collector Information
C. Resolution No. 5466

Attachment "A"

Subject parcels outlined in Red

Attachment B

Tax Sale Information

NOTICE OF PUBLIC AUCTION ON June 25, 2013
OF TAX-DEFAULTED PROPERTY FOR DELINQUENT TAXES
Made pursuant to Revenue and Taxation Code Section 3702

On March 19, 2013, I, Harry E. Hagen, Santa Barbara County Tax Collector, was directed to conduct a public auction sale by the Board of Supervisors of Santa Barbara County, California. The tax-defaulted properties listed below are subject to the tax collector's power of sale and has been approved for sale by a resolution dated March 19, 2013 of the Santa Barbara County Board of Supervisors.

The sale will be conducted at 10:00 A.M. on Tuesday, June 25, 2013, in the County Administration Building in the Office of the Treasurer-Tax Collector, Room 109, at 105 E. Anapamu St., Santa Barbara, California, as a public auction to the highest bidder for cash in lawful money of the United States or negotiable paper, for not less than the minimum bid as shown on this notice. If no bids are received on a parcel, it may be re-offered at the end of the auction at a minimum price appropriate to stimulate competitive bidding.

The right of redemption will cease on Monday, June 24, 2013, at 5:00 P.M., and properties not redeemed will be offered for sale. If the parcel is not sold, the right of redemption will revive and continue up to the close of business of the last business day prior to the next scheduled sale.

If the properties are sold, parties of interest, as defined in California Revenue and Taxation Code Section 4675, have a right to file a claim with the County for any excess proceeds from the sale. Excess proceeds are the dollar amount of the highest bid in excess of the liens and costs of the sale.

More information may be obtained by contacting the Santa Barbara County Treasurer-Tax Collector at 105 E. Anapamu St., Room 109, Santa Barbara, California, 93101 or phoning (805)568-2920.

PARCEL NUMBERING SYSTEM EXPLANATION

The Assessor's Parcel Number (APN), when used to describe property in this list, refers to the assessor's map book, the map page, the block on the map (if applicable), and the individual parcel on the map page or in the block. The assessor's maps and an explanation of the parcel numbering system are available in the assessor's office.

The property subject to this notice is situated in Santa Barbara County, California, and is described as follows:

ITEM NO.	ASSESSOR'S PARCEL NUMBER	LAST ASSESSEE NAME	ADDRESS	MINIMUM BID
1.	001-170-010	Capinteria Partners Limited Partnership (AKA Carpinteria Partners Limited Partnership)	5669 Carpinteria Ave City of Carpinteria	$23,078.05
2.	001-170-013	Capinteria Partners Limited Partnership (AKA Carpinteria Partners Limited Partnership)	5885 Carpinteria Ave City of Carpinteria	$1,466,859.16
3.	097-371-041	Ebbert, William H.	Unimproved Property (Unincorporated Area)	$74,897.77
4.	097-650-028	Cummins, Linda Ann	4405 Falcon Dr (Unincorporated Area)	$15,690.49

I certify under penalty of perjury, that the foregoing is true and correct.

HARRY E. HAGEN, CPA, CPFO, ACPFIM
TREASURER-TAX COLLECTOR
COUNTY OF SANTA BARBARA

You may view the Board Resolution and Exhibit by clicking on the following link: Auction Resolution and Exhibit

You may also click on the following link: Prior Tax Sale Information **for information on past Tax Sales.**

NOTICE OF PUBLIC AUCTION SALE

TERMS AND CONDITIONS
Public Auction Sale on June 25, 2013
PLEASE READ CAREFULLY
EFFECT OF TAX DEED TO PURCHASER

The Tax Deed to Purchaser conveys title free of all encumbrances existing before the sale with the following exceptions as stated in Revenue & Taxation Code §3712.

(a) Any lien for installments of taxes and special assessments, that installments will become payable upon the secured roll after the time of the sale.

(b) The lien for taxes or assessments or other rights of any taxing agency that does not consent to the sale under this chapter.

(c) Liens for special assessments levied upon the property conveyed that were, at the time of the sale under this chapter, not included in the amount necessary to redeem the tax-defaulted property, and where a taxing agency that collects its own taxes has consented to the sale under this chapter, not included in the amount required to redeem from sale to the taxing agency.

(d) Easements constituting servitudes upon or burdens to the property; water rights, the record title to which is held separate from the title to the property; and restrictions of record.

(e) Unaccepted, recorded, irrevocable offers of dedication of the property to the public or a public entity for a public purpose, and recorded options of any taxing agency to purchase the property or any interest therein for a public purpose.

(f) Unpaid assessments under the Improvement Bond Act of 1915 [Division 10 (commencing with §8500) of the Streets and Highways Code] that are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with §4671) of Part 8, or that are being collected through a foreclosure action pursuant to Part 14 (commencing with §8830) of Division 10 of the Streets and Highways Code. A sale pursuant to this chapter shall not nullify, eliminate, or reduce the amount of a foreclosure judgment pursuant to Part 14 (commencing with §8830) of Division 100 of the Streets and Highways Code.

(g) Any federal Internal Revenue Service liens that, pursuant to provisions of federal law, are not discharged by the sale, even though the tax collector has provided proper notice to the Internal Revenue Service before that date.

(h) Unpaid special taxes under the Mello-Roos Community Facilities Act of 1982 [Chapter 2.5 (commencing with §53311) of Part 1 of Division 2 of Title 5 of the Government Code] that are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with §4671) of Part 8, or that are being collected through a foreclosure action pursuant to §53356.1 of the Government Code. A sale pursuant to this chapter shall not nullify, eliminate, or reduce the amount of a foreclosure judgment pursuant to §53356.1 of the Government Code.

NONE OF THE POTENTIAL EMCUMBRANCES LISTED ABOVE HAVE BEEN RESEARCHED, NOR ARE THEY INCLUDED IN THE SALE NOTICE. PLEASE CONSIDER THE ABOVE FOR ITS INFORMATION VALUE AND AS A GENERAL DISCLOSURE. INVESTIGATE FULLY PRIOR TO BIDDING AT THE TAX AUCTION.

WE DO NOT OFFER TAX LIEN CERTIFICATES

Attachment C

RESOLUTION NO. 5466

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA, OBJECTING TO THE SALE OF TAX-DEFAULTED PROPERTY KNOWN AS ASSESSOR'S PARCEL NUMBERS 001-170-010 and 001-170-013, PURSUANT TO REVENUE & TAX CODE SECTION 3695.4.

WHEREAS, the City of Carpinteria has determined that it is not in the public interest for those properties designated by the County of Santa Barbara Assessor's Office as APNs 001-170-010 and 001-170-013, described more particularly in Exhibit 1 attached to this Resolution (the Property), to be sold at public auction due to failure to pay property taxes to the County of Santa Barbara; and

WHEREAS, the Property was a part of a larger site proposed for public acquisition and permanent preservation as open space by the City approximately 15 years ago but was left out of that acquisition due to the objection of the owners at that time; and

WHEREAS, no application for development of the Property has been submitted to the City in nearly 14 years; and

WHEREAS, the Property is located adjacent to the coastline, includes a coastal bluff, and is adjacent to a 53-acre permanently protected public open space and recreation area, and unique coastal resources; and

WHEREAS, the Property occupies a strategically important location with regard to the City's ability to implement a number of General Plan and Local Coastal Plan policies that call for the protection and restoration of environmentally sensitive habitat areas, improving public safety, public access to the coast, and public recreation opportunities in the coastal zone, and protecting important public viewsheds; and

WHEREAS, acquisition of the Property by the City would create unique opportunities to implement these policies and develop a variety of public improvements expanding opportunities for public access to the coastline, recreational opportunities in the coastal zone, and habitat restoration efforts.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CARPINTERIA AS FOLLOWS:

SECTION 1:
The above recitals are true and correct and are incorporated herein as though set forth in full.

SECTION 2:
The City Council of the City of Carpinteria, pursuant to Taxation and Revenue Code Section 3695.4, hereby objects to the default tax sale of the Property and finds that the Property is needed for public use. The City Council further finds that the City intends to devote the Property to the public purposes of improving public safety, improving public access to the coast, increasing recreational

opportunities, preserving open space and coastal resources, and that fee ownership of the Property is necessary to accomplish these purposes.

SECTION 3:
The City Council directs the City Manager to submit this Resolution, along with the required application to purchase the tax-defaulted Property in accordance with Chapter 8 of the Revenue and Taxation Code, to the County with the purpose of complying with procedures necessary to halt the default tax sale and initiate the proposal to the County to purchase the Property.

PASSED, APPROVED AND ADOPTED this 23rd day of May, 2013 by the following called vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

____
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 23rd day of May, 2013.

____
City Clerk, City of Carpinteria

APPROVED AS TO FORM:

____
City Attorney, City of Carpinteria