

MINUTES

CITY OF CARSON REGULAR MEETING OF THE PLANNING COMMISSION

*Helen Kawagoe City Council Chambers, 2ND Floor
701 East Carson Street, Carson, CA 90745*

June 9, 2015 – 6:30 P.M.

1. **CALL TO ORDER** Chairman Diaz called the meeting to order at 6:33 P.M.
2. **PLEDGE OF ALLEGIANCE** Commissioner Faletogo led the Salute to the Flag.
3. **ROLL CALL**
Planning Commissioners Present: Andrews, Diaz, Faletogo, Madrigal, Mitoma, Post, Schaefer
Alternates: Thomas, Newcombe
Planning Commissioners Absent: None
Planning Staff Present: Acting Community Development Director Naaseh, Senior Planner Signo, Assistant City Attorney Shannon Chaffin, Associate Planner Gonzalez, Acting Recording Secretary Faagata
4. **AGENDA POSTING
CERTIFICATION** Acting Recording Secretary Faagata indicated that all posting requirements had been met.
5. **AGENDA APPROVAL** Commissioner Faletogo moved, seconded by Commissioner Thomas, to approve the Agenda as amended, considering 12A as the first order of business. Motion carried, 9-0.
6. **INSTRUCTIONS
TO WITNESSES** Chairman Diaz requested that all persons wishing to provide testimony stand for the oath, complete the general information card at the podium, and submit it to the secretary for recordation.
7. **SWEARING OF WITNESSES** Assistant City Attorney Shannon Chaffin
8. **ORAL COMMUNICATIONS** For items **NOT** on the agenda. Speakers are limited to three minutes. None.

9. CONSENT CALENDAR**A) May 12, 2015 and May 26, 2015 Minutes**

Commissioner Faletogo moved, seconded by Commissioner Schaefer, to approve the May 12, 2015 and May 26, 2015 Planning Commission Minutes. Assistant City Attorney Chaffin reminded the new Commissioners and the absentees from either meeting to abstain from the vote. The Minutes were approved, 5-0 [Andrews, Faletogo, Schaefer, Thomas, Madrigal]. (Mitoma, Newcombe, Post, Diaz abstained.)

10. CLOSED SESSION**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

1. Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2) and (e): 1 case.

After the session opened, it was immediately closed wherein all of the Commissioners, Acting Community Development Director Naaseh, City Attorney Chaffin and MRS Representatives Luis Perez and Greg Chittick reassembled in the Administrative Services Conference Room for their Closed Session hearing.

The Commissioners returned to Council Chambers at 7:22 P.M.

Assistant City Attorney Chaffin stated that there were no reportable items from the closed session.

12. PUBLIC HEARING**A) Design Overlay Review No. 1568-15**Applicant's Request:

The applicant, Steve Phillips, is requesting to remodel the existing 19,774-square-foot Sears automotive center building for restaurant use on a Sears parcel at the SouthBay Pavilion shopping center. The subject property is located at 20420 S. Avalon Boulevard.

Staff Report and Recommendation:

Associate Planner Gonzalez presented staff report and the recommendation to APPROVE Design Overlay Review No. 1568-15 to convert the existing Sears Auto Center to a multi-tenant retail and food establishment, subject to the conditions attached as Exhibit "B" to the Resolution; and WAIVE further reading and ADOPT Resolution No. 15-2548, entitled, "A Resolution of the Planning Commission of the city of Carson approving Design Overlay Review No. 1568-15 for the remodel and conversion of the

Sears Auto Center building to restaurant uses at the SouthBay Pavilion located at 20420 S. Avalon Boulevard.”

Associate Planner Gonzalez wanted the Commission to note additional changes that staff is recommending being that, (on Triangle 14) the outdoor elevations be reviewed and approved by staff, and (on Triangle 17) Condition No. 50, security cameras shall be installed to monitor the premises by the tenants, and Condition No. 51, the language would be changed to read that the applicant would pay fair share funding for a Sheriff Deputy, where the range to pay would be \$2-\$3 per square foot per tenant, to be paid annually.

Associate Planner Gonzalez highlighted the following amendments to the conditions of approval:

REVISED CONDITIONS:

50. *Digital security cameras with remote internet access by the LA County Sheriff's Office shall be installed to monitor the premises by each restaurant tenant. Cameras shall be maintained in working order and surveillance footage shall be maintained for a minimum of 30 days on digital media and shared with law enforcement upon request.*
51. *Prior to certificate of occupancy, the applicant and or tenants shall pay fair share funding for one Sheriff Deputy being approximately \$168,000 dollars annually. The Sheriff's Department and the city of Carson may modify the annual cost for a Sheriff Deputy as deemed necessary for the fair share funding formula via the approval of a mutual service benefit agreement to be approved by the City Council. Upon final approval by the City Council, payments shall be made in a timely manner and in full compliance with applicable requirements to be established in the fair share agreement.*

Commissioner Faletogo requested elaboration on the cost for the additional security coverage from the Sheriff's Department.

Associate Planner Gonzalez reported that the cost for an officer to service the mall would be \$168,000 per year, paid by the city of Carson. An additional officer would also cost \$168,000 to be paid by the tenants in an agreement currently being drafted by the City Attorney's Office.

Commissioner Faletogo inquired as to whether Buffalo Wild Wings would be paying as well.

Associate Planner Gonzalez clarified that all SouthBay Pavilion tenants will contribute based on their square footage.

Chairman Diaz wanted to add a condition that retains and enhances the landscaping as well as a condition that the trash bin receptacles be covered.

Commissioner Mitoma inquired if this project is a lease from Sears.

Associate Planner Gonzalez deferred to the applicant.

Chairman Diaz opened the public hearing.

Steve Phillips, applicant, explained that Sears is the building owner, and the tenant leases are typically five years with options.

Commissioner Mitoma asked if Sears would be the landlord of this site.

Mr. Phillips confirmed that Sears is the landlord.

Commissioner Faletogo asked for a tentative completion date of the project.

Mr. Phillips reported that they'll be breaking ground in the third quarter of this year and anticipate project completion in March 2016.

Commissioner Faletogo asked if the businesses would be hiring Carson residents.

Mr. Phillips noted his understanding that is likely the tenants' intent.

Chairman Diaz asked if the applicant is in agreement with all the conditions of approval.

Mr. Phillips noted his concurrence with the conditions of approval, but made a clarification regarding the cameras, as each lessee has cameras of their own as part of their operation, and those cameras would be tied into the Sheriff's Department.

Commissioner Mitoma inquired if the applicant has discussed with the tenants the design, square footage, entitlements, and assessments.

Mr. Phillips stated that there has been no discussion with the other tenants about the added Sheriff Deputy, as it was a newly added condition; however, the other items have been discussed with the tenants.

Chairman Diaz opened the public hearing. There being no audience input, the public hearing was closed.

Planning Commission Decision:

Commissioner Faletogo moved, seconded by Commissioner Schaefer, to concur with staff's recommendation to approve the applicant's request, thus adopting Resolution No. 15-2548.

Assistant City Attorney Chaffin clarified that the approval includes the receptacle covers, to which Commissioners Faletogo and Schaefer confirmed.

This motion passed (9-0) as follows:

AYES:	Andrews, Faletogo, Mitoma, Newcombe, Post, Schaefer, Thomas, Madrigal, Diaz
NOES:	None
ABSTAIN:	None
ABSENT:	None

11. CONTINUED PUBLIC HEARING

A) Zone Text Amendment No. 19-15

Applicant's Request:

The applicant, city of Carson, is requesting to consider Text Amendment No. 19-15, to ADOPT a Comprehensive Update of the City's Oil and Gas Ordinance Regulating Petroleum Operations and Facilities, and a finding of a Class 8 Categorical Exemption under CEQA Guidelines §15308. This is a citywide amendment.

Staff Report and Recommendation:

Acting Community Development Director Naaseh introduced the MRS representatives, Luis Perez and Greg Chittick, to make the presentation for Zoning Text Amendment No. 19-15 and ZTA No. 20-15.

Mr. Perez, MRS, addressed the issues raised in the May 12th Planning Commission hearing and made revisions to the proposed code; and noted that the Commission directed MRS to explore Petroleum Administrator (PA) position options, to explore a change of setbacks to 750 feet, to meet with industry representatives and affected businesses to continue to refine the code, and additional changes to the ordinance as needed.

With regard to the PA position, Mr. Perez stated that MRS presented three options (Option 1 – City Manager; Option 2 – PA with limited discretion; Option 3 – PA with broad discretion). With areas that have substantial oil development, such as Santa Barbara County, city of Long Beach, and others, he noted there is a PA position which acts as a clearing house for any/all petroleum operations within that jurisdiction; and that they provide a service to the city, its citizens, and the oil and gas companies by allowing them to have a person to report to directly, as opposed to going through a number of people.

Mr. Perez noted that Option 1 and Option 2 are fairly similar to each other, but the main difference is the title of who will carry out the different tasks. Option 1 has the City Manager handling these matters and has the discretion to delegate these tasks. Option 2 would be a permanent position designated by the City Manager to handle the day-to-day tasks of this position. Option 3 retains a broad discretion for the PA.

Mr. Perez suggested focusing the Commissioners' commentary/questions on each section of the presentation immediately instead of waiting until the very end, but saving the final decision for the very end.

Chairman Diaz agreed.

Commissioner Faleto go noted that he objected to the PA position at the previous meeting because it's a position with too much power; that the PA's decisions were absolute, and there was no way to appeal the PA's final decisions; and stated that the options presented this evening make a lot of sense and that staff has addressed his concerns.

Commissioner Schaefer asked if the PA will have enough work to keep the PA busy and what qualifications will be required for this position.

Acting Community Development Director Naaseh stated that a full-time PA would not be needed at this time; that he foresees using a consultant on an on-call basis; and if there are any questions, staff would call the consultant.

Mr. Perez explained that where there isn't a lot of petroleum work, a consultant would come in and work as needed; and that the City Manager does not need to immediately go out and hire someone to exercise these powers.

Assistant City Attorney Chaffin stated that the code provides flexibility, so that in the event the Commission wants a PA to be hired, the City Manager could appoint a staff member as necessary to fill that position; and that s/he could fill that position and retain consultants with expertise in any given situation/area.

Commissioner Andrews wanted elaboration on the checks and balances that will be put into place with the PA as to how it mitigates the PA's decisions.

Assistant City Attorney Chaffin offered sample language to add to the ordinance if the Commission chooses to use a PA; and stated they also have an add-on paragraph that the Commission has a right of appeal, if the process is followed, noting this process is also used for entitlement appeals.

Commissioner Mitoma stated he is not convinced that a PA would be needed; that the City Manager has the discretion to hire someone to perform that function; and that to have this in the code seems to require a City Administrator, if the code is challenged, when we have a City Manager.

Assistant City Attorney Chaffin explained that from a legal perspective, it is not a requirement to have a PA, that it is a discretionary decision by the Planning Commission to hire a PA.

Commissioner Thomas asked if the Planning Commission would be taking the discretion away from the City Manager in determining whether it's appropriate to assign someone that task.

Assistant City Attorney Chaffin responded that if the Commission selects the PA option, the City Manager would still appoint/discharge that PA, which is part of the checks and balances being implemented in the ordinance.

Mr. Perez added that when a decision is being made through the PA or the City Manager, it goes through a submittal process and with much dialogue; and that an appeal might occur if there is an impasse. He added that the PA would work with the City Manager and would not be making those decisions without consulting an immediate supervisor. The appeals process ensures there's an opportunity for the oil company to go to the subsequent decision maker to get remedied.

Commissioner Faletogo expressed his belief the Commission is tied down on the name of this position, stating he does not care what the title is of that person; noted that his

concern is with the powers of this position; but noted that he is now satisfied with the identified powers this person will have and the subsequent appeals process.

Commissioner Mitoma noted his concern with government typically creating an unmanageable and costly bureaucracy, noting his desire to return to a more simplified government. He stated that the City Manager has the ability and responsibility to protect the City; that if the City Manager wants a PA, he can have one with the approval of City Council; and that for the Commission to say a PA should be created when it isn't needed at this time makes no sense.

Commissioner Post expressed her belief this responsibility should not be on the City Manager who has enough to handle; and that a qualified person should assume the position of a PA.

Mr. Perez clarified that the City Manager or his designee will do the work, that the work will not rest exclusively on the City Manager.

Commissioner Post pointed out that there isn't any consistency with the City Manager appointing a PA from week to week.

Mr. Perez stated that is a different issue in terms of responsibility, noting the City Manager can determine that.

Commissioner Andrews asked if the purpose of creating the PA position is to have someone in the position who has the expertise, believing the City Manager may not have the expertise to fulfill the role.

Mr. Perez reiterated that the purpose of a PA is to act as a clearing house with the oil and gas business presented to the City; explained that when a PA position was first discussed, it was to handle a substantial project in review at that time, which is no longer being proposed; and that the PA or City Manager will still likely have to summon various experts to fulfill any needs of a given project.

At this time, Mr. Perez provided a presentation on setback distances and EIR impacts. The chart shows statistical data for safety/risk, noise, odors, and air quality. Safety/risk impacts fall within a 500-foot setback, but don't take into account the frequency of an event. Noise impacts fall within a 500-foot setback in most cases, with the exception of the OXY EIR, which went farther out, but didn't require the mitigation that the other projects demanded. With odor impacts, it has the opportunity to move out farther based on meteorological issues and type of gases released. It should be noted that just because something is odoriferous, it does not mean it is harmful, but reaches out far. In these EIR's, all go beyond 1,000 feet in every case. With air quality, the majority fall within the 500-foot setback.

Mr. Perez highlighted existing facilities and setbacks.

Commissioner Faletogo noted that the report details the standard setback is 300 feet in most districts; and asked if there will be any legal problems with increasing the setbacks from 300/500 feet to 750/1500 feet.

Assistant City Attorney Chaffin stated that question would more appropriately be answered in a closed session; noted that 300/500-foot setbacks are acceptable in many jurisdictions and that he's not aware of that being challenged for a new ordinance on a go-forward basis.

Commissioner Mitoma stated that normal construction with a 300/500-foot setback would typically store highly volatile fluids on site, highlighting drilling operations and oil tanker explosions in areas with a 300-foot setback; and he questioned whether that is a sufficient setback distance. He asked where MRS obtained their statistics and whether they compared the setback data with other municipalities that have oil storage operations.

Mr. Chittick highlighted the slide which compared the EIR data from other municipalities concerning safety/risk.

Mr. Perez highlighted the changes to the ordinance with the Good Neighbor Provisions (9505), noting that a number of provisions would apply to all operators and would pertain to air, noise, odor, lighting, signage, and more that are part of the new ordinance and applicable to new development. In addition, the ordinance was drafted in a manner that if there were a declaration of high risk operations, those decisions could be made appealable to the Planning Commission, and those expenses could be recovered by the City. They refined the development agreements so that they're no longer required. Previously, "each" well drilled required a Conditional Use Permit, but now when drilling more than three wells or making a substantial change, a Conditional Use Permit is required instead. Refinements were made so that re-drilling of existing wells does not occur in a new development; and that it is now worded to allow projects that are within the setback for up to five re-drills to be drilled within five years. A grace period for entitlements may expire to allow flexibility. Insurance and bonding requirements were refined. Provided earthquake Richter measurement standards to determine when inspection is required after an earthquake for those oil and gas facilities. Also cleared up is the cost to be paid by the operator for reasons of auditing compliance with conditions of approval/ordinance requirements not more than every five years.

Commissioner Post asked what the City is getting back from the oil companies in regard to the Good Neighbor Policy and how is it measured.

Mr. Perez expressed his belief that Carson is getting the opportunity to ensure compliance with a number of development standards that it is not currently getting for existing operators. For example, currently requiring noise barriers be erected to ensure that sounds are kept under certain decibels and fulfilling aesthetic refinements. He added there are standards for wells, an environmental resource management program, standards to pipelines, operation provisions that would be applicable, signage requirements, safety/hazmat assurances, noting that operators would have to abide by a substantial number of these regulations. He noted for Commissioner Post that he believes this code provides the City with sufficient safety.

Commissioner Mitoma asked for input on the provisions for waste management disposal, waste water, and provisions for testing for radiation.

Mr. Chittick explained that there is no specific testing done for radioactive materials beyond those required by the state. He added that the Division of Oil, Gas, and Geothermal Resources of the Department of Conservation (DOGGR) requires testing and reporting if they encounter radioactive materials, but stated that is not common in this area. He stated there are a number of waste water requirements, with different classifications of waste water, such as storm water or rain water that falls on a facility and if it can be discharged. If an operator wants to re-inject water pulled out of the ground, he noted this code does not address that, but only with the approval of DOGGR under the state regulations.

Commissioner Mitoma asked if an operator can take out water and re-inject it into a well in Carson.

Mr. Chittick stated yes, he believes so.

Commissioner Thomas asked if all existing operators have signed onto the additional requirements of the Good Neighbor Provisions.

Mr. Perez indicated yes.

Assistant City Attorney Chaffin wanted to make clear that many other representatives are in the audience to address the Good Neighbor Provisions and may have additional clarifications; and he added that this was a voluntary pact.

Commissioner Thomas expressed his belief that the bargaining of these provisions will only work if all the existing operators are on board.

Mr. Perez pointed out that MRS has not engaged in any “bargaining” with the oil industry, stating he does not want people leaving this meeting thinking a deal was struck in that the City would receive benefits from the Good Neighbor Provision in exchange for something that the City is giving into. He stated that changes were proposed, and it was concluded that these changes made sense and would not in any substantial way provide any harm to public health, safety or the environment.

Commissioner Thomas apologized for the mischaracterization.

Chairman Diaz invited audience comments.

Commissioner Mitoma cited a 998-page report from the EPA on the contamination of clean water. He reported that last Thursday, an EPA scientist performed a study and a resulting EPA draft would give a critical resource how best to protect public health and drinking water resources, expressing his understanding it is the most complete compilation of scientific data on this subject to date; and he stated it should be reviewed prior to making final changes to the proposed ordinance.

Mr. Perez highlighted Commissioner Mitoma’s reference to fracking, potential fracking issues and the EPA studies, but added that the code proposes a complete ban on fracking.

Commissioner Mitoma clarified that the report refers to acidization and other processes.

Mr. Perez reiterated that the ban the City is attempting to institute under Section 9536 includes all forms of well stimulation techniques contemplated under SB4, which includes acidization.

Commissioner Mitoma stated that the matter has to do with protecting drinking water; noted his concern with the California drought and almost empty aquifers, expressing his belief this study should be looked at before a final decision is made.

Assistant City Attorney Chaffin explained that because this is a legislative action, there must be some sort of evidence or basis for the Commission's arbitrary decision. If the current reports provide a basis tonight or another night – whether there is conflict or not – there are two ordinances in place, one being a comprehensive update and the other being a ban on hydraulic fracturing. The Planning Commission has authority to continue the matter to look at the EPA report in greater detail; and that if the Planning Commission is inclined to recommend banning, he stated he does not know that it gets them anywhere legally past that point. He requested that further discussions to ban fracking happen during the next agenda item.

Commissioner Mitoma stated his point was that this was the most comprehensive study done by the government on water safety, asking if the Assistant City Attorney thinks it has no relation to the ordinance.

Assistant City Attorney Chaffin stated he was not making that representation at all; and that from a legal perspective, as long as the Planning Commission has evidence to support its decision, it does not make a difference if there's a conflicting report.

Commissioner Madrigal expressed his belief this affects the drinking water; that because there is no hurry in passing this code, he believes staff should look at the EPA study and report back to the Commission and get with the stakeholders as well; and that he believes more clarification is needed to ensure all aspects have been taken into consideration.

Commissioner Post agreed that there is a lot of information to review and suggested continuing this item, to go back to the February version of the oil code and make the modifications that need to be made; and that she'd like to meet with staff to get input on the EPA report. She added that both the ground water and drinking water are crucial considerations.

Mr. Perez explained that the EPA study is a compilation of all the studies within the country regarding the potential impacts that could occur as a result of fracking; that it is not specific to ground water or drinking water; pointed out that he is not resisting looking at those studies because that is what he does for a living, but that it is not practical when a ban on fracking altogether is being proposed in Carson.

Mr. Perez expressed his belief that going back to the February version of the code is problematic for a number of reasons, noting they are currently on Revision No. 24; advised that many things have changed from the February code, for good reason; stated it is typical for this process to evolve; and that the code is better and stronger

now with the refinements that have taken place since February. He added that this is a series of building blocks, not a series of individual codes.

Commissioner Post asked if the Good Neighbor Provision is a handshake from the oil companies.

Mr. Perez stated that what happens once the code is in place, the City will require and enforce compliance with the code; that the oil companies are supposed to comply with the Good Neighbor Provisions and exhibit how they're meeting the decibel standards for noise, landscaping requirements, lighting plans, etc.

Commissioner Thomas asked if existing operations must comply with the Good Neighbor Provisions.

Assistant City Attorney Chaffin clarified that if a party with vested rights agrees to comply, then they have to comply, reiterating it is voluntary.

Nicki Carlson, Alston & Bird, representing E&B Natural Resources, noted they provided a memo today for this evening's meeting. She stated that they will agree to a Good Neighbor Provision, as they offered the concept to the City to demonstrate their good neighbor way of operating in this manner. Ms. Carlson stated there are a large number of provisions, some of which they are not in agreement; she questioned what they are allowed to do in terms of their vested rights, what activities; expressed her understanding they can re-drill and drill conductors; and that they need to first confirm what the vested rights are in order to comply with the Good Neighbor Provisions, urging staff to take more time to confirm their vested rights. She stated that more dialogue is needed to present a code that is as complete as possible, suggesting another working session with the industry to address many more issues that are unclear.

Tom Muller, Manatt Phelps, representing several mineral rights holders, pointed out that several of the Commissioners have voiced frustration and confusion about what activities are done below the surface; stated this is an area fraught with problems; advised that people who have been doing this work for thirty years are having a problem with what the code is trying to say, believing Carson is facing too complicated of a matter to fully understand; and he stated that fortunately, the state has 175 petroleum experts in a division of the Department of Oil & Gas to regulate this industry and stated that is where this effort should be regulated – at the state level. He stated it is impossible for each city to come up with its own rules to address this nation's need for oil and gas; and stated there are stringent regulations enforced by the state. He stated that what Carson is proposing will deny rights to oil companies that currently have the right to drill, which will lead to costly litigation in the defense of those rights.

Aaron Savage, Coyote Lane resident, urged the Commission to continue this item and to address all the impacts upon the Carson residents.

Antonio Garcia, President of Southern California Hispanic Chamber of Commerce, stated that the City should encourage saving jobs and the revenues that are received through oil operations.

Germain Lopez, Lariat Lane resident, stated that Carson benefits from energy production; noted that eliminating oil production would raise prices and decrease high paying jobs and revenues; stated this money funds police, schools, libraries and so much more; and he asked the Commission to continue this item to further consider the impacts.

Cruz Gonzalez, Coyote Lane resident, expressed his belief Carson's oil and gas code should not discourage energy production; and stated that doing so could jeopardize thousands of jobs and local revenues that support essential services, such as police, fire, parks and schools. He stated the City should not enact the proposed ban because the revenues are essential to critical services.

Jeff Cooper, representing Cooper and Brain, stated that this company has operated in Carson for over 25 years; that they have enjoyed doing business in Carson and look forward to continuing to do business in Carson; and stated he wants to assist staff with the ordinance to benefit both his business and the residents of Carson.

Cheryl Branch, Scobey Avenue resident, stated that oil and gas production are essential for jobs and revenues for Carson, noting the public services are very important to this community; and she urged the Commission to consider the economic impacts and benefits for the community.

Benjamin Hanelin, Latham & Watkins, representing Californians for Energy Independence, pointed out that this is not "simple government"; stated that this code goes out of its way to regulate where none is needed and burdens the City with unnecessary regulations; and pointed out that the state has a vast regulatory system in place to regulate the oil and gas industry and stated that this code largely duplicates that. He expressed his belief that in doing this, it sends the message that Carson is difficult to do business with and that Carson is hostile to this industry. With regard to the proposed ban on well stimulation, he stated this should not be done as it is inviting substantial litigation for the City. He stated that the code needs to be improved; that more needs to be done with this process; and that the Commission should handle the refinement of the code, not the City Council.

Ted Cordova, oil operator and good neighbor doing business in Carson, stated that they have safely operated with zero incidents; noted his appreciation in having the opportunity to work on the code with staff and MRS; and that he believes a little more time is needed to further refine the code.

Pilar Hoyos, representing Watson Land Company/Dominguez Energy, provided a couple of handouts, one being a copy of the regulatory requirements prepared by MRS and distributed at a previous Commission meeting that underscores the comments which were made earlier regarding the duplication of state regulations, noting there are more regional and state agencies that oversee oil operations. She stated that the other memo is from Obama's administration reporting that a landmark study shows that fracking has not led to widespread impacts on drinking water; and that this five-year study has found no scientific reason to believe that fracking is a threat to drinking water. She pointed out that Watson's holdings in Dominguez Energy is 1.73 percent; advised

that various charities own more than 26 percent of the mineral rights, such as Union Rescue Mission, St. Vincent De Paul, Good Samaritan Hospital, Children's Hospital, etc.; and pointed out that Watson's involvement has nothing to do with greed, but has to do with protecting the mineral rights and the value of those mineral rights.

Thomas Walker, consulting petroleum engineer and Huntington Beach resident, noted that Huntington Beach has a long history of safe oil and gas operations; pointed out that his children attend schools in Huntington Beach High School, which is home of the Oilers; and advised that there is interaction between industry and the residents of Huntington Beach and that he doesn't understand why it's different in Carson. He mentioned that the oil and gas produced here in Carson is 95 percent water; and that it's produced here and then sold and generally not stored, noting the value is in selling it, not storing it. With regard to waste water, he advised that Southern California operations typically have water floods and under a variety of EPA regulations, the water is safely injected back to where it was produced with the intent to produce more oil; and advised that they have delegated underground injection control to the Department of Oil & Gas. He stated that the current code is very confusing and needs work, but stated that with additional effort, it can move forward, and he requested additional time for that refinement to take place.

Alexandra Nagy, Southern California Organizer with Food & Water Watch, stated that the original intent for this code update was for Carson to have the strongest code in the country; expressed her belief it is not looking that way nor is it in the public's best interest; and stated that it needs to be as comprehensive as possible to protect public health and safety. She expressed her belief that the oil and gas industry does not like accountability and transparency; and stated that the oil and gas industry needs to be held accountable to the public, and the residents need to be involved in this conversation. She advised that the recent oil spill in Santa Barbara was so toxic that it burned people's eyes, throats, and lungs for 24 hours after exposure and that some had headaches/migraines for 48 hours; and pointed out that this is a volatile industry and that accidents/spills happen in every stage of this process. She expressed her belief that while it's inadequate, she would urge the City to set a 1,500-foot setback, noting that the air contaminates change with distance.

Dianne Thomas, Nestor Avenue resident, expressed her belief a PA needs to be put in place, an employee who would report to the City Manager; noted her support of an appeal process; and stated that the PA should be responsible for reviewing the oil companies/businesses that handle toxic chemicals on an annual basis. She stated that reports indicate some businesses meet fire code and some don't; and stated that the City should be kept in this loop. She expressed her belief that annual reviews should be performed, not once every five years; and she stated that many of these facilities are old, a reason why the pipes are bursting all the way from Santa Barbara down to Long Beach. She stated she has no confidence in the work conducted by DOGGR; expressed her belief a 1,500-foot setback is inadequate; and stated it is a fact that the health of residents is negatively impacted from these operations. She stated that re-drilling every five years needs to be considered a new development.

Robert Lesley, Carson resident, stated there are no guidelines on how the PA should implement their duties to regulate this ordinance; and expressed his belief the ordinance has a conflict of interest when dealing with the PA's authority and its enforcement, stating the City needs to spell out the guidelines and duties of the PA.

L. Carter, resident, stated that among other organizations with DOGGR, there are 1-100 violations that will be identified in violation of the Rego Act; stated that harmful drillings were approved by DOGGR; and expressed belief that a PA should be a full-time position, reporting to the City Manager and paid for by government resources.

Commissioner Faletogo asked for further input on regulating downhole activities, highlighting the comments that these activities are thoroughly regulated by the state.

Mr. Perez expressed his belief that the majority of the submitted letter that refers to downhole activities has to do with prohibition and well-stimulation techniques, without specifically stating so, to the extent that if fracking and other well-stimulation techniques are banned, it prevents the oil operator from reaching the resource; and stated that the rest of the code does not try to regulate downhole activities. He stated there are requirements to provide information to DOGGR so the City can ensure that compliance with state regulations is occurring and has the subsequent opportunity to enforce the things that may not be complied with to the state. The ordinance allows the City an opportunity to implement checks and balances to ensure that the operators are appropriately addressing the state regulations, but the code does not attempt to deal with the downhole, but rather the above ground issues, with the exception of the well-stimulation techniques ban.

Commissioner Schaefer asked Mr. Perez to confirm he is saying this code does not deal with downhole, that it's all above ground regulation.

Mr. Perez confirmed her understanding is correct; and he stated that with the exception of the requirement of the state, the City is requesting copies of those permits to ensure that the City has the opportunity to oversee that proper permits are obtained and the operators are complying with the state.

Commissioner Schaefer asked if the state allows acidization, or whatever the technique is, all the City would ask for is a copy of the permit; and if that is the case, why would the City need the PA or consultant to the City Manager if this is being monitored by the state.

Mr. Perez explained that those particular well-stimulation techniques would be banned, in the Commissioner's example; noted the City is attempting to receive notification from the operators; and that they have found with the regulatory framework, the farther away you get from what is being regulated, the less regulatory oversight there is and less stimulus for the agency to operate in compliance.

Commissioner Schaefer asked why the industry is objecting to this code if the City is not asking the industry to do anything above and beyond what the state is requiring.

Mr. Perez stated that the regulatory framework portion of the ordinance for the police power addresses location of tanks, landscaping, lighting requirements, noise requirements, transportation requirements, hours of operations, the times that things can come in and out of facilities, and various administrative items, decommissioning, remediation if contamination occurs, and it's providing the City with development standards.

Commissioner Mitoma stated that what is missing from this ordinance is the requirement for any operator to disclose the toxic materials, those quantities being stored onsite, noting the City should know what they're putting on their property.

Mr. Perez pointed out that one of the development standards under Part Two, 9530.6, requires the provision of transportation of chemicals and waste on and off site and provides some fairly detailed requirements of transportation and storage of hazardous materials on and off site.

Commissioner Mitoma asked that a report on every chemical brought on site should be reported to the City.

Mr. Perez noted his concurrence.

There being no further input, Chairman Diaz closed the public hearing.

Planning Commission Decision:

Commissioner Faletogo acknowledged the progress made tonight and suggested that 1) the Commission move to continue the item to July 28th; that staff and interested parties, the consultants, look at the Good Neighbor Provisions and come to an agreement, 2) Consider EPA report and the Californians for Energy Independence reports and its potential impacts, 3) revisit the regulations pertaining to downhole activities, 4) bring back revisions regarding the PA, and 5) continue to dialogue and meet with all interested parties.

Commissioner Mitoma seconded this motion, noting this is a lot to digest especially for the new Commissioners.

Acting Community Development Director Naaseh offered additional Commission workshops, noting this will be especially helpful to the new Commissioners; and stated that staff will schedule the workshops so as not to create a Brown Act violation.

Commissioner Faletogo accepted this amendment. Commissioner Mitoma seconded the amendment.

Assistant City Attorney Chaffin asked for clarification on the motion.

Vice-Chair Madrigal stated he'd like these Commission packets earlier to have more time for review, asking that the packets be ready a week ahead of the meeting.

Commissioner Mitoma asked to be contacted when packets are delivered to the Community Center.

Commissioner Thomas asked that the attorneys send their letters to the Commission before the day of the meeting.

Acting Community Development Director Naaseh stated that staff will do its best to get this packet out a day earlier. Packets are typically available at the Community Center on Tuesday evenings for pick up, a week in advance of the Planning Commission meetings. He asked the Commission to keep their packets when items are continued for consideration.

Commissioner Faletogo requested that Item 11B also be included in this motion for continuance.

Assistant City Attorney Chaffin suggested that Item 11B be voted on separately, opening the item for public input and then continuing, assuming all the input this evening also relates to that item.

The motion passed, 9-0.

11. CONTINUED PUBLIC HEARING

A) Zone Text Amendment No. 20-15

Applicant's Request:

The applicant, city of Carson, is requesting to consider Text Amendment No. 20-15, to consider adoption of an Ordinance prohibiting hydraulic fracturing ("fracking"), acidizing and any other form of well stimulation, and the associated CEQA finding of a Class 8 Categorical Exemption under CEQA Guidelines §15308. This is a citywide amendment.

Chairman Diaz opened the continued public hearing on this item to fully incorporate the commentary from Item 11A, avoiding duplicate statements, into this item at the recommendation of Assistant City Attorney Chaffin. No objections were noted.

Chairman Diaz closed the public hearing.

Vice-Chair Madrigal moved, seconded by Commissioner Faletogo, to continue these items to July 28th. Motion carried, 9-0.

13. WRITTEN COMMUNICATIONS None

14. MANAGER'S REPORT

Acting Community Development Director Naaseh reported that Commissioner Andrews (in a handout to the Commission) requested staff to research requirements from other cities, specifically Beverly Hills and Cerritos, regarding drive-thru restaurants and convenience stores. He invited the Commissioners to contact him via email or phone should they wish to discuss any matter related to the Planning Commission.

Chairman Diaz asked if Assistant City Attorney Chaffin also has an open door policy.

Assistant City Attorney Chaffin noted that the Commissioners may email him, but cautioned them not to copy any members of the public or other Commissioners in accordance with the Brown Act.

15. COMMISSIONERS' REPORTS None

16. ADJOURNMENT

At 9:55 P.M., the meeting was formally adjourned to Tuesday, June 23, 2015, 6:30 P.M., City Council Chambers.

Chairman

Attest By:

Secretary