

MINUTES

CITY OF CARSON REGULAR MEETING OF THE PLANNING COMMISSION

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

October 13, 2015 – 6:30 P.M.

1. **CALL TO ORDER** Chairman Diaz called the meeting to order at 6:30 P.M.
2. **PLEDGE OF ALLEGIANCE** Chairman Diaz led the Salute to the Flag.
3. **ROLL CALL**

Planning Commissioners Present:
*Andrews, Diaz, Faletogo, *Guidry, Madrigal, Mitoma, Newcombe, Post, Thomas

*(Commissioners Andrews and Guidry arrived upon adjournment to Closed Session.)

Planning Commissioners Absent:
Schaefer (excused)

Alternate Commissioner Newcombe sitting in for Commissioner Schaefer

Alternate Planning Commissioners Present: Newcombe, Pimentel

Planning Staff Present: Planning Manager Naaseh, Deputy City Attorney Chaffin, Interim City Manager Farfsing, Community Development Director Raymond, Recording Secretary Bothe
4. **AGENDA POSTING CERTIFICATION** Recording Secretary Bothe indicated that all posting requirements had been met.
5. **AGENDA APPROVAL** Commissioner Faletogo moved, seconded by Vice-Chairman Madrigal, to approve the Agenda, as presented. Motion carried, 7-0 (Commissioners Andrews and Guidry had not yet arrived; absent Schaefer).
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** Deputy City Attorney Shannon Chaffin

8. **ORAL COMMUNICATIONS** For items **NOT** on the agenda. Speakers are limited to three minutes.

Dr. Tom Williams, Los Angeles, Citizens Coalition for a Safe Community, stated there is more earthquake activity in areas where oil operations are taking place.

9. **CONSENT CALENDAR**

A) **Minutes:** September 8, 2015

Commissioner Diaz ordered, without objection, the approval of the September 8, 2015, Minutes as presented. 7-0 (Commissioners Andrews and Guidry had not yet arrived; absent Schaefer).

9. **CONSENT CALENDAR**

B) **Extension of Vesting Tract Map No. 72190**

Applicant's Request:

The applicant, Duane Huennekens, is requesting a one-year time extension for Vesting Tentative Tract Map No. 72190. The subject property is located at 22111 South Main Street.

Staff Recommendation:

That the Planning Commission approve a one-year (1) extension to November 2016.

Planning Commission Decision:

Chairman Diaz ordered, without objection, the one-year extension of Tentative Tract Map No. 72190 to November 2016. Motion carried, 7-0 (Commissioners Andrews and Guidry had not yet arrived; absent Schaefer).

10. **CLOSED SESSION (Executive Conference Room)**

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

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

The audience was invited to provide public comment on the closed session item. No public comment was received at this point.

Chairman Diaz adjourned the regular Planning Commission meeting to closed session at 6:40 P.M. The Planning Commission returned from closed session at 7:31 P.M.

Deputy City Attorney Chaffin stated there are no items to report from the closed session.

All Commissioners, with the exception of Commissioners Andrews, Guidry, and Newcombe, disclosed they had toured some oil/gas sites. Deputy City Attorney Chaffin noted those tours were not done simultaneously; and advised that additional documents have been provided to the Commissioners this evening and that those were posted yesterday on the City's website.

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 for properties citywide.

Staff Report and Recommendation:

Discuss and provide direction.

Planning Manager Naaseh stated that since the July 28th meeting, noise measurement studies were performed; advised that Interim City Manager Farfsing met with all the stakeholders, community members, and Planning Commissioners involved in this process; and noted that this evening, the consultants will provide a series of recommendations from those meetings.

Luis Perez, MRS, provided a power point presentation, highlighting the changes that have been made in response to the Planning Commission's direction from the July 28, 2015, meeting and some recommended add-ins/revisions to the code resulting from his meetings with industry representatives, community members and stakeholders involved in this process. He noted that the Planning Commission directed staff to meet with Interim City Manager Farfsing to gather his input and make sure he understands where this oil code is coming from and to explain to him what the City is attempting to achieve. He added that Interim City Manager Farfsing was able to meet in small groups with the Planning Commissioners.

Mr. Perez noted that with regard to the recommended add-in for City Manager versus the Petroleum Administrator (PA) option, this option would designate the City Manager as the City's enforcement official for the ordinance but would also allow the City Manager to appoint the PA as necessary; that rather than designating a PA, if there is a need for the City Manager to appoint someone, he/she can do so; that he/she also has the latitude to consult experts qualified in fields related to oil/gas operations so that he/she can have that at their beck and call when additional information is needed; and that he/she may also appoint as many officers, inspectors, and/or assistants and other employees as needed, believing this is a good compromise to resolve the City Manager/PA issue.

Mr. Perez stated that the next add-in is for the City Manager to have heightened authority, if the City Manager determines it is necessary based on public health, safety or welfare, the City Manager could require various plans/reports as deemed reasonably necessary for a conditional use permit (CUP) or an abandonment application.

Mr. Perez stated that the next add-in is the grandfathering of existing uses; noted that the original intent of the ordinance was to address any potential future projects; that they were not looking at projects that were existing within the City (at the direction of City Council); that there wasn't a substantial awareness of issues that had been brought up with regard to existing projects within the City; and that it was mostly focusing on the large proposed project that has previously been withdrawn (Oxy).

Mr. Perez explained that as a result of the evolution of the code, they had come up with some provisions that would allow for the oil companies which are existing operators to become good neighbors and provide some noise, odor and other necessary elements to ensure they were compatible with the surrounding land uses; but as a result of that, it had the unintended consequence of also creating the potential for some of these facilities within the setback to be considered nonconforming uses and subject to amortization. He pointed out that they believed this option was probably not a good idea, and so they have included an add-in within the code as a recommendation from staff that the existing uses should be grandfathered in, which means they would continue to operate as they exist today; they would be limited; they would not be able to expand beyond the vested rights they have; and they would not be allowed any additional development, but they would be able to continue on with their vested rights.

Mr. Perez stated that with regard to the recommended add-ins for setbacks, he highlighted a couple of graphs showing what setbacks exist in other jurisdictions, showing some impacts they have seen from other environmental documents/projects from other jurisdictions relating to noise, risk, odors; and he noted this helps to illustrate the outcomes setback issues. He stated that at this point, staff's recommendation is a 500-foot setback.

Mr. Perez highlighted on the graph some of the well areas which predate and postdate housing, some houses being fairly close to those facilities; stated that the graph also highlights the total number of wells within the City; and he explained that the graph shows the existing operating wells but that it does not necessarily contain all the number of vested wells.

Mr. Perez stated that with the most up-to-date count at this time, there are 23 wells located within a 500-foot setback to residential; 2 wells within a 750-foot setback to residential; no wells within 1,000 feet to residential; and then as you move out to 1,500 feet, it encompasses a substantial number of all the remaining wells that are existing within the City.

Mr. Perez explained that the recommended add-in for consolidation is closely tied to the recommendation for setback, as staff is recommending a 500-foot setback; and that staff is including this recommended add-in for a consolidation incentive so the operators that exist within this setback are encouraged to move away from those areas that are closer to residential. He added that for the existing wells which are within those setbacks, the benefit for an operator is they can exchange those wells at a 2:1 ratio to a new or existing area that can receive those wells without counting towards new development, which would require a CUP, up to a maximum of 10 wells; and the benefit to the community is that the facility is moving substantially farther away from a

residential use. He stated that the receiving sites must be active, that those sites cannot be a new site. With regard to the consolidation incentive, he stated that if you're within the setback, you can only take advantage of that transfer one time; and that the relocation moves you farther away to at least 750 feet.

Mr. Perez highlighted the recommended add-ins for pump jacks and submersible pumps, noting this option would allow existing pump jacks to continue to operate indefinitely; that additional pump jacks are prohibited unless it is determined it is not technically feasible; and stated this is within residential uses and does not apply to industrial uses.

Mr. Perez highlighted the recommended add-ins for appeals of the CUP to City Council; stated this option would create a parallelism with the way the existing ordinance operates when you have a CUP that is appealable to the City Council; and that this will ensure the same for the oil code.

Mr. Perez highlighted the recommended add-ins for insurance, noting this option would allow the City to accept potential alternative forms of security that would be limited to only three types of insurance that sometimes are difficult to get or not available in the market; and that the City may consider excess liability, environmental and permanent control of wells in the event those are not available.

Mr. Perez addressed the noise monitoring they recently conducted to understand what the noise was from the existing locations; he pointed out there was no drilling going on during the time the noise monitoring was conducted; and he advised that they used the locations near the E&B sites in south Carson and also sites near Cal State Dominguez Hills in north Carson to account for wells both in the Wilmington oil field and up to the Dominguez oil field. He stated that the conclusions from the testing found there are periods of very quiet nighttime and early morning averages of noise, 40 dba and below; and noted there's no traffic and not a lot of additional noise factors herein.

Mr. Perez explained that the things they hear in looking at the baseline noise which are making the most substantial contributions to the hourly averages are the trains, planes, and other residential sources; and that they are not seeing a substantial component of the noise from the current oil activities to be contributing to the noise in the surrounding areas. He added that the noise sources have been determined to be coming from a lot of residential sources, such as gardeners with their blowers. He added that having said this, as they look at potential drilling activities, they do know those drilling activities could cause substantial nighttime noise increases; but added this was only a snapshot in time of the noise they were listening to during all the time the noise monitoring activity took place.

Mr. Perez explained that what is shown on the noise monitoring results is a series of spikes, the biggest spike observed on October 6th at 11:31 a.m., which is likely close to when the gardeners show up with the blowers; and that was one of the highest noise makers that elevated the hourly rate to those points. He added that some of the other peaks shown are not as marked; pointed out that once they observed a spike in noise on the graph, they were able to listen to the audio recording of that particular spike and make a positive determination as to where it was coming from; and that they know exactly what the noise is that is being emitted from the recorder and that they have data to support their findings. He mentioned that some of the peaks had to do with a lot of different noises that are part of the day-to-day activities, which includes trains and trucks.

Mr. Perez pointed out there is a darker bar which goes across the slide/graph and varies from 48 decibels close to 60 decibels; noted that is the range of sound being emitted from E&B, this information from E&B's own monitoring of drilling activities; and explained that they have superimposed the drilling monitoring on top of this graph upon the baseline measurements they have to determine how much higher it would get if there was drilling taking place. Noting that drilling would have to occur during 24-hour operations, he stated you can see at some points of the day the noise levels would be substantially elevated, especially in the nighttime hours, and certainly would be perceptible without some substantial mitigation. He stated they are not making any recommendation with regard to the noise portion at this time; however, he added the City can address amending its noise code later on if that is desired, but reiterated it is not part of the oil code at this time.

Commissioner Post asked if an operator is allowed to drill or make noise 24 hours a day.

Mr. Perez stated that for safety purposes, drilling operations typically require they continue for 24-hour periods of time.

Commissioner Thomas asked if there is any time limit relating to the incentives 2:1 exchange.

Mr. Perez stated there is no time limit, believing the expectation is it would happen fairly soon after the wells are given up.

Commissioner Mitoma asked if the City is able to shut down the 24-hour drilling operations if the noise levels are beyond code limits.

Mr. Perez stated that the City has the authority to require an operator to reduce the noise levels and assure they are complying with the noise limits within the County of Los Angeles oil code, but reiterated that they are not proposing any changes to the noise limits at this time.

Commissioner Mitoma asked if that would be considered a public nuisance and be enforceable under the public nuisance ordinance.

Deputy City Attorney Chaffin stated that whether from an industry or non-industry source, the City has enforcement options in place to require adherence to the City's noise ordinance or to cease their operations.

Chairman Diaz opened the public hearing.

John Quirk, Brea Canyon Oil Company, stated that on behalf of Brea Canyon Oil Company, he thanked staff for allowing them to participate in this process and noted appreciation for staff's efforts. He noted his concurrence with deferring the fracking issue to another meeting. While the recommendations put forth this evening are far from perfect, he noted that Brea Canyon believes the code in the form before the Commission this evening is workable and that with the City's good faith in its application and enforcement of the ordinance, the existing oil field operators can work with the City and carry out their activities in a way that respects the community.

Mr. Quirk addressed recent reports of a Division of Oil and Gas internal study and report suggesting some process flaws in the Division's oversight of the industry; pointed out that having read the report and newspaper accounts, the Division is not suggesting anything has been allowed to occur in the environment with respect to public safety or otherwise that has caused any harm; and that they are process flaws found/identified by

the Division and that they have taken steps to correct those flaws. He encouraged the Commission not to see the Division's efforts to improve its process as a reason for concern about the Division's ability, and more importantly, its commitment to regulating the industry.

Mr. Quirk stated that he submitted a letter which addresses the potential for earthquakes, pointing out there is a difference between saying earthquakes are caused by events and saying earthquakes are associated by events; explained that if there have been minor seismic events, as is presented in the materials, the magnitude of the events is not significant; that the magnitude of events is almost entirely below magnitude 2 and is insignificant; added that those occur at depths approaching 8 miles; and pointed out that the activity being addressed in the oil fields is at the depth of 1.5 miles.

Nanette Barragan, San Pedro, stated that she served on the Hermosa Beach City Council for the last two years and faced a similar situation of what is taking place in this city this evening; that E&B wanted to drill 34 oil and water injection wells within 150 feet of homes; and stated that was not acceptable to Hermosa Beach. She mentioned that Dallas, Texas, requires a 1,500-foot setback; and stated that a Dallas councilmember testified in a forum that anything less than that setback is not healthy or safe or good for property values. She mentioned that the oil companies complain about the taking of their rights, but asked about the taking of the residents' property rights/values. She stated that this City needs to protect the safety and health of its residents and urged that no less than a 1,500-foot setback be considered. She added that if Hermosa Beach and Beverly Hills can find ways to restrict these operations and phase out oil drilling, Carson should also be able to do so.

Benjamin Hanelin, Latham & Watkins, representing Californians for Energy Independence, thanked staff and the Planning Commission for all their efforts during this process; and urged the adoption of staff recommendation. He stated this is a tough ordinance that reflects many difficult policy determinations; expressed his belief that it is still far more expansive than necessary and that it still duplicates state law in many places; stated they do not agree that such duplication is necessary or allowed; but added that with the adoption of staff's recommendation, including a maximum of a 500-foot setback, this is a code they can accept.

Mr. Hanelin stated that the oversight of underground injection activities falls entirely within the state's purview and that they are happy to see that DOGGR is taking steps to ensure compliance with the law; and he pointed out that the State Water Resources Control Board has found no evidence that public water supplies have been contaminated by injection wells, which wells have been used for decades in California. With respect to the setback issue specifically, they asked that the Commission adopt staff recommendation of 500 feet; noted that other municipalities have setbacks that are less and setbacks that are greater; and mentioned that Signal Hill has million-dollar homes immediately next to oil and gas production, proving it has been shown to work well. He expressed his belief this code as proposed strikes the right balance; that if the Commission increases the setback from 500 feet to 750 feet or 1,500 feet, that balance is lost, and it's a detriment to the oil producers and ultimately a detriment to Carson because it will hurt the oil jobs, the oil industry here and the revenues it creates.

Latrice Carter, resident, stated she sent a letter to certain Planning Commissioners which cites inconsistencies and contradictions within the current ordinance; stated there should be no new oil and gas drilling in Carson; that the City should not encourage any

expansion wells; noted her opposition to the 2:1 exchange ratio for incentives; and stated there should be a minimum 1,500-foot setback. She stated she hears the noise from these facilities in the early morning hours and smells the odors; and stated these facilities should be phased out in 20 years and that no grandfathering be permitted. She noted her support of allowing the City Manager to appoint a PA; and stated that leak monitoring/detection should be done on the storage tanks.

Dr. Tom Williams, Citizens Coalition for a Safe Community, stated that between now and the next meeting, there should be a settlement group meeting; expressed his belief the ordinance doesn't work; and stated that while it references DOGGR's definitions, those aren't used because the City changes them a little bit here and there. He explained that in Section 9536, there is a reference to prohibiting fracking, however, it's only prohibited during production and extraction; stated that fracking doesn't occur during production and extraction; that it only occurs during well stimulation, which is part of drilling, redrilling, reworking or other activities; and that it has no bearing on the actual fracking.

Dr. Williams stated that he asked for a Microsoft Word file so he could track changes to submit to staff, but stated he did not receive such file and that he is once again requesting that file. He expressed his belief that if this goes forward as is, it is subject to judicial review. He added that at one point in the background, it states the City is going to supplement federal, state, and other ordinances/codes, but that supplement is never defined and there's no definition of equal or a more stringent code having priority; and he concluded that there are many deficiencies in the current draft. He added that the options interchange among environmental enforcement officer, environmental compliance officer, or environmental compliance coordinators; and he reiterated his desire to meet with staff.

Alexandra Nagy, Southern California Organizer for Food & Water Watch, stated she has no faith in DOGGR's ability to regulate this industry; noted that she has seen in the last year DOGGR doing illegal injection wells in the Central Valley and Kern County, with DOGGR permitting or allowing waste water pits to go unlined in the Central Valley, threatening crops and ground water; that for the last two years, this regulating agency has held onto a report they were supposed to submit to L.A. County showing what kind of illegal activities were happening in L.A., such as what was happening in Kern County; and stated this report was just released and included shocking findings of how poorly the oversight regulators are doing at their jobs and not looking out for the public's best interests.

Ms. Nagy noted that one of the more interesting things in the report indicated that science-based setbacks are needed because they acknowledge all oil and gas activity is harmful to the community; that it pollutes the air, exposes the community to some level of toxins; and the closer one is, the more at risk they are. She stated that the California Council on Science and Technology (CCST) study indicated that these toxins could actually go out from a facility up to a half mile away; and that they would ask for a minimum of 1,500 feet in setback, noting that AQMD and DOGGR requires disclosure that fracking is occurring for those living within 1,500 feet of a facility. She asked that there be no new wells and expressed her belief the incentive program is misguided and will not provide any community benefits.

Vivian Hatcher, resident, stated that the code needs to be in the best interest of the residents; noted she was not aware her property was once an oil field; she urged the

City to pass a strong ordinance that protects the residents, considering people over profits; and stated there should be a 1,500-foot setback.

Faye Walton, resident, stated the setback should be 1,500 feet for new oil drilling in residential areas; and that existing oil wells should be phased out within 3 years as opposed to extending this over 20 years.

Robert Lesley, resident, stated there should be a 1,500-foot setback; stated there should be no drilling, fracking, or conversion of wells; that the City should require the psi of oil operations be maintained at a safe level; questioned why the City has not pursued a 1,500-foot buffer requirement with drilling activities that exceed a certain psi in close proximity to homes and schools; and he stated that Title V of the California Code of Regulations (CCR) requires that buffer be maintained. He stated that Section 9507 dealing with CUP's is ambiguous in its format; that Section 9518 dealing with financial regulation is ambiguous in its format; and he urged the City to consider the health, safety and happiness of its residents and to make sure the ordinance is concise.

Dr. Leah Garland, Los Angeles, stated she is not urging the City to be anti-business, but she is asking that businesses not be allowed to create a toxic environment; and she urged the City to consider the long-term impacts of contaminated properties and the City's future economic viability and future potential to attract businesses seeking relocation to non-toxic areas. She added that pollution erodes economic opportunities, questioning how this City is going to entice businesses to locate to this community if it has a poor reputation for being a polluted environment; she urged the City to stop jeopardizing the health and wealth of the City by allowing a few people in big oil to make some money, money not well distributed to the people who live and work here; and she stated that the City should adopt a minimum 1,500-foot setback.

Nicki Carlsen, Alston & Bird, representing E&B Natural Resources, thanked staff and the Commission for their efforts during this difficult process; expressed her belief they can support this proposed code presented this evening, noting that while not perfect for everyone, a good balance of compromise has been reached; but pointed out that what they cannot support is an increase to the setback beyond 500 feet nor any provision that takes away their vested rights. She urged the Commission to support the code as presented this evening with staff's recommended add-ons; otherwise, changing it further will undermine this entire process and put everything back in disarray and further arguing.

Antonio Araiza, Southern California Hispanic Chamber of Commerce, Torrance, stated that this industry generates tax revenues which are vital to support services, such as fire, police, parks, schools; and urged the City to support staff recommendation for this code update.

Antonio Garcia, Southern California Hispanic Chamber of Commerce, Torrance, stated that energy production is essential to Carson in sustaining jobs in this community, businesses, and that it provides significant tax revenues for this region; and he urged approval of staff recommendation.

Daryl Gale, Los Angeles, stated that nobody likes change but expressed her belief that the eventual benefits will exceed the temporary stress and discomfort of decreasing the activities of the oil and gas industry; and she urged the leaders of this community to start thinking about bringing in clean energy alternative businesses, such as solar technology, battery storage development, electric cars/trucks/busses so its residents can start breathing cleaner air and not have to worry about the health of their loved

ones. She urged a minimum 1,500-foot setback from residential areas, noting that other municipalities are working on requiring greater setbacks.

Thomas Walker, Huntington Beach, registered petroleum engineer, noted that he lives in Huntington Beach which has a long history of safe oil and gas operations within close proximity to many residential areas; and expressed his opinion oil wells and nearby residential areas can safely co-exist, noting that Signal Hill has a 50-foot setback. He pointed out this community has a long history of oil and gas operations, highlighting the 92nd anniversary of the discovery of oil in what is now the Dominguez Technology Center on September 7, 1923, with hundreds of producing wells since then.

Mr. Walker added that he has applied for permits from the Division of Oil and Gas and Geothermal Resources and that he can unequivocally state that it's not industry operated and controlled; and that it is an independent agency. He stated that the L.A. Times article had some interesting comments in it, but that it omitted various facts, such as only 23 injection and disposal wells were shut down out of over 55,000 wells; and noted that the article went on to state that in the DOGGR report, they found no evidence of ground water contamination from those 23 wells. He noted his appreciation of staff and the Commission; stated that while this is a difficult/tough code, it is a workable plan to ensure safe and effective oil operations in Carson.

Pilar Hoyos, representing Watson Land Company and the shareholders, both charities and individuals, the mineral rights owners for the Dominguez oil field, thanked staff, the Commission for all their efforts, and thanked Interim City Manager Farfaring for his knowledge and expertise. She stated this is a tough ordinance, one that has been challenging in its compromises; and noted that they want to work in good faith to make this an ordinance that is acceptable, workable, and one that protects not only the residents, but also protects the property owners and mineral rights owners.

Ms. Hoyos pointed out how troubling this effort has been; advised that she has had the pleasure of working in this community for over 20 years with many of the people present this evening; but that she has never witnessed so much negativity, divisiveness, name calling and ridicule that has plagued this community and these public hearings, putting Carson in such a bad light. She added that everybody who gets up to the podium should have the opportunity to speak freely without such negativity, name calling, ridicule, shouting of falsehoods/accusations from audience members as people are speaking at the podium; and questioned how these people can make those kinds of false accusations without any repercussions. She urged this Commission, when it makes its decision, to do what's best for the City in the long-run and what is responsible that's not going to put the City at risk.

Ms. Hoyos stated that what is before the Commission this evening is a very difficult ordinance with a very delicate balance of compromises; she stated that the 1,500 feet that's being requested by some is basically a no-drill ordinance, putting everyone right back to square one; and stated that a no-drill ordinance creates a taking and one that obviously would initiate legal protection of the value of those mineral rights. She urged the Commission to support the ordinance as presented and recommended by staff, noting this is a tough ordinance and one that was difficult to bring before the Commission this evening.

Cruz Gonzales, resident, stated that this industry is essential for the economic growth and well-being of this community; and he urged support of staff's recommendation. He

added that tests have concluded there have been no instances of water contamination related to hydraulic fracturing.

Ruben Gomez, resident, stated that these operations contribute to Carson's economy, providing employment opportunities and economic viability; and he urged the Commission to support staff's recommendation.

Breanna Smith, Inglewood, advised that oil revenues have helped finance education in the oil and gas industry and provided sustainable employment for workers from all educational backgrounds; and she urged the Commission to support staff's recommendation.

Christopher Holt, Los Angeles, stated that he is a carpenter looking for work; noted that the oil industry in Carson provides jobs and revenues that support critical services for this community and at the state level; and he urged support of staff recommendation.

Germain Lopez, resident, stated that the oil industry has been a large part of the economic vitality of this community and county, its residents and businesses; and he urged support of staff recommendation.

Aaron Savage, resident, stated that oil and gas provides vital benefits for this City and surrounding communities, helping to fund important public safety services; and he urged support of staff recommendation.

Margarite Carter, resident, noted her opposition to the 2:1 exchange incentive; stated that the 500-foot setback is not sufficient; and that the City should have in place plenty of insurance to protect this community and its residents from future disasters. She asked who will be responsible for cleaning up spills/leaks when a disaster happens; and expressed her belief there are too many issues yet to be resolved before this code is adopted.

Ted Cordova, E&B Natural Resources, noted his appreciation of staff and the consultants for their efforts, noting that staff has done an excellent job in educating everyone; and stated that while this code is burdensome and very costly, they'd like this to move forward based on staff's recommendation.

Diane Thomas, resident, stated there should be a 1,500-foot setback; and expressed her belief the oil companies gave up their property rights when they sold those properties for housing regardless of the minerals that were left behind; and stated that in order to coexist, these facilities should abide by current standards.

Norma Jackson, resident, noted her support for the 1,500-foot setback. She asked if existing wells are moved to a setback outside of the parameters, will they be placing those in the Dominguez oil field near the homes on the north side.

Michael Bowles, resident, stated that oil and gas provides important benefits to Carson, such as parks, schools, emergency services; and he urged support of staff recommendation.

Deputy City Attorney Chaffin highlighted a letter written by Lori Noflin (of record) urging the Commission to ban new drilling and limit drilling until it is deemed to be safe in this community; and to obtain a geological study that proves these activities don't cause earthquakes and leaks.

Planning Commission Decision:

Vice-Chairman Madrigal moved to adopt the 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 Section 15308; to include all add-ins presented this evening; and noted a willingness to discuss/consider friendly amendments to this motion. This motion was later amended.

Deputy City Attorney Chaffin highlighted his understanding of the motion as follows: to accept staff recommendation which includes recommended add-ins; that staff be directed to return with a consent item resolution for adoption at the next Planning Commission meeting; and that there is a willingness to discuss/consider friendly amendments.

Commissioner Faletogo seconded the motion.

Commissioner Mitoma stated that 9507.1.H addresses a safety plan, noting it should be approved by the City Council or the Planning Commission; he addressed Section 9513, Injunctive Relief, questioning if it allows the City to cite repeat offenders and subject to criminal prosecution.

Deputy City Attorney Chaffin stated that currently, violation of the code, including this ordinance, would be a misdemeanor; and that it is an option available to the City. He added there are prosecution options available, some of those which may have to go through the District Attorney's Office.

Commissioner Mitoma asked if an operator is found to be in violation and they don't immediately rectify the situation, can the City suspend their operation.

Deputy City Attorney Chaffin explained that this ordinance has all the enforcement options necessary, adding that it has more enforcement options than any other ordinance in the City; and noted that one of those options would allow the receipt of a court order to suspend operations and to stop further actions, assuming it doesn't threaten public safety/health.

Commissioner Mitoma, highlighted page 38, Section 9515, Nuisance Procedures, last sentence, "...by the City Attorney to abate the public nuisance at the request of the director in charge of enforcing Chapter 7 of this code." He asked if that would be the City Manager.

Deputy City Attorney Chaffin stated it would be the same director that is in charge of code enforcement for the City.

By way of a friendly amendment, Commissioner Mitoma moved that the City Manager be in charge of enforcing Chapter 7 of this code.

Deputy City Attorney Chaffin explained that staff would have to look to see how that integrates in with Chapter 7 because by referencing Chapter 7 of the code, they would also be referencing enforcement mechanisms in that portion of the code as well. He explained further that Section 9515, Nuisance Procedures, those procedures are abated pursuant to the procedures set forth in Article 5, Chapter 7, the property maintenance section, noting this is just one enforcement mechanism; by incorporating that process, it also incorporates the process of utilizing the director to enforce property maintenance and abatement procedures under just this code provision; and if it was changed to the City Manager, that could have implications making it more difficult to implement;

however, he noted that staff will look at that and return with a resolution consistent with the Planning Commission's direction.

Commissioner Mitoma stated that the bonding requirements should have a minimum Standard and Poor's and Moody's rating of "A" and Best's rating of "A" for insurance.

Deputy City Attorney Chaffin stated his only caution will be to make sure they are using proper bonding requirements that would be consistent and integrate with those used by DOGGR. With regard to the insurance requirements in Section 9520, Operator Liability Insurance, he noted that those insurance requirements and ratings are in subsection A-1 through B. He added that the Best's Insurance Rating Guide is the one that is traditionally used by municipalities/public agencies throughout the state; noted that Section 9520, subsection A-1, top of page 44, states that insurance companies have to be admitted by the California Insurance Commissioner to do business in California and rated not less than A-VII in the Best's Insurance Rating Guide.

Commissioner Mitoma stated that meets his intent. With regard to Section 9522.3, Oil and Gas Site Parking, he stated it should include a requirement to provide a mechanism that allows Fire Department access onsite.

Deputy City Attorney Chaffin noted those parking sites would already have to be approved by the City Planning Commission through a separate discretionary process/review as appropriate.

Commissioner Mitoma clarified his friendly amendment to include the City Manager be in charge of enforcing Chapter 7 of this code if there are no conflicts; and to have bonding and insurance ratings of "A."

Interim City Manager Farfing clarified for Commissioner Mitoma that the safety plan will require Planning Commission review/approval through the conditional use permit (CUP) process. With regard to the incentive program for the oil fields, he clarified that the language needs to be clear that it's not transferable between the two oil fields; and he explained that in this case, there are no wells in the Dominguez field and that it would primarily affect the Wilmington field, getting those wells farther away from the residential areas.

Commissioner Mitoma added to his friendly amendment an increase in setback to 1,000 feet instead of 500 feet.

Deputy City Attorney Chaffin noted his understanding of Commissioner Mitoma's friendly amendment as follows: increasing the setback to 1,000 feet; and proposing a change to Section 9519 to identify a Standard & Poor's and Moody's requirement for bonding/insurance with a minimum rating of "A." He added that staff will have to look into the compatibility issue with regard to Section 9515, changing the director to City Manager.

Deputy City Attorney Chaffin noted his understanding of the current motion: a main motion to adopt staff recommendation including add-ins and to return with a resolution; that the friendly amendment proposed by Commissioner Mitoma has three items -- increase the setback to 1,000 feet; Section 9519 to be amended to add a Standard & Poor's and Moody's minimum rating of "A" for bonding/insurance requirements; and for staff to look into the possibility of integrating the City Manager as the enforcement mechanism or person to enforce the nuisance procedures under Section 9507.1.H.

Vice-Chairman Madrigal stated that he will accept the friendly amendments with the exception of increasing the setback to 1,000 feet, but stated that he would amend his motion to increase the setback from 500 feet to 750 feet.

Commissioner Faletogo concurred with Vice-Chairman Madrigal's comments, including the adoption of a 750-foot setback.

Deputy City Attorney Chaffin highlighted his understanding of the motion as follows: a main motion to approve staff recommendation, including add-ins, and an increase to 750 feet for the setback; Standard & Poor's and Moody's minimum rating of "A" for bonding/insurance; and staff to look into having the City Manager oversee enforcement and abatement of nuisance procedures. He clarified there will be no transfer between fields for the incentive program, so any wells within the setback in the Wilmington field would be subject to change within the Wilmington field but could not be transferred to the Dominguez field and vice versa.

Vice-Chairman Madrigal stated he is not in agreement with all the friendly amendments.

By way of a friendly amendment, Commissioner Thomas suggested removing and considering separately the following three items: setbacks, grandfathering, and incentive program, having separate conversations on those three items.

Vice-Chair Madrigal noted his acceptance of Commissioner Thomas' friendly amendment.

Commissioner Faletogo asked for clarification on how the Commission will be voting.

Deputy City Attorney Chaffin suggested using a hopper approach, placing all the issues the Planning Commission agrees on into the hopper; that items are pulled up for additional discussion and separate consideration and placed in the hopper once there has been consensus. He added that once all items have been discussed, the Planning Commission will then vote on the full contents of the hopper. He added that the friendly amendment is to put all the items in the hopper with the exception of setbacks, incentives, grandfathering.

The makers of the motion agreed in placing everything into the hopper with the exception of those three items. The amended motion unanimously carried, 9-0 (absent Commissioner Schaefer).

Commissioner Thomas suggested an array of motions for each item, starting at 500 and working upward until there is a majority vote.

Chairman Diaz concurred.

Commissioner Thomas moved, seconded by Commissioner Post, to approve a 500-foot setback. This motion failed as follows, 3-6:

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

Commissioner Thomas moved, seconded by Commissioner Post, to approve a 750-foot setback. This motion failed as follows, 4-5:

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

Commissioner Thomas moved, seconded by Commissioner Post, to approve a 1,000-foot setback. This motion carried as follows, 6-3:

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

Commissioner Thomas moved, seconded by Commissioner Post, to adopt Option No. 1, legal, nonconforming uses subject to amortization, making legally existing/current uses within the proposed setbacks legal, nonconforming and subject to the City's amortization schedule. This motion was superseded by a substitute motion.

Deputy City Attorney Chaffin explained that adoption of Option 1 would mean the uses that are legally existing and operating at the time the ordinance is adopted would be subject to amortization; noted Carson's amortization schedule is currently set at 20 years for a phase-out program; and added there is a process for extension upon approval by the Planning Commission.

Commissioner Mitoma asked under what basis would an appeal be granted.

Deputy City Attorney Chaffin stated there is an application process for the industry applicants; that staff would make a presentation in a public hearing; and the Planning Commission would review and make a decision on the extension.

Interim City Manager Farfsing explained that staff is recommending Option 2 because these oil wells are going to be here for centuries; and that there are stranded oil resources in the ground and it is going to be very difficult for this community to figure out the stranded economic cost of a well in 20 years. He noted that some of these wells have been in place for 50, 60 years, and they're going to be here a lot longer than we're going to be alive; and that by attempting to amortize out an oil well will become very problematic for the City. He added that in 20 years, this Commission will put that future Planning Commission and City Council in a very difficult position to try to figure out how they're going to value and close out oil wells.

Commissioner Mitoma stated that would then mean the City would have to pay the operator economic damages and would create a problem in 20 years.

Interim City Manager Farfsing stated yes, he believes so; stated he does not know what that stranded cost is for the oil wells; and he pointed out that he can't recommend that as a City Manager. He added that the Wilmington field is the second largest field in the United States, questioning how the City is supposed to figure out its life expectancy, taking into consideration the price of oil.

Interim City Manager Farfsing stated that what the geologists tells us is that over the centuries, this oil is going to continue to be produced because it's still cooking down below in the strata, so that resource is there; and with new technologies 20 years from

now, basically they'll be able to go down with different types of instrumentation and tell us how much oil is down there, and they'll come back with a cost of how much that will be and how many years of recoverable resources they have left. He questioned whether this community is going to be able to afford that. He reiterated that Option 2 is staff's recommendation, but stated it is up to the Commission.

Commissioner Thomas asked how many wells staff is talking about in this regard.

Mr. Perez stated there were no additional wells within 1,000 feet; that you get exactly the same number of wells for this particular purpose within 750 feet; and that number is 25 wells that are within 1,000 feet, which is the same as within 750 feet.

Commissioner Mitoma asked would the City have to purchase 25 wells.

Mr. Perez explained that one of the things they verified earlier, while this is the number of existing wells, this is not the number of all vested wells, so there may be an additional number of wells that are vested which are not currently operational that could be used in the future. He added that as you look at this particular issue, it really complicates the potential for any exchange rate because they did not contemplate doing exchanges for the 1,000-foot setback; and that also, it makes the exchange even far more valuable than what they considered, so there are ramifications here that they have not looked at which could potentially be very damaging.

Commissioner Thomas asked if the future Planning Commission could decide to indefinitely grandfather the facility or allow for an extension.

Deputy City Attorney Chaffin stated that he has looked up the code section relating to extensions; advised that the Planning Commission is required by resolution to approve the request for extension of time only if the Planning Commission can find that the required determination of nonconformity is insufficient for reasonable amortization of a fixed investment of such nonconforming use. He clarified what that means is the Commission would have to make a concrete finding that an applicant did not have enough time to recover their reasonable investment-based expectations, an amount of money they could reasonably expect to get out of their wells, for each one of the wells that comes up before the Planning Commission, all being due at the same time; and that the Commission cannot grandfather in at its discretion without there being very specific findings made.

Community Development Director Raymond explained that the amortization reference in Carson typically is written for buildings and physical structures; with regard to a building, he explained that for appraisal purposes, a building has an economic life of approximately 35 years, noting they can be there much longer; and stated that when the City rezones properties and makes them nonconforming, 20 years is the typical amount of time the City gives an applicant to amortize the remaining economic life of their property. He explained that these nonconformities usually happen when the property is old and there is not much economic life left or because the City is rezoning or creating a new General Plan. He pointed out that an oil well is really a different issue here because it is not a building; and that it is an active resource that will be around for a very long time, easily pumping for another 100 years with a reasonable amount of repairs being needed during that time. He agreed with Interim City Manager Farfing that there are too many unknowns; that it would be a very difficult challenge to try to quantify what those wells are worth; and stated that 20 years from now, if this gets adopted, all that analysis has to occur at the same time and this is why staff is recommending the grandfathering, Option 2.

By way of a substitute motion, Vice-Chairman Madrigal moved, seconded by Chairman Diaz, to adopt Option No. 2, grandfathering existing uses with no amortization. This motion carried as follows, 5-4:

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

Deputy City Attorney Chaffin stated that currently, the incentive program was set up to encourage grandfathered uses to move back to 750 feet; now with the setback at 1,000 feet, he recommended that language within the "Incentive to Remove Existing Sites within Setback Further Away" be changed from 750 feet to 1,000 feet; additionally, he clarified that the exchange would not occur between fields -- in other words, all Wilmington wells would stay in the Wilmington fields and vice versa for the Dominguez fields, though adding there are no wells to exchange in the Dominguez field.

Chairman Diaz moved, seconded by Commissioner Faletogo, to adopt Option No. 2, Incentive to Remove Existing Sites within Setback Further Away, Transfer Outside Setbacks, which would allow an operator to exchange wells, either existing or vested, at a 2:1 ratio to another (new or existing) receiving site(s) without counting toward new development that would require a CUP or DA; moved to amend the grandfathered uses from 750 to 1,000 feet; and that there be no exchange between fields. This motion ultimately carried.

Commissioner Mitoma asked if this includes the exchange or just the setback.

Deputy City Attorney Chaffin stated this includes the exchange; added there are two things going on with the motion: 1) the incentive to remove existing sites within setbacks farther away; 2) there would also be an exchange and consolidation process for existing sites outside the setback to consolidate to existing locations; and that instead of multiple sites, it would be consolidating those with a one-time transfer.

By way of a substitute motion, Commissioner Thomas moved, seconded by Commissioner Post, to adopt Option No. 2, Incentive to Remove Existing Sites Within Setback Further Away, Transfer Outside Setbacks, which would allow an operator to exchange wells, either existing or vested, at a 1:1 exchange ratio to another (new or existing) receiving site(s) without counting toward new development that would require a CUP or DA; moved to amend the grandfathered uses from 750 feet to 1,000 feet; that there be no exchange between fields; and that a reasonable time limit (as suggested by the consultant/staff) for operation of new wells be established for well exchange to another site. This motion failed as follows, 4-5:

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

By way of a friendly amendment, Commissioner Thomas moved that a reasonable time limit (as suggested by consultant/staff) for actual execution of new wells be established for well exchange to another site. (This friendly amendment was ultimately rejected.)

Deputy City Attorney Chaffin stated that to be clear, this would limit the time an applicant could bank the new wells; once they abandon the wells, they would have a certain period of time -- to be determined by staff and brought back to the Planning Commission for final approval -- in which to use that well exchange at another site. He pointed out that given the nature of the oil operations potentially lasting for centuries, the time that would be proposed by staff would probably be set at a couple of decades, and is likely what staff will be recommending; and he noted they will work with the consultants to determine what would be a reasonable period of time.

Chairman Diaz rejected the friendly amendment.

Deputy City Attorney Chaffin noted his understanding of the current motion as follows: to adopt staff's recommendation, including add-ins; to allow for a 2:1 exchange with the increased setback of 1,000 feet and no exchange between the fields.

Chairman Diaz' primary motion carried as follows, 8-1:

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

Deputy City Attorney Chaffin suggested the Planning Commission now vote on all the items in the hopper, directing staff to return with a resolution consistent with the Planning Commission's direction. He highlighted the following items currently in the hopper: all staff recommendations, including add-ins, except for setback; Section 9519, Insurance/Bonding, to require a Standard & Poor's and Moody's minimum rating of "A"; Section 9515, Nuisance Procedures, that staff will look into using the City Manager instead of the Director for Chapter 7; increase the setback to 1,000 feet; with regard to grandfathering, adopt staff recommendation Option 2; with regard to incentive, adopt staff recommendation of the 2:1 exchange ratio, plus change to 1,000 feet minimum away from prohibited setback areas; and no exchange between fields.

Chairman Diaz moved, seconded by Commissioner Faletogo, to approve everything in the hopper as noted above and to return with a final resolution at the November 24, 2015, Planning Commission meeting. This motion unanimously carried, 9-0 (absent Commissioner Schaefer).

11. CONTINUED PUBLIC HEARING

B) Zone Text Amendment No. 20-15

Applicant's Request:

The applicant, city of Carson, is requesting to consider adoption of 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 for properties citywide.

Staff Report and Recommendation:

Deputy City Attorney Chaffin explained that in order to save the public’s time, if it is the desire of the Commission, all testimony this evening from Item No. 11A could be incorporated in this item; and suggested that the public hearing be opened for the public to provide any new testimony not already mentioned this evening; and that this item be continued to December 8, 2015.

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

Planning Commission Decision:

Chairman Diaz moved, seconded by Commissioner Faletogo, to continue this matter to the December 8, 2015, Planning Commission meeting; and to incorporate all of this evening’s testimony from Item 11A into this item. Motion unanimously carried, 9-0 (absent Commissioner Schaefer).

12. PUBLIC HEARING None

13. WRITTEN COMMUNICATIONS None

14. MANAGER'S REPORT None

15. COMMISSIONERS' REPORTS

Commissioner Guidry stated that she took exception to the negative comments made by Commissioner Mitoma related to the work product of this City’s Code Enforcement Department; stated that she herself is a code enforcement professional who has worked with this group; and explained that code enforcement actions are not done in a vacuum, that there are other entities, such as the Attorney’s Office and the Prosecutor’s Office, that get involved in those actions; and she noted her confidence in the Director being a capable/knowledgeable enforcement authority over this code.

Commissioner Mitoma stated that he is concerned with the enforcement of this code and protection of this community.

Vice-Chairman Madrigal thanked staff, the attorneys, the consultants, and the Planning Commissioners for their diligence and hard work on this item; and stated that everyone did a great job in providing the needed information. He noted his appreciation of Interim City Manager Farfsing’s input, noting he is doing a great job in Carson.

Chairman Diaz echoed those sentiments; and he added a thank you to the public at large as well as the business community and stakeholders for educating this body and articulating well all the issues of concern. He asked for input on the proposed sound wall for the Alameda Corridor to buffer the residents from the train/truck noise, questioning if that is ever going to happen.

Deputy City Attorney Chaffin thanked the Planning Commissioners for the many hours they have spent studying this incredibly complicated item, noting they have used their personal time touring the sites and reviewing thousands of pages of documents and

listening to dozens of hours of testimony; and stated the City Attorney's Office appreciates this Commission for its dedication and focus.

Planning Manager Naaseh explained that the sound wall along the Alameda Corridor continues to be a major funding issue, but noted that staff will look into possible funding sources.

16. ADJOURNMENT

At 10:10 P.M., the meeting was formally adjourned to Tuesday, October 27, 2015, 6:30 P.M., Helen Kawagoe City Council Chambers.

Chairman

Attest By:

Secretary