



## CITY OF CARSON

### PLANNING COMMISSION STAFF REPORT

PUBLIC HEARING: May 12, 2015 (Continued from April 14, 2015)  
SUBJECT: Zone Text Amendment No. 19-15  
APPLICANT: City of Carson  
REQUEST: 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  
PROPERTY INVOLVED: City-wide

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#### COMMISSION ACTION

☐ Concurred with staff  
☐ Did not concur with staff  
☐ Other

#### COMMISSIONERS' VOTE

AYE	NO		AYE	NO	
		Diaz			Schaefer
		Faletogo			Thomas
		Madrigal			
		Mitoma			
		Post			

## I. Introduction

This staff report includes the most up-to-date version of the proposed Oil and Gas Code. A redline version of the code is attached which identifies all changes as compared to the version included in the April 14, 2015 staff report, Exhibit 5. These changes represent a refinement to the oil code as directed by the Planning Commission during its meeting of April 14, 2015, and as a result of comments received during and after the Planning Commission, as well as a meeting with stakeholders with an interest in oil and gas.

## II. Background

On February 24, 2015, the Planning Commission took public testimony and continued this matter to the April 14, 2015 hearing, refer to Exhibits 2, 3 and 4. At the April 14, 2015 hearing, the Planning Commission again took public testimony and continued this matter to May 12, 2015 along with direction to staff to return with a revised Ordinance. The revised Ordinance was to adjust setbacks starting at 500 feet from residential and other defined uses, subject to heightened regulations such as odor and health risk assessments that would be phased out as the distance increased from the prohibited zone. Additionally, the role of the Petroleum Administrator was to be eliminated or reduced in scope. Planning Commissioners were invited to submit questions they may have to staff. Finally, the Planning Commission expressed interest in staff meeting with stakeholders with an interest in oil and gas production.

Staff have revised the proposed Ordinance as directed by the Planning Commission. The revisions also include additional recommendations from staff to clarify certain portions of the Ordinance in response to comments from interested stakeholders, refer to Exhibit 1. These revisions were made available to the public and the Planning Commission on May 6, 2015. Stakeholders with an interest in oil and gas production have made a request this item be continued.

Staff's recommendation is for the Planning Commission to continue this matter until June 9, 2015, provide any additional directions to staff, and direct staff to return with a resolution and ordinance for final consideration at that time.

## III. Analysis

### Proposed Refinements to the Ordinance

As directed by the Planning Commission, City staff have refined the proposed Ordinance as follows:

- Adjusted setbacks starting at 500 feet from residential and other defined uses. Operations starting at 500 feet setbacks will be subject to heightened regulation, such as odor and health risk assessments, that will be phased out as the distance increases to 1,500 feet or more from the prohibited zone.

- Eliminated the position of a Petroleum Administrator. Instead, the City Manager, or designee, will generally be responsible for overseeing compliance with the Ordinance. Also, eliminated the uncertainty related to the responsibilities of the City Manager (previously Petroleum Administrator).

Staff, the City Attorney's office, and MRS also continue to carefully review comments from the Planning Commission, and the public, including representatives of oil and gas interests and environmental groups, and are proposing refinements to the proposed oil code to further clarify the intent of the legislation. In general, the proposed refinements based on the meeting with industry included:

- Clarify that conventional drilling methods and operations can continue;
- Refine definitions to reduce the likelihood of regulatory conflicts;
- Definition of High Risk operator
- Duplication with State Regulations
- Exceptions for Exploratory Wells
- Acidizing definitions/Acid volume thresholds
- Added many exclusions for industrial areas
- Simplified some code requirements

The Planning Commission provided a series of questions addressing the following issues:

- Monitoring Results and availability of data
- Water limits as part of Section 9535
- Fines up to \$100,000
- Existing drilling operations and history
- Inspection responsibility
- Comparison with State law
- Submersible pumps requirements

Members of the public submitted emails with comments addressing the following issues:

- Earthquakes and the mapping of faults
- Outright ban on drilling
- Dangers of drilling in Carson

All proposed refinements have been highlighted in a revised Oil and Gas Code update that includes both proposed ordinances to facilitate review, refer to Exhibit 5.

#### Additional Outreach

As directed by the Planning Commission, staff held another meeting with several representatives of oil and gas interests on April 28, 2015. The meeting lasted in excess of five hours, and involved discussion and feedback to staff regarding a

wide variety of issues. As a result of this process, staff have recommended some refinements to the Oil and Gas Ordinance to provide additional clarity, etc., as noted above. Representatives of oil and gas interests have also requested a continuance in order to review the latest refinements to the Ordinance. A second meeting has been scheduled with the oil and gas interests for May 12, 2015.

Staff have also received additional comments, studies and recommendations from a variety of sources, which have been included in the administrative record and are available on the City's website for review at <http://ci.carson.ca.us/departments/communitydevelopment/oilcodeupdate.asp>.

### Conclusion

Approval of the Text Amendment will provide a comprehensive update to the City's Municipal Code regulations of petroleum operations and facilities, and will establish additional regulatory authority to address operational and environmental impacts related to oil and gas extraction in the City of Carson.

## IV. Environmental Review

Staff performed a preliminary environmental assessment of this project and has determined that it falls within the Class 8 Categorical Exemption set forth in CEQA Guidelines section 15308, which exempts actions by regulatory agencies for the protection of the environment. This Categorical Exemption is applicable as the proposed Oil and Gas Code Ordinance addresses the maintenance, restoration, enhancement and protection of the environment and the public health, safety, welfare of the citizens of Carson as related to potential impacts from petroleum operations and facilities within the City. The variety of environmental issues addressed include air, water, soil, geology, storm water and wastewater infrastructure, transportation, noise, emergency response, aesthetic issues, and petroleum operations near potentially sensitive receptors. The Ordinance does not provide for the relaxation of standards as compared to the current regulations in the Carson Municipal Code. Instead, the Ordinance strengthens environmental standards related to petroleum operations and facilities, and thereby advances the protection of environmental resources within the City of Carson. Furthermore, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project.

## V. Recommendation

Staff have received requests to continue the matter from oil and gas interests to allow additional time to review the latest draft. In addition, the Planning Commission has several new members that are not familiar with the proposed update. If the Planning Commission is inclined to continue this matter, staff and the consulting team are available for the regular meeting scheduled for June 9, 2015. Additionally, staff recommends the Planning Commission:

- Identify additional refinements or items, if any, it would like to include in its recommendation; and
- Direct staff to prepare an updated resolution and ordinance consistent with that direction and return for final approval by the Planning Commission at the regular meeting scheduled for June 9, 2015.

VI. Exhibits

1. Comment letters and correspondence received since April 14, 2015 Planning Commission meeting
2. February 24, 2015 Planning Commission Minutes
3. April 14, 2015 Planning Commission Minutes
4. April 14, 2015 Planning Commission Staff Report
5. City of Carson Oil and Gas Update (with tracked changes) dated May 5, 2015

Note: Additional comment letters, studies, and other written materials can be found at:  
<http://ci.carson.ca.us/departments/communitydevelopment/oilcodeupdate.asp>.

Prepared, Reviewed and Approved by:

  
Saied Naaseh, Planning Manager

d

## Saied Naaseh

---

**From:** Lori Noflin <lnoflin@att.net>  
**Sent:** Thursday, April 30, 2015 7:47 AM  
**To:** Saied Naaseh; 'Sunny Soltani'; Lula Davis Holmes; Louiediaz@local848.net; 'Alexandra Nagy'; albert@albertrobes.com; Elito Santarina's Yahoo; 'Janice Schaefer'; 'Olivia Verrett'; ppls100@aol.com; William Wynder; josephipinon@gmail.com; jjoseph162@gmail.com; Louiediaz@local848.net; hc45loa@yahoo.com; amadorsaenz@aol.com  
**Subject:** Newport Inglewood Fault

I guess God decided to show you where the Newport/Inglewood fault is. It is under out homes. Stop the assault on the City of Carson. This is the second earthquake caused by the Oxy Project!!!

You have all the evidence you need to stop the destruction of Carson or you will be responsible for the damage your actions cause.

Sincerely,

Lori Noflin  
Carson Connected  
310 885-5860

Exhibit No. 1

e

## Saied Naaseh

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**From:** Lori Noflin <lnoflin@att.net>  
**Sent:** Thursday, April 30, 2015 8:15 AM  
**To:** Saied Naaseh  
**Subject:** Question

Are the Oxy wells using any kind of stimulation?



## Saied Naaseh

---

**From:** Lori Noflin <lnoflin@att.net>  
**Sent:** Thursday, April 30, 2015 9:39 AM  
**To:** Saied Naaseh  
**Subject:** Question

The residents spoke against drilling when you were pushing the fraudulent Oxy DEIR, are those comments and statements being considered for the Oil & Gas Code?





## Saied Naaseh

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**From:** Lori Noffin <lnoffin@att.net>  
**Sent:** Thursday, April 30, 2015 1:10 PM  
**To:** Saied Naaseh  
**Subject:** Question

What type of well stimulation are they using at the Oxy project? How much water are they flooding our ground with each day?

Would like an answer before you leave for the weekend.

Lori

## Saied Naaseh

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**From:** Lori Noffin <lnoffin@att.net>  
**Sent:** Tuesday, April 28, 2015 6:06 PM  
**To:** Saied Naaseh  
**Subject:** Oil & Gas Code Comments and Evidence

I would like the evidence of destruction included in with the documentation you are compiling for the Oil & Gas Code. I have not seen any of my emails or letters included, which I was expecting to see happen. Your not including them does not mean you have not been fore warned. **If the city passes an ordinance that allows new oil drilling and/or well stimulation the residents will file a class action suit against any and all persons who have participated in the unethical and illegal actions.**

The residents do not want drilling back in full force in our city!!!

The biggest thing I am aware of that was meant to deceive the residents of Carson is you submitted a fraudulent DEIR which moved the Newport/Inglewood fault out of Carson. This is detrimental to the people and their property. Another lie that needs to be corrected and publicly announced at the planning commission meeting is, **we do have a right to determine oil drilling is not safe for our populated areas and create an ordinance that will protect the people.** There are many more lies told by city staff and we have documented everyone we were made aware of.

The Draft Oil and Gas Code presented will allow oil and gas drilling, the injection of water into the ground beneath our homes and other well stimulation. Much of the city of Carson has a propensity to liquefy, former city manager David Biggs is dealing with the destruction caused by an earthquake in a city that has a propensity to liquefy give him a call. Hercules, CA, City Manager Phone 510 799-8200, Email [dbiggs@hercules.ca.us](mailto:dbiggs@hercules.ca.us). We want no new drilling and no stimulation on existing wells.

Each well is given the right to utilize up to 25,000 gallons of water in a 24 hour period, or 100,000 gallons per week. It has been proven the injection of water causes earthquakes, much like well stimulation along a fault.

**A Petroleum Administrator (one person) decides well stimulation is necessary to recover the owner/operators reasonable investment backed expectation.** What about the expectation of our property value? There should be not new drilling and for existing wells a petroleum administrator needs to make recommendations to the Planning Commission and the Commission make recommendations to the City Council. This is too important of an issue to allow one person to make the decisions.

This ordinance is riddled with exceptions, loopholes and is allowing dangerous activities to go on under our homes. The residents do not want drilling under our homes!!!

We have over 800 petition signatures on our No New Drilling petition and we will continue to fight for those people and all of Carson.

Below are links to articles that need to be included into your report to the planning commission.

Link to article <http://www.nbcbayarea.com/news/local/60-Preliminary-Magnitude-Earthquake-Strikes-Near-Napa-272467621.html>

Link to Showtime's Years of Living Dangerously hosted by America Ferrera Episode 6 Winds of Change homepage. In this episode, it is proven oil and gas drilling leaks high levels of methane.

California faces serious risk of Nepal-strength earthquake

U.S. Maps Pinpoint Earthquakes Linked to Quest for Oil and Gas

The United States Geological Survey on Thursday released its first comprehensive assessment of the link between thousands of earthquakes and oil and gas operations, identifying and mapping 17 regions where quakes have occurred.

Oil, gas drilling triggers earthquakes in over a dozen areas in the U.S.

Man-made earthquakes increasing in central and eastern U.S., study finds

Gas Drilling May Be Leaking Twice as Much Gas as Previously Thought, Study Finds

Sincerely,

Lori Noflin

Carson Connected

310 885-5860

## Saied Naaseh

---

**From:** Lori Noflin <lnoflin@att.net>  
**Sent:** Thursday, April 23, 2015 11:38 AM  
**To:** Lula Davis Holmes; albert@albertroble.com; Elito Santarina's Yahoo; 'Sunny Soltani'; William Wynder; Saied Naaseh; 'Olivia Verrett'; josephipinon@gmail.com; jjoseph162@gmail.com; ppls100@aol.com; Louiediaz@local848.net; hc45loa@yahoo.com; amadorsaenz@aol.com; 'Janice Schaefer'  
**Subject:** Earthquakes

Drilling does not belong in Carson!!! Please take a look at the LA Times and/or Daily Breeze articles. Do you want to be responsible for inviting this kind of destruction into Carson? It is your responsibility to protect Carson and it's residents. Our true purpose and history is to stop bad projects that would contaminate our communities that fact alone would carry a tremendous amount against any law suit filed against the City of Carson.

<http://www.latimes.com/visuals/graphics/la-me-quake-frack-20150423-htmistory.html>

<http://www.dailybreeze.com/general-news/20150423/oil-gas-drilling-triggers-earthquakes-in-over-a-dozen-areas-in-the-us>

Sincerely,

Lori Noflin  
310 885-5860

# Man-made earthquakes increasing in central and eastern U.S., study finds

By RONG-GONG LIU, JON SCHLESISS AND THOMAS J. L. LAURENCE

APR 23, 2015, 6:00 AM

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For the first time, the U.S. Geological Survey has unveiled a map of earthquakes thought to be triggered by human activity in the eastern and central United States.

Oklahoma is by far the worst-hit state recently, according to the USGS study released Thursday. The state last year had more earthquakes magnitude 3 or higher than California, part of a huge increase recorded in recent years.

Seismic activity in Texas near the Dallas-Fort Worth area has also increased substantially recently. Kansas, Colorado, New Mexico and Ohio have all experienced more frequent quakes in the last year.

ENTERTAINMENT WEEKLY: California earthquakes

All of the areas highlighted on the map "are located near deep fluid injection wells or other industrial activities capable of inducing earthquakes," the study said.

Mark Petersen, chief of the USGS' National Seismic Hazard Project, said the pattern of increased quakes is troubling.

These earthquakes are occurring at a higher rate than ever before, and pose a much greater risk and threat to people living nearby," Petersen said.

The release of the map comes as officials are coming to terms with the idea that wastewater disposal following oil and gas extraction is causing more earthquakes. Hydraulic fracturing, or fracking, involves shooting a high-pressure mix of water, sand and chemicals deep underground to extract oil and natural gas. The resulting wastewater is often forced underground as well, but can trigger earthquakes on faults that haven't moved in a very long time.

PHOTOS & VIDEO

Earthquakes: 1960-2012 2013 2014

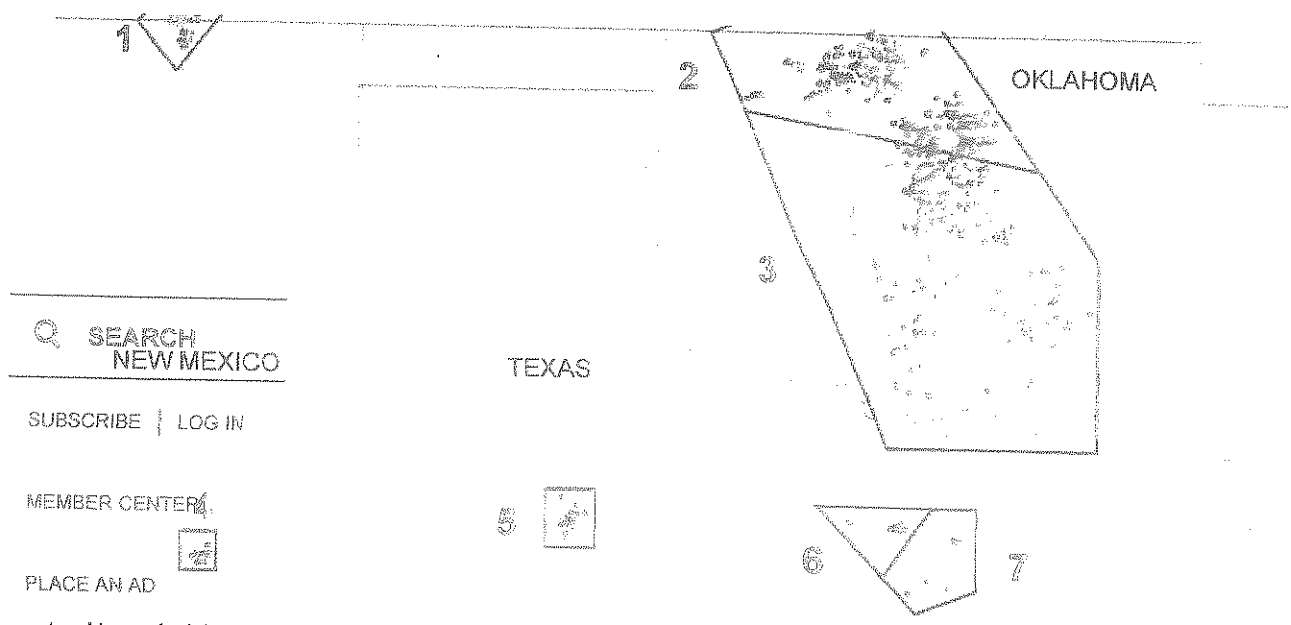
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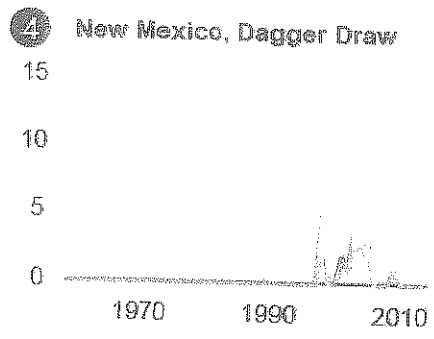
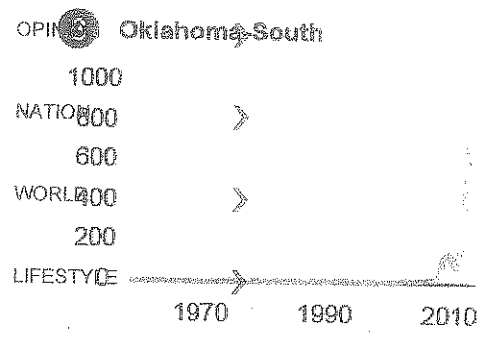
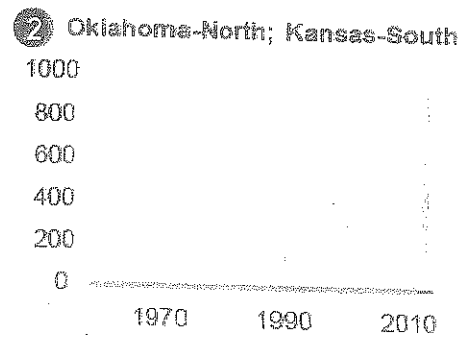
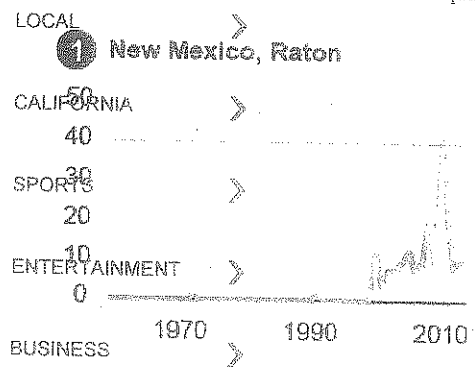
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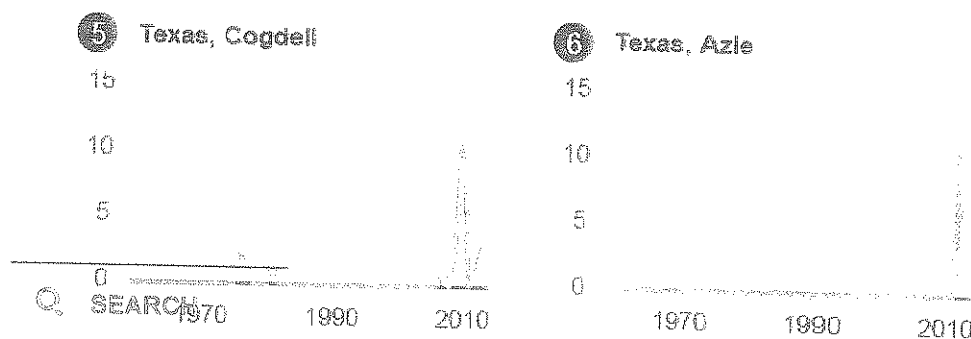




An older methodology was used to count earthquakes from 1960-2012



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 1970 1990 2010  
 CALIFORNIA >

The Oklahoma Geological Survey said Tuesday that the sharp rise in quakes in that state is "very unlikely to represent a naturally occurring process," since they are occurring over the same area that saw a huge jump in wastewater disposal in the last several years.

BUSINESS  
 The seismicity rate in 2013 was 70 times greater than the background seismicity rate observed in Oklahoma prior to 2008, state officials said.

OPINION >  
 Human-induced earthquakes have troubled scientists because they pose a risk to public safety — and because they have become larger. A magnitude 5.6 earthquake believed to have been caused by wastewater injection hit near Prague, Okla., in 2011, injuring two people and destroying 14 homes. That same year, a 5.3 earthquake struck a remote part of Colorado, near the town of Trinidad close to the New Mexico border, which the USGS said was also triggered by wastewater injection.

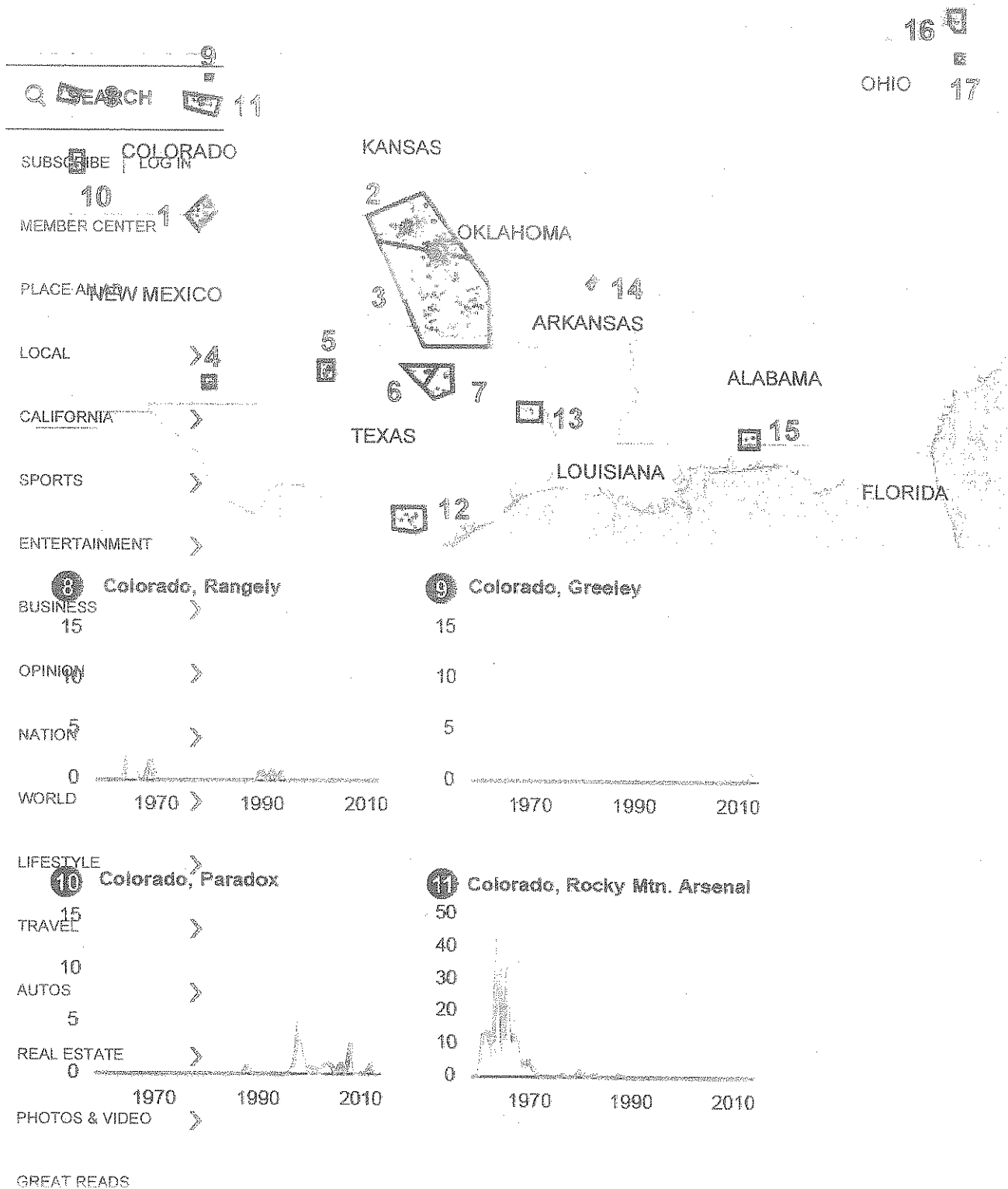
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 History suggests that even larger earthquakes could be in store.

AUTOS >  
 "We know, for example, in Oklahoma that there was an earthquake of about magnitude 7 about 1,300 years ago," said USGS geophysicist William Ellsworth. "We have to be guided with what we have seen in the past."

PHOTOS & VIDEO >  
 The idea that injecting water deep into the ground can trigger earthquakes has been talked about for decades.

In the 1960s, many scientists concluded that injection of chemical-waste fluid in the Denver Basin triggered seismic activity, according to a study at the time in the journal Science.

Earthquakes: 1960-2012 2013 2014





## 12 Texas, Fashing

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Before 1976, earthquakes were rare in the desert town of Gazli in the former Soviet republic of Uzbekistan. Like Oklahoma, this Soviet region was far away from the boundaries of the giant tectonic plates whose crashes create the huge quakes well known in places such as California.

Then two big earthquakes hit the Gazli area that year, and a magnitude 7 quake struck in 1984, killing one person and injuring more than 100. Scientists writing in the Bulletin of the Seismological Society of America at the time suggested that the quake could have been induced by human activity at the gas field.

Now that the USGS maps have been released, one big question is what to do about the man-made quakes.

USGS geo-physicists Art McGarr and Andy Michael called for better monitoring of regions with increased seismic activity. Some areas rely on relatively crude seismic sensors that can't

precisely identify the location of quakes that are smaller than a magnitude 3. But that knowledge could help scientists identify areas where seismic pressure is building up.

It would also aid them in determining the size of unmapped faults in these areas.

"It's a bit frustrating when we don't have really good earthquake locations," Michael said.

And better data could help scientists manage the quake risk. Not all wastewater injection causes earthquakes, Ellsworth said, and regulators in some areas may opt to restrict wastewater injection in places where the risk is high.

SPECIAL REPORT California earthquake safety

Officials in Kansas have already ordered a reduction in wastewater injections in certain areas, and authorities are observing whether it will be followed by a reduction in quakes.

"We think society can manage the hazard," Ellsworth said. "We don't have to stop production of oil and gas, but we think we can do so in a way that will minimize the earthquake hazard."

For instance, the risk could be reduced by placing new wastewater injection sites further away from cities or critical facilities where large earthquakes are a big worry, Ellsworth and McGarr wrote in an essay published in the journal Science in February.

The general public is the most important stakeholder because they may be exposed to potential injury and damage," the pair and their colleagues wrote. "If an induced earthquake sequence results in damage, then blame can be assigned with legal implications for liability.

The question of whether an earthquake sequence was induced or natural is of more than academic interest."

Follow me on Twitter: @ronlin

ALSO:

The Big One could trigger series of large earthquakes, study finds

Earthquake fault heightens California tsunami threat, experts say

Nearly half of Americans threatened by earthquakes, study finds

PHOTOS & VIDEO

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## Oil, gas drilling triggers earthquakes in over a dozen areas in the US

By Alicia Chang, The Associated Press

Posted: 04/23/15, 6:40 AM PDT |

[1 Comment](#)

LOS ANGELES >> More than a dozen areas in the United States have been shaken in recent years by small earthquakes triggered by oil and gas drilling, a government report released Thursday found.

The man-made quakes jolted once stable regions in eight states, including parts of Alabama, Arkansas, Colorado, Kansas, New Mexico, Ohio, Oklahoma and Texas, according to researchers at the U.S. Geological Survey.

Experts said the spike in seismic activity is mainly caused by the oil and gas industry injecting wastewater deep underground, which can activate dormant faults. A few instances stem from hydraulic fracturing, in which large volumes of water, sand and chemicals are pumped into rock formations to free oil or gas.

Many studies have linked the rise in small quakes to the injection of wastewater into disposal wells, but the Geological Survey's report takes the first comprehensive look at where the man-made quakes are occurring.

"The hazard is high in these areas," said Mark Petersen, who leads the agency's national mapping project.

Oklahoma lately has been rocked by more magnitude-3 quakes than California, the most seismically active of the Lower 48 states, Petersen said.

Oklahoma was not on scientists' radar until recently when the state experienced a spate of quakes, the largest registering a magnitude-5.6 in 2011. Earlier this week, the Oklahoma Geological Survey acknowledged that it is very likely most of the recent shaking is from wastewater disposal.

Many faults awakened by drilling have not moved in millions of years, Geological Survey geophysicist William Ellsworth said.

"They're ancient faults," Ellsworth said. "We don't always know where they are."

A message to the American Petroleum Institute was not immediately returned. The industry group has said efforts are made to map fault lines where drilling occurs.

A group of experts met last year in Oklahoma to pinpoint seismic hotspots around the country caused by induced quakes. Scientists initially identified 14 regions affected by quakes linked to drilling. They later added three other high-risk areas — northern Oklahoma-southern Kansas; Greeley, Colorado; and Azle, Texas.

The findings were released at a Seismological Society of America meeting in Pasadena, California.

Seismic hazard maps produced by the Geological Survey and used for building codes and insurance purposes don't include quakes caused by the oil and gas industry. Scientists said it's difficult to know what jobs will trigger shaking.

Researchers study man-made quakes in the affected areas to determine how often they are expected to occur in the next year and how much shaking they would produce.

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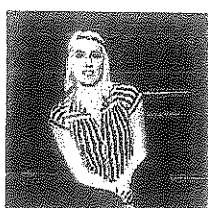
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Saied Naaseh

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**From:** Jan <jjschaef@ca.rr.com>  
**Sent:** Tuesday, April 21, 2015 12:44 PM  
**To:** Saied Naaseh  
**Subject:** RE: Oil Code 4-14-15 PC PowerPoint Presentation

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi,

I have a couple of questions / concerns.

I would like more information regarding the existing drilling operations / operators.

How many are there?

Do they have permits from Carson? Cost?

Do they have business license for Carson? Cost?

Have there been any violations? If so, what are the violations?

What techniques to they use? Such as acidation?

Who/what agency does the inspections? Carson? SCAQMD? DOGGR?

I am concerned about the proposed code requiring a CUP or DA that would not "grandfather" in the existing wells, if there have been no violations.

If we adopt an oil and gas code are we (Carson) responsible for all the inspections or would we rely on the state and regional agencies? Or is it both? If it is both, why?

It would be helpful to have a "side by side" fact sheet of some sort that would compare the requirements and restrictions under State law to what is in the proposed code.

Is that possible?

Or, at least, what is in the proposed code that is not already covered by State Law?

I am concerned that we will be duplicating efforts and/or arbitrarily adding conditions (as alluded to by industry representative) that do not necessarily protect the environment, improve safety, etc.

For instance, 9532.K. requiring "submersible downhole pumping mechanisms". Is this for protection or esthetics?

Thank you,  
Jan

**From:** Saied Naaseh [mailto:snaaseh@carson.ca.us]

**Sent:** Wednesday, April 15, 2015 4:11 PM

**To:** amadorsaenz@aol.com; hc45loa@yahoo.com; l.joseph162@gmail.com; jjschaef@ca.rr.com; Joseph Piñon; Louiediaz@local848.net; oliviaverrett@sbcglobal.net; ppls100@aol.com

**Cc:** Denise Bothe

**Subject:** Oil Code 4-14-15 PC PowerPoint Presentation

Dear Commissioners

Per your request, attached is the PowerPoint.

Please note that the May 12<sup>th</sup> PC meeting will have the oil code as well as the following project. This project is an affordable housing project that has strict deadlines for funding cycles; therefore, it has to be considered on the 12th.  
[http://ci.carson.ca.us/departments/communitydevelopment/sepuiveda\\_mixeduse.asp](http://ci.carson.ca.us/departments/communitydevelopment/sepuiveda_mixeduse.asp)

Please let me know if you have any questions.

Thanks

Saied Naaseh

Planning Manager

City of Carson

Community Development Department

701 E. Carson Street

Carson, CA 90745

Phone: (310) 952-1770

FAX: (310) 835-5749

## Saied Naaseh

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**From:** Joseph L. Pifon <josephlpifon@gmail.com>  
**Sent:** Sunday, April 26, 2015 11:08 PM  
**To:** Saied Naaseh  
**Subject:** Oil Code questions and comments

Hello Saied,

Here are a few after questions and comments I have after going through the latest draft again:

1. Under 9531.1 subsection B it says "current monitoring results and data" will be provided to the public. How current is "current" approximately? Is there an industry standard of what current is?
2. Given our discussion in closed session about what we as a city can and can not regulate are we going to see water quantity limits in the next draft? With water limits we can prevent less desirable oil extraction method(s) previously discussed, rather than putting an outright ban that would not be legally defensible.
3. Under 9536.1 subsection A the operator can pay a fine of "\$100,000 or more" at the discretion of the Petroleum Administrator (PA). Is there a cap on the amount the PA can fine operators? Do you know if any other operators have paid this amount or more in a single fine recently in the U.S.? In the state of California at any time?
4. I am happy with the setbacks. If staff decides to reduce the setbacks in the next draft I hope they are not reduced by more than a 1/3.

LATHAM & WATKINS LLP

April 17, 2015

BY EMAIL

Honorable Chair Faletogo and  
Honorable Planning Commissioners  
City of Carson Planning Commission  
701 East Carson Street  
Carson, California 90745

Re: Proposed Oil Code Update

Dear Honorable Chair Faletogo and Honorable Planning Commissioners:

On behalf of Californians for Energy Independence, we want to thank you for your very thoughtful discussion regarding the draft Oil Code Update at this past Tuesday's Planning Commission hearing.

We are in full agreement that the draft is not ready to move forward to the City Council. We also strongly agree with Commissioner Schaeffer's and others' statements about the draft update being too complicated and onerous for Carson. The City Council gave the following basic direction to staff in May 2014: "[H]ire all necessary experts and immediately commence a complete and comprehensive review and update [of] our Municipal Code regarding oil and gas extraction." (Carson City Council Minutes, May 20, 2014.)

The draft update goes well beyond what the City Council directed. A simpler and much more streamlined approach, as suggested by the Commission, is needed. As the Commission recognized, there is already substantial regulatory oversight of the oil and gas industry. Let's not, as Commissioner Schaeffer suggested, impose additional rules for driving a car in Carson. The draft ordinance, unfortunately, does just that—it requires new tests and creates new rules to "drive" in Carson.

We look forward to continuing to work with staff on identifying the key components of the ordinance and refining them for Carson's needs and to be consistent with what the City Council directed staff to do. We respectfully request that you direct staff to work with the Commission and all stakeholders to do so.

Very truly yours,



Benjamin J. Hanelin  
of LATHAM & WATKINS LLP

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Associate Planner Rojas stated that the existing landscaping will be refreshed/cleaned and explained that because this is a temporary use, staff wrestled with balancing the need for upgrades at this site.

Planning Manager Naaseh explained that because no change is being proposed for the use of this site, staff determined after much consideration that refreshing the landscaping and cleaning it up for this temporary use is a good compromise.

Diane Thomas, resident, stated that there are too many trucks in this area.

Chairman Faletogo closed the public hearing.

Associate Planner Rojas noted that Traffic Engineer Garland pointed out that 223<sup>rd</sup> Street is a designated truck route; that this use is no different from what is currently approved for this site; and that the proposed use is not intensive enough to trigger a traffic analysis or EIR.

Planning Commission Decision:

Commissioner Goolsby moved, seconded by Commissioner Schaefer, to approve the applicant's request, thus adopting Resolution No. 15-2537. The motion carried, 7-2, as follows:

AYES:	Faletogo, Goolsby, Gordon, Piñon, Saenz, Schaefer, Verrett
NOES:	Brimmer, Diaz
ABSTAIN:	None
ABSENT:	None

## 12. PUBLIC HEARING

### B) 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:

Commissioner Verrett noted her concern with receiving a large volume of letters at this evening's meeting, noting there has not been enough time to review the paperwork.

City Attorney Soltani stated that staff has no control over what communications come in from the public, noting that it is staff's duty to forward the communications on to the Commissioners; stated she will attempt to address the concerns in the letters that were submitted; and noted that the Commission always has the option to continue its meetings to a future date. She clarified that Zone Text Amendment Nos. 19-15 and 20-15 will be included as part of the same discussion tonight.

Luis Perez, project manager with MRS, commented on the company's experience in providing environmental documents for oil and gas projects for over 30 years; stated that within the company, there are 150 years of combined oil and gas experience; and highlighted various projects they have done in multiple cities and counties. He advised that they created a Frequently Asked Questions flyer for this evening's meeting, noting it incorporates questions put forth at the community meetings. He noted that Carson's

current oil and gas code is antiquated and that it allows for permitting of oil and gas facilities by right; and he described the general approach taken to develop this update.

With the aid of a power point presentation, Mr. Perez addressed various components of the proposed oil and gas code update, providing brief input on the administrative procedures and development standards; advised that within the development standards, there's a separate code that would be adopted to ban fracking altogether; and noted that the development standards will address when facilities need to be decommissioned, abandoned, restored, and/or remediated. He highlighted the portion of the ordinance that bans fracking, acidizing and other well stimulation; noted that the administrative procedures essentially provide direction as to how one would permit a project if they were to come to the planning counter; stated it contains a robust/complete set of standards for an applicant; advised that the document addresses financial obligations, provides information on violations/fines for development of oil and gas facilities, requirements for conditional use permits for all drilling projects, development agreement requirements for multiple wells; and noted that in addition to the discretionary permits, there will also be a requirement for a drilling permit that allows a petroleum administrator who will oversee compliance.

Mr. Perez addressed some of the highlights for the administrative procedures; stated that a petroleum administrator will be designated by the City Manager to oversee all the drilling matters; and advised that the petroleum administrator will be funded by the oil company that happens to be applying for a permit, sharing the pro rata share of that cost.


Planning Commissioner Brimmer requested, and received, clarification on the moratorium and the various community meetings in 2014 regarding the oil and gas update.

City Attorney Soltani explained that the issues raised by the community at those meetings have all been analyzed in connection with updating the code; stated that the issues have not changed; that the community spoke at those meetings about the same environmental concerns; and that the code has been drafted to address those environmental issues.

Planning Commissioner Brimmer asked if the comments from the most recent community meeting on February 18, 2015, are included in the draft update.

Planning Manager Naaseh explained that staff report was written prior to and released on February 17<sup>th</sup>, so the comments are not incorporated into the draft that was released to the Planning Commission; however, he pointed out that the ordinance which is currently posted on the City's website has clarifications that were included from the last community meeting on February 18<sup>th</sup>.

Mr. Perez stated that while there were a lot of comments made at the February 18<sup>th</sup> community meeting, there were no comments from that meeting that required any changes to the code update; and advised that with the additional written materials distributed to the Commission this evening, they do include some comments in writing from members of the public that MRS is looking into and considering, but pointed out that some of them are grammatical and/or language clarifications and not substantial and that any change made/incorporated will not change the overall requirements proposed.



City Attorney Soltani pointed out that MRS will go over those changes this evening; and reminded the Commission they can continue this matter to a future meeting.


Mr. Perez continued addressing various restrictions and requirements within different zoned districts; advised that there will be no permits given for oil and gas facilities located within residentially zoned districts; commented on requirements for change of company ownership, high-risk operators, noticing requirements, requirement for monetary compensation for code violations, compliance monitoring component, provisions for periodic review, financial assurance and operator responsibility, securities and bonds for wells – highlighting the requirement of \$50,000 minimum per well, which can be adjusted; operator liability insurance, which includes injury and property damage for \$25 million and \$25 million for environmental impact; violations and fines, violations with fines starting at \$5,000 to \$10,000 per day, every day the violation occurs; and mitigation measures related to pipelines, wells, drilling facilities, storage facilities and setback requirements.

City Attorney Soltani clarified that this code will not allow any drilling in residentially zoned areas.

Mr. Perez addressed the 1,500-foot setback for no drilling to occur within that setback, noise impact restrictions, construction time limits, landscape and signage requirements, steaming, reclaimed versus potable water usage, environmental program for water quality control, ground water, greenhouse gas emissions, energy efficiency measures, emergency standards for blowout prevention and testing, operator responsibility for maintenance/restoration of public roads, transportation of chemicals, management prevention program, leak detection for pipelines and tanks, air quality monitoring testing, construction of pipeline/wells, well and site abandonment protocols/standards.

City Attorney Soltani summarized the arguments in the letters received this evening; stated that the letters received from Manatt, Phelps & Phillips are written on behalf of Carson Companies as one of the mineral rights owners; and she added that these same arguments were raised during the moratorium and that the City had responded in writing at that time to those same arguments. She noted that one of their arguments is that the ordinance constitutes a compensable taking of the mineral rights from operators, owners and holders of minerals rights and their royalty interest; they claim that the local regulations governing the petroleum operations will make it commercially impractical to extract oil and gas in Carson; she advised that the City does not agree that its regulations are going to make it impractical to extract oil and gas; and added that one of the letters submitted from Latham & Watkins at 5:00 p.m. today does not make that allegation, noting that Latham & Watkins represents Californians for Energy Independence, a statewide coalition of energy producers.

City Attorney Soltani added that in order to show there is a taking of a property right, you have to either show that a regulation deprived a private property of 100 percent of the total economic value of their property, stating this clearly does not; or you have to show that there's a significant diminution in value of property rights; advised that there are cases where a 95-percent loss in value has still not been found to be a regulatory taking of a property right; and she stated that here, you're not going to have 95-percent loss in the value of oil extraction by the regulations that you're putting in place. She asked those to keep in mind that when courts look at regulatory taking issues, they look at the rights of the entire parcel as a whole, not just look at mineral rights, to determine economic effects of economic taking; that 100 percent taking of mineral rights, even if you had a 100 percent taking of mineral rights, which you don't, is not 100 percent



taking of the whole parcel; and she noted her belief that the proposed ordinance is legally defensible, and there is no solid grounds for a taking challenge to this proposed ordinance.

City Attorney Soltani stated that the letters from Manatt, Phelps & Phillips also try to argue that the City is preempted by state law; noted that local governments routinely regulate and zone oil and gas uses; that the law has long sustained a City's right to regulate land use, including oil and gas operations; and that state laws may preempt regulations in certain instances, but the way this oil code is drafted, it's been carefully drafted to avoid those situations. She stated there is no evidence that the legislature has ever explicitly intended to preempt local control over oil and gas operations, and state oil and gas laws continue to express preemption clauses; and stated there's no implied preemption here. She noted that state oil and gas laws, including SB 4, actually fall short of "fully and completely"; explained that when stated regulations fully and completely cover a subject matter, then there could be an implied preemption; but added there are many zoning codes that deal with oil and gas uses, and the state has not intended to occupy the field. She advised that staff has put provisions in the ordinance to try to address potential preemption issues if a court were to find there are any preemption issues.

City Attorney Soltani explained that the ordinance basically has what they refer to as a savings clause; and that if there is a preemption issue on a particular issue, the ordinance recognizes that such state law regulation will prevail over any contradictory provision in the ordinance. She addressed the letter from Earth Justice wherein it alleges that the savings clause the City has should not be in there, and that Earth Justice is saying the exemption should only apply if the applicant has a vested right; and she advised that the City Attorney's Office disagrees with that statement because they are not going to worry about regulatory taking issues as the City would, as a regulatory body, so that group has different considerations than the City does. She stated they also argue that because the savings clause says that before an activity can move forward, the petroleum administrator must determine if the activity creates a nuisance or not; that they're encouraging the City that this gives too much discretion to the petroleum administrator; but advised that staff believes that given the uncertainty about what's going to happen in the future, that's a good thing; that the City is going to have a qualified person with an environmental background who is going to become the City's petroleum administrator; and she added there is nothing wrong with giving them that discretion so they can make a case-by-case analysis should these issues come up.

City Attorney Soltani added that they also argue the ordinance allows an exception to ban acid matrix stimulation and should phase out the use of this material; she stated it's important to note that as Mr. Perez presented, acid matrix stimulation is generally prohibited under this ordinance and before an exception to the prohibition can occur, the petroleum administrator must determine the activity does not create a nuisance or adversely impact persons or property within the City; and she stated that, again, the City needs to have these flexibilities in its code to make it a practical code that can work. She added that since the reasonable investment-backed expectations must be made before approval of an ordinance, it needs to effectively phase out the uses over time as property is sold or otherwise transferred, noting this is exactly what the ordinance does.

City Attorney Soltani stated that Earth Justice argues the update does not provide an adequate buffer necessary for protection of public health; noted they don't make a recommendation as to what is a recommended buffered distance; but stated they have

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seen a buffer as large as 300 feet, noting this proposal sets the buffer at 1,500 feet, one of the most significant buffers in the state that she has seen; stated this is reasonable under the circumstances because this is an urban area; and that staff and the consultant believe it is a good, safe buffer zone.

City Attorney Soltani stated that in conjunction with the buffers, the ordinance also requires active monitoring of emissions and the petroleum operations; explained that if the monitors are triggered, it could require the operations to be shut down completely, noting there are other protections in place; and explained that if you had a buffer area and no other protections in place, you wouldn't be accomplishing anything if you're not monitoring the emissions. She stated that this code takes an approach from all different environmental aspects and tries to provide a meaningful way of monitoring oil and gas operations and addressing any environmental concerns out of the operations.

City Attorney Soltani stated that the Earth Justice letter also ignores the fact that the ordinance provides for air quality monitoring; stated that the petroleum administrator and other individuals are going to have active monitoring, which also helps to address any issues if they arise; she reiterated that if it's proven an oil operator is in violation of any provisions of the ordinance, there are heavy penalties, including from \$10,000 to \$100,000 per day depending on the violation; and there's also a penalty wherein their operations can be shut down for violating the code. She stated that their letter says there's not adequate enforcement in place, stating she does not know how one gets more adequate protections/enforcement in place when you can shut down their operation. She stated they also ask for the City to create a citizen prosecution process, noting her office would have to look into that because there may be potential due process or legal concerns.

City Attorney Soltani referred to the last letter from Latham & Watkins received today, written on behalf of Californians for Energy Independence, believing the main point they are raising is to urge the City not to advance the proposed ban on fracking; and that they argue it's not permitted under state law, noting she has already addressed those issues.

Vice-Chairman Piñon questioned if this ordinance proposal is going too fast through the process, pointing out the last community meeting was just last week; and stated that the Environmental Commission should also be involved in this process.

Planning Manager Naaseh stated that this item can be continued if this Commission believes more time is needed for document review, pointing out that staff has no control over the late submittals of public letters; and stated that staff will share these reports with the Environmental Commission at its March meeting. He suggested that this matter return to the Planning Commission on April 14<sup>th</sup>.

Mr. Perez noted for Vice-Chairman Piñon that in situ means in place/on site.

Vice-Chairman Piñon noted that the ordinance states the decisions of the petroleum administrator are final, questioning whether there is an appeal process.

Mr. Perez stated yes, that is the intent of the petroleum administrator; and that they will deal with the technical issues and they have the knowledge/leeway as to know when the applicants are in compliance.

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Planning Manager Naaseh explained that this is only after the Planning Commission and City Council have approved a project; and that this is just implementing the project and is similar to any other development project the Commission and City Council approves.

Vice-Chairman Piñon asked what other cities have petroleum administrators.

Mr. Perez stated that Santa Barbara County, Signal Hill, and Long Beach all have petroleum administrators, with different levels of obligations; that with this code, it has been used as a person responsible for all aspects of the code; and explained that the code has delegated responsibility, which means as a petroleum administrator is making a decision, that person can also go back up the chain of command to determine if they are exercising the desires of the City.

Vice-Chairman Piñon asked how staff came up with the proposed distances/setbacks.

Mr. Perez explained that they have used a number of other setbacks; that the setbacks they had used for specific projects have shown them that once you get away from 300 to 400 feet, the air quality, odor, and safety impacts begin to diminish; that they believed 300 to 400 feet was a comfortable setback; however, he advised that the City wanted the more restrictive setbacks, so while the 1,500 feet presents an overabundance of caution by the City, it is responsive to the residents who expressed a desire to have a setback that was as stringent/protective as possible.

Vice-Chairman Piñon asked why the Commission had not been provided a copy of the setback boundary map.

Mr. Perez stated it was only produced today and stated that a copy will be provided to the Commission.

Commissioner Gordon noted that the Lathan & Watkins letter prohibits banning of fracking; stated that state law does not prohibit the regulation of oil and gas production; and he questioned whether fracking is considered an oil and gas regulation or a separate issue.

City Attorney Soltani explained that when looking at state law preemptive issues, there has to be either an expressed preemption, noting there's no evidence that the legislature here explicitly intended to preempt local control over any oil and gas operations; or that there needs to be an implied preemption. She stated that what the oil and gas industry will argue is that because there is a comprehensive regulation of actual oil operations under the subsurface, they will argue that that is the preemption argument, that local agencies are not then allowed to ban fracking and that the Department of Oil, Gas and Geothermal Resources (DOGGR) has the authority to regulate issues such as fracking. She stated she is not aware of any courts that have addressed this issue; and that she is not aware of any legal authority/decisions that are on point.

Commissioner Gordon asked for input on the assertion of depriving a person of their property rights even if they only own the mineral rights and not the property.

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City Attorney Soltani stated it is her legal position the rights of the entire parcel as a whole must be evaluated when you look at property rights and not just mineral rights to determine the economic effects of economic taking; and that in her opinion, the fact that the mineral rights may be owned separately from the surface parcel does not affect this analysis. City Attorney Soltani stated that the courts would look at the entire parcel as a whole regardless of how the ownership is divided; stated that the code as drafted is not depriving anyone of their mineral rights; and that it allows for operations that will allow them to get a return on their investment rights.

Chairman Faletogo read into the record the following: "City of Carson Oil and Gas Code Update: FAQ Community Handout, 2) Can the City place an outright ban on all drilling? An outright ban on all operations cannot be approved as part of the current update process. The City Council directed staff to prepare an update of the oil and gas code, with a ban on hydraulic fracturing and other extraction processes. City staff have complied with the process, noticing and environmental analysis for the update of the oil and gas code. At a minimum, an outright ban on all petroleum operations would be required to go through a separate initiation process, environmental review, notice and other procedures before it could be considered by the Planning Commission and City Council. Adoption, or denial, of the oil and gas code will not have any impact on the City's ability to explore other options in the future."

Chairman Faletogo called a recess at 8:51 P.M. and reconvened the meeting at 8:56 P.M.

Vice-Chairman Piñon asked why fracking is banned absolutely, no appeal, but acidizing is banned unless the petroleum administrator deems it fit.

Mr. Perez explained that this is something added to allow some discretion of the petroleum administrator in the event there was a takings issue which was somehow convincing enough that the City would have the opportunity to have that out, to be able to provide that exception, noting there are limitations to it; and added that staff wanted to have that flexibility.

City Attorney Soltani stated there are currently some operators in the City that may have certain practices wherein they have vested rights, so the City needs to give that flexibility to the petroleum administrator to be able to assess all of that; and she stated that with respect to fracking, staff is not aware of any fracking taking place in Carson at this time.

Vice-Chairman Piñon asked if acidizing is a vested right but not fracking.

City Attorney Soltani noted her understanding that there is some maintenance that occurs with certain acidizing, and currently, those approaches are being used.

Mr. Perez explained that there is a use of acid which is a typical use down hole when they need to clean up some material, and that use of acid is not attempted to be banned; that what is attempted to be banned by the City at this point is the use of acid to help fracture a reservoir and allow it to become fluid through the use of that acid on the surface; that there are other areas within the code that relate to the use of acid and how that can be done without any issue; he stated that there is no issue, that the

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quantities are very small and they're regularly used throughout versus the use of acid for the purposes of fracturing the reservoir, where there are much higher quantities of acid that remains there for a specific period of time, this being what they are attempting to ban. He stated that as they continue to look at this and take into consideration Vice-Chairman Piñon's comment, this is something that may need to be revisited.

Commissioner Diaz asked why an EIR is not being conducted for this oil and gas code update.

Mr. Perez explained that what typically happens when you start a project, such as this oil code project, you go through all different layers of what can be done with CEQA; in this particular case, they looked at the potential notice of exemption to see if the project could be exempt; that because the regulations proposed here are all intended to improve the environment, they're all intended to provide a series of standards within which any oil company can come in and apply for a project, but that it is actually strengthening the environmental standards versus creating an opportunity for things to be negatively impacted environmentally; and that they found it could apply within Categorical Exemption No. 15308, Actions by Regulatory Agencies for Protection of the Environment. He explained that this is a series of actions the City is intending to take for the protection of the environment; and that the code as proposed is replete where requirements and development standards exist that will protect the environment, and it applies to that for that exception. He stated that, therefore, they did not look beyond that to see if any other layers would be applicable to the code that the City was attempting to adopt, such as any other requirement; and stated this fits within the categorical exception, and there is no necessity to go beyond that.

Chairman Faletogo opened the public hearing.

Richard Vaughn, resident, stated that cities throughout Southern California are implementing total bans on oil drilling, such as Hermosa Beach and Whittier; noted his belief that Carson has received second class status; and noted his confusion with comments made tonight of whether the City can or cannot ban all future oil drilling. He addressed a comment by City Attorney Soltani that the City is currently left defenseless because of its weak ordinance in effect now; and he suggested putting in place a temporary freeze on new permits until a new ordinance can be adopted -- not to deny anyone their rights, but simply say that the safety of the community has to take precedence.

Mr. Vaughn stated that with regard to MRS, he asked why there isn't a second consultant firm onboard, noting there may be a conflict of interest with this one because their website indicates they do a lot of work for oil companies. He asked if there were other consultants brought into this mix; and mentioned that Whittier used more than one consultant for their endeavors. He noted that many states across the United States are overruling local authority regarding fracking bans; that the Supreme Courts are ruling that local, special bans on fracking are void; and advised that there are a great number of current cases in the nation where local municipalities are losing in the court system.

Benjamin Hanelin, Latham & Watkins representing Californians for Energy Independence, noted he did submit two letters to this Commission this afternoon, and he apologized for the late submittals and noted his hope additional time is given for the

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Commissioners to read the important points made in these two letters. Mr. Hanelin stated that the first issue relates to the proposed ban on well stimulation; advised that the state has exclusive jurisdiction over all subsurface aspects of oil and gas regulation banning particular types of oil and gas production; that it is the state's exclusive regulatory territory; and that the state legislature made clear this was the case when it adopted SB 4, which allows well stimulation and directs DOGGR to closely regulate the practices. He stated that Carson's proposed ban would be preempted and it would be void; and that the City should not take on this risk, as there is no reason to do so.

Mr. Hanelin noted that the question was asked whether there is expressed preemption in the City's statute; stated he agrees with City Attorney Soltani's comment that the state's statute does not explicitly preempt activities by the City of regulation of down hole activities; he mentioned that in 1975, the Attorney General's opinion stated, "We observe that statutory administrative provisions appear to occupy fully the underground phases of oil and gas activity." He stated there are two questions when you are looking at preemption: is there an express preemption or is there an implied preemption; has there been an occupation of the field; he noted his belief there is no question that the state has occupied the field with respect to down hole regulation, which is what a ban on well stimulation attempts to do, that it attempts to regulate down hole activities; stated that they think the law is clear on this point, that the City cannot do that; and that if the City does, it is inviting litigation they will have to defend and stated the City will lose.

Mr. Hanelin stated that they believe the ordinance creates substantial taking liability against the City; advised that many of the oil rights here are held in split estates, meaning the mineral rights are held separately from the surface rights; stated that the scope of the oil and gas code is so extensive that they believe it makes it impractical to recover those resources; and that adopting the oil and gas code and banning well stimulation would open up the City to liability from mineral owners, from operators and from land owners within the City. He stated that specifically on the oil and gas code itself, it appears to be regulation for regulation's sake; and noted there are extensive regulations on the state level for oil and gas operators, and there is no reason for the City to step into this arena. He noted that the point has been made the oil and gas code has not been updated for 20 years; and advised that there have been no instances of upset in Carson in the last 20 years and there is no reason to undertake this effort now.

Alexandra Nagy, representing Food and Water Watch, urged the City to slow down on its adoption of this code update, encouraging the City to look at the Earth Justice recommendations listed in their letters. She stated they are concerned with the acidizing aspect and how that seems to be allowed by the petroleum engineer; and she quoted the following from the Earth Justice letter, "The exemption of well stimulation, other than hydraulic fracturing, is necessary to recover the owners'/operators' reasonable investment backed by expectation established through investment," noting that is where they are at issue. She stated that it needs to be connected to vested rights; and that if the petroleum administrator is the only one with the authority to say this company or this operator can use acidizing, if other vested rights claims are going before a judge, this should go before a judge as well and it should be connected to state law. She referred to Measure J, which was passed in San Benito, a recent fracking ban, noting it's a much narrower definition of what vested rights are and is connected to



property rights; and that they would have to prove they would need to use acidizing to continue to claim property rights and their constitutional rights.

Ms. Nagy referred to setback limits, asking to see a rendering of the map which includes the 500-foot setback limit to commercial property, noting she is unclear on what that means; when talking about 50-foot setbacks for public roadways, walkways, railways, she stated she is concerned about accidents, spills, blowouts if those areas are near public avenues, believing this setback to be insufficient; and stated that even though recommendations were not made, she suggested working together to figure that sum out as well. She referred to where the wells exist that are within the 1,500-foot setback range, asking when those wells will be phased out; stated she does not believe this proposed code addresses that; and she stated that the 1,500-foot setback should retroactively apply to all wells and phased out over time. She highlighted a report prepared by the California Office of Environmental Health Assessment, saying that Carson ranges in the top 15 percent of the most polluted communities in the state; and she urged the City to please take that into consideration when looking at increasing setbacks, stating that the environmental injustice in this community needs to be addressed.

Daryl Gale, Los Angeles, requested the City slow down and consider the health issues of this code update; stated that at least 80 percent of known fossil fuels must stay in the ground if there is any chance of averting catastrophic climate change; noted there is no rational justification for more oil exploration and more drilling; noted her concern with contaminating more homes and communities; pointed out that more clean energy jobs are needed; and that society must move away from its use/dependence of fossil fuels. She impressed upon the oil and gas company people in the audience that it is time to diversify their businesses; advised that the price of photovoltaics keeps declining and the technology is continuously improving; that the price of electric cars keeps decreasing; that battery storage technology is also becoming more sophisticated for heating and cooling our homes; that California is increasingly leading in clean energy jobs; and stated she looks forward to a more comprehensive amendment of this update in the future.

Robert Lesley, resident, stated that the Earth Justice letter references California drilling, fracturing, specifying reports of incidents; that the letter addresses the potential for down hole drilling blowouts; and commented on the recent Torrance refinery explosion that was felt miles away, noting that a 1,500-foot setback is not sufficient. He stated that a refinery representative told him that abandoned wells can explode and that many still contain an excessive amount of oil. He expressed his belief that the violation provisions in this ordinance do not address true violations; that it should carry a punishment of a misdemeanor at the least, not just a fine, nor does it specify enforcement or show who will be a litigant; and he stated that it should address what qualifications and job duties are required of the petroleum administrator.

Michael Bowles, resident and also on behalf of Californians for Energy Independence, asked the Commission not to adopt this ordinance, stating that energy production activities in this community would jeopardize thousands of jobs and local tax revenues that support essential services, such as police, fire and schools; pointed out that local energy operations in Carson have generated millions of dollars in local tax revenues each year funding vital services that are crucial to the Carson residents' way of life,

noting this includes maintaining neighborhoods, police and fire protection, money to improve local schools, parks, libraries, and roads; and stated that without this tax revenue from local energy operations, Carson would be forced to make devastating cuts to critical services. He stated that for decades, energy operations have directly and indirectly created and sustained hundreds of good paying jobs for Carson residents and have generated millions of dollars in economic activity; and highlighted a recent independent economic report which stated that a single proposed energy project in Carson would provide \$25 million in paychecks to local workers every year while creating more than \$1 billion in economic activity over the next 15 years. He urged this body to recognize that the state is moving forward with the strictest regulations in the nation for hydraulic fracturing and other well stimulation activities; and urged this body not to adopt this ordinance.

Frank Zavala, Building and Construction Trades Council, urged caution in adopting this ordinance and to allow some reworking of the proposed oil and gas code; and noted his confusion with all of the conflicting information and asked to have more time to read the letters and information that has been submitted late this week. He advised that the Trades Council is closely working with many refineries to improve the safety standards of the workforce, referring to the passing of SB 54; and he stated they seek safety for not only the workforce but also for those who live in and around the surrounding communities of refinery operations. He urged this City to take its time to fully understand what is being proposed.

Ed Rendon, Southern California Political Director for Teamsters Council Local 42, stated that because of Carson's proximity to the port, hundreds of teamsters and their families live here in Carson, noting that he is here representing those members; stated that oil policy is important to California, as thousands of jobs depend on this industry for their families' livelihood; and he stated it is important to carefully consider this update and not create a precedent that will negatively affect the industry's willingness and ability to continue to do business in California, noting the job loss alone would be devastating as will the loss of billions of dollars this industry contributes to important state and local services. He advised that Governor Brown has put together a task force to look at the oil extraction activities in California, urging this body to allow the governor to lead the way when it comes to policies affecting extraction; stated that they have the resources to properly and scientifically assess the risk of different types of extraction; and noted the high potential for local policy makers to bow to public pressure that might not always be based in accurate science. He urged this City to do what is best for the community at large.

Chris Hannon, Los Angeles/Orange County Construction Trades Council, stated that he represents 140,000 hardworking men and women working in Orange and Los Angeles Counties; stated that many of these members live in Carson, which has been a working class community for generations and earning a living working in the oil and construction industry; and he urged this Commission to delay action on this item and to do a thorough job in evaluating the entire proposal. He expressed his belief that SB 4, which regulates oil and gas stimulation, adequately regulates this industry; advised that SB 4 directed an independent study be done, noting it won't be completed until July 2015; and that he believes this update is being rushed. He pointed out that City documents from August 2014 regarding the selection process of the contractor to prepare this report indicate that one of the contractors was excluded because they couldn't keep up

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with the accelerated schedule of this project; and he urged this City to allow time for this project to be done correctly. He added he is not saying any amendments are necessary, but if amendments are to be made, they should be thought out completely. He pointed out that this industry is already tightly regulated and it does not need more regulation that will harm workers and harm the recovery of working families in California.

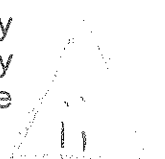
Tommy Faava, resident and representing IBEW Local 11, urged this body not to make a decision this evening and to continue it, believing the proposed update is filled with flaws; and he stated that all interested parties should be involved in this entire process.

John Hawkinson, chief financial officer for the Carson Companies, advised that the Carson Companies and its shareholders have owned mineral rights in Carson and surrounding areas for hundreds of years; that this company and its affiliates have been involved in oil production since the 1920's; noted that despite the amount of production over that period of time, there are still significant amounts of recoverable oil and gas in the ground; expressed his belief that the proposed language in the ordinance would effectively make oil and gas production economically and physically impossible, thus cutting off their access to the minerals they own; and that passing this ordinance would constitute a taking of their property without just compensation. He stated that if this update happens, it will force them to seek restitution from Carson through the legal system, noting that the broad, over-reaching language of this ordinance would leave them no choice.

Tom Muller, Manatt, Phelps, & Phillips, representing the Carson Companies, noted that he submitted a letter today; and stated he respectfully disagrees with some of City Attorney Soltani's comments related to her understanding of the letters provided to this body. He explained that the mineral estate is different from the surface estate; he provided an example, stating that if the only thing he owns is the minerals and the City is attempting to ban time-honored, long-used production techniques, such as acidization, the City is preventing him from using those minerals, and therefore the City has taken his minerals. He advised that these minerals are worth hundreds of millions of dollars; that it is a huge value to the hundreds of mineral owners who own these materials; advised that the people who own these rights are going to have to vindicate these rights, thus exposing Carson to a lot of expensive litigation; and stated that Carson will not win that fight.

Mr. Muller stated that the second issue is the preemption issue; stated that acidizing has been used for 120 years in the oil business, a long-standing technique; and noted that tonight, he has not heard anything about what's wrong with that technique. He stated it is not harmful; and that it is less harmful than many of the industrial processes that are currently going on within a mile or two of this property. He stated it's very clear that while he agrees with the City that many cities do regulate the surface activities which surround oil production, he does think there is not much of a problem with what's proposed in that area; but pointed out that they do not regulate the down hole aspects of oil production itself. He added that this is not a localized Carson issue, that it is a nationwide issue; and pointed out that this nation needs to produce oil.

Harry Wilson, resident, asked why this ordinance does not address any emergency routes or monitoring system to warn the community of accidents or emergency situations; highlighted a recent incident in Carson, noting a number of residents were



concerned there were no sirens, horns relating to that incident; and stated that several residents' properties were affected by that incident. He urged the City to adopt the most restrictive ordinance as possible and take into consideration the health and welfare of the residents; and he stated that the ordinance should be so restrictive that it discourages all oil companies from seeking to drill for oil in Carson.

David Noflin, resident, noted his concern the ordinance does not address slant drilling and the running of pipelines under homes and those safety aspects; asked how the slant drilling works and how it affects the safety of the residents; and questioned if the rights of the mineral owners exceed the rights of the residents.

Diane Thomas, resident, expressed her belief the oil companies only care about profits and not the health and welfare of the residents; and she stated that she likes the proposed ordinance, but noted there are some areas that need to be tightened. She cautioned the City not to work too slowly in adopting the update though, noting that there will be future interest when the price of oil increases; and she stated that Carson has a responsibility to keep its residents safe.

Alfred Sattler, congratulated Carson for this draft ordinance, noting it is one of the best in California thus far; and he asked that the City allow more time to review the late communications. He invited the construction trades to join in supporting construction of renewable energy and energy conservation facilities in Carson.

Pilar Hoyos, representing Watson Land Company, expressed concern with this proposed oil code; urged serious consideration in the deliberations; stated that outside forces with an anti-oil, anti-drilling agenda have been creating unwarranted fear with misleading information; and that those pushing for a ban on oil drilling have kept quiet the fact that the city of Compton recently rescinded its ordinance after facing a costly legal challenge. She stated that the proposed oil code is fueled by the fervor to stop the Oxy/CRC efforts to reopen the Dominguez Oil Field which had been operated for almost 70 years without incident; advised that some residents have been misled about the potential dangers from oil drilling in the center of Dominguez Technology Center, a 450-acre industrial park; and pointed out that no one would have more to lose from any purported dangers than Watson Land Company, which owns hundreds of millions of dollars in this master planned center. She pointed out that Watson Land Company does not own the oil and gas mineral rights; and that those are owned by the Dominguez Energy Company, made up of individuals and a number of charities serving the most needy.

Ms. Hoyos expressed her belief that the proposed oil code seems to be an exercise in punishing the industry that outside interests don't like rather than providing any necessary or well-reasoned protections. She noted that with the Oxy/CRC project EIR now moving forward, they question what urgency exists to hastily adopt an ordinance that will put the City in serious financial risk; pointed out that it stands to reason the mineral rights owners, as heard this evening, will not idly sit by and allow the taking of their oil and gas, as it represents significant value; and noted that the Constitution of the United States does not allow anyone's property rights to be taken by government action without just compensation. She added that the outside anti-oil forces have no real stake or interest in this community; that they want the Carson citizens to take on their national battle against the use of fossil fuels, yet they will not be the ones impacted by costly

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litigation; and stated that the significant costs cannot be borne by Carson. She noted that Watson's holdings and investments in Carson are significant; and for this reason, they are very concerned about the potential negative impacts on the community and are urging the Commission to act with caution to protect the community and not rush to adopt this ill-advised and unnecessary ordinance and to reject the proposed oil code and direct staff to work with the industry, the community, and the mineral rights owners' representatives to develop reasonable regulations that do not put the City at risk and provide well-reasoned protections for the community.

Chairman Faletogo closed the public hearing.

Commissioner Verrett moved, seconded by Commissioner Brimmer, to continue this matter to the Planning Commission meeting on April 14<sup>th</sup>, directing staff to compartmentalize the proposals and to consider each item separately, at different meetings if necessary.

City Attorney Soltani clarified her understanding of the motion is to continue the public hearing to April 14<sup>th</sup>; for staff to break down the issues in the oil code into three categories to simplify the issues and put together responses to the issues raised this evening; and to provide the Commission packets earlier. City Attorney Soltani stated that all the issues should be taken up at one time when it comes back to the Commission, that it should be looked at comprehensively; and stated she does not recommend separating the health and environmental issues at different hearings. She stated that staff will try to further simplify the three components and work with the consultants to put together handouts that keep the three issues separate.

By way of a friendly amendment, Vice-Chairman Piñon asked that this item be the only issue on the April 14<sup>th</sup> agenda.

The makers of the motion accepted the friendly amendment.

City Attorney Soltani also requested this hearing be held in the Council Chambers at City Hall.

Commissioner Brimmer asked that the comments be clearly responded to and incorporated into the documents.

City Attorney Soltani invited the Commissioners to contact her office or City staff for clarifications.

Commissioner Brimmer asked whether an analysis of local city ordinances was performed.

Planning Manager Naaseh urged the Commissioners to contact staff with specific questions or clarifications on any matter, reiterating that this offer applies to all the Planning Commission agenda items.

Chairman Faletogo asked that slant drilling be addressed and for staff to work with the community and industry to develop other regulations for consideration.

Commissioner Gordon stated that the document should point out why this City is proposing to ban fracking, providing accurate/comprehensive information on what impacts this ban will create.

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Planning Manager Naaseh stated that if the Commission is willing, staff and the consultant can conduct small group meetings with the Commissioners, conduct workshops, or meet one-on-one with the Commissioners to provide clarifications, agreeing that the issues are very complex/detailed.

The motion to continue this matter to April 14<sup>th</sup> carried, 9-0.

## **12. PUBLIC HEARING**

### **C) Zone Text Amendment No. 20-15**

#### Applicant's Request:

The applicant, city of Carson, is requesting the Planning Commission consider adoption of an Ordinance prohibiting hydraulic fracturing ("fracking"), acidizing and any other form of well stimulation and the associated CEQA finding for properties citywide.

**13. WRITTEN COMMUNICATIONS** None

**14. MANAGER'S REPORT** None

## **15. COMMISSIONERS' REPORTS**

Vice-Chairman Piñon stated that on February 10<sup>th</sup>, there was an open tryout for a women's football league at Carriage Crest Park; and that he met with the league president and discussed the possibility of having the Los Angeles team play at the StubHub Center. He added that on February 20<sup>th</sup>, he attended the press conference announcement at the Community Center for the NFL stadium proposal; and that on February 21<sup>st</sup>, he moderated an election debate at Colony Cove Mobile Home Park.

## **16. ADJOURNMENT**

At 10:15 P.M., the meeting was formally adjourned to Tuesday, March 10, 2015, 6:30 P.M., Helen Kawagoe City Council Chambers.

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Chairman

Attest By:

\_\_\_\_\_  
Secretary

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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) in one case.

The Closed Session was called at 6:35 P.M., and the regular meeting was resumed at 8:13 P.M.

Assistant City Attorney Chaffin provided the Closed Session report, noting there were no items to report on the Closed Session. All Planning Commission members present participated in the Closed Session.

11. CONTINUED PUBLIC HEARING

A) Zone Text Amendment No. 19-15

Applicant's Request:

The applicant, city of Carson, is requesting the Planning Commission 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. The properties involved would be citywide.

Staff Recommendation:

Staff recommends the Planning Commission open public hearing, take testimony, close public testimony, discuss, provide additional refinements to the proposed Oil and Gas Code update, if any, and direct staff to prepare an updated resolution and ordinance consistent with the Planning Commission's direction and return for final action by the Planning Commission at the next meeting.

Chairman Faletogo opened the public hearing.

Mike Mitoma, resident, urged the Planning Commission to take into consideration the safety of the residents and address all health concerns when making its decision; and stated that all discussions should be held in open forums concerning this update. He noted that Hermosa Beach recently turned down oil drilling even being faced with a large lawsuit. He expressed his belief oil drilling operations put residents at risk of harm and stated that these operations should not be located in residential areas. He commented on the explosions at local refineries; and he noted his skepticism with the industry's assertion that they don't need to do any fracking to get the materials they are seeking.

Benjamin Hanelin, Latham & Watkins representing Californians for Energy Independence, noted that this evening, they have provided a letter, dated April 14, 2015, to the Planning Commission, urging the Commission to deny the proposed ban on hydraulic fracturing and to deny the proposed code update; stated that the letter highlights why the City should not get into the business of regulating the oil and gas industry as the ordinance proposes; noted that there are already state agencies in place that are equipped and allowed to regulate this industry; and stated that the City should not duplicate the important regulatory roles these state agencies play. He noted the

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letter this evening includes a number of memorandums from other governmental officials/municipalities (City of Los Angeles, Compton, Monterey and Alameda Counties, Santa Barbara County, La Habra Heights) backing off from their attempts to regulate this industry due to legal advice that costly litigation is imminent and could bankrupt a municipality. He explained that the Baldwin Hills Community Services District ordinance was adopted to address specific issues arising out of the existing operations; that the ordinance was preceded by a lengthy EIR; that the regulations there were also shaped by litigation; that a settlement came out of that litigation; and he noted that Carson has none of those specific issues here. He stated there are existing operations in Carson; that these ordinances will put these existing operators out of business and cost Carson residents their jobs; that it is time for Carson to stop this process and to evaluate more fully what role the City can and should play as a land use regulator; and that it is time to draft an ordinance that will not destroy jobs and an ordinance that does not subject the City to substantial litigation risks.

Tom Muller, Manatt, Phelps, & Phillips, representing Carson Energy and the owners of the mineral rights underlying this land in Carson, noted that he provided a letter this evening for the Planning Commission, dated April 14, 2015; stated that if the City adopts an ordinance which denies his clients their right to millions of dollars of mineral rights, it stands to reason the people who own those mineral rights will sue to protect their constitutional rights, which will cost the City millions of dollars in legal fees trying to defend an ordinance that is unconstitutional and unnecessary. He stated that Carson should make sure it believes this ordinance is necessary.

Mr. Muller stated that nobody has fracked here and nobody is proposing to frack here because the underground structures are not suitable for fracking; and stated that his clients are concerned with the proposed impediments to any kind of oil production, oil exploration, and particularly acidization. He advised that acidization has been used in Carson and most other places where oil is produced since the 1930s without incident; he explained how far down the acid is pumped into the wells, thousands of feet below the ground surface; and stated that it does not get anywhere near people to do any harm, noting that the process of using the acids with a base dissolves the minerals and neutralizes the acid into salt and water. He stated that these acids here are not persistent like most of the other industrial chemicals used in this community. He noted his opposition to this draft piecemeal ordinance which has been created from various ordinances across the state; and he urged the Commission to instruct staff to remove any proposed ban on acidization and to come back with a balanced, fair, protective and reasonable ordinance.

Thomas Walker, representing some of the mineral rights owners, stated he is a registered professional petroleum engineer; and advised that he and his family live within two miles of two different oil drilling sites in Huntington Beach, noting he is very comfortable raising his family there. He advised that he has been hired to look at this ordinance and determine what, if any, impact on operations this ordinance will have. He expressed his belief this ordinance and its conditions will preclude an operator from developing their field; and stated that this ordinance gives the petroleum administrator (PA) the right to impose additional conditions upon an annual review and could cause operations to cease, noting there is too much uncertainty in this proposed ordinance. He noted that not all parties were given notice, stating that both the surface and mineral rights owners should receive notice of this process, addressing his concern with potential liability issues for all involved.

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Mr. Walker explained that this technology is and has been used in Dominguez for many years; advised that the Dominguez field was discovered in 1923; that acidization was started worldwide in 1933; that water flooding began in 1944; that hydraulic fracturing was first commercially utilized in 1949; that massive hydraulic fracturing, which was not being used in this field, was started in 1968; that all those milestones occurred during the period this field was operated; and stated he is not aware of any major problems with operating the oil fields with those techniques.

Mr. Walker stated he is also concerned with the language in the ordinance regarding definitions; explained that when you drill a well, it is possible and common to have formation damage, noting this is cleaned up with small acid washes; and stated that the proposed language in this ordinance could prevent completion and production of wells. He added that state regulations are continually being generated in this industry.

Nicki Carlsen, Alston & Bird, representing E&B Natural Resources Management Corp. (E&B), stated that E&B has substantial oil and gas interests in Carson and that the company has recently decided to become more actively involved in this process; and advised that they have submitted a letter to the Planning Commission, dated April 13, 2015. She stated that the letter catalogs what they believe is the majority of their concerns with the proposed oil and gas code; advised that they are requesting to have further dialogue with the City; that the City should reach out to all the oil and gas interests for some input; and that they believe there needs to be more working sessions on specific sections and a better understanding on how the proposal impacts their client.

Eunice Langford, resident, urged the City to recognize that the state has in place adequate restrictions and regulations for this industry which have been designed to protect the health, environment and safety of the community; and expressed her belief what the City has drafted is unnecessary. She noted her concern with the loss of revenues for this community if this is to be adopted.

Nick Gomez, resident, member of Californians for Energy Independence, noted this group is opposed to the proposed oil and gas code update; and stated it will hurt this community's tax revenues, jobs, and services the residents receive.

Cruz Gonzalez, resident, stated it is important to protect California's right to energy independence; noted that energy production in California helps keep the cost affordable to all Californians; that it creates jobs across a wide range of sectors and generates significant revenues; and he urged the Commission to not approve this proposed ban, noting these are proven energy extraction techniques.

Steven Crump, resident, stated that tax revenues generated from oil production benefit this community in many important ways, such as funding schools, police, fire and many other community services Carson residents depend on and value; that banning proven oil extraction methods will result in economic inconveniences for Carson residents; and he urged the Commission to consider these issues.

Cliff Coatney, resident, stated that through the years, local energy operations in Carson have generated millions of dollars in local tax revenues each year funding vital services that are crucial for Carson's residents, such as police protection, fire, neighborhood maintenance, improvement of local schools, parks, libraries, and roads; and he urged the Commission to reject the proposed oil and gas code update, including the ban on oil production techniques.

Cesar Avalos, resident, stated that this industry provides good jobs and tax revenues; noted that this proposal will hurt the local economy; and he urged the Commission to reject this proposal.

Edwin Caballero, stated that he is currently training to be a diesel technician and expressed his belief this code, if adopted, would hurt the energy industry and the good jobs this industry creates; and he urged the Commission to not adopt the update.

Jeff Cooper, Cooper & Brain, 901 East Lomita Boulevard, stated that he only became aware of this proposal on Friday through an industry contractor, noting he did not receive any notice about this process. He stated that Cooper & Brain is a small business in Carson that produces oil; that they have five wells at their facility located on the southern end of Carson near Lomita Boulevard and Wilmington Avenue; and he noted they operate three wells inside the Tesoro Refinery tank farm. He stated that because he just became aware of this issue, he has not had adequate time to study what is being proposed and to provide input; he addressed his concern with not receiving notice of these hearings, stating that all impacted oil-related businesses in Carson should have been contacted; and he stated he would like to be involved in the dialogue with staff concerning this issue. He added that all these businesses want their operations to run safely. He noted that this business has been in operation since the 1960s.

Planning Manager Naaseh advised that notices were sent to all residents and businesses in Carson.

Rey Javier, V.P. Brea Canon Oil, noted that Brea Canon, a small family-owned company, currently owns and operates 22 existing wells; advised that out of those 22 wells, 11 are currently in pumping operation; and that they have 5 injectors (one idle), and one submersible. He stated that the City needs to consider the location of these wells, which are located inside the Los Angeles County Sanitation District property; that all other wells are west of Figueroa Street, south of Sepulveda Boulevard, with the exception of the one well in the parking lot of Target at the corner of Figueroa/Sepulveda; and he urged the Commission to continue this matter so the Commission can learn more about these technicalities.

Mr. Javier addressed his concern with converting the 11 existing pumps to submersible systems, stating this would put their company out of business; and stated that submersible pumps cost approximately \$100,000 each, which would cost them in total \$1.1 million. He advised that this company is only producing 82 barrels of oil per day in Carson at this time and that they would like to continue doing business in Carson; that they have 87 royalty owners who depend on those checks every month; stated that their annual Carson business license is \$20,000; and that their property taxes are \$420,000 annually. He asked to be involved in this process; and he urged a continuance of this matter.

Mike Kutchak, Director of Veterans Affairs with IBEW Local 11, stated that he served in the Marine Corps for 32 years and that he has dedicated his retirement life to serving veterans and helping returning combat veterans obtain decent jobs. He urged Carson to continue its dialogue with all interested parties and to not make rash decisions that could potentially close down and cease job opportunities for the returning veterans from active duty; and he pointed out that the military forces are being drastically and rapidly downsized. He stated that California is cutting back on its oil production; that the vast majority of California's oil comes from imports, which drive up the cost to California

consumers; and he noted his concern with outsourced jobs and lost revenues in this industry that can be maintained in California; and he urged the Commission to reject the updates, believing it is bad for California's economy and energy independence. He pointed out that Carson has openly and publically recognized its veterans; stated that the veterans deserve to be reintegrated into the workforce; and he highlighted the need to ensure they have the opportunities and options for good middle class jobs and incomes.

Tommy Faavae, representing IBEW Local 11, expressed his belief this process is moving backwards, referring to the moratorium from last April; stated that there are flaws in this oil and gas code; and noted his concern with the comments from a speaker this evening that his oil-related business had not received notice of this process, noting that all affected parties should be contacted. He stated that many jobs are going to be affected by the City's decision; and he urged the City to bring the affected parties to the table to develop a comprehensive oil and gas update that works for business, labor, and the community.

Joe Galliani, organizer of the South Bay Climate Action group, stated that he cares about the veterans and union workers, but noted he has higher aspirations for these people to obtain clean jobs that do not cause cancer and asthma. He stated there is 400 ppm of CO<sub>2</sub> in our atmosphere, noting we are pumping more carbon into the air than our atmosphere can handle. He explained that there is a carbon budget of about 535 million tons of more carbon that we can burn until we reach the danger zone of 2 degrees centigrade which scientists have warned us is the point where we don't want to go beyond; and pointed out that scientists from around the world agree with this 2-degree warning. He added that according to scientists, at our current burning rate of oil, coal and gas, we are 12 to 15 years away from reaching that 2-degree mark; and stated that 80 percent of our oil, coal and gas must be kept in the ground if we don't want to reach the danger zone and get past the point of no return.

Mr. Galliani stated that there are new, clean energy jobs for everyone; and advised that there is a new solar jobs program in Los Angeles County, with UCLA indicating if solar is put on just 5 percent of the roofs and buildings in our county, that would create 29,000 new jobs that don't cause cancer and asthma. He noted that Hermosa Beach just recently rejected a proposal from the oil industry because they don't want the health risks and danger associated with this industry. He added that the state has called for a 50-percent reduction in the use of petroleum by the year 2030, noting that SB-350 has the support of the Governor, the Assembly, and the Senate. He stated that over the next 15 years, the market for coal, gas and oil in this state will be cut in half; and he urged the City to study these scientific and political facts and to continue working on regulating this field.

Mr. Galliani noted for Commissioner Schaefer that there is a program in the County of Los Angeles which allows a homeowner to borrow money on their property taxes to put solar on their home and pay it off over 20 years as part of its Los Angeles County Energy Program.

Alexandra Nagy, Southern California organizer with Food and Water Watch, noted she is fighting against the exploitation of the oil and gas industry in Carson; highlighted her disappointment with Oxy's EIR, believing it is one of the worst EIR's drafted; pointed out there is a small number of people employed in this industry compared to the rest of the population; and noted the need to protect the environment and health of those living in this community. She expressed her belief that this industry is a dying and

nonrenewable industry and that solar and other renewable energy is our future and is a growing industry. She stated that this update is beneficial for the City; that the City needs to address what it wants to see in its community, what makes this community healthy; and she urged the City to put in regulations that are necessary to protect the community from a dangerous and toxic industry. She stated that the oil and gas industry has the highest death rates than any other industry; and she urged the City not to back down from the legal threats.

Steve Carr, employee at E&B Natural Resources, noted he has worked for both Brea Canon Oil and Cooper & Brain; stated that he has worked in the oil industry for 20 years in Carson, and he has witnessed increased safety measures being implemented throughout the years in these oil-producing facilities; and he stated that these companies represented this evening have been paying attention to the neighbors and addressing their concerns and that they go beyond what is required of them. He advised that these properties are well maintained; and he urged the Commission to take more time and consider what the oil companies have said about wanting to have open dialogue.

Chairman Faleto go read into the record a statement from Carl Edwards: "This ordinance will eliminate all growth in the oil sector in Carson. Green Compass is a service firm that relies on work generated at E&B's Carson facility. We have serviced this field for many years. Please reconsider this idea. It is not in our best interest as a community."

Chairman Faleto go read into the record a statement from Lori Nofflin, resident: "I feel the city of Carson should not approve this ordinance as written. Carson is a densely populated residential and commercial city. Carson is not an oil field. When we incorporated as a city, it was to stop the bad projects that cause contamination. I don't know where in Carson you could allow new drilling that would not impact the health and safety of our community. This ordinance should stop any new drilling and strongly regulate existing drilling in Carson. We have an opportunity to pass a meaningful ordinance that could stop this assault on our communities. That would stop our children and grandchildren from having to fight this battle again. Carson is not an oil field for investors and oil companies to be deciding where they are going to set up the next well."

Pilar Hoyos, representing Watson Land Company, asked: "Why is this ordinance necessary? What is the urgency to adopt the ordinance now that the CRC project has been withdrawn? Who is driving and pushing this ordinance and why?" She expressed her belief that outside forces came into this community and fed fear and created an environment of distrust; and she highlighted one example of that coming from a speaker present this evening who indicated that Oxy came in here with 200 fracking wells. She pointed out that is a factually incorrect statement; that Oxy never needed to frack; and that Oxy so stated and agreed they would enter into a development agreement that would not allow them to frack. She stated that was just one statement made to create a divide within the community by outside groups that have a different agenda.

Ms. Hoyos asked the following questions: "Does this ordinance go too far and effectively preclude all oil operations, including small business operators heard from this evening? What are the costs to the local economy, to jobs, families, and the community? If the intent of the ordinance is to ban drilling, then what are the risks to the City for the cost of litigation?" She highlighted the citing of various court cases posed by

the lawyers, asking, "If you own mineral rights, what do you do; do you have a right to those mineral rights and the value of that oil and gas?"

Ms. Hoyos pointed out that the state has the expertise needed to regulate and to protect all communities; and she urged the City to please consider the far-reaching impacts and the legal risks to the City and don't be fooled by outside groups that have a different agenda. Speaking to Tom Walker's reference this evening relating to the timing of the different types of drilling and how long they've been in operation, she pointed out that a lot of those oil fields were here before homes were built and they operated without all the negative impacts that have been thrown out in this evening's comments.

There being no further input from the audience, Chairman Faletogo closed the public hearing. He thanked the audience members for their participation this evening.

Chairman Faletogo noted that a memo was received from Robert Lesley, resident, noting his support of amending the ordinance.

Planning Manager Naaseh advised that following the February 24<sup>th</sup> hearing, staff met with the Planning Commissioners in three separate small groups to provide additional details on the proposed ordinance; and that staff and the consultants also met with industry representatives and community members who have shown interest in this process. He stated that four letters were received for this evening's meeting: two letters received from Manatt/Phelps/Phillips, dated April 13, 2015 and April 14, 2015; one received from Alston & Bird, dated April 13, 2015; and one received from Latham & Watkins, dated April 14, 2015 (of record).

Luis Perez, MRS, with the aid of a power point presentation, provided an update on the progress since the last meeting; and stated that this evening's presentation is part of the direction given to MRS by the Commission from that last meeting. He added that staff and he met in small groups with members of the Planning Commission since the last meeting; and that they also met with industry representatives and community stakeholders on Wednesday, April 8<sup>th</sup>, noting that a number of revisions have been made to the code arising from those meetings, which will be addressed this evening.

Mr. Perez commented on the following community/industry issues of concern:

- With regard to slant drilling allowed, he explained that slant drilling is predicated by property rights; in order for a company to drill, they have to obtain easements, mineral rights, and property rights for access to those wells and that slant drilling is not something the City is able to regulate;
- With regard to potential exceptions to a fracking ban, he stated that the fracking ban language has been put in place to protect the City from potential litigation;
- With regard to a requirement for ambient air monitors, he explained that the requirement is only for air monitors that cover hydrogen sulfide monitoring; that it is very expensive and not viable to monitor all the different components/types of toxic materials the public addressed, and therefore, no change is proposed;
- With regard to the appeal process, he explained that the appeal process would range from the PA, Planning Commission, and then on to the City Council;
- With regard to abandoned wells within the City, he stated there is a map which shows where all the abandoned wells are located; and added there is a requirement within the code that if somebody is doing drilling within an area that



has existing abandoned wells, they would have to ensure those previously abandoned wells have been abandoned/plugged properly; and

- With regard to existing wells and how those will continue to operate without new regulation, he explained that the proposal does not cover existing wells; and that the new regulations would only cover existing wells if an operator were to obtain a permit for new development within that area which requires them to obtain a conditional use permit (CUP) and a development agreement (DA).

Chairman Faletogo asked if a PA is necessary; and is there anything wrong with the current situation of using staff and the City Council.

Mr. Perez stated that the code would require the City administrator to appoint someone as the PA; he stated if there were no proposed projects, there probably would not be any need for a PA; but if there was a wave of new development/proposals for oil and gas projects, the City manager would appoint a PA to handle the issues of the code. He added that the intent of the PA would be to have a specific clearing house, a go-to person that is in charge of all the petroleum activities within a jurisdiction. He stated this is done in other jurisdictions.

Commissioner Brimmer asked for clarification on the appeal process.

Assistant City Attorney Chaffin stated that an appeal process depends on the type of activity involved; that the way the code is proposed, some matters will be decided directly by the PA; that some may be appealed to the Planning Commission and City Council; and that there are other legal remedies available to them if the City's appeal process is not in their favor, noting a court would have to determine if the City acted reasonably, that it would involve a lawsuit to challenge the City's decision.

Commissioner Brimmer asked if any written handouts were distributed to those present at the April 8<sup>th</sup> meeting, noting the technical information needs to be uncomplicated as possible. She stated the City needs to make sure all interested parties are informed of this process and these meetings.

Assistant City Attorney Chaffin noted for the record that legal notices were given in compliance with the Brown Act and City requirements.

Commissioner Gordon noted his concern with the PA and their authority under the proposed ordinance, Page 108 of staff report, first paragraph, "The decisions of the PA in enforcing, interpreting, or in exercising the authority delegated by the provisions of this ordinance and of the codes adopted hereby shall be deemed final," stating this means to him there is no chance of appeal following the PA's decision; he noted his concern with interpreting this code; and stated there is no criteria for the qualifications of the PA.

Assistant City Attorney Chaffin explained that Section 9505A, Page 108 of staff report, is intended to provide finality for the applicant by saying the decision is final and they don't need to go to another body for relief; and explained that this Commission has the discretion to deny or support this proposed language.

Commissioner Gordon asked what other jurisdictions have PA's and has the power and authority this is proposing.

Assistant City Attorney Chaffin explained that there are other jurisdictions which have PA's, but added those authority rights vary from each jurisdiction; and that the City has

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the authority to designate and determine how it interprets its own ordinances as long as that interpretation is reasonable.

Commissioner Gordon expressed his belief that not everything needs to be solved in a court of law, that the City should be able to develop an appeal process that avoids lawsuits. He highlighted staff report Page 112, "Findings, The project shall not be detrimental to the comfort, convenience, health, safety, and general welfare of the community, and will be compatible with the uses in the surrounding area," asking if that determination is left to the interpretation of the PA, what would be considered "comfort, convenience" of the community.

Planning Manager Naaseh explained that this is a finding for the CUP and is under the purview of the Planning Commission.

Assistant City Attorney Chaffin stated that Section 9507.3 says the Planning Commission is the deciding body to approve/deny a CUP, not the PA.

Mr. Perez referred to industry issues that were discussed at their meeting:

- With regard to the timing of the code/impetus, he explained that this was initiated by City Council in May of last year; that City Council provided direction to return to them with an oil code that is as protective as possible to the health, safety, and environment; and in addition to that, City Council also was in favor of a ban on fracking as part of that oil code update;
- With regard to legal, non-conforming uses, he stated that any concerns with regard to legal, non-conforming uses relate to those existing facilities, noting that they could potentially be subject to amortization at some point and required to cease operations;
- With regard to acidizing definitions/acid volume thresholds, he explained that the two definitions used in the letter for acidizing and acid volume thresholds say to flush minerals from the well and its associated equipment, to help dissolve minerals at the bottom of the well that are plugging the well and impeding the flow of oil into the well, noting these are not contemplated within the ban on well stimulation techniques, and they would not be affected; that those two things can continue to be done as a matter of course as far as their operation is concerned; and he stated the language is very clear with regard to that particular issue, noting this process has been used for many years;
- With regard to a requirement of submersible pumps in industrial zones, he noted they are in agreement that there should not be a requirement for submersible pumps in industrial zones, noting they are sufficiently far away enough from any potential sensitivity receptors and there is no necessity for them; and noted the code has been amended to include an exclusion for submersible pumps within industrial zones;
- With regard to requirements for pipelines inside oil fields, he stated the intent of the code was not to have requirements for leak detection systems inside the oil fields, that it's only for the pipelines that leave the oil fields; and advised that they have made that clarification as part of the revised code; and
- With regard to the overlap with AQMD (fugitive dust), he stated they are in agreement with the concern of overlapping with AQMD on fugitive dust issues;



and that they would suggest removing that language from the code because that is already contemplated within AQMD's regulations.

Mr. Perez commented on how the oil and gas code update will affect existing operations; stated that if an operator wants to add wells or do something that would trigger the requirements of the oil code by way of needing to obtain a CUP or DA, those actions would then require the existing facilities to be brought up to the requirements of the updated oil code; but if an existing operator continues to operate/produce without making any substantial changes and not require a permit, they can continue to do so. He stated that by virtue of the code, that property would become a legal, nonconforming use, and they could continue to operate for a period of years before Carson's 20-year amortization process kicks in; and that if an operator was to consider continuing their operations after that amortization period, they could request to obtain an exemption from the requirements of the code as an existing operator.

Greg Chittick, engineer with MRS, commented on EIRs from other jurisdictions and the impact distances, with mitigations, highlighting issues of aesthetics, air quality, odors, noise, and safety; and noted these were studied in order to understand what impacts oil and gas operations might produce:

- With regard to issues concerning aesthetics, he stated that aesthetics can be very subjective and dependent on the location of a project;
- With regard to air quality, he addressed the issues related to AQMD's localized thresholds as well as cancer and chronic/acute health impacts, noting that all the numbers reflected on the power point chart have mitigation measures in place; and
- With regard to odor, he noted that Carson's proposed 1,500 setback addresses all of the impacts, with the exception of completely mitigating odors; noted there are advantages/disadvantages to this proposed setback; and advised that the disadvantages are it is very restrictive on current operators and is less legally defensible, noting there are very few codes that are as restrictive, none they are aware of in California. He explained that if this setback were reduced to 500 feet, it would be less restrictive for current operators; would address most of the public health issues, including noise, air quality; and most of the odors and safety issues would likely require added mitigation. He explained that if this setback is further reduced to 300 feet, it would be minimally restrictive for current operators and mitigation measures would be put in place, but leaves open the potential for odors, accidents, or unmitigated noise and air quality issues. He stated that the current code sets residential at 300 feet, which is the least restrictive of the proposed.

Commissioner Piñon referred to staff report Page 107, Subsection A, asking what are the legal parameters of the PA, "the PA shall have the powers of a law enforcement officer."

Assistant City Attorney Chaffin explained that various public safety officials have some of the powers of law enforcement officers; that this would allow certain rights of inspection and enforcement; that it would allow monitoring of a facility and the ability to shut down the operations; and he stated that he is not familiar with the exact enforcement parameters at this time. He stated he does not believe they will have the authority to arrest anyone.

Mr. Perez noted the intent was not to provide arresting powers, but in cases where there may be an incident, to allow the PA right of entry into a facility where there needs to be monitoring and assurance of compliance; in addition to that, if there's a need because of public health and safety, it would authorize the PA to require a shutdown of facilities.

Commissioner Piñon asked why submersibles would be required, questioning if it has to do with safety or aesthetics.

Assistant City Attorney Chaffin stated that is a current requirement in the City's code, and noted his belief it is largely for aesthetics.

Mr. Chittick added that if an above-ground pump is not working well, it could become a noise issue.

Commissioner Schaefer referred to staff report Page 151, asking what a meteorological station is, whether it is manned and is the requirement standard industry practice.

Mr. Chittick explained that the meteorological station records wind speed and direction, temperature, a whole range of things; but this site-specific requirement is for the recording of wind speed and direction, believing that having this information is advantageous in understanding where an odor might come from or if there are other issues related primarily to odors. He mentioned that this requirement was taken from the Baldwin Hills Community Standards District, and noted it is not a state requirement.

Commissioner Schaefer expressed her belief this ordinance needs a lot more work; pointed out that there are state agencies already in place to regulate this industry; and noted her concern with Carson attempting to set its own rules/regulations from the rest of the state's regulations. She requested that the code be revised to a smaller version that is parallel with what the state requires, noting the state is continually updating these regulations to keep up with the industry; and to include a few regulations that specifically relate to Carson's uniqueness. She stated that it is not necessary to completely revise the rules/regulations; and stated it needs to be reworked and made more simplistic.

Commissioner Gordon noted his concurrence with Commissioner Schaefer's comments. He stated he would like to see a couple options concerning the PA: 1) the complete elimination of a PA; and 2) a reduction in the scope of authority for a PA and provide some comparatives to the authority they have in other municipalities and how they operate. He expressed his belief this is going forward too quickly with such drastic changes being proposed; and he asked what is the problem the City is trying to solve that requires such a drastic change in this ordinance and what is the urgency in moving this along so quickly.

Assistant City Attorney Chaffin explained that Carson's City Council is the body that initiated this process/task and gave direction to staff with regard to the scope of the ordinance; that staff is merely acting consistent with the direction they've been given by City Council; and that it would be the City Council's determination as to why this matter is moving forward. He added that as far as the comment about this ordinance item going too quickly, ordinances are typically passed much more quickly than what is happening here, though acknowledging this is a complicated issue. He noted this update has been available to the public since February; stated that as the process goes forward, there are further requested refinements being made; and highlighted staff's

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recommendation this evening for the item to be continued for additional review and additional recommendations.

Commissioner Gordon stated that more time is necessary to understand the ramifications of the update's implementation. He asked, "Who really has authority on regulating fracking? Is it local or state?" He stated that somewhere the line seems to be crossed, and that this question has not been satisfactorily answered in this report. He added that the answer should be put in relation to SB-4.

Assistant City Attorney Chaffin stated that SB-4 does not specifically ban fracking nor does it expressly preclude the City from banning fracking; and that currently, there is no law which expressly prohibits Carson from banning fracking.

Commissioner Gordon asked if SB-4 gives this authority to the Division of Oil, Gas, and Geothermal Resources (DOGGR).

Assistant City Attorney Chaffin explained that DOGGR has certain regulatory authority, part of that regulatory authority being granted under the direction of SB-4; and that under SB-4 direction, DOGGR was to address certain well stimulation technique impact studies to develop regulations.

Chairman Faletogo agreed that legal ramifications need to be considered.

Commissioner Gordon asked with regard to the takings issue, is this proposed regulation so onerous and so restrictive that it deprives a person of their rights.

Assistant City Attorney Chaffin explained that the way the ordinances are currently structured, they do not ban oil and gas operations, they regulate oil and gas operations; and that this is within the purview of the City. He noted that to the extent the ordinances may come to the point where they inadvertently and could potentially result in a taking, both the ordinances include a savings clause, which is a provision wherein the oil industry or applicant can come in and say under my unique circumstances associated with my case, if you apply this ordinance, it will result in a taking unless you grant me an exception; and as proposed, the PA has the authority to grant that exception which would mean there would not be a compensable taking.

Commissioner Gordon stated he is concerned with the burdensomeness of this regulation; and asked how long it will take for a business to get through this process.

Assistant City Attorney Chaffin stated there are too many variables to accurately answer that question, but if he had to estimate, it could take a year to a year and a half to complete the environmental process.

Commissioner Gordon asked the following questions: "What will it cost a business to go through this process from start to drilling a hole in the ground? What is the maximum setback in place in any jurisdiction in California for this industry?"

Assistant City Attorney Chaffin stated that throughout most jurisdictions, it can range from 100 to 500 feet and noted that a maximum range of 500 to 600 feet would not be uncommon. He added there are a range of options and to know for sure, it would require an extensive overview of each jurisdiction. He highlighted the power point sample given this evening of various jurisdictions ranging from 100 to 500 feet.

Commissioner Gordon highlighted the proposed 1,500-foot setback, questioning what is the risk to the City of having a setback which far exceeds any other jurisdiction.

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