



AGENDA REPORT

Meeting Date: October 18, 2011
Item Number: H-5
To: Honorable Mayor & City Council
From: City Attorney
Subject: ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE PROVISIONS REGARDING OIL, GAS AND OTHER HYDROCARBON DRILLING AND EXTRACTION, PROHIBITING THE DRILLING AND EXTRACTION OF OIL, GAS AND OTHER HYDROCARBON SUBSTANCES FROM SURFACE LOCATIONS IN THE CITY, AND REPEALING ORDINANCE NO. 11-O-2603.
Attachments: 1. Ordinance

RECOMMENDATION

It is recommended that the proposed ordinance be adopted.

INTRODUCTION

This ordinance prohibits future drilling and extraction from sites within the City of Beverly Hills and establishes a buffer between any directional drilling operation and any school or park.

DISCUSSION

The City Council conducted a first reading of this ordinance at its meeting of September 7, 2011.

FISCAL IMPACT.

There is no fiscal impact in the near term.


Laurence S. Wiener, City Attorney

Attachment 1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE PROVISIONS REGARDING OIL, GAS AND OTHER HYDROCARBON DRILLING AND EXTRACTION, PROHIBITING THE DRILLING AND EXTRACTION OF OIL, GAS AND OTHER HYDROCARBON SUBSTANCES FROM SURFACE LOCATIONS IN THE CITY, AND REPEALING ORDINANCE NO. 11-O-2603

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS FOLLOWS:

Section 1. Legislative Findings.

The City Council of the City of Beverly Hills is concerned that oil and gas drilling and production is not compatible with other land uses in the City. Such uses generate odors and noise, and reduce the value and enjoyment of nearby properties. No similar industrial activity is currently permitted within the City. Oil and gas extraction is not compatible with the residential and commercial uses allowed in the City. As such, the City Council wishes to consider a permanent prohibition on the drilling and extraction of oil, gas, and other hydrocarbon substances from drill sites that surface in the City and to require that existing uses discontinue no later than December 31, 2016.

Section 2. The City Council hereby amends subsection C of Section 10-5-301 of Article 3 of Chapter 5 of Title 10 of the Beverly Hills Municipal Code and adds a new subsection D to Section 10-5-301 of Article 3 of Chapter 5 of Title 10 to read as follows:

“C. The council hereby finds and determines that the uncontrolled drilling in the subsurface for oil, gas and other hydrocarbon substances, and the uncontrolled production thereof, would be detrimental to the general welfare of the citizens and residents of the city and detrimental to the general public peace, health, safety, comfort, convenience, and prosperity. The council finds and determines that subsurface areas within the city may be explored for oil and gas, and, if such substances are found, they may be produced by directional or slant drilling methods from surface locations outside the city. Such operations must comply with the regulations of the city or county having local control of the drill site area, as well as the limitations and regulations set forth in this article to protect the citizens and residents of the city from odors, noise, dust, and the spreading of oil, dirt, and debris upon the public streets of the city, and to protect buildings and structures from vibrations, sinking, or other damages caused by the drilling for and production of oil and gas in an unrestricted location and manner.

D. Except as otherwise provided in this Article, no person shall drill, produce, or extract oil, gas or other hydrocarbon substances from any surface location in the city.”

Section 3. The City Council hereby amends in its entirety Section 10-5-302 of Article 3 of Chapter 5 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“10-5-302: DRILLING AND PRODUCTION RESTRICTED:

A. No person shall drill for or produce oil, gas, or other hydrocarbon substances from any surface location within the city, including any controlled drill site, whether the subsurface operation from such well is within or outside the city except that production of oil, gas and other hydrocarbon substances may continue from controlled drill site no. 1, as defined in Section 10-5-306 B. until the date specified in Section 10-5-323 for cessation of such activity.

B. The council hereby finds and determines that it is, and it is hereby declared to be unlawful and a public nuisance for any person hereafter to erect any derrick or drilling equipment and hereafter to drill a well in order to produce oil, gas or other hydrocarbon substances from drill sites that are located in the city.

C. No person shall drill for or produce oil, gas or other hydrocarbon substances from the subsurface of the city from drill sites located outside the city, except as permitted by this article.

D. The council hereby finds and determines that it is, and it is hereby declared to be, unlawful and a public nuisance for any person hereafter to drill an oil well or produce oil, gas or other hydrocarbon substances by directional or slant drilling methods from surface locations or sites outside the city which said wells pass through or bottom in the subsurface of any property located within the city, except in the manner provided in this article.

E. No person shall drill or redrill or deepen below its present bottom any oil well for the production of or exploration for oil, gas or other hydrocarbon substances where any portion of the surface operation or the subsurface operation of such well is located within the city, except as authorized by this article.”

Section 4. The City Council hereby amends in its entirety Section 10-5-306 of Article 3 of Chapter 5 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“10-5-306: DRILLING AND PRODUCTION WITHIN THE CITY LIMITS:

A. The council finds and determines that the location of drill sites on real property within the city is contrary to the public health, safety, and general welfare of the citizens and inhabitants of the city. Drilling from or producing oil, gas or other hydrocarbon substances from surface locations within the city is hereby prohibited except that production of oil, gas and other hydrocarbon substances may continue from controlled drill site no. 1 until the date specified in Section 10-5-323 for cessation of such activity.

B. Controlled drill site no. 1 shall be and embrace the real property in the city of Beverly Hills, County of Los Angeles, State of California, described as follows:

That portion of Lots 843 and 844, Tract No. 7710, in the city of Beverly Hills, County of Los Angeles, State of California, as recorded in Book 83, pages 94 and 95 of Maps in the office of the Recorder of said County, described as follows:

Beginning at the most southerly corner of said Lot 843; thence along the southwesterly line of said lot north 30 (30°) degrees 53'05" west 120.00 feet; thence north 59 (59°) degrees 13'04" east 233.00 feet; thence south 30 (30°) degrees 46'56" east 22.50 feet; thence north 59 13'04" east 30.50 feet; thence south 30 (30°) degrees 46'56" east 102.76 feet to a point on the northwesterly line of Olympic Boulevard, which is a curve concave to the southeast and having a radius of 593.11 feet; thence southwesterly along said curve a distance of 79.07 feet to the end of said curve; thence continuing southwesterly along said northwesterly line of Olympic Boulevard south 59 (59°) degrees 13'04" west 184.45 feet to the point of beginning.”

Section 5. The City Council hereby amends subsection C of Section 10-5-316 of Article 3 of Chapter 5 of Title 10 of the Beverly Hills Municipal Code to add a new paragraph 11 to read as follows:

“11. Any and all above surface equipment and extraction activities associated with any oil and gas or oil or gas well drilled pursuant to any council permit shall be located at least five hundred (500) feet from any school or park site.”

Section 6. The City Council hereby adds a new Section 10-5-323 to Article 3 of Chapter 5 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“10-5-323: CESSATION OF ACTIVITY:

A. Notwithstanding the provisions of Title 10, Chapter 3, Article 41, all drilling, production, and extraction activities occurring from surface locations in the city, including controlled drill site no. 1, shall cease by December 31, 2016.

B. The city council may extend the date set forth in Subsection (A) for controlled drill site no. 1 upon application of the property owner and upon finding that an extension of time would be in the public interest.”

Section 7. CEQA Findings.

The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. This Ordinance does not authorize construction and, in fact, imposes greater restrictions on certain development in order to protect the public health, safety and general

welfare. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

Section 8. Severability.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 9. Repeal of Interim Ordinance.

The City Council hereby repeals Interim Ordinance No. 11-O-2603, which repeal shall become effective upon this Ordinance taking effect.

Section 10. Publication.

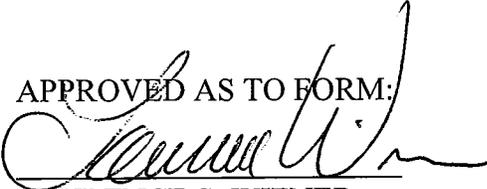
The City Clerk shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

ADOPTED:
EFFECTIVE:

BARRY BRUCKER
Mayor of the City of
Beverly Hills, California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY KOLIN
City Manager


SUSAN HEALY KEENE, AICP
Director of Community Development