



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: August 9, 2011
To: Honorable Mayor & City Council
From: Jeff Kolin, City Manager
Subject: **Discussion of the City's Interim and Potential Permanent Oil Drilling Prohibition Ordinance and the Lease for Drilling at Beverly Hills High School**

Attachments: Staff Report from July 7, 2011 Meeting
Interim Ordinance
Municipal Code Sections 10-5-302 and 10-5-323

INTRODUCTION

At the July 7th City Council meeting, a request was transmitted from the Beverly Hills Unified School Board for a joint meeting to discuss the City's interim ordinance and the proposed permanent ordinance to prohibit the drilling and attraction of oil, gas and other hydrocarbon substances from surface locations within the City. The only operating surface drilling location currently in the City is Venoco's Oil Drilling site at the south end of the High School Property.

The City Council directed the joint meeting be set up as noted.

DISCUSSION

As previously indicated, the lease agreement providing for the drill site on the High School property is a three party agreement between Venoco, the School District and the City. The agreement includes a provision that prohibits leasing the site for drilling for at least three years after expiration of the current lease. After discussing a letter I sent to the Superintendent Douglas regarding the lease agreement, the Board at their meeting on June 9, 2011 requested that the City Manager appear at a subsequent meeting to answer questions. In response, Larry Wiener and I attended the School Board meeting on June 28, 2011 and addressed several questions that were raised after which the Board unanimously agreed to request a joint study session meeting with the City Council to discuss the potential permanent ordinance.

The interim ordinance is set to expire on January 25, 2012 and can be extended for another year beyond that. Section 7 of the ordinance contemplates that existing drilling and extraction at Venoco's site at the High School will continue until the existing lease expires and provides that operations cease on December 31, 2016. In addition the ordinance allows the City Council to extend that deadline with a finding that an extension

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of time would be in the public interest. It is contemplated that a permanent ordinance would include similar provisions. Existing applicable Code regulations prohibiting drilling on surface locations in the City that will be modified by the permanent ordinance are outlined in Sections 10-5-302 and 10-5-323 (attached) of the Municipal Code. A complete outline of Oil Wells regulations can be found in Article 3, Chapter 5 of Title 10 of the Beverly Hills Municipal Code.

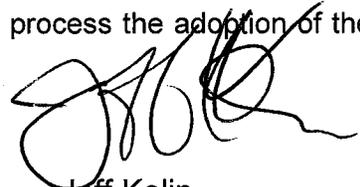
(http://www.sterlingcodifiers.com/codebook/index.php?book_id=466)

FISCAL IMPACT

None at this time.

RECOMMENDATION

Staff seeks direction from the City Council on continuing to process the adoption of the permanent ordinance or any changes as appropriate.



Jeff Kolin

Approved By

Attachment #1

Staff Report from July 7, 2011 Meeting



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: July 7, 2011
To: Honorable Mayor & City Council
From: Jeff Kolin, City Manager
Subject: Progress Report on the School Board Discussion of the City's Interim Oil Drilling Prohibition Ordinance and Possible Future Consideration of an Ordinance Implementing a Permanent Ban
Attachments: Letter Dated May 27, 2001
Interim Ordinance

INTRODUCTION

This report provides a brief update on the Beverly Hills School Board discussion related to the City's proposed permanent ordinance prohibiting the drilling and extraction of oil, gas and other hydrocarbon substances from surface locations in the City. The City Council adopted an interim ordinance on January 25, 2011 and directed staff and the Planning Commission to begin consideration of the permanent ordinance. A complete report on the discussion with the School Board will be provided orally at the meeting.

DISCUSSION

The interim ordinance is set to expire on January 25, 2012 and can be extended for another year beyond that. Section 7 of the ordinance contemplates that existing drilling and extraction at Venoco's site at the High School will continue until the existing lease expires and provides that operations cease on December 31, 2016. In addition the ordinance allows the City Council to extend that deadline with a finding that an extension of time would be in the public interest. It is contemplated that a permanent ordinance would include similar provisions.

The lease agreement providing for the drill site on the High School property is a three party agreement between Venoco, the School District and the City. The agreement includes a provision that prohibits leasing the site for drilling for at least three years after expiration of the current lease. That provision was highlighted in the attached letter dated May 27, 2001 sent to Mr. Dick Douglas, the School Superintendent, informing him of the City's consideration of the ordinance and its potential impact to Venoco's existing surface drill site after expiration of the lease on December 31, 2016. The School Board discussed the letter at its meeting on June 9, 2011 and requested that the City Manager appear at a subsequent meeting to answer questions as offered in my May 27 letter. In response, Larry Wiener and I attended the School Board meeting on June 28, 2011 and

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addressed several questions that were raised. After discussion the Board unanimously agreed to request a joint study session meeting with the City Council in the near future to discuss the potential permanent ordinance.

FISCAL IMPACT

None at this time.

RECOMMENDATION

It is recommended that the City Council provide direction to staff to work with the School District staff to arrange a joint study session between the Council and the School Board in the near future to discuss the proposed permanent ordinance.



Jeff Kolin

Approved By

Attachment 1



Jeffrey Kolin, City Manager

May 27, 2011

Dear Dick,

As you know, the City has adopted an interim ordinance prohibiting future oil well drilling in the City of Beverly Hills and prohibiting the extension of existing drilling operations after December 31, 2016. As you also know, the ordinance would require that the Venoco drilling operation adjacent to Beverly Hills High School cease as of that date.

Soon the City will begin consideration of whether to make this interim ordinance permanent. We wish to solicit the views of the District as part of that consideration process.

The current lease between Venoco, the District and the City provides that the lease will expire on December 31, 2016 and that within 90 days of that date Venoco will "completely abandon all oil and gas operations...and shall restore the New Drillsite [which is the current drill site] to its original condition." Additionally, the lease provides that School District shall not renew the lease or otherwise lease the site for oil drilling purposes for at least three years after the termination date of the lease. Paragraph 4 of the lease provides as follows:

"4. Lessor [District] agrees with City that upon termination of the lease Lessor will not:

- a. Explore for or extract oil, gas or other hydrocarbons, or explore for or extract minerals of any kind from the "New Drillsite". [sic]
- b. Permit others to explore for or extract oil, gas or other hydrocarbons or explore or extract minerals of any kind from the "New Drillsite";
- c. Enter into any lease or agreement by which any other person, firm, corporation or governmental entity is authorized or permitted to explore for or extract oil, gas or other hydrocarbons or explore for or extract minerals of any kind from the "New Drillsite";

for a period of two years after all physical evidence of Lessor's operation have [sic] been removed from the new drillsite [sic] or three years from the termination of the Oil and Gas Lease, whichever is later."

As you can see, the City's proposed ordinance is consistent with the current agreement between the City and District that oil drilling adjacent to the High School will end upon the termination of the existing lease. Nevertheless, the City has heard legitimate concerns from Board Members that the oil drilling may resume somewhere in Century City that is closer to the classrooms at the High School than the current drillsite. We intend to address that issue in the proposed permanent ordinance by prohibiting subsurface drilling in the City from a drillsite that is located within five hundred feet of any school facility, including Beverly Hills High School.

We have also heard some concern that the present drillsite, once abandoned, will not be usable for an extended period of time. We are unsure of the reason for this concern, as experts in the field who have been consulted by the City have indicated that there are many examples of redeveloped drillsites. In fact, I understand that a portion of the High School's upper field is a redeveloped abandoned drillsite, as it sits on top of a drill site that was abandoned around 1980.

In sum, I believe that the concern that we have heard regarding the potential relocation of the drillsite could be easily addressed in a permanent ordinance. Nevertheless, in order to ensure that we do not surprise the Board and so that the City can solicit the Board's input directly, we request a formal Board discussion of whether the Board wishes to amend the current agreement between the District and the City that prohibits renewed drilling after December 31, 2016, as this may influence how the City proceeds in considering the permanent ordinance. I would be happy to have myself or a member of our City staff attend an upcoming Board meeting to specifically discuss the current lease and proposed ordinance and solicit the input of the Board regarding oil drilling adjacent to the High School.

If you have any questions or if you would like to discuss scheduling an opportunity for the City to appear at an upcoming Board meeting, please do not hesitate to call.

Very Truly Yours,



Jeffrey Kolin
City Manager

Attachment #2

Interim Ordinance

ORDINANCE NO. 11-0-2603

AN INTERIM ORDINANCE OF THE CITY OF BEVERLY HILLS TO PROHIBIT THE DRILLING AND EXTRACTION OF OIL, GAS AND OTHER HYDROCARBON SUBSTANCES FROM SURFACE LOCATIONS IN THE CITY, AMENDING THE BEVERLY HILLS MUNICIPAL CODE AND DECLARING THE URGENCY THEREOF

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 may not be 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 may not be 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.

Because the public process of adopting permanent regulations may be lengthy, and because the further establishment or extension of drilling and extraction operations during the public process might frustrate the ultimate regulation adopted, the City wishes to adopt an interim ordinance that will take effect immediately and preserve the status quo while the City considers a permanent prohibition.

Section 2. Authority.

Pursuant to Government Code Section 65858, the City Council may adopt, as an urgency measure, an interim ordinance that prohibits any uses that may be in conflict with a contemplated zoning proposal that the City Council is considering, studying or intends to study within a reasonable period of time.

Section 3. Urgency Findings.

The City Council finds and determines that there is an immediate threat to the public health, safety, or welfare and that the approval of new oil wells or the extension of life of existing oil wells would result in that threat to the public health, safety or welfare. As described in Section 1, surface level operations for oil and gas drilling and production generate odors and noise that are currently and adversely affecting the public welfare. The extension of drilling and extraction activities during the Council's review and consideration of a permanent prohibition

could frustrate the ultimate regulation adopted by potentially extending these impacts and an incompatible use for a significant period of time. Any new or extended surface oil operations would generate additional noise, odor and similar impacts or extend those impacts in time. Thus, to preserve the public health, safety and welfare, it is necessary that this ordinance take effect immediately to prevent such harm.

Section 4. The City Council hereby amends Section 10-5-301(C) of Article 3 of Chapter 5 of Title 10 of the Beverly Hills Municipal Code and adds a new Section 10-5-301(D) to 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. No person shall drill, produce, or extract oil, gas or other hydrocarbon substances from any surface location in the city.”

Section 5. 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 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 6. The City Council hereby amends in its entirety Subsection 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 7. 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:

“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 8. 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 9. 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.

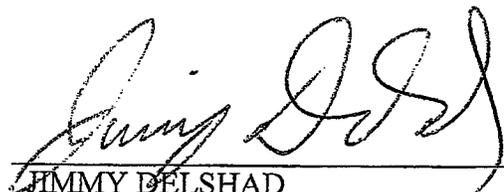
Section 10. Approval and Extension of Ordinance.

This Ordinance, being an Interim Ordinance adopted as an urgency measure for the immediate protection of the public safety, health, and general welfare, containing a declaration of the facts constituting the urgency, and passed by a minimum four-fifths (4/5) vote of the City Council, shall take effect immediately upon its adoption and shall continue in effect for a period of not longer than forty-five (45) days. After notice pursuant to Section 65090 of the California Government Code and public hearing, the City Council may extend the effectiveness of this Interim Ordinance as provided in Government Code Section 65858.

Section 11. 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: January 25, 2011



JIMMY DELSHAD
Mayor of the City of Beverly Hills,
California

ATTEST:



BYRON POPE (SEAL)
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



JEFFREY KOLM
City Manager

Attachment #3

Municipal Code Sections 10-5-302 and 10-5-203

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 until the date specified in section 10-5-323 of this chapter 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. (Ord. 11-O-2603, eff. 1-25-2011)

10-5-323: CESSATION OF ACTIVITY:

- A. Notwithstanding the provisions of chapter 3, article 41 of this title, 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 of this section 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. (Ord. 11-O-2603, eff. 1-25-2011)