AGENDA REPORT

Meeting Date: September 27, 2011

Item Number: D-1

To: Honorable Mayor & City Council

From: Jonathan Lait, AICP, Assistant Director of Community Development

Subject: 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

Attachments:
1. Ordinance
2. Planning Commission Resolution Recommending Amendments
3. Planning Commission Staff Report, dated September 8, 2011

RECOMMENDATION

It is recommended that the City Council introduce the subject ordinance banning surface oil drilling and extraction within City limits.

BACKGROUND

Earlier this year the City Council adopted an interim ordinance prohibiting surface oil drilling and extraction at the only remaining drill site in the city. The City Council also gave direction to the Planning Commission to forward a recommendation regarding a permanent prohibition. The Commission's recommendation is included as Attachment 2.

The Planning Commission staff report, Attachment 3, includes pertinent background information, including information on the Veneco drill site and meetings held to date.

DISCUSSION

There remains one surface oil drilling and extraction site within the city, which is located adjacent to the high school. This facility, owned by Venoco Inc., is regulated by the municipal

code and subject to a three party lease agreement between Venoco, the city and the school district. The lease term expires December 31, 2016.

The subject ordinance would ban future surface oil drilling and extraction operations at this site after December 31, 2016, but includes a provision that the City Council may extend that date upon a finding that it is in the public interest to do so. The ordinance also prohibits new surface directional drilling operations from being established within 500 feet of any park or school when the drilling operation seeks to access mineral rights under the city. Existing municipal regulations require City Council approval for directional drilling under the city.

Planning Commission Review

The commission voted 3-0-2 recommending adoption of the subject ordinance; two commission members recused themselves due to a conflict of interest. The commission found that surface oil drilling activities were prohibited everywhere else in the city due to their incompatibility with other permitted land uses and that such operations generate noise and odors that adversely affect the public welfare. The commission further noted that adoption of the subject ordinance would promote public health, safety and general welfare, and that it was consistent with the General Plan, specifically the following policies from the Conservation Element:

CON 21.2 New Extraction Activities. Prohibit new drill sites in new locations within the City for production of oil, gas, or other hydrocarbon substances

CON 21.2 Existing Extraction Facilities. Develop a plan to phase out existing oil drilling sites as soon as practical.

Environmental Analysis

This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The project includes the adoption of an ordinance to prohibit surface oil drilling and extraction within the city and establish distance requirements for any directional drilling operation seeking to access mineral rights under city limits. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment. The project, therefore, is exempt from the environmental review requirements of CEQA pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

Public Notice

Notice of the subject hearing was advertised in the Beverly Hills Courier on September 16, 2011 and the Beverly Hills Weekly on September 22, 2011. Notice was mailed to Venoco Inc., and all person's receiving royalties from the Venoco operation. Staff has not received any written correspondence when this matter went before the Planning Commission or at the time this report was prepared. However, one phone call was received from a resident living near the Venoco site who expressed opposition to the proposed ordinance.

FISCAL IMPACT

The recommendation in this report does not have a fiscal impact in the near term. The three party lease agreement between Venoco Inc., the city and the school district includes a provision that prohibits surface oil drilling and extraction from the current site for a period of at least three years after the lease expires on December 31, 2016. Accordingly, unless the existing lease were amended, there would be no expectation of royalty payments between 2017-2019.

After 2019, the ordinance would prohibit the reestablishment of oil drilling at the current site, but would not prohibit accessing the oil and gas resources under Beverly Hills from a site outside

the City. The subject ordinance bans future drilling after December 31, 2016, but may extend that date upon a finding by the City Council that an extension would be in the public interest.
On August 9, 2011, the City Council and the Beverly Hills Unified School District Board of Education held a joint meeting that included an agreement to work together to find ways to help offset potential lost revenue to the school district upon lease expiration.

Susan Healy Keene, AICP
Approved By

Attachment 1 – Ordinance

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 590 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. **<u>CEQA Findings.</u>**

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

Attachment 2
Planning Commission Resolution Recommending Amendments

RESOLUTION NO. 1618

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING CITY COUNCIL ADOPTION OF 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

WHEREAS, on January 25, 2011, the City Council adopted Ordinance No. 11-O-2603, an interim urgency ordinance prohibiting future surface oil drilling and extraction in City and directed the Planning Commission to forward recommendations for a permanent prohibition ordinance; and

WHEREAS, on March 1, 2011, the City Council extended the interim urgency ordinance to January 25, 2112; and

WHEREAS, on August 9, 2011, the City Council held a joint public meeting with the Beverly Hills Unified School District Board of Education at which a permanent ban on surface oil drilling and extraction within city limits was discussed; and

WHEREAS, on September 8, 2011, the Planning Commission conducted a duly noticed public hearing regarding a proposed Ordinance to amend various Municipal Code provisions related to oil and gas drilling and extraction; and

WHEREAS, the Planning Commission considered the proposed amendments to the City of Beverly Hills Municipal Code, as set forth in the draft ordinance attached hereto as Exhibit A (the "Amendments"); and

WHEREAS, the Planning Commission finds that the proposed Amendments promote the public health, safety, and general welfare, and that such Amendments are consistent with the general objectives, principles, and standards of the General Plan, including the following policies from the Conservation Element of the General Plan:

CON 21.1 New Extraction Activities. Prohibit new drill sites in new locations within the City for production of oil, gas, or other hydrocarbon substances.

CON 21.2 Existing Extraction Facilities. Develop a plan to phase out existing oil drilling sites as soon as practicable.

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

Section 1. The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq.("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City's local CEQA Guidelines (hereafter the "Guidelines"). The project includes the adoption of the Amendments to prohibit surface oil drilling and extraction within the city. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment. The project, therefore, is exempt from the environmental review requirements of CEQA pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

Section 2. The Planning Commission does hereby find that surface oil drilling and extraction activities are prohibited throughout the City with the one exception of the Venoco

site located on Beverly Hills School District property adjacent to the high school. Surface oil drilling is prohibited in all other areas of the City due to its incompatibility to other permitted land uses. Moreover, surface oil drilling and excavation activities generate odors and noise that adversely affect the public welfare. Directional drilling also has the potential to affect sensitive land uses and, therefore, must maintain a distance of 500 feet from any park or school site.

Section 3. The Planning Commission does hereby recommend to the City Council the adoption of an ordinance approving and enacting the proposed Amendments substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 4. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: 9/8/2011

Craig Corman
Vice Chair of the Planning Commission of
the City of Beverly Hills, California

Attest:

Secretary

Approved as to form:

David M. Snow
Assistant City Attorney

Approved as to content:

Jonathan Lait, AICP
City Planner

1389670.5

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES) SS.

CITY OF BEVERLY HILLS)

I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1618 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on September 8, 2011, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES: Commissioners Rosenstein, Cole, and Vice Chair Corman.

NOES: None.

RECUSED: Chair Yukelson and Commissioner Furie.

ABSENT: None.

JONATHAN LAIT, AICP
Secretary of the Planning Commission /
City Planner
City of Beverly Hills, California

[DRAFT] 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 590 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. **<u>CEQA Findings.</u>**

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 rescinds and revokes Interim Ordinance No. 11-O-2603, which rescission and revocation 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:

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

Attachment 3
Planning Commission Staff Report, dated September 8, 2011

City of Beverly Hills
Planning Division
455 N. Rexford Drive Beverly Hills, CA 90210
TEL. (310) 458-1140 FAX. (310) 858-5966

Planning Commission Report

Meeting Date: September 8, 2011

Subject: **Oil Drilling Prohibition.** Adoption of a Resolution Recommending the City Council Amend Beverly Hills Municipal Code Sections 10-5-301; 10-5-302; 10-5-306; 10-5-316 and 10-5-323; and, Adopt an Ordinance 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 Revoking Ordinance No. 11-0-2603.
PROJECT APPLICANT: CITY OF BEVERLY HILLS

Recommendation: Adopt the attached Resolution

REPORT SUMMARY

This report provides background information related to surface oil drilling and excavation activity in the City and summarizes recent Council action and public meetings held over the past eight months. The report includes a Planning Commission resolution that recommends that the City Council adopt an ordinance prohibiting future surface oil drilling and excavation in the city.

BACKGROUND

Venoco Inc. operates the only surface oil drilling and extraction site within the City of Beverly Hills. It is located on Beverly Hills Unified School District property adjacent to the high school. Drilling operations are regulated in the municipal code and this facility is governed by a three party lease agreement among Venoco, the City, and the school district. The lease expires on December 31, 2016 and includes a three year ban on any further drilling at the site after expiration.

In addition to the Venoco site, there are other slant drilling or directional drilling operations that extend into the city limits below ground. The surface operations of these sites are located outside of the city limits. Directional drilling operators must obtain a permit from the city pursuant to local regulations. Currently there is no limitation on how close a directional drilling operation can be from city limits or sensitive land uses.

Surface oil drilling and extraction activity is prohibited on every property in the city, except the aforementioned Venoco site. On January 25, 2011, the City Council adopted an interim ordinance prohibiting future drilling and oil extraction in the city. The Planning Commission was directed to study a permanent ordinance implementing this prohibition based on an incompatibility of drilling operations with other permitted city land uses. The interim ordinance was extended in March, 2011, and expires

Attachment(s):
A. Draft PC Resolution
B. Public Notice

Report Author and Contact Information:
Jonathan Lait, AICP
(310) 285-1118
jlait@beverlyhills.org

January 25, 2012. The interim ordinance has no impact on the existing lease or operation of the Venoco site.

On July 7, 2011, the City Manager provided a progress report to the City Council regarding School Board discussions related to the proposed permanent ban on oil drilling activity from surface areas in the city after December 31, 2016. A joint City Council and Beverly Hills Unified School District Board of Education meeting was held on August 9, 2011. Community members and elected officials raised concerns about the health and environmental impacts of the remaining drill site operation and fiscal impacts to the school district when the oil extraction operation ceases in 2016.

The city earned approximately one million dollars in royalties from the Venoco operation last fiscal year. The royalties are placed into the city's General Fund. The Board of Education reports approximately one million dollars annually in revenue from the Venoco operation. The lease agreement between the three parties was established in 1978 and included the 2016 lease expiration date. The City Council and Board of Education set up an Ad Hoc committee to explore opportunities to lessen the fiscal impact to the school district when the lease expires.

DISCUSSION

The City Council directed the Planning Commission to review and forward a recommendation prohibiting future oil drilling and extraction activity in the city.

Oil Drilling and Extraction Prohibition

The proposed draft ordinance would ban future drilling and extraction of oil, gas and other hydrocarbon substances from surface locations in the city. The ordinance amends municipal code sections 10-5-301; 10-5-302; 10-5-306; 10-3-516 and, adds a new section 10-5-323. As detailed in the attachment, these sections relate to the regulatory purpose and restrictions on drilling.[1]

The proposed permanent ordinance does not affect the existing surface operations related to the Venoco site adjacent to the high school, which can continue to operate until December 31, 2016 consistent with the three party lease agreement. However, the ordinance prohibits future drilling and extraction activities after December 31, 2016 at the Venoco site. The ordinance includes a provision that preserves the City Council's authority to extend the December 31, 2016 timeframe upon application of the property owner and upon a finding by the City Council that an extension of time would be in the public interest. (*See* Section 10-5-323 B.)

Land Use Impacts

Surface oil drilling and extraction activity is an intense industrial land use that is prohibited throughout the city due to the impacts it generates and incompatibility with other land uses. The Venoco site is the only remaining operation in the city that has a vested right to continue its operation, but that right terminates on December 31, 2016, pursuant to the terms of Venoco's existing lease agreement. There is no other similar industrial activity or use currently permitted in the city. Surface drilling and extraction activities generate odors and noise that adversely affect the public welfare. Any establishment of new

[1] It should be noted that Article 3 (Oil Wells) of Chapter 5 (Mining and Extraction) of Title 10 (Planning and Zoning) as presented in the electronic version of the Municipal Code Available on the City's website already contains most of the proposed amendments, however, those provisions amended by Ordinance No. 11-O-2603 would remain valid only through January 25, 2012, unless otherwise extended or revoked.

surface oil drilling or extraction activities, and any extension of the current activities after 2016 would exacerbate the incompatibility of this activity to adjacent land uses and properties.

Further, the proposed ordinance amendments are consistent with policies of the Conservation Element of the General Plan, including the following:

> CON 21 Oil & Gas. Minimized impacts from oil and gas activities.
>
> CON 21.1 New Extraction Activities. Prohibit new drill sites in new locations within the City for production of oil, gas, or other hydrocarbon substances. (Imp. 2.1)
>
> CON 21.2 Existing Extraction Facilities. Develop a plan to phase out existing oil drilling sites as soon as practicable. (Imp. 2.1)

Directional Drilling
The School District has expressed concern that any ordinance drafted by the City not permit oil well drilling operations to relocate into an adjacent jurisdiction and closer to sensitive uses involving children. In response to this concern, the proposed ordinance prohibits any drilling beneath the City from originating at a site that is within five hundred feet of a school or park property.

The Planning Commission may want to consider whether this prohibition should be modified to omit parks or include other sensitive uses such as residences.

ENVIRONMENTAL ASSESSMENT

This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The project includes the adoption of a resolution forwarding a recommendation to the City Council to prohibit surface oil drilling and extraction within the city. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment. The project, therefore, is exempt from the environmental review requirements of CEQA pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

PUBLIC OUTREACH AND NOTIFICATION

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Newspaper Notice	10 Days	August 29, 2011	August 26, 2011	13 Days

Public Comment

No public comments were received at the time this report was prepared.

NEXT STEPS

After the Planning Commission conducts its public hearing and if it acts on the proposed resolution the subject ordinance will be scheduled for hearing before the City Council. The anticipated Council hearing date is September 20, 2011.

Report Reviewed By:

Jonathan Lait, AICP, City Planner

ATTACHMENT A

Resolution including Draft Ordinance

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING CITY COUNCIL ADOPTION OF 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

WHEREAS, on January 25, 2011, the City Council adopted Ordinance No. 11-O-2603, an interim urgency ordinance prohibiting future surface oil drilling and extraction in City and directed the Planning Commission to forward recommendations for a permanent prohibition ordinance; and

WHEREAS, on March 1, 2011, the City Council extended the interim urgency ordinance to January 25, 2112; and

WHEREAS, on August 9, 2011, the City Council held a joint public meeting with the Beverly Hills Unified School District Board of Education at which a permanent ban on surface oil drilling and extraction within city limits was discussed; and

WHEREAS, on September 8, 2011, the Planning Commission conducted a duly noticed public hearing regarding a proposed Ordinance to amend various Municipal Code provisions related to oil and gas drilling and extraction; and

WHEREAS, the Planning Commission considered the proposed amendments to the City of Beverly Hills Municipal Code, as set forth in the draft ordinance attached hereto as Exhibit A (the "Amendments"); and

WHEREAS, the Planning Commission finds that the proposed Amendments are required for the public health, safety, and general welfare, and that such Amendments are consistent with the general objectives, principles, and standards of the General Plan, including the following policies from the Conservation Element of the General Plan:

CON 21.1 New Extraction Activities. Prohibit new drill sites in new locations within the City for production of oil, gas, or other hydrocarbon substances.

CON 21.2 Existing Extraction Facilities. Develop a plan to phase out existing oil drilling sites as soon as practicable.

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

Section 1. The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq.("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City's Local CEQA Guidelines (hereafter the "Guidelines"), and the City's environmental guidelines. The project includes the adoption of the Amendments to prohibit surface oil drilling and extraction within the city. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment. The project, therefore, is exempt from the environmental review requirements of CEQA pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

Section 2. The Planning Commission does hereby find that surface oil drilling and extraction activities are prohibited throughout the City with the one exception of the Venoco site located on Beverly Hills School District property adjacent to the high school. Surface oil

drilling is prohibited in all other areas of the City due to its incompatibility to other permitted land uses. Moreover, surface oil drilling and excavation activities generate odors and noise that adversely affects the public welfare. Directional drilling also has the potential to affect sensitive land uses and, therefore, must maintain a distance of 500 feet from any park or school site.

Section 3. The Planning Commission does hereby recommend to the City Council the adoption of an ordinance approving and enacting the proposed Amendments substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 4. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: 9/8/2011

_____
Dan Yukelson
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

_____
Secretary

Approved as to form:

_____
David M. Snow
Assistant City Attorney

Approved as to content:

_____
Jonathan Lait, AICP
City Planner

EXHIBIT A

[DRAFT] 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. 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 590 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:

EXHIBIT A

"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 rescinds and revokes Interim Ordinance No. 11-O-2603, which rescission and revocation 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:

BARRY BRUCKER
Mayor of the City of Beverly Hills,
California

EXHIBIT A

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

_____
LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

_____
JEFFREY KOLIN
City Manager

ATTACHMENT B

Public Notice

NOTICE of PUBLIC HEARING

DATE: September 8, 2011

TIME: 1:30 PM, or as soon thereafter as the matter may be heard

LOCATION: Council Meeting Room 280 A
Beverly Hills City Hall
455 North Rexford Drive
Beverly Hills, CA 90210

The Planning Commission of the City of Beverly Hills, at its regular meeting on Thursday, February 24, 2011, will hold a public hearing beginning at ***1:30 PM*** to consider:

AN ORDINANCE OF THE CITY OF BEVERLY HILLS TO PROHIBIT DRILLING AND EXTRACTION OF OIL, GAS AND OTHER HYDROCARBON SUBSTANCES FROM SURFACE LOCATIONS IN THE CITY

On January 25, 2011, the City Council adopted an interim urgency ordinance to prohibit drilling and extraction from surface locations in the City. Pursuant to State Law, the interim ordinance was effective for an initial period of 45 days. On March 1, 2011, the City Council extended interim ordinance for a period of 10 months and 15 days to allow the City's Planning Commission to consider the proposed permanent ordinance. The proposed ordinance will be presented to the City Council at a future noticed public hearing.

The proposed ordinance has been environmentally reviewed pursuant to the California Environmental Quality Act ("CEQA"), (Public Resource Sections 21000, et seq.), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and the City's Local CEQA guidelines and has been determined to be exempt pursuant to the Guidelines Section 15061 (b) (3) in that it can be seen with certainty that prohibiting drilling and extraction within the City will not result in an potentially significant environmental impacts.

All interested persons are invited to attend and speak on this matter. Written comments may also be submitted and should be addressed to the City Council, c/o City Clerk, 455 N. Rexford Drive, Room 290, Beverly Hills, CA 90210. The comments should be received prior to the hearing date. Appeal hearings before the City Council are de novo, and the Council may consider any and all issues associated with the matter being appealed.

Please remember, if you challenge the Council's action in court, you may be limited to raising only those issues you or someone else raised at the hearing before the City Council or in written correspondence delivered to the City, either at or prior to the hearing.

If there are any questions regarding this notice, please contact Jonathan Lait, AICP, City Planner, Community Development Department, Planning Division, at 310-285-1118 or jlait@beverlyhills.org. Copies of the application, plans, and other records regarding this matter are available for review in the Community Department/Planning Division, 455 N. Rexford Drive, Suite 100, Beverly Hills, California.

Approved as to form:

Jonathan Lait, AICP, City Planner