



AGENDA REPORT

Meeting Date: January 8, 2013

Item Number: D-3

To: Honorable Mayor & City Council

From: Susan Healy Keene, AICP, Director of Community Development
Michele McGrath, Principal Planner

Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS REVISING THE SEPARATION REQUIREMENTS BETWEEN OIL WELLS AND SENSITIVE USES, REQUIRING REGULAR INSPECTIONS OF OIL WELLS FOR SUBSIDENCE, AND REQUIRING AN ANNUAL REPORT TO THE CITY COUNCIL.

Attachments:

1. Proposed Ordinance
2. Legislative Digest Showing Changes from Current Code
3. Planning Commission Resolution No. 1670

RECOMMENDATION

Staff recommends that the City Council move to waive the full reading of the ordinance and that the ordinance entitled "An Ordinance of the City of Beverly Hills Revising the Separation Requirements Between Oil Wells and Sensitive Uses, Requiring Regular Inspections of Oil Wells For Subsidence, and Requiring an Annual Report to the City Council" be introduced and read by title only.

INTRODUCTION

Pursuant to City Council direction at its December 4, 2012 meeting, the Planning Commission considered and adopted a resolution on December 20, 2012, recommending that the City Council adopt an ordinance revising the separation requirements between oil wells and sensitive uses and requiring regular inspection of oil wells for subsidence. In addition, the Planning Commission recommended that the City Council direct Public Works staff to annually request documents from pertinent regulatory agencies relating to inspections and notices of

violation with regard to oil wells in the City and present an annual report of this information to the City Council.

BACKGROUND

The City's current oil well regulations restricting drilling for oil and gas in the City were initially adopted in 1979 and were modified in 2011. Drilling requests must comply with these regulations and, at its November 13, 2012 meeting, the City Council considered a request by Pacific Coast Energy Company to drill two oil wells into Beverly Hills from an existing drill site located at 9101 Pico Boulevard in the City of Los Angeles. At that meeting, the City Council directed the City Attorney's Office to draft a resolution of findings reflecting that the City Council was unable to approve the application. Subsequent to that meeting, new information was presented to the City Council regarding the application of the City's oil well regulations to existing drill sites in the City of Los Angeles.

At the December 4, 2012 City Council meeting, Councilmembers indicated that it was not the Council's intent that Beverly Hills regulations should govern the separation between drill sites and other uses if both are located in Los Angeles. Councilmembers also expressed interest in establishing a regular schedule for monitoring potential subsidence impacts from oil wells.

ORDINANCE PROVISIONS

Proximity to Sensitive Sites

A change is proposed to Subsection C.11 of Section 10-5-316 of the City's Zoning Code to clarify that any oil and gas or oil or gas well drilled pursuant to any Council permit shall be located at least 500 feet from any school or park site located in the City of Beverly Hills. This clarification would mean that proximity to school or park sites in other jurisdictions, such as the City of Los Angeles, would not be considered by the Beverly Hills City Council in approving or renewing oil well permits. The City Council requested this change stating that it was not the Council's intent when it adopted the oil well regulations in 2011 that these restrictions would apply to school and park sites outside of Beverly Hills. Councilmembers stated that they did not wish to exert authority over impacts that occurred exclusively in Los Angeles. The City of Los Angeles has its own regulations and approval process related to oil wells in Los Angeles.

City Inspection of Wells

At its December 4, 2012 meeting, City Councilmembers expressed interest in language that would require City inspection of wells under a specific time frame to determine if wells have resulted in any adverse effects with regard to subsidence. Such language would be added to Section 10-5-321 in the Zoning Code's oil well regulations which address subsidence that could occur from oil or gas extraction. The time frame suggested for City inspections is a minimum of once every two years. In addition, language has been proposed that would allow the City to impose a regulatory fee on oil well operators to recover the cost of subsidence monitoring pursuant to this Code section.

Annual Report on Oil Well Regulation

In response to public comment at the December 20, 2012 Planning Commission meeting, the revisions include a requirement that City staff annually report to the City Council on regulatory activity related to oil wells permitted in the City and that the City may recover the cost of this activity through a fee on oil well operators.

PLANNING COMMISSION REVIEW

The Planning Commission considered revisions to the City's oil well ordinance at a duly noticed public hearing on December 20, 2012. Public speakers included a representative of Pacific Coast Energy Company who stated that the company provides a subsidence report by a registered geologist with each drilling application and who responded to questions about the oil well permitting process, and resident Jody Kleinman who requested that the Planning Commission include in the ordinance an annual report on regulatory activity for oil wells in the City.

To recommend amendments to the Zoning Code, the Planning Commission must find that the public interest, health, safety, morals, peace, comfort, convenience, or general welfare requires the amendment. A majority of the three planning commissioners who participated in the December 20, 2012 review of oil well ordinance revisions supported the attached commission resolution that makes the following findings:

1. It is in the public interest to allow Los Angeles to have the authority to regulate and protect sensitive sites located in the City of Los Angeles, just as the Beverly Hills City Council wishes to maintain authority over sensitive uses within Beverly Hills City limits;
2. To protect and maintain public health and safety, subsidence inspections should be conducted on a regular schedule but not less than once every two years; and,
3. To protect and maintain public health and safety, City staff should report annually to the Council on regulatory activity related to oil wells in the City.

One of the three commissioners who reviewed the proposed ordinance revisions abstained on this matter, citing a general lack of information about the impacts of oil well drilling sites on sensitive uses.

ZONE TEXT AMENDMENT FINDINGS/GENERAL PLAN CONSISTENCY

The Planning Commission found that the proposed zone text amendments are minor changes to the City's oil well ordinance restricting oil and gas extraction activities in the City and the 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).

The Commission found that the proposed text amendment will serve to further the public interest, health, safety, morals, peace, comfort, convenience, and general welfare.

ENVIRONMENTAL DETERMINATION

This Ordinance 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, and is categorically exempt pursuant to CEQA Guidelines Section 15301.

FISCAL IMPACT

The City will incur minimal fiscal impact from administration of the recommended zone text changes as fees from energy companies will cover the cost of the inspections and reports included in the ordinance.

PUBLIC NOTICE

A public hearing notice was published in the Beverly Hills Courier and the Beverly Hills Weekly, two newspapers of local circulation. As of the writing of this report, no comments have been received in regard to this ordinance.

RECOMMENDED ACTION

Staff recommends that the City Council move to waive the full reading of the ordinance and that the ordinance entitled "An Ordinance of the City of Beverly Hills Revising the Separation Requirements Between Oil Wells and Sensitive Uses, Requiring Regular Inspections of Oil Wells For Subsidence, and Requiring an Annual Report to the City Council" be introduced and read by title only.

Susan Healy Keene, AICP
Director of Community Development


Approved By _____

Attachment 1
Proposed Ordinance

ORDINANCE NO. 13-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS REVISING THE SEPARATION REQUIREMENTS BETWEEN OIL WELLS AND SENSITIVE USES, REQUIRING REGULAR INSPECTIONS OF OIL WELLS FOR SUBSIDENCE AND REQUIRING AN ANNUAL REPORT TO THE CITY COUNCIL

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

Section 1. Subsection C.11 of Section 10-5-316 of Article 3 of Chapter 5 of Title 10, of the Beverly Hills Municipal Code is hereby revised 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 feet (500’) from any school or park site located in the City of Beverly Hills.”

Section 2. Section 10-5-321 of Article 3 of Chapter 5 of Title 10 of the Beverly Hills Municipal Code is hereby amended to read as follows:

“10-5-321: DIRECTOR PUBLIC WORKS; SUBSIDENCE AND MONITORING PUBLIC RECORDS OF DRILL SITE AND WELL INSPECTIONS

The Director of Public Works, from time to time as he deems appropriate but no less often than once every two years, shall determine if any adverse effect upon the surface of the city is occasioned or is in danger of being occasioned by reason of the removal of oil, gas, or other hydrocarbon substances from the subsurface of the city pursuant to a well regulated by the provisions of this article or pursuant to a well, no part of which is located within the city but which drains a subterranean oil or gas pool, part of which is in the city. In the event the Director of Public Works observes any such adverse effect or danger, the Director may order the immediate suspension of further production from such well or wells as may be located entirely or partly within the city, and, in the event of such an order, production on such wells shall be suspended by the permittee or other operator immediately upon receiving notice of such order. The permittee or other person lawfully producing oil or gas or oil and gas or any other hydrocarbon substance from any such well may appeal to the council. The council, upon good cause being shown by the permittee or such other person, may vacate or modify the order of the Director of Public Works, or, if no part of the well is in the city, the council may direct the city attorney to immediately commence such actions or proceedings as may be necessary for the abatement, removal, and enjoining of further drilling operations which adversely affect property within the city in the manner provided by law and to take such other action and to apply to any

court having jurisdiction to grant such relief as will restrain or enjoin any person from drilling or producing any such well.

The Director of Public Works shall annually request from those agencies that inspect oil wells drilled beneath the City, and from those agencies that inspect the sites from which such wells are drilled, all public records relating to inspections or notices of violation created within the previous year. Upon compiling the records each year, the Director shall provide to the City Council a summary of their contents.

The city council may impose a regulatory fee on oil well operators to recover the cost of subsidence monitoring and the monitoring of public records pursuant to this section.”

Section 3. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, 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.

Section 4. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

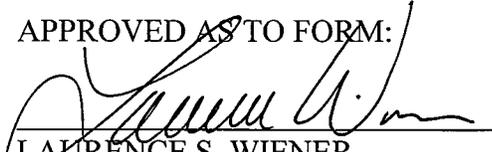
WILLIAM W. BRIEN, M.D.
Mayor of the City of
Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

[Signatures continue]

APPROVED AS TO FORM:


LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY C. KOLIN
City Manager



DAVID D. GUSTAVSON
Director of Public Works & Transportation



SUSAN HEALY KEENE
Director of Community Development

Attachment 2

Legislative Digest

(Changes From Current Code)

LEGISLATIVE DIGEST

AN ORDINANCE OF THE CITY OF BEVERLY HILLS REVISING THE SEPARATION REQUIREMENTS BETWEEN OIL WELLS AND SENSITIVE USES, REQUIRING REGULAR INSPECTIONS OF OIL WELLS FOR SUBSIDENCE AND REQUIRING AN ANNUAL REPORT TO THE CITY COUNCIL

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“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 feet (500’) from any school or park site **located in the City of Beverly Hills.**”

Section 2. Section 10-5-321 of Article 3 of Chapter 5 of Title 10 of the Beverly Hills Municipal Code is hereby amended to read as follows:

“10-5-321: **DIRECTOR PUBLIC WORKS; CITY ENGINEER SUBSIDENCE AND MONITORING PUBLIC RECORDS OF DRILL SITE AND WELL INSPECTIONS**

The **Director of Public Works**, ~~City Engineer~~ from time to time as he deems appropriate **but no less often than once every two years**, shall determine if any adverse effect upon the surface of the city is occasioned or is in danger of being occasioned by reason of the removal of oil, gas, or other hydrocarbon substances from the subsurface of the city pursuant to a well regulated by the provisions of this article or pursuant to a well, no part of which is located within the city but which drains a subterranean oil or gas pool, part of which is in the city. In the event the **Director of Public Works** ~~City Engineer~~ observes any such adverse effect or danger, the **Director** ~~City Engineer~~ may order the immediate suspension of further production from such well or wells as may be located entirely or partly within the city, and, in the event of such an order, production on such wells shall be suspended by the permittee or other operator immediately upon receiving notice of such order. The permittee or other person lawfully producing oil or gas or oil and gas or any other hydrocarbon substance from any such well may appeal to the council. The council, upon good cause being shown by the permittee or such other person, may vacate or modify the order of the **Director of Public Works**, ~~City Engineer~~ or, if no part of the well is in the city, the council may direct the city attorney to immediately commence such actions or proceedings as may be necessary for the abatement, removal, and enjoining of further drilling operations which adversely affect property within the city in the manner provided

by law and to take such other action and to apply to any court having jurisdiction to grant such relief as will restrain or enjoin any person from drilling or producing any such well.

The Director of Public Works shall annually request from those agencies that inspect oil wells drilled beneath the City, and from those agencies that inspect the sites from which such wells are drilled, all public records relating to inspections or notices of violation created within the previous year. Upon compiling the records each year, the Director shall provide to the City Council a summary of their contents.

The city council may impose a regulatory fee on oil well operators to recover the cost of subsidence monitoring and the monitoring of public records pursuant to this section.”

Attachment 3

Planning Commission Resolution No. 1670

RESOLUTION NO. 1670

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING THAT THE CITY COUNCIL AMEND THE MUNICIPAL CODE TO REVISE THE SEPARATION REQUIREMENTS BETWEEN OIL WELLS AND SENSITIVE USES AND REQUIRING REGULAR INSPECTIONS OF OIL WELLS FOR SUBSIDENCE, AND REQUIRING AN ANNUAL REPORT TO THE CITY COUNCIL

WHEREAS, the Planning Commission has considered the draft Ordinance that would amend the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the "Amendment"); and,

WHEREAS, the Planning Commission considered the zone text changes set forth in the proposed Amendment at a duly noticed public hearing on December 20, 2012, at which time it received oral and documentary evidence relative to the proposed Amendment; and,

WHEREAS, the Planning Commission finds that the proposed Amendment is required for the public health, safety, and general welfare, and that such Amendment is consistent with the general objectives, principles, and standards of the General Plan;

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

Section 1. This Ordinance 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, and is categorically exempt pursuant to CEQA Guidelines Section 15301.

Section 2. The Planning Commission does hereby find that it is in the public interest to allow Los Angeles to have the authority to regulate and protect sensitive sites located in the City of Los Angeles, just as the City of Beverly Hills should maintain authority over sensitive uses within its jurisdiction; therefore, the City's oil well ordinance should be amended to clarify that separation requirements between oil wells and sensitive uses such as schools and parks refers only to schools and parks located in the City of Beverly Hills. The Planning Commission further finds that to protect and maintain public health and safety, the City should meet minimum standards in inspecting oil wells in the City to ensure that no adverse effects or dangers are observed; therefore, the City's oil well ordinance should be amended to require regular City inspections, and it is recommended that such inspections shall occur no less often than once every two years. In addition, to protect and maintain public health and safety, the oil well ordinance should be amended to include a requirement that City staff annually report to the City Council on regulatory activity related to oils wells permitted in the City.

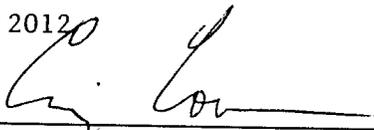
The proposed ordinance amendments are minor changes to the 2011 ordinance restricting oil and gas extraction activities in the City, and the amendments are consistent with policies of the Conservation Element of the General Plan, including the following: CON 21 Oil & Gas. Minimized impacts from oil and 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).

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

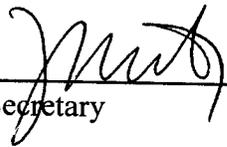
Section 4. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: December 20, 2012



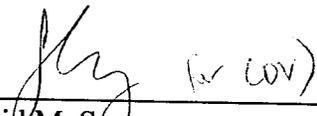
Craig Copman
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:



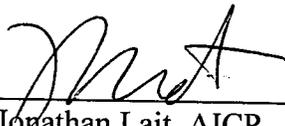
Secretary

Approved as to form:



David M. Snow
Assistant City Attorney

Approved as to content:



Jonathan Lait, AICP
Assistant Director of Community Development /
City Planner