

**City of Culver City, California
Agenda Item Report**

Meeting Date: 08/09/10		Item Number: <u>PH-3</u>	
CITY COUNCIL AGENDA ITEM: PUBLIC HEARING: FOUR-FIFTHS VOTE REQUIREMENT – Introduction and Adoption of an Interim Ordinance Extending for an Additional One Year Period the Temporary Moratorium, Established by Ordinance No. 2009-007 and Extended by Ordinance No. 2009-008, on the Drilling, Redrilling or Deepening of Any Wells Within the Jurisdiction of the City of Culver City that are Associated with Oil and/or Gas Operations, and Declaring the Urgency thereof.			
Contact Person/Dept.: Sherry Jordan/Community Development; and Heather Baker/City Attorney		Phone Number: 310-253-5710; 310-253-5660	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☒ No ☐	
Public Hearing: ☒		Action Item: ☐ Attachments: ☒	
Commission Action Required: Yes ☐ No ☒		Date: _____	
Public Notification: (E-Mail) Meetings and Agendas – City Council (08/05/09); (Email) Plains Exploration and Production (08/04/10); (Email and mail) individuals who spoke at prior Council Meetings related to this topic (08/04/10); (Publication) Culver City News (07/29/10)			
Department Approval: Sol Blumenfeld (08/05/10) Carol Schwab (by H. Baker) (08/04/10)		City Attorney Approval: Carol Schwab (by H. Baker) (08/04/10)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (08/05/10)		Acting City Manager Approval: Martin Cole (08/05/10)	

RECOMMENDATION:

Staff recommends that the City Council introduce and adopt an interim Ordinance (Attachment 1) extending for an additional one year period the temporary moratorium, established by Ordinance No. 2009-007, and extended by Ordinance No. 2009-008, on the use of land within the City for the drilling, redrilling or deepening of any wells within the jurisdiction of the City of Culver City that are associated with oil and/or gas operations, and declaring the urgency thereof. **(This item requires a four-fifths vote.)**

BACKGROUND:

On August 24, 2009, the City Council adopted Interim Ordinance No. 2009-007 establishing a 45-day temporary moratorium on the use of land within the City for the drilling, redrilling or deepening of any wells within the jurisdiction of the City of Culver City that are associated with oil and/or gas operations and declaring the urgency thereof (the “Moratorium”) (Attachment 2). The City Council adopted the Moratorium pursuant to Section 614 of the City Charter, pursuant to its inherent

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police powers as set established by the State Constitution and voluntarily in accordance with Section 65858 of the California Government Code, in order to allow the City time to thoroughly review, study and revise the City's laws, rules, procedures and fees related to oil and/or gas operations, which will enable the City to adequately and appropriately balance the rights of existing operators and future applicants who wish to operate in the Inglewood Oil Field (the "Oil Field"), with the preservation of the health, safety and welfare of the communities surrounding the Oil Field, including Culver City and the region.

On September 21, 2009, consistent with the provisions of Government Code Section 65858 (d), the City Council issued a report on the actions and measures taken by the City since the adoption of the Moratorium to help keep the existing oil operators, future applicants who wish to operate in the Oil Field and the community well-informed on this matter (Attachment 3). Subsequent to the issuance of such report, on October 5, 2009, the City Council adopted Ordinance No. 2009-008 (Attachment 4), which extended the Moratorium an additional ten months and 15 days from the initial 45-day period through August 23, 2010, as permitted by Government Code Section 65858 (a).

On July 26, 2010, consistent with the provisions of Government Code Section 65858 (d), the City Council issued a report on the actions and measures taken by the City since the adoption of the Moratorium to help keep the existing oil operators, future applicants who wish to operate in the Oil Field and the community well-informed on this matter (the "Report") (Attachment 5).

By its own terms, the Moratorium shall expire and be of no further force and effect on August 23, 2010, unless extended by four-fifths vote of the City Council.

Effective regulation should be adopted that allows oil drilling operations to co-exist safely with the communities surrounding the Oil Field and throughout the City and region. Provisions of the City's current laws, rules, procedures and fees relating to oil drilling activities (the "Existing Regulations"), currently set forth in the Culver City Municipal Code ("CCMC"), including Chapter 11.12, Oil, Gas and Hydrocarbons, need review, study and revisions in order to protect the health, safety and welfare of the communities surrounding the Oil Field, including Culver City, and the region. Those revisions will likely result in the City amending, repealing and adding provisions to the CCMC, including Title 17, the Culver City Zoning Code.

Without the extension of the Moratorium on the drilling, re-drilling and deepening of Oil Wells, the City may be required to process applications for such drilling activities despite the fact the Existing Regulations are in need of updating and

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studies should be done to provide recommendations of possible new standards for oil drilling activities.

DISCUSSION:

Review and Study of Existing Regulations:

As set forth in the Report, the City has continued its work with its technical and legal consultants to review various oil field regulations adopted by other local agencies, including the County of Los Angeles (the "County"). Additionally, the City continues to work diligently with the County and oil field operator Plains Exploration and Production ("PXP") as the County further studies its recently adopted Baldwin Hills Community Standards District ("CSD"), which regulates oil operations in that portion of the Oil Field that is within the jurisdiction of the County. By working with the County and PXP, the City is attempting to bring about mutually acceptable and uniform regulations of the Oil Field, which spans across two jurisdictions—the City and the County. These cooperative efforts are ongoing and it is hoped that they will reach a conclusion in the near future.

The City also continues to study possible revisions to the Culver City Municipal Code ("CCMC"), Title 17, Zoning, which appropriately balance the rights of existing operators and future applicants who wish to operate in the Oil Field, with the preservation of the health, safety and welfare of the communities surrounding the Oil Field, including Culver City and the Region. With the assistance of its consultants, draft regulations have been prepared which continue to be reviewed by City staff. The study, review and revisions are not yet complete. Once completed, the draft amendments to the Zoning Code will be required to go through a public review process, including consideration by the Planning Commission with a recommendation to the City Council. It is anticipated that, after receiving community input at a public meeting, a draft ordinance amending Title 17 would be considered by the Planning Commission no later than spring of 2011.

Since the establishment of the Moratorium, the City has dedicated a significant amount of time and resources in obtaining technical, legal, and staff to study possible revisions to the CCMC. However, during this period, City staff and consultants have also had to spend significant and valuable time and resources defending litigation that PXP filed against the City challenging the moratorium and the City's right to enact new oil and gas drilling regulations. All of the decisions in the litigation have found in the favor of the City, including a final judgment upholding the City's moratorium and its right to adopt new regulations for oil and gas drilling. Defending this litigation has diverted the City's staff and technical

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and legal consultants from spending more time and resources on the City's oil drilling ordinance.

The City, with the assistance of its consultants, is pursuing its study, review and revisions as expeditiously as is practicable.

Declaration of Urgency:

The extension of the Moratorium is necessary in order to protect the City from the potential health and safety impacts of use of land for oil and/or gas operations approved under the Existing Regulations, including air quality, noise, releases, spills and other impacts, and to preserve the quality of life and protect the health, safety and welfare of the communities surrounding the Oil Field and throughout the City and the region.

The Moratorium continues to be required to preserve the public health, safety and welfare and should be extended immediately by adoption of this urgency ordinance, to make certain permits for use of land for the drilling, redrilling or deepening of wells associated with oil and/or gas operations are issued only under adequate regulations. Extension of the Moratorium will allow the City sufficient time to conclude the preparation of comprehensive regulations for such activities. The termination of the Moratorium would create a serious threat to the orderly and effective implementation of any amendments to the CCMC or other related regulations which may be adopted by the City Council as a result of studying this issue, in that use of land within the City for the drilling, redrilling and deepening of wells associated with oil and/or gas operations under the Existing Regulations may be in conflict with or frustrate the possible updates and revisions to the CCMC and other regulations.

There is a current and immediate threat to the public health, safety and welfare of the City and its community, thereby necessitating the extension of the Moratorium, in that the approval of permits for use of land for the drilling, redrilling or deepening of wells associated with oil and/or gas operations, would be required to be processed under the Existing Regulations, which do not provide adequate protections for the communities surrounding the Oil Field, including Culver City and the region.

In fact, since the initial adoption of the Moratorium on August 24, 2009, the City received information that four Notices of Intention to Drill New Wells, which were pending before the State Division of Oil, Gas and Geothermal Resources ("DOGGR") for permits to drill within the jurisdiction of the City ("DOGGR Permits"), were approved on August 25, 2009. In addition, after the Moratorium was adopted, Plains Exploration and Production ("PXP"), the applicant for the

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DOGGR Permits and the operator of the Oil Field, attempted to apply to the City for the drilling of three new wells in the Oil Field within the City's jurisdiction. Also, on September 21, 2009, DOGGR received a fifth Notice of Intention to Drill New Wells from PXP for a permit to drill a new well almost 10,000 feet in depth within the City's jurisdiction.

Moratorium:

If the Council adopts the proposed Ordinance, then the Moratorium shall be extended through and including August 23, 2011, during which time no application for permit shall be accepted, no consideration of any application for permit shall be made and no permit shall be issued by the City, for the use of land within the City for the drilling, redrilling or deepening of any well relating to oil and/or gas production. This Moratorium will allow the City time to continue its review, study and revisions to the City's laws, rules, procedures and fees related to oil drilling activities, which will enable the City to adequately and appropriately balance the rights of existing operators and future applicants who wish to operate in the Oil Field, with the preservation of the health, safety and welfare of the communities surrounding the Oil Field, including Culver City and the region.

Legal Authority:

Section 614 of the City Charter provides:

“Any ordinance declared by the City Council to be necessary as an urgency measure for preserving the public peace, health or safety and containing a statement of the reasons for its urgency may be introduced and adopted at any regular, adjourned, or special meeting if passed by a vote of at least four-fifths of its members.”

If enacted by a four-fifths vote of the City Council, the proposed Ordinance would take effect immediately and would continue in full force and effect through August 23, 2011 (unless repealed by the City Council).

The procedures set forth in Government Code Section 65858, which the City has chosen to follow for imposition and extension of the Moratorium provide that, after notice and a public hearing, a moratorium adopted by an urgency ordinance may be extended for 10 months and 15 days and subsequently extended for an additional one year period by a four-fifths vote of the City Council upon a finding the action is required to protect the public safety, health and welfare. Pursuant to the procedures established by Section 65858, if so extended, such moratorium would have no further force and effect two years after its original adoption.

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FISCAL ANALYSIS:

The adoption of the Ordinance would result in the City not collecting any permit application fees for the drilling of new wells or the deepening of existing wells. Because it is speculative to determine the exact number of applications the City may receive during the period of the Moratorium, it is difficult to determine the fiscal impact at this time.

ATTACHMENTS:

1. Proposed Ordinance
2. Ordinance No. 2009-007
3. Resolution No. 2009-R076
4. Ordinance No. 2009-008
5. Resolution No. 2010-R059

MOTION:

That the City Council:

Introduce and Adopt an interim Ordinance extending the moratorium established by Ordinance No. 2009-007 and extended by Ordinance No. 2009-008, on the use of land for the drilling, redrilling or deepening of any wells within the jurisdiction of the City of Culver City that are associated with oil and/or gas operations, and declaring the urgency thereof. (This item requires a four-fifths vote.)