

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

Meeting Date: 07/02/12		Item Number: <u>A-2</u>	
CITY COUNCIL AGENDA ITEM: 1) Adoption of a Resolution Urging the State of California's Division of Oil, Gas & Geothermal Resources (DOGGR) to Place a Moratorium on Hydraulic Fracturing ("Fracking"); and 2) Discussion of Options Related to Local Regulation of Fracking.			
Contact Person/Dept.: Carol Schwab and Heather Baker		Phone Number: 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) All Email Notification Categories (06/27/12)			
Department Approval: Carol Schwab (06/28/12)		City Attorney Approval: Carol Schwab (06/28/12)	
Chief Financial Officer Approval: Jeff Muir (06/28/12)		City Manager Approval: John Nachbar (06/28/12)	
<u>RECOMMENDATION:</u> Staff recommends the City Council: 1. Adopt a Resolution urging the State of California's Division of Oil, Gas & Geothermal Resources (DOGGR) to place a moratorium on hydraulic fracturing ("fracking"); and 2. Discuss options related to local regulation of fracking and direct staff as deemed appropriate. <u>BACKGROUND:</u> DOGGR is currently engaged in the process of studying potential regulations on fracking. As part of this effort, DOGGR has held several community meetings throughout the State seeking public comment relating to potential regulation of fracking. On June 12, 2012, DOGGR held one such community meeting in the City of Culver City, City Council Chambers, during which a significant number of people in the Los Angeles County Region, including Culver City residents, provided testimony opposing the practice of fracking and urging DOGGR to adopt State legislation banning fracking. At the June 12th community meeting, Mayor Weissman, on behalf of the City Council, provided testimony regarding the potential risks of fracking and encouraged the State to take the necessary and appropriate action to provide comprehensive regulations concerning the practice of fracking in order to ensure the public health and safety and the environment are protected.			

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At the City Council meeting of June 18, 2012, the City Council directed staff to agendize the consideration of a resolution urging DOGGR to place a moratorium on fracking and the disposal of fracking wastewater by injection wells until such time as DOGGR enacts legislation to regulate fracking.

Staff recommends the City Council consider and discuss these items and direct staff as deemed appropriate.

DISCUSSION:

Proposed Resolution:

The proposed Resolution urges DOGGR to immediately place a moratorium on hydraulic fracturing and on the disposal of fracking wastewater by injection wells until DOGGR takes all necessary and appropriate actions to adopt, implement and enforce comprehensive regulations concerning the practice of fracking that will ensure that public health and safety and the environment will be adequately protected.

City's Authority to Adopt Local Fracking Regulations

During public comment at recent City Council meetings, the Culver City community expressed a desire for the City to adopt local regulations or a ban on fracking. There is some dispute as to whether a municipal ban on fracking would be preempted by California's delegation of authority to DOGGR to regulate oil and gas production, particularly with respect to subsurface operations. Although some of DOGGR's regulations may affect fracking, DOGGR thus far has not directly regulated fracking. For this and other reasons, an argument may be made that a City ban or moratorium on fracking is not preempted. If the City were to enact a temporary ban or moratorium on fracking, the City could anticipate that the oil operator, Plains, Exploration and Production Company (PXP), may mount a legal challenge to such ban or moratorium. The costs of defending against such a lawsuit would be significant and it is uncertain as to how a court would ultimately rule.

FISCAL ANALYSIS:

There is no fiscal impact associated with the adoption of the proposed Resolution. Should City Council choose to regulate or ban fracking in the future, there would be costs associated with the enforcement of such regulations. Such costs are difficult to determine at this time. In addition, if a ban was adopted and it caused a decrease in oil drilling/production in the City, this could result in a decrease in revenues from permit fees and business taxes, however such a result is speculative. Further, should the City's ban or regulations be legally challenged, there would be significant legal costs in defending such lawsuit.

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ATTACHMENT(S):

1. Proposed Resolution

MOTION(S):

That the City Council:

1. Adopt a Resolution urging the State of California's Division of Oil, Gas & Geothermal Resources (DOGGR) to place a moratorium on hydraulic fracturing ("fracking"); and
2. Discuss options related to local regulation of fracking and direct staff as deemed appropriate.