

City of Culver City, California
Agenda Item Report

Meeting Date: 10/05/09		Item Number: <u>PH-1</u>	
CITY COUNCIL AGENDA ITEM: PUBLIC HEARING (FOUR-FIFTHS VOTE REQUIREMENT) – Introduction and Adoption of an Interim Ordinance of the City of Culver City, California, Extending for an Additional 10 Months and 15 days Ordinance No. 2009-007 and the Temporary Moratorium Established therein, 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.			
Contact Person/Dept.: Thomas Gorham/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 (10/01/09); (E-Mail) Plains Exploration and Production (09/24/09); (E-Mail) individuals who spoke at prior Council Meetings related to this topic (09/24/09); (Publication) Culver City News (09/17/09)			
Department Approval: Sol Blumenfeld (10/01/09) Carol Schwab (10/___/09)		City Attorney Approval: Carol Schwab (10/01/09)	
Chief Financial Officer Approval: Jeff Muir (10/01/09)		City Manager Approval: Mark Scott (10/___/09)	

RECOMMENDATION:

Staff recommends that the City Council introduce and adopt an interim Ordinance (Attachment 1) extending for an additional 10 months and 15 days Ordinance No. 2009-007 and the temporary moratorium established therein 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.)**

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 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 "Interim Ordinance") (Attachment 2). The City Council adopted the Interim Ordinance pursuant to: (1) Section 614 of the City Charter, (2) its inherent police powers as established by the State Constitution, and (3) voluntary

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compliance with the procedures set forth in 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 Interim Ordinance 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 3).

By its own terms, the Interim Ordinance shall expire and be of no further force and effect on October 8, 2009, unless extended by a 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, but not limited to, 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 Interim Ordinance, , the City may be required to process applications for such drilling activities despite the fact the Existing Regulations are in need of updating and studies should be done to provide recommendations of possible new standards for oil drilling activities which are vital to ensuring the health and safety of the community.

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

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agencies, including the County of Los Angeles (the "County"). Additionally, the City continues to work with the County as it 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. The initiation of the County's study is a result of a unanimous action taken by the County Board of Supervisors on August 4, 2009. By working with the County, the City is attempting to bring about mutually acceptable and uniform regulations applicable to operations within the Oil Field, which spans across two jurisdictions—the City and the County.

The City also continues to study its Existing Regulations and possible revisions to the Culver City Municipal Code, including Title 17, Zoning, which appropriately balance the rights of existing operators and future applicants who wish to use land within the City 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 are currently being 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 an ultimate recommendation being considered by the City Council.

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 Interim Ordinance 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 Interim Ordinance continues to be required to preserve the public health, safety and welfare and should be extended immediately by adoption of the proposed ordinance, to make certain the drilling, redrilling or deepening of wells associated with oil and/or gas operations is conducted only under adequate regulations that appropriately balance the rights of existing operators and future applicants who wish to operate in the Oil Field, while preserving the health, safety and welfare of the communities surrounding the Oil Field, including Culver City and the Region. Extension of the Interim Ordinance will allow the City sufficient time to conclude the preparation of comprehensive regulations for such activities

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which have continued during the period of the Interim Ordinance but are not yet complete.

The expiration of the Interim Ordinance on October 8, 2009 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 residents, business owners and visitors to the City and surrounding communities, thereby necessitating the extension of the Interim Ordinance, 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, which would be required to be processed under the Existing Regulations, do not provide adequate protections for the communities surrounding the Oil Field, including Culver City and the Region.

In fact, since the adoption of the Interim Ordinance, the City has received information that the 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 by DOGGR on or about August 25, 2009. In addition, after the Interim Ordinance was adopted, Plains Exploration and Production ("PXP"), the applicant for the 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, despite the fact that the County's Final Environmental Impact Report for the Baldwin Hills Community Standards District dated October 4, 2008 (page 3-3, Table 3.1), estimated that PXP would drill no new wells within Culver City in 2009 and only one new well in 2010. 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 City Council adopts the proposed Ordinance, then the Interim Ordinance shall be extended through and including August 23, 2010, 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, and no drilling, redrilling or deepening of any well relating

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to oil and/or gas production shall commence. The extension of the Interim Ordinance 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.

It should be noted the proposed Ordinance modifies the Interim Ordinance so that if the City Council, based on substantial evidence presented in writing to the City Council at a duly noticed public meeting held no less than 30 nor more than 90 City-business days after the City Clerk's receipt of that evidence, determines the City's receipt and consideration of an application for a permit to drill within the portion of the Oil Field within the City's jurisdiction is necessary for the preservation of the public's health and safety, then such application may be filed and processed in accordance with the City's then current regulations and authority, subject to any and all DOGGR, California Environmental Quality Act ("CEQA") and CEQA Guidelines and other applicable requirements.

Legal Authority:

Case law has consistently recognized temporary moratoria as a legitimate planning tool.

The procedures set forth Government Code Section 65858 and which the City has chosen to follow for extension of Interim Ordinance provide, after notice and a public hearing, a moratorium adopted by an urgency ordinance may be extended for 10 months and 15 days 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, such extension of the Interim Ordinance would have no further force and effect 10 months and 15 days after its adoption; and, after another notice and public hearing, the Interim Ordinance may be further extended for an additional year.

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."

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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, 2010 (unless repealed by the City Council).

FISCAL ANALYSIS:

The adoption of the proposed 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 extension of the Interim Ordinance, 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

MOTION:

That the City Council:

Introduce and adopt an interim Ordinance extending for an additional 10 months and 15 days Ordinance No. 2009-007 and the temporary moratorium established therein 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.)