

MINUTES
GARDEN GROVE CITY COUNCIL

An adjourned regular meeting of the City Council of the City of Garden Grove was held in the Council Chamber, 11300 Stanford Avenue, on Monday, May 30, 1989, at 7:30 p.m..

ROLL CALL: PRESENT: (5) MAYOR DONOVAN, COUNCILMEMBERS DINSEN, KESSLER, LITTRELL, WILLIAMS

ABSENT: (0) NONE

ALSO PRESENT: City Manager, George Tindall; Assistant City Manager/Administrative Services/Community Services Director, Michael Fenderson; Assistant City Manager/Development Services Director, Patrick Importuna; City Attorney, Stuart Scudder; City Clerk, Carolyn Morris; Fire Chief, Lon Cahill; and Police Chief, John Robertson.

PUBLIC HEARING - APPEALS ON UNCLASSIFIED USE PERMIT NO. UUP-101-88 AND CERTIFICATION OF ENVIRONMENTAL IMPACT REPORT NO. EIR-1-88 (F:51.UUP-101-88)

Appeals on Unclassified Use Permit No. UUP-101-88 and Certification of Environmental Impact Report No. EIR-1-88, filed by a Councilmember and a citizen. The applicant, Chevron U.S.A., Inc., is requesting approval of an Unclassified Use Permit to establish an urban drill site for the exploration and possible production of oil and gas wells on an approximately 1.4-acre site located in the B-C (Business Center, Area 29, Zone A) district of the Community Center Specific Plan. The subject site is located on the west side of Nelson Street, north of Pearl Street, at 12891 Nelson. Pursuant to CEQA Guidelines, the City has prepared an Environmental Impact Report because the project may have a significant adverse effect on the environment.

The City Planning Commission, pursuant to Resolution No. 3980, approved UUP-101-88 and EIR-1-88 on April 13, 1989. Two appeals from action of the Planning Commission were filed, one by a Councilmember and the other by a citizen.

Pursuant to Legal Notice published on May 12, 1989, public hearing on the case was ordered by the City Council to be held on May 23, 1989, at which time the public hearing was closed and consideration was continued to this date.

Mayor Donovan commented that the public hearing on this matter has been closed, and no further public input will be received. The purpose of the meeting this evening is for City Council deliberation.

Councilman Littrell commented that he was contacted prior to the City Council meeting by an individual who expressed concern that the total public hearing on May 23 was not included in the Rogers rebroadcasting of the City Council meeting. The City Manager

commented that there were technical problems at the beginning of the meeting last week, and he indicated that a report would be provided to the City Council on why the total hearing was not rebroadcast.

Councilman Williams commented that while he realizes at the public hearing the procedures regarding pro and con testimony were followed, there were people who had to leave early and were not able to speak in opposition. He stated that he would be in favor of reopening the public hearing to allow those who did not have an opportunity to speak to do so. Mayor Donovan commented that the public hearing was held and has been closed. He commented that all Councilmembers have received many phone calls and letters and petitions regarding this matter; and, in his opinion, as a Council and individually, it is known where the people from the neighborhood stand and where others stand on this issue. He stated that it was his understanding that the matter was continued to allow the City Council to make its decision. This is a very emotional issue, but pros and cons could go on for many months; and somewhere along the line the City Councilmembers must make up their minds whether they are for or against the project. He stated that he is prepared to make a decision tonight, as he feels the Council has received the information that was requested and it's now time to make a decision.

Councilman Kessler commented that it is his understanding that the City Council cannot take public testimony without re-advertising the hearing, and he expressed concern that it is being suggested that the law be violated.

Councilman Dinsen inquired of the City Attorney whether the public hearing could be reopened without re-advertisement. The City Attorney responded in the negative, indicating that it would constitute due process problems to re-open a public hearing without notice after it has been closed.

Councilman Littrell commented in the future it probably should be noted that in public hearings where testimony is expected to be lengthy, five people speak in favor and then five people against, and so on in order that all people have an opportunity to speak early in the hearing.

Councilman Williams commented that by approving an Environmental Impact Report, a government body is not stating that the operation will not affect the environment. It is only a report in the process to approve or disapprove a project. He stated, in his opinion, the Environmental Impact Report is incomplete, as no notification was given to those along Garden Grove Boulevard who could be affected. He felt the proposed project would affect the safety of the children and would cause noise and water pollution and would lower property values in the area.

Councilman Williams moved, seconded by Councilman Dinsen, that EIR-1-88 be declared incomplete and not certified.

Councilman Dinsen commented that if this project is approved, there is one chance in ten that oil will be found and that the operation would be profitable for Chevron. There is the same one chance in ten that the City will receive revenue; however, there are ten chances in ten that the project will consume many gallons of water, there will be noxious odors, and that the City will have an eyesore. He commented that there are also chances that the pipeline could fail, that an earthquake could cause many adverse conditions, and that there could be problems with fire. Also, inasmuch as the City is not experienced in drilling oil, there is the possibility that there could be other problems of which the City Council is not aware.

The City Manager reviewed the action taken by the City Council on May 23, 1989, indicating that at that time the Environmental Impact Report was approved by Minute action, and staff has brought back this evening the Resolution which would consummate that action. He reviewed the options of the City Council, indicating that the Environmental Impact Report could be certified as was done by the Planning Commission, it could be certified with different conditions, or it could not be certified. As to the Unclassified Use Permit itself, it can be approved with the conditions of the Planning Commission or with added conditions. The City Council can only approve the Unclassified Use Permit if it also certifies the Environmental Impact Report, and he suggested that the City Council take action on the Environmental Impact Report first.

Councilman Littrell read from the Statement of Overriding Considerations which indicated in part "---the Commission concludes that the mitigation measures required for all phases of oil and gas exploration and production operations, as discussed in the findings hereabove, address each of the impacts identified in the EIR document and that those measures when implemented, in fact, will mitigate or reduce all significant measures---". He stated, in his opinion, the Planning Commission is indicating that ten buses going around the block is fine. He inquired into the Overriding Consideration that made this fine. He stated, in his opinion, this is the conclusion that would have to be arrived at in order to have this statement included. He indicated that, in his opinion, if the City Council adopts the proposed Resolution as it is, the City Council would be adopting the Planning Commission Resolution and all of its findings. He stated, in his opinion, everything was not addressed regarding overriding statements.

The City Manager commented that the Planning Commission, in its review, felt that the Environmental Impact Report addressed the issues. The City Council can make its own determination and can certify the EIR with different findings if desired. The Resolution before the City Council tonight would adopt the Planning Commission's findings. If the City Council has different findings, staff can return with another Resolution with the City Council findings.

Councilman Littrell inquired whether the City has obtained a development agreement with Chevron. The City Manager responded in the negative, indicating that as of this afternoon, Chevron has not agreed to a development agreement. Councilman Littrell stated that barring this agreement, he cannot approve the Environmental Impact Report as it is presented.

Councilman Littrell inquired into the City's policy of notifying people of public hearings. The City Manager indicated that the Council policy is to notify all those property owners living within 300 feet around a site. In addition, notification is given to entire streets or cul-de-sacs when a portion of same is within the 300-foot limit. Councilman Littrell inquired whether the people along Garden Grove Boulevard, where the pipeline is proposed to be installed, were notified of this hearing. The City Manager responded in the negative, indicating that if this project were to be approved and oil were to be found, there would be a need for an additional Environmental Impact Report and other studies. At such time the people along the proposed pipeline route would be notified.

Councilman Littrell indicated that he feels Chevron is a good developer and that the new Site Plan presented has many improvements; however, he does not feel the Council has really had the opportunity to review it, and he cannot support the EIR as he feels it is faulted.

Councilman Dinsen inquired into the instructions given to the consultant who prepared the EIR. The City Manager advised that the consultant was instructed to review and report the impact on all phases of construction of this proposed project. Councilman Dinsen indicated that it appears to him, if the Council were to approve the EIR for the production stage and also approve the drilling and exploration stages, Chevron would be up in the air because they could not know whether they would be able to go any further because of the need for an additional EIR and public hearings. He stated, in his opinion, all studies and documentation should be done at one time.

Councilman Littrell commented on the testimony and inquired into the exact financial impact on this area, stating that the City Council should know these facts, inasmuch as the City is a major landowner in the area.

Mr. Don DeMars, representing Ultrasystems, Inc., the consultant who prepared the EIR, appeared before the Council and indicated that the firm of Netelson, Levander & Whitney is the one that reviewed and evaluated the EIR, indicating that their findings are found in the last several pages of the report and their conclusions are subjective. It was stated that approximately 10 percent of the potential tenants would be affected, indicating that is as close an estimate that could be made. Councilman Littrell inquired whether the City's land would be worth 10 percent less because of this. Mr. DeMars stated that this would be difficult to interpret, commenting that if there were 100 people interested in a property, there may be 10 who would

not want to occupy the property because of the project, with 90 still being interested. He commented that it has not been determined whether this property would lose its economic value with the operation of an urban drilling site.

Councilman Littrell inquired into the benefits to the City of having a drilling site located on this property. The City Manager indicated that the assessed value of the property and the improvements would go up. The City would generate a nominal amount (\$6,000 - \$10,000) for the first three years.

Councilman Littrell indicated that, in his opinion, the City could lose 10 percent of its property value and he inquired whether this was a good offset. The City Manager indicated that, in his opinion, this cannot be determined from this study. The consultant has interviewed the three major developers in the downtown area.

Councilman Littrell indicated, in his opinion, the City has a 90 percent chance of getting nothing, since Chevron may not find oil. He stated that he has several problems with this project, noting that his main concerns are with the 10 buses that the report indicates will not make a difference and the financial impact. This is his reason for not feeling that the Environmental Impact Report is complete and, in his opinion, there were no Overriding Conditions for these two concerns.

The motion was reiterated, being that the Environmental Impact Report be found not to be complete and that it not be certified, with staff directed to prepare the appropriate Council Resolution of Non-Certification. Said motion carried by the following vote:

AYES: COUNCILMEMBERS: (3) DINSEN, LITRELL, WILLIAMS
 NOES: COUNCILMEMBERS: (2) KESSLER, DONOVAN
 ABSENT: COUNCILMEMBERS: (0) NONE

The City Manager reviewed some of the findings which should be indicated in not certifying the EIR. After discussion, the City Attorney stated that he would prepare an additional Resolution showing the findings.

Councilman Dinsen moved, seconded by Councilman Williams, that the appeals on UUP-101-88 be and hereby are upheld, and that UUP-101-88 be and hereby is denied.

Mayor Donovan commented that he has tried to evaluate the safety situation brought up by the church, indicating that he honestly does not feel that this project is a safety issue and, in his opinion, the pipeline is no more of a safety factor than being hit in your vehicle with one-half of a tank of gasoline. He stated that he has listened to both sides, and he personally and honestly believes that Chevron should have the right to determine whether or not there is oil on their property.

Councilman Kessler commented that he received the same number of cards and letters as other Councilmembers, noting that the people who live directly adjacent to the site are all in favor of the

project. He commented that Chevron has already spent quite a bit of money cleaning up this area. Councilman Kessler commented that his main concern as a Councilman is to provide the citizens with an adequate supply of service. With this project the School District could receive about \$1 million per year, with the City of Garden Grove receiving about \$500,000 per year in revenue. He noted that the City's budget is very tight, and he expressed concern as to where cuts would have to be made. He stated that the City has several major problems providing needed services, and this company could assist the City. He commented that the State officials who regulate these kinds of developments have assured the City that all requirements of State law have been met. He questioned where the country would be if every city in the country took this stand. He stated that he still feels that this is a good project.

Councilman Littrell indicated that while he realizes the country needs oil, in his opinion there is quite a bit of oil capped off all around the country. Councilman Littrell commented that he feels that the danger at the drill site is very minimal, and Chevron is a good developer; however, the community believes that there should be something different in the city.

The foregoing motion to uphold the Appeals and deny the Unclassified Use Permit carried by the following vote:

AYES: COUNCILMEMBERS: (3) DINSEN, LITRELL, WILLIAMS
 NOES: COUNCILMEMBERS: (2) KESSLER, DONOVAN
 ABSENT: COUNCILMEMBERS: (0) NONE

ADJOURNMENT

At 8:17 p.m., it was moved by Councilman Williams, seconded by Councilman Littrell, and carried by unanimous vote, that the meeting be adjourned in memory of Congressman Claude Pepper.


 CAROLYN MORRIS
 CITY CLERK

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