# MINUTES WHITTIER CITY COUNCIL ADJOURNED SPECIAL MEETING WHITTIER CITY HALL COUNCIL CHAMBER 13230 PENN STREET NOVEMBER 28, 2011

# 1. CALL TO ORDER:

The Whittier City Council met in an Adjourned Special Session on November 28, 2011. Mayor Warner called the meeting to order at 6:03 p.m. in the Council Chamber at Whittier City Hall, 13230 Penn Street, Whittier, California.

# 2. ROLL CALL:

COUNCIL MEMBERS PRESENT: J. Greg Nordbak, Council Member

Joe Vinatieri, Council Member Bob Henderson, Council Member Owen Newcomer, Mayor Pro Tem

Cathy Warner, Mayor

**OTHER OFFICIALS PRESENT:** Stephen W. Helvey, City Manager

Jeffrey W. Collier, Chief Assistant City

Manager

Richard D. Jones, City Attorney

Kathryn A. Marshall, City Clerk-Treasurer

## 3. PLEDGE OF ALLEGIANCE:

City Attorney Jones led the Pledge of Allegiance.

- 4. ORAL COMMUNICATIONS: None
- 5. CONTINUED PUBLIC HEARING CONDITIONAL USE PERMIT NO. CUP09-004 AND ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE SCH2010011049); APPLICANT: MATRIX OIL CORPORATION; CITY-OWNED PROPERTY WITHIN THE PUENTE HILLS LANDFILL NATIVE HABITAT PRESERVATION AUTHORITY AREA GENERALLY LOCATED NORTH OF MAR VISTA STREET AND WEST OF COLIMA ROAD IN THE CITY OF WHITTIER

[A verbatim transcript is attached and made a part of these Minutes.]

It was moved by Council Member Henderson, seconded by Council Member Vinatieri, and carried unanimously by roll call vote, that Resolution No. 8423 entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE WHITTIER MAIN OIL FIELD DEVELOPMENT PROJECT; ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM" be read by title only, further reading be waived and it be declared adopted.

It was moved by Council Member Nordbak, seconded by Mayor Pro Tem Newcomer, and carried unanimously by roll call vote, that Resolution No. 8424 entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. CUP09-004 TO ALLOW THE DEVELOPMENT AND OPERATION OF THE WHITTIER MAIN OIL FIELD PROJECT LOCATED ON CITY OWNED LAND WITHIN THE PUENTE HILLS LANDFILL NATIVE HABITAT PRESERVATION AUTHORITY AREA (FORMERLY THE WHITTIER MAIN OILFIELD) GENERALLY LOCATED NORTH OF MAR VISTA STREET AND WEST OF COLIMA ROAD", as amended by counsel, be read by title only, further reading be waived, and it be declared adopted.

## 6. ADJOURNMENT:

Respectfully submitted:

Mayor Warner adjourned the City Council meeting at 7:28 p.m.

Kathryn A. Marshall
City Clerk-Treasurer

In the Matter of: WHITTIER CITY COUNCIL REDEVELOPMENT AGENCY PUBLIC HEARING TRANSCRIPT OF PROCEEDINGS Whittier, California Monday, November 28, 2011 REPORTED BY: Stephanie Williams, CSR No. 13482

1		1	procedures will be tonight.
2		2	MR. JONES: Again, we are in the ongoing
3	In the Matter of: )	3	process of the public hearing with respect to the
	)	4	proposed petroleum project and the application by Matrix
4	WHITTIER CITY COUNCIL )	5	Oil. We are in our seventh day at this point in time.
_	REDEVELOPMENT AGENCY )	6	We're now at the deliberation stage. The City Council
5	PUBLIC HEARING )	7	has and is receiving the final documents with respect to
6	)	8	the CUP and the EIR conditions for your deliberations.
7		9	At this point in time, no decision has been
8		10	reached. It is now the appropriate time for the City
9		11	Council to ask any final questions it may have and then
10		12	engage in deliberations. And please articulate for the
11		13	record those findings based upon which you're reaching
12		14	your decision as you reach your decision this evening.
13	Transcript of Proceedings, taken before	15	Thank you.
14	Stephanie Williams, a Certified Shorthand Reporter	16	MAYOR WARNER: And as far as the two items that
15	for the State of California, with principal office	17	
16 17	in the County of Orange, commencing at 5:30 p.m.,	1	we need to do, Mr. Jones and Mr. Helvey, a little explanation on that.
17 18	Monday, November 28, 2011, at the Whittier Council Chambers, 13230 Penn Street, Whittier, California.	18 19	•
1 o 1 9	Chambers, 13230 Felin Succe, Willuch, Camofilla.		MR. JONES: Yes, first off, with respect
20		20	there are two items before you. The first is the
21		21	certified the resolution number 8423, we will take
22		22	that first. You'll deliberate on that. Should you not
23		23	certify the EIR, then the second resolution is not
24		2 4	necessary. If you adopt 8423, then you will deliberate
25		25	and consider the adoption of 8424, which is the approval
	2	-	4
1	Whittier, California, Monday, November 28, 2011	1	of the Conditional Use Permit, if you so desire. But,
2	5:30 p.m 7:30 p.m.	2	again, there are two separate items. You will consider
3	3.30 p.m 7.30 p.m.	3	8423 first and then 8424 second.
4	MAYOR WARNER: We'd like to welcome you and	4	MAYOR WARNER: Okay. And I think that we
5	call our meeting to order tonight for the adjourned	5	finished up with our questions last time we were
6	special meeting of Whittier City Council.	6	together, but I just want to ask my colleagues once
7	Roll call, please.	7	again if anyone has any questions that they need to have
0	MS. MARSHALL: Council Member Nordbak.	8	answered at this point in time.
9	COUNCIL MEMBER NORDBAK: Here.	9	MAYOR PRO TEM NEWCOMER: Mine have been
10	MS. MARSHALL: Council Member Vinatieri. COUNCIL MEMBER VINATIERI: Here.	10	answered.  COUNCIL MEMBER VINATIERI: I do.
11		11	
12	MS. MARSHALL: Council Member Henderson.	12	MAYOR WARNER: Joe, please.
13	COUNCIL MEMBER HENDERSON: Here.	13	COUNCIL MEMBER VINATIERI: I note we've got
14	MS. MARSHALL: Mayor Pro Tem Newcomer.	14	some cleaned-up versions of the conditions, et cetera,
15	MAYOR PRO TEM NEWCOMER: Here.	15	over the weekend and I want to just ask a question of
16	MS. MARSHALL: Mayor Warner.	16	Kim relative to Condition 86. And this was the
17	MAYOR WARNER: Here.	17	purchasing of tangible personal property for utilization
18	And I'd like to ask City Attorney Dick Jones to	18	in the project and the sales tax going to Whittier.
19	please lead us in the pledge.	19	MS. BARLOW: Yes.
20	MR. JONES: Please join me.	20	COUNCIL MEMBER VINATIERI: I was just going to
21	(Whereupon the Pledge of Allegiance was led by	21	ask, relative to language here, Accrued in the City of
22	Mr. Jones.)	22	Whittier as a point of purchase, I think it would be
23	MAYOR WARNER: Thanks, Dick.	23	helpful if we put in there something that basically said
24	We'd like to start out by having our city	2 4	as a point of purchase, slash, sale, slash, use.
25	attorney give us an update on where we are and what our	25	MS. BARLOW: Actually, I did that in the
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amendment that we're almost done with.

COUNCIL MEMBER VINATIERI: Well, that's excellent.

MS. BARLOW: So thank you. That will be saving me from having to explain that one.

COUNCIL MEMBER VINATIERI: Yes. That's a good change. Okay. That would be the only one, Madam Mayor.

MAYOR WARNER: Okay. So at this point we're ready to go into discussions and deliberation.

Joe, would you like to start?

COUNCIL MEMBER VINATIERI: Sure.

I went ahead and put together my comments in writing to make sure I was accurate and as precise as possible. Obviously this has been a long proceeding for all of us. It's taken, at least the official proceedings here, over -- a long time, over 31 hours. And I think we owe it to the community in general to be as accurate as possible as we set forth our comments, so I wanted to take the time to write them. So let me go ahead and read them and go from there.

Tonight culminates a difficult and very contentious project path in order to improve mineral extraction in the Habitat Preserve. And like so many other issues here at City Council, in my opinion, to one of balance. What are the risks? What are the rewards?

Whittier has chosen to have a more stringent standard of what constitutes significance. So there are six significant impacts, even after mitigation, and I'd like to briefly remark on each.

Of the six, three may be lumped together. Aesthetics, land use and policy consistency and recreation. Much of the possible impacts of these three relates to but one issue, the drilling rig and the possibility that even camouflaged you'll still be able to see, in other words, "the view" of the drilling rig.

The mitigation recommended relates to adding some berms, further planting and keeping eucalyptus trees. And there was much discussion about the height of the rig. And it's clear that if a smaller rig were utilized anywhere in the process, as Mr. Perez indicated, there would be no specific -- no significant impact for aesthetics, land use and policy consistency and recreation.

In that context, the Applicant has indicated its desire to quickly do the initial drilling with a larger rig and then follow up with use of a shorter rig if at all possible. If this could be done, three of the six significant impacts would be gone.

This leaves only three other impacts. The first is air quality, which really comes down to two

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And in balancing those risks and rewards, why should I vote? Which way should I vote? Most importantly, this balancing test is found in CEQA itself. Here are the risks -- and I think we know -- are safety, aesthetics, emissions, et cetera. They're well stated in the FEIR. The rewards to Whittier and the surrounding area are also well-documented.

I entered into a weighing process and have concluded that overall I believe the project should go forward. Let me explain the process that I utilized to get there.

First, I looked at all the impacts and I reviewed the mitigation measures which ramped down the vast majority of impacts from significant to something less than significant. I note that we even added on some further conditions to further mitigate some of the impacts in the FEIR. And I was concerned about some specific issues and asked many questions regarding the gas meter building, the H2S potential, flaring, et cetera, et cetera, et cetera.

I've come to the conclusion that the mitigation measures found in the FEIR do indeed ratchet down those impacts. Next, I looked at the remaining significant impacts, even after mitigation. I'm mindful of Mr. Perez's statement made on November 21st that

areas. One is construction emissions, which is a normal adjunct of any sizeable construction project like the work done within a mile of this location when much of the construction at Whittier Area Community Church was initiated. Additionally, I can think of the new police building right over here, as well as the new housing project on Philadelphia and Pickering. We must do everything we can to mitigate those construction emissions, but those emissions are a temporary negative impact when compared with the positive effect of our community growing and upgrading. And the key word here is "temporary."

Second. A further adjunct of air quality are operational emissions or greenhouse gases. Once again, there was much talk about GHG, but any industrial operation will have some GHG. We had much discussion of what happens if the emissions exceed the baseline. And the Applicant has agreed with a condition to work with AQMD on solar, pre-planning, et cetera. And the conditions reflect the mandate of carbon offset if those standards are exceeded. And those are indeed reasonable offsets under the circumstances.

So the last area of significant impact is hydrology and water quality. Here the issue comes down to surface water and groundwater quality degradation if

there is some type of leakage or spillage. There is substantial mitigation built in the FEIR and conditions, but the issue is the balance. The odds of a spill versus no spill.

You'll recall when I asked Mr. Perez various questions regarding statements made in the FEIR about the odds of various events taking place, it's right there on one of the pages. For example, even if a tank ruptures and is contained, what are the odds of a breach of that containment? He indicated that this event could happen in 1 out of 1,029,469 years. Obviously an extremely, extremely small chance, in light of the fact this project will probably only last 20 to 25 years.

With respect to a wellhead rupture, the odds are once in every 33 years, but there is utilization of sophisticated flow-out prevention.

A further concern was a rupture of the pipe outside the containment which could take place once every 12 years, but Mr. Perez indicated that this is typically a small rupture. And with monitoring metering devices attached to the pipeline, any rupture would be noted immediately and shut down immediately.

Let me be clear. I don't mean to make light of trivializing possible negative impacts by merely saying that the odds are too small that something will happen conditions that the Applicant, to the extent possible, is to first of all make purchases from Whittier merchants, locate an office in Whittier to employ Whittier residents and to utilize Whittier residents in both construction and operations of this facility. These are both direct and indirect significant economic benefits that goes to the heart of the economic stability of our community. In other words, jobs, jobs, jobs.

Additionally, I don't need to go into the economic stability that this project brings to the general fund and special fund of the City, nor the revenue brought to the Habitat Authority so that the Authority can continue to exist, let alone have a conditioned fund to purchase further property to add to the same habitat.

I'm mindful here that the public discourse on this matter has been difficult and emotional. I know I've spent a lot of nights waking up thinking through things. A lot of nights. But I also appreciate the fact that so many people have taken the time to study the proposal and most importantly to provide their input, whether it be positive or negative. But they've taken the time to do it because it shows they care.

Invariably, in difficult issues like this,

as compared with the potential damage. That's not accurate. But when reviewing the odds of a problem in conjunction with the substantial mitigation measures to deal, if those problems happen, the balance is in favor

Moving back to the CEQA balance, I note the independent benefits of the project, as compared to the environmental risks, the balance once again. I do believe that Whittier is at a crossroads. I believe that the significant economic recession that is impacting us will continue to negatively impact our community for a minimum of five to eight years or even

of moving forward with the project.

substantial sales tax base, as well as depression and property tax revenues due to a decline in residential and nonresidential property values without a significant impact on the ultimate well-being of the residents of our city.

more. We cannot lose seven car dealerships, a

We've conditioned the Applicant to bring direct benefits to the people of this community through, first of all, tax of the materials that come to Whittier. Second, the property taxes that will come to Whittier with this project. Third, the utility users' taxes that come to Whittier.

Additionally, we're going to impose specific

there's always the fact that you just can't satisfy everyone. But the reason we're all here relates to the fact that we all want the best for our community and our current and future generations.

Now, I just said that I believe Whittier is at a crossroads and I'm mindful of one of the young families that took the time to come and testify, who indicated they were here because they believed this was a great place to raise a family with the same opportunities that so many prior generations of Whittierites have enjoyed.

I believe this project will help continue our generational quality of life. I ask that we pull together as a community to continue to make Whittier a great and unique place that it is. And I appreciate everyone's interaction and how they have been involved in this project. A project that has taken a long time and a project that is probably one of the most significant things that will impact Whittier in the last 50 years.

Thank you.

MAYOR WARNER: Any --

23 COUNCIL MEMBER NORDBAK: Mayor, a question.

24 MAYOR WARNER: Sure.

COUNCIL MEMBER NORDBAK: Are we discussing the

first part of the FEIR or are we also discussing our opinion on the issues at this time? MAYOR WARNER: Steve --COUNCIL MEMBER NORDBAK: I think Joe wrapped them both up there. MR. HELVEY: You can ascertain them in either order. I think we assumed you were going to talk about the certification of the Environmental Impact Report at MAYOR PRO TEM NEWCOMER: I find it easier to talk about both because they're interrelated. MS. BARLOW: If I may, Madam Mayor. It's perfectly acceptable to talk about them both. You will need to act on the CEQA document before you act on the CUP, however. COUNCIL MEMBER NORDBAK: We can discuss both. Our notes kind of intermingle. I just wanted to make sure. MR. HELVEY: Sure. MAYOR WARNER: So any questions or discussions of Joe with his comments? Owen, you want to --COUNCIL MEMBER NORDBAK: I'm glad I'm not following the attorney. MAYOR PRO TEM NEWCOMER: Well, I also want to thank everyone that's been involved with this. I want 

is needed, we have tried to incorporate all the ideas for what we think is the best. That's been my approach and I know that's my colleagues' approach. So thank you for the process.

Clearly, before I go through a long justification, I believe we ought to certify the EIR and we ought to vote approval of the CUP. But let me go into some details on why I think that's a good answer for the City and for our future.

First, on the issue of air quality. There were two issues here. One related to construction and one related to the greenhouse gas emissions. And you can take a look at the provision and mitigation features on the impacts AQ1 through AQ5.

Things that have been done to make this a better project. First, the revision of the grading plan that eliminated those 9,000-some traffic trips. That was a big benefit. In addition, the CUP's requirement that the project meet AQMD threshold limits reassures me that this will be a clean project. Matrix already has a contract allowing it to buy offsetting pollution credits.

Now, because those pollution risks still exist, and because of the rules that say, well, there's no guarantee that on the day they need to buy it, on the

to thank MRS. Clearly, they were one of the top, that's why we picked them and they proved it by the thorough research. The going out and redoing it when there were questions, answering the questions. And their thoroughness gives me great confidence in it, that I can accept what they say as an objective fact that we can then build on. I'm not an expert in it. That level of confidence helps tremendously.

I'd like to thank our lawyers who have put in many hours. Not just on Thanksgiving, but many other hours, including right before the meeting. Putting stuff together and answering our questions and explaining to us the legal process as we went along.

And staff. We had our city manager delivering paper to us at 11:30 on Saturday night over the weekend. This has been a 24-hour, 7-day-a-week job. So thank you to all the staff, all the people who have worked on it. I think we have a good project here.

But I also especially want to thank the audience. The folks who have come to us, who have e-mailed to us and spoken before the City Council and have raised issues. Those issues were heard. A lot of the revisions, a lot of the questions, a lot of the reworking was to get answers for those questions. And while we can't agree with everybody, because a decision

month they need to buy it, there will be a seller willing to sell it. We can't guarantee that it will be an insignificant issue. And, thus, properly, this is still a significant issue in the EIR, even with the mitigation features. But, Matrix has that contract, we have the CUP requirement, as well as the mitigation requiring them to minimize. And I think that these two air quality standards will be minimized to the extent possible and I think that we've done everything reasonable to prevent the air pollution from becoming a significant problem, even though we do have to list it as a significant problem because of the uncertainty. I think we've done, in the EIR and the CUP, all that is reasonable.

The other area of decision, the visibility. This is the derrick that can be seen from a number of places and thus ends up being an aesthetic issue, a land use issue and a recreational impact. The CUP requires berms to help shield the view of the derrick. It requires native vegetation, restoration and additions to screen the view.

And we've put in a requirement that the derrick be as short as feasible. If they can be at an 80- or 75-foot level, there would be no visibility. But we can't do that all the time. And, thus, there their

still will be some visibility and thus the issue still exists.

But the think between the camouflage requirements, the requirement to work for the shortest possible, that this will be minimized to a reasonable extent. Obviously, this still remains significant, this still remains unavoidable. But I think we've taken reasonable measures to minimize the effect.

On the sixth issue that was a significant issue that we couldn't get rid of, and that's the risk of oil spills. The hydrology issue. And clearly you can't guarantee there will never be an accident. But both the EIR mitigation and the CUP requirements require state-of-the-art containment requirements, state-of-the-art practices to catch mistakes as soon as possible, including shutoff valves and permeable layers under the tanks and many more. And you can take a look at them in WR4 and BIO3.

These six areas were the issues that could not be brought to insignificant. I think, even though we can't do that, that we've done everything that's reasonable here. And, thus, I believe it's proper to support the EIR and the CUP.

The key though, the CUP can go beyond what's in the EIR. And the CUP does. And so I'd like to go

the CUP. And I'm optimistic that there will not be the problems that many of the residents foresaw. I think it will work well for us.

Other area was traffic on Penn Street. And the CUP requires that traffic to be minimized to the extent possible. Particularly by offsetting and baying other trucks, like dump trucks, not to go to the landfill when an oil truck is using it. Now, we do have some limits on how we can do that because it can only be applied to the trash trucks that come from outside of our city. And while there's a limited number of those. But to the extent that can reduce the -- minimize the truck traffic. It won't be reduced over the current level. Minimize the increase in truck traffic. I think that's a practical solution.

But probably more important is that the residents of the neighborhood will be involved in the traffic plan that the CUP requires. They will be participants in coming up with the traffic plan that ultimately controls what goes on on that street.

Another decision area was Matrix's -- that's awkward to say -- Matrix's performance monitoring and enforcement. A number of the residents didn't feel that -- well, you know, they can promise nice things, but will they really do it? Well, I think they really

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through some of the issues that I believe are important in the CUP. On that effect to the core habitat. It was one of my big concerns about the animal movement through the habitat. After all, one of the things I prized about it, as do many of the people that spoke before us, is the corridor for wildlife. And the concern was, how is that going to affect that wildlife and the movement? Well, the CUP requires a number of mitigations, as does the EIR, with restoration of the habitat. Which will actually add more natural habitat than we have.

The preserve is not all natural in its state right now. This will provide and require that more of it become natural. But the CUP also provides for funding and requires from Matrix money to build a new underpass or overpass on Colima, adding a second crossing to animals that will be a benefit to animal movement through the lanes.

In addition to that, there are funds in this CUP to require a purchase of additional land, not just that land which is needed to replace that that's devoted to oil, but additional land just because it's additional land. That's the \$15,000,000 provision. And that will increase the habitat. That will increase the ability of animals to move. So I think the core habitat and the animal movement will be dealt with appropriately with

will do it. But I think we've got good enforcement if they don't really do it. And that is, both the EIR and the CUP require monitoring. This monitoring is led by the City. The City will either hire consultants, the City could hire its own employees -- hire an employee to do it. But there's also backup monitoring from the State, different State agencies, air quality, game and fish, et cetera.

I think the monitoring on this will guarantee that all the provisions that are put in here to protect the community will in fact take place and that the neighbors will be protected. I, in short, think this will be policed appropriately.

Another issue that was brought up was this whole thing clashes with the City's general plan.
Clearly, we've been shown in section 18.52.030 that drilling of the oil is allowed in all areas of the city of Whittier, with an appropriate Conditional Use Permit, such as the one that we're providing here.

Now, during the process more than one resident asked about whether we should have a referendum for this election. Our attorney has explained why that is not appropriate, but let me repeat it because so many people were concerned with it. EIRs and CUPs are not subject to referendum because a referendum only applies to laws.

This is not a law. This, rather, is an application of the law.

The analogy the lawyer used, and, well, they're the lawyers, I'll use the same analogy if they'll let me. We're somewhat like the jury. Maybe judge and jury hearing a trial. The public does not go out and ask to vote on whether the person is guilty or not. It is the 12 jurors, it is those that -- the judge that heard the facts that have to weigh those facts and make a decision, applying the rule of law. So this is not something that can be submitted to a referendum.

Now, because there are still those significant and unavoidable effects and because we will need to support the Statement of Overriding Considerations, I clearly believe that a statement is justified. And the facts which must be presented to justify that statement are that overall benefits of the impact, as mitigated and conditioned, exceed the unmitigable impacts and that on balance, the project's benefits outweigh the negative impacts.

Based on the record and the public testimony submitted to this City Council, it is my belief that the facts support adoption of the Statement of Overriding Consideration in this case.

With respect to the findings required for the

MAYOR WARNER: Thank you. Any questions or discussion regarding his comments?

Greg, you want to go next?

MS. MARSHALL: Mayor Warner, it's 6:30, I don't know if you want to make an announcement about the regular meeting for those that are watching at home.

MAYOR WARNER: We certainly can. Thank you for the reminder.

MR. JONES: Well, the meeting that was noticed at 6:30, it will commence at such a time we conclude the specially noticed meeting. At the end of the specially noticed meeting, we will then commence the regular meeting.

MAYOR WARNER: Thank you.

Greg, you want to go next?

COUNCIL MEMBER NORDBAK: Sure.

16 COUNCIL MEMBER NORDBAK: Sure.
17 For the point of not boring everybody and doing
18 exactly what we asked the public not to do to us for the

exactly what we asked the public not to do to us for the last seven meetings and that's repeat everything of why we all have a certain opinion. But let me just say that I concur with the prior two statements regarding the mitigation measures and the findings for an overriding -- Statement of Overriding Consideration. I think the facts are there. I think that the testimony in the EIR backs up the condition to approve it and I think that

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CUP, there are five specific considerations. Is the site adequate in size, shape and topography? Is the site sufficient -- has sufficient access to streets that are adequate to carry the quality and quantity of traffic generated by the project? Will the use not unreasonably interfere with the use, possession and enjoyment of surrounding and adjacent properties? Is the use compatible with the permitted uses of surrounding and adjacent properties? And is the use consistent with the General Plan and Whittier Zoning?

I believe, based on all that we have heard from the public testimony, from those in favor of the project, those against the project, that the proposed project has been conditioned in a way that most of the issues were reduced to less than significant impacts.

Furthermore, the six potential impacts that remain significant and unavoidable have been minimized to the extent reasonable. And, finally, I believe that the facts in the records support the findings necessary to grant the Conditional Use Permit.

For those reasons, I will be voting to approve resolution 8423 that certifies the EIR. And I will be voting to approve resolution 8424 that grants the Conditional Use Permit, 09-004 with modifications.

Thank you very much.

the mitigation measures are covering what we need to cover.

I want to talk more about the whole process. I'd like to thank staff. I think staff has done a wonderful job and I don't think anybody knows and some of you probably don't care about the unbelievable strain we've put on our staff the last three weeks to get this thing done. In fact, it's even longer than that with the Planning Commission with the two locations and the paperwork that had to get to us. The volumes of reading all of us have done. But that's what we signed up for.

The EIR company, MRS, I think did a fantastic job. And I would like to congratulate them. I would also like to congratulate the Council members. Not particularly Bob and I, but I'd like to congratulate the other three because this came to them in a very difficult situation and we had to decide, do we go or do we wait because there is an election coming up? To their credit, they said, No, no, no, we're going to do this and whatever happens, happens. And you've all heard threats about we're going to answer to the ballot box and all that. And I don't think that resonates with the Council up here. I think all of us are pretty secure on what we've done for this city and our records speak for themselves.

On a personal note, the last year I was mayor was when this started two years ago. If the goal of this certain organization was to make my life miserable, my hat's off to them, they certainly did. I don't think I've ever enjoyed 12 months less in my life. And the frustrating part was it was so early in the statement that we could not comment or fight back. And those of you that know me, that's just not my style. And it was very difficult to sit here and not be able to say anything. And it was very frustrating as well. And not pleasant.

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Along that line -- now, I think when the first EIR came out, and I wasn't sure and I didn't actually believe in the beginning that this project probably could have gotten to where it is today. I couldn't say that because then I made a statement a year ago or two years ago or when the election that Bob and I were up for running. But I didn't believe that it probably could have gotten done. And when the EIR came out, I still didn't think it could have gotten done. And when the second EIR came out and I still have many questions. And then Appendix O came out.

And to be honest with you, I think because of the anti-side, I think this process has become very, very good. I think it's as good as we can get. I made into a danger situation. I think it would have been physically irresponsible for this Council not to have looked at this project. Again, I'd like to thank the people that came up against it for helping fine-tune this project to where it is today. And I think it is manageable and of benefit.

At an appropriate time I'm going to bring forward to the Council my suggestion that we don't -that we don't depend on Matrix to police those grounds. Because I believe it was Mr. Snyder on 11/9 whose comment was, Don't believe it, when he was saying things about Matrix. I believe Matrix will do the right thing. I'm also a businessman and I know that when they're in Santa Barbara and their superintendent is out on the site, he's going to make decisions based for Matrix.

And that's why I'd like to see the City hire its own department. Have an oil extraction -- where the residents on Penn and the people that live on Catalina and the people that have concerns can call that number 24/7 and get a response. Because I would rather have us looking out for ourselves rather than Matrix.

It's just like the police department. We expect everybody to stop at red lights and not run stop signs, but yet we have a police department. I think we should have a police department that we control and

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the statement once that I thought I learned more and got questions from the people against. And I mean that sincerely because, to be honest with you, they were asking questions that I probably wouldn't have gotten to. And I think all of us felt that. And they got into the documents. And because of that, it's become a much stronger document. And I think it can be done.

If you live next to it, I understand you're not going to be happy and I get that. I honestly get that. But part of my role up here as an elected official is look out for the good of the entire city. And there were people that said, Oh, this is all about the money. I'll look you right in the eye. And the only reason I ever looked at it in the beginning was because it was about the money. But that's not where it is today. Because I meant what I said that if it couldn't get done safely with mitigations, I wouldn't support it. And I mean that sincerely.

But I have a responsibility to make sure this city can function financially and physically over the next 20, 30, 40 years, long after I'm gone. My parents live in this city, my son lives in this city, my daughter, my grandchildren, who are four and seven months, live in this city.

I do have concerns. I'm not going to put them

answers to the City. The city manager and the elected officials here. And I think that will keep our irons to the fire. I also hope that Council will have the foresight down the road to take the investment of the oil and turn and help to green our city. It's my hope that we can do the things that we hope such as solar power and possibly spending the five percent utility users' tax here. There are a lot of things we can do.

The money thing has not been situated. It hasn't been settled. That's a true statement. But there is a number of \$7,000,000 that we believe we can take out that's legitimately ours. Beyond that, it's probably up for negotiations. But I do think that this process was far more evolved than I ever thought it would be. I never thought I would put the time into something like this that I have done. I know more about oil then I ever cared to know about it, to be honest with you. But I think we've come up with something that's going to benefit this city over the long run for many, many, many years. I hope that not only this council but councils in the future will protect this asset and be sure that this money is done for good and not just spent for like a furlough for sailors on a ship.

So with that, I'm going support the EIR and the

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1 CUP. We have put many, many -- we don't have to talk 1 Whittier, what can be done to protect the traffic flows, 2 about -- there's, what, 85 now? Conditions. 2 the odor control, is there any possibility of wildfires, 3 MS. BARLOW: I've added a couple more. 3 hazards, all of that. And that's the most important 4 COUNCIL MEMBER NORDBAK: Added a couple more? 4 thing that you go through when you start looking at this 5 That's a lot of conditions. But, again, if we don't 5 kind of a process. 6 police it, the conditions are useless. So we need to 6 But I also have a tremendous interest because 7 7 look at that. I do want to thank everybody that spoke of my attachment to the preserve. I have bought every 8 both for and against. I do understand the emotional 8 single piece of property that's in the preserve, some 9 side. Nothing personal and I won't take it that way. 9 over 3800 acres, on behalf of the City and then on 10 And it's not meant to be that way with me. I understand 10 behalf of the Habitat Authority, which is a joint powers 11 that there's going to be people that are 11 authority between the City and the County of Los Angeles 12 12 disappointing -- that are disappointed. There are going and the L.A. County Sanitation Districts. 13 13 to be people that are pleased. I have been chairman of the group that manages 14 I also want to make the statement that just 14 the property, the Habitat Authority, since its inception 15 15 because somebody didn't speak here in the public hearing in 1994. I served basically as the only employee of the 16 doesn't mean they didn't voice an opinion. I've had 16 preserve for many years until we were just very 17 hundreds of people talk to me both pro and against that 17 fortunate enough to attract a very talented young lady, 18 18 didn't want to come speak publicly. And that's Andrea Gullo, who came to us as executive director and 19 19 certainly their right. But I also have a responsibility started building a team. 20 to consider those people's input and their consideration 20 I've been encouraged that that team has grown 21 21 as well. to include her assistant, to include a staff ecologist 2.2 So I'll be very glad to see this portion of it 22 so we could get the best science and to add a park 23 stopped and see the new portion beyond begin. And I 23 interpreter to help reach out to children groups, adults 24 24 look forward to it and I hope that as a community we all and other people interested in outdoor education and the 25 pull together and we look at what's the best thing we 25 preserve itself. And we're very proud of that team that 30 32 can do for everybody involved in this. 1 we've built over these years. And so I've been deeply 1 MAYOR WARNER: Thank you. 2 2 involved with that as it's grown. And we've worked 3 While Greg was speaking, we were handed a 3 together to do a resource management plan. To plan out 4 4 document. the entire operations of the Habitat Authority. And I'm 5 Ms. Marshall, do you want to let the public 5 very concerned about that. 6 know where that document is available if they would like 6 We have a junior ranger program that's reached 7 7 to view it, please. over 5,000 schoolchildren, mostly in the fifth grade, 8 8 MS. MARSHALL: Yes, ma'am. There is a copy for where they work with their teachers for outdoor 9 the public in the binder in the back of the room. 9 education. And we've reached out to several tens of 10 10 MAYOR WARNER: And if anyone would like their thousands of contacts from private citizens, people 11 11 own copy, where would they retrieve that? hiking, developed a docent program to lead hikes in the 12 MS. MARSHALL: They can obtain it from my 12 preserve and so on. So I have a deep love and interest 13 in this project that I have been working on since I came 13 department. And it will be on the website tomorrow. 14 1 4 MAYOR WARNER: Thank you, Bob. back on the council in 1990. 15 15 COUNCIL MEMBER HENDERSON: Okay. Well, this So I was concerned, obviously, also for the 16 has been a long process. I have been involved in it 16 safety and the improvement and the concept of, could you 17 17 about three and a half years with the City from the put an industrial operation in a small part of the 18 first days when we started thinking about the process, 18 preserve and still keep the functions of the preserve? 19 19 doing the research to determine how we had to go about And so I have been extremely interested in the 20 20 investigating this possible use of a resource to dealing biological analysis that has gone forward and the 21 with the committee as it was set up, going to public bid 21 comments that have come in from many groups. And I've 22 22 on this process and then the whole EIR process. really appreciated those comments because a lot of them 23 As a councilman, of course, I have an interest 23 are from people that are friends of mine that I've 24 in this project because of the money it can bring to the 24 worked with over the years. I've sat on their boards, 25 25 I've been honored by those groups. And, yet, obviously City. What can be done to protect the citizens of

they had criticisms and they had concerns and I took those very, very seriously.

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report.

One of the reasons that there is no 9,013, I think it is, truck trips of moving dirt out of the preserve is because we got some excellent analysis. I see Joan Powell out there tonight from Audubon, who wrote a very good analysis of that and pointed out what a disaster that would be. And we incorporated that, we went to Matrix and they stood up, redesigned their whole site procedure there and ended up with a zero amount of trucks going off that property with dirt.

The EIR process to me is a fascinating process; I've been involved in several over the years. Nothing as big as this, but the Whittwood project was certainly a big one. The EIR process we went through for the Whittier Boulevard Specific Plan. And several others that I've been involved with, sometimes in contention with -- on projects being developed out in the wildlife corridor area. So I have an appreciation for the process.

And if the process works right, works like this one did, in my opinion, there's first a design of a project. And then that is commented on as the basic, overall design. And then an EIR is published, which does an analysis of all of those concerns that they're

it. Now, that sounds like an easy thing to do but you got to understand, these things cost 4- or \$500,000 every time you make these little changes like that. But they said, If that's what you think is the best way to go, we'll do it. And they did. And so this second -- the EIR, the draft environmental report. And so that analysis has gone through and we took more comments and got more comments from both agencies -- all types of agencies, some of the State agencies, Federal agencies and so on that commented on this, as well as hundreds of comments from individuals and so on. And those all had to be answered and analyzed in the final EIR. And that process went through and that has come out. So now we've seen something that has gotten an awful lot of

And to their credit, Matrix never blinked. They said,

If that's the best way to get this done, go ahead and do

But I didn't think it was good enough that we could just accept the mitigations that were in the

eyes on it, a lot of public attention. We've had every

qualified independent consultants that the City hired,

oversight agencies. And now I think it's a pretty good

isn't just some independent opinion of MRS, who are very

major oversight group in the state look at it. So it

but also from all these State agencies and other

mandated by law to look at. Such things as traffic, odor, fire, pollution, all those types of things that could affect things. Aesthetic values and so on as well.

Each of those are mandated by law and they're carefully studied and you get proposals back. And I'll tell you that when we got the first EIR back, there was not a project there at that time that I would have voted for. It just didn't work out. It just wasn't right. It had three separate sites, it had a truck loading facility, it had too many adverse impacts, I felt, upon the Habitat and the disturbance of the Habitat.

But there was an analysis done as part of that, which you have to do, which is an alternatives analysis. And there was one alternative that came up that looked very promising and that was what was known as the consolidated site alternative. And we looked at that and discussed that, staff and everyone who worked at MRS. And we looked at it and said really the way to do this now is not to simply keep working with this document that went through the seven alternative analyses and the main project as previously proposed. The way it really should be done is we should start over and submit a new project description and do another analysis, really focusing on the central site analysis.

environmental document, the final EIR -- or the FEIR, as it's called, because I think there were some things that may not have been required directly by the CEQA. So it needed to be done in order to make the project really good for the preserve. And I really wanted to make sure that happened.

So we proposed in the Conditional Use Permit some other mitigations, if you will. But other things that would be agreed to by the Applicant that would really make it better. One of the big things that we were concerned about was the possibility of if the North Access Road really did become a disturbance, would the animals move further away from the Colima underpass tunnel, which is their safe crossing over the Colima Boulevard.

And because of our ecologist's study of this over many years, we knew that there is a northern portion of Colima Road where we have the largest portion of kill of animals trying to cross, particularly of large mammals. These are deer and bobcats and animals like that. Of course, obviously, we do have other places where we lose opossums and lose skunks and lose rabbits and things like that. But of the large animals, this is a problem area anyway.

And if it was exasperated by them moving

further north into the canyon areas, Arroyo Pescadero and Cañada area, then we could possibly have a problem there. So we included in this that there would be study to decide about putting an underpass or overpass at that point that would give them a second safe crossing.

Also, I realize that while the City will replace the amount of property that will be actually disturbed under the development to the Prop A District, that alone doesn't add any more new property. And if there isn't more disturbance than is analyzed -- and we don't think there will be more disturbance. But if it is, there should be additional money available to buy property. If it can be bought contiguous to the preserve and really add to the ability for animals to move out into that.

So we put in a condition to develop a fund of \$15,000,000 so that that fund could be funded over several years. And put in a condition that for whatever reason land was not available, then upon the action of the Habitat Board and the City, it could be used for revegetation to improve quality of land in the preserve. And that's a very vital thing from a biological point of view. Because revegetation allows us to go back to a native habitat that's heavily been disturbed throughout these oil drilling operations. There was over 550 wells

has agreed that they will share some of the royalties directly with the Habitat in order to also allow the Habitat Authority to continue to function, continue to reach out to kids, continue to improve the Habitat over many generations to come.

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My colleagues have done a wonderful job of talking about the reasons that -- the six significant unmitigable impacts have been contained to the best of our ability. The rig height, which is the cause of three of the aesthetic mitigations, will be limited to 85-foot whenever possible. And that means that for wells drilled to 4,000 feet or less, they will be using an 85-foot well (sic). So the other well -- the other rig will not be there at all.

Also, they're going try to see if they can get a different kind of rig by then. There are two experimental ones that are in California now. They were built only for special projects. They are not available on the open market, so it's not something that right now is available. But by the time this project gets under way, which would be in approximately two and a half to three years before they actually start drilling, other than the test wells, that may become possible. And if so, they're conditioned to do that. To use it.

And that I think is a good-faith effort to

drilled in this oil field before -- over the hundred-year period of time. So much, the area has introduced nonnative plants and trees and so it needs to be reconditioned and so on.

Part of the mitigation of the -- under CEQA, will be about 70 acres that will have to be revegetated. That's because mostly where the coastal sage shrub is disturbed, it will have to be replaced under a three-to-one ratio. So we're going to actually improve a very significant amount of property.

We, over the years since we have bought the properties, have done a lot of work, particularly across Colima in Arroyo San Miguel. And that amounts to an area approaching 200 acres now. But with that improvement, we've been able to take an endangered federal bird, the gnatcatcher, and take it and increase its population from five birds when we bought the property to now over 31, which is a very significant increase in a protected species like the gnatcatcher. So revegetation is a tremendous benefit to that area.

In addition, there would be money coming to the Habitat directly out of the lease agreement to help us continue our operations and do some revegetation work there over a very long period of time, which adds stability to the operations of Habitat. And the City

reduce that possible impact. As was outlined here very well by my colleague; the other three are -- one is the construction mitigation for the discharge for CO2. This happens in every major project. When we did Whittwood, when we plowed the church to expand. There are times when they're running the big, heavy equipment that you go over the AQMD standard for a certain period of time. There has been many mitigations included in here to reduce that impact, but you're always going to exceed for some period of time. By going with Appendix O, we've reduced all those truck trips, which is significant. But in addition to that, you've reduced 12 weeks of grading. So that's another huge reduction in that. So we've done that.

Some of you may have heard me be somewhat frustrated on the greenhouse gas situation. Because while the operator has agreed that they will buy offset credits if they do exceed the standards, and it's quite likely they won't, the analysis basically says that if they -- most likely the condition where that would happen is there would be an upset of a well and they have to start burning 24 hours a day, the natural gas that came up, until they had wells shut in. But that's a very remote possibility.

But if they do exceed the standard, the AQMD

says they are required to buy these offset credits or do other things to get to back under the significance level. But, nevertheless, we've been advised by our attorneys and MRS that AQMD wants us to, in spite of that, say that it can't be absolutely guaranteed. And therefore, to avoid legal possibilities, we're going to adopt an overriding consideration on that issue. But it will be done. So I think that's about as significant as you can make things happen.

And then one that you just cannot put a final handle on is the possibility of a spill of some sort, which is likely to be small and can be cleaned up. But it can happen. And so we're going to have to take that risk. And you heard Joe talk about the probabilities of those types of things happening is very remote. Nevertheless, it has to be recognized that it is a significant and unmitigable impact.

But I think that we can do a resolution of overriding considerations when we've moved so far to make sure that these are not going to be significant. And to do it. The aesthetic one is kind of a fascinating thing to me. Probably most of you didn't notice, but the Tehachapi -- Edison/Tehachapi are going to be coming through this area all through our preserves. Right along the crest of the hill. We

it from the road and it's there, but the alternative was we would not have Sycamore Canyon open to the public if we hadn't left it in this place. So we bought around it and eventually it will go away.

The other thing that I think in the study that impressed me is you must remember, and I guess I'm old enough now to kind of appreciate some of these things. Even this project is not forever. When it is finished, when the oil has been reduced, and hopefully the City has gained hundreds of millions of dollars and the Habitat Authority tens of millions of dollars, it will all be revegetated to native habitat. And having gone through that when we lived with the shutting of the approximately at that time 100 active wells that Chevron had and they had to clean up some 400 old wells by going back in and plugging them to current standards and scraped the land raw. I can see, in a period of years, how much recovery that has been. So those seven acres that will be disturbed will come back someday. And I think that the balance on that is that the balance of the economic good that it can do to the Habitat Authority and do to the City, certainly offsets those temporary impacts.

I also would like to thank everybody that worked on this so hard. It's amazing the team that has

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fought that the aesthetic impact of that should be mitigated. The California PUC didn't see it that way and is offering no mitigation whatsoever. Those towers will be 200 feet high. And you will see all of them on top of your hills. But they decided it's not a significant impact. We don't do those things that way. If we've got some visibility of a rig and it's in our preserve, we're going to tell you that that's an impact. We recognize it. In fact, it's going to be painted to match as much as possible. The fact that we've left some eucalyptus trees to shield it and so on. The fact that you'll only be seeing the tip of it. Those things are still significant and we'll say it right up.

But I think on balance, the fact that it will be intermittent because they'll use wells, take them down -- or take rigs and take it down. There's only one rig. And they'll switch it out with an 85-foot one from time to time. The fact they will be drill -- for example, for three test wells it will be about three months and then it will be gone for two years. Those types of things are not, to me, mitigations that really affect the quality of life.

There's an oil facility, some of you may know, in Sycamore Canyon, also operated by Matrix, and yet it's one of our most popular hiking canyons. People see

come together. Our wonderful attorneys down here, Kim Barlow and Ginetta. And the staff, in general, that has been involved in this, Jeff Adams and Jeff Collier in particular. But MRS has done a wonderful job. They have got a great team that has come together. They have been very creative. They're very knowledgeable about oil operations, having done the plan for --

COUNCIL MEMBER VINATIERI: Baldwin.
COUNCIL MEMBER HENDERSON: -- Baldwin Hills,
yeah, thank you. They brought a lot to the table. I
would particularly like to thank the Habitat staff,
Andrea Gullo and Shannon Lucas back there who have put
in incredible amounts of hours on this, have been very
creative in coming up with appropriate mitigations. We
didn't always agree on everything, but I think we found
a compromise in here that works for everybody and I'm
really pleased with that.

And then, again, all the people who commented, pro and con, it was very useful. Matrix has done a wonderful job of stepping up to the plate every time we asked them to go the extra mile to find solutions that work and to undertake burdens that we thought were appropriate and they felt they could live with. So thanks to everybody, Steve in particular.

MR. HELVEY: Thanks.

1 COUNCIL MEMBER HENDERSON: Steve Helvey and I 2 worked on this very closely. It's been a real 3 privilege. 4 Thank you. 5 MAYOR WARNER: Thank you, Bob.

I'd like to begin my comments tonight by talking about the Brown Act a little bit. I know that many of you are aware that the Brown Act is what guides our meetings and how we conduct our meetings and the open meeting law that was enacted by the State legislature some years ago. And interestingly enough, the State legislature exempted themselves from the Brown Act. But, nevertheless, we do follow it at the Cities, Counties, school districts and special districts.

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The Brown Act provides for the public. And it provides opportunities for the public to be part of the process. And some of the methodology in the Brown Act and some of the parts we need to follow aren't always comfortable for us to follow. But in my 22-plus years in serving as an elected, I always really try to follow that Act and try to stick to the provisions as much as possible. And as time goes on more and more, I see the value of that Act and how it provides for the public to be part of the process.

I don't think any of us like to have issues

whether you were for or against. And it did cause several of us to ask further questions as we went through those comments. And I'm happy to show you my notes. I personally put an asterisk by those of you that made a comment that generated a question. And I think Greg indicated that a lot of those questions helped us to create and to craft different items in the Conditional Use Permit. And so I acknowledge your beliefs, I acknowledge your opinions and I thank for your comments.

One of the items that was mentioned early on, and I believe it was addressed by MRS, would be medical concerns with this project. I probably live -- of the five council members, I probably live the closest to the project. Of the five council members, a couple of us have dealt with cancer, I being one. Now, also I'm a healthcare provider. I did take those concerns seriously. Although I was persuaded by the report that MRS gave in regards to medical issues.

I was -- it was interesting to hear those of you speak about the mitigation measures. Mitigation doesn't make something totally go away, as we know and as we've discussed. Some of the problems will go away, but some of the problems that are mitigated aren't going to totally go away. And you were absolutely right in

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that we're discussing or that we're involved in where there are people that support the issue and people opposed to the issue. I don't think that humans, by nature, like contention. I think we would prefer to have everyone agree. But that's not reality and that's not life. And I do want to acknowledge that. Because regardless of the decision that we make tonight, there are going to be those that are unhappy with the decision and there are going to be those that are happy with the decision, as with any decision this Council makes. And I do want to acknowledge that.

It's been said by my colleagues, but I feel that it's imperative to say, the importance of the public testimony in this process. I chose to keep copious notes on the names of the speakers, the numbers of the speakers, whether you were for, whether you were against. And I probably will keep those notes for quite some time. And maybe when I'm gone, my kids will dump them, I don't know. I still have notes from when I was on the school board when we had contentious issues. I can't tell you why I've kept those notes, but I think it's because I invest my heart and soul in certain issues and I just can't get rid of them yet.

So I guess my whole point is that, as was stated by my colleagues, your comments were of value, that regard, it doesn't make something totally go away. But hopefully it makes it better than it was. I too am mindful of the significant impacts that cannot be mitigated and those are a concern. I think they've been discussed by colleagues, but I too want to acknowledge those areas. I also want to acknowledge that some of those areas are temporary, they won't be permanent, but they're still there, they're still a concern.

One section of the Brown Act talks and describes how we are to deliberate, how we are to make our decision. But one thing that the Brown Act is clear on, it says that we should talk, we should ask our questions, but the Brown Act is not specific when it comes to what goes on in my head as an individual elected official and what process I have to go through in my head to make my decision. That is not addressed.

And I want to share with you that I have spent a lot of time reading, studying, gathering information, thinking about the pros, thinking about the cons. I chose to take several academic methods and use those methods and put them to the test. And maybe many of you may do this in your business dealings. Looking at outputs, looking at inputs, looking at cost benefit analysis. One method that I utilized in evaluating the information was to look at the value of environmental

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resources.

And as I studied this, I was made aware that there were three areas to look at. Use value, option value and existence value. In use value, that means to make use of the environmental goods. Example, our rivers, our lakes, that sort of thing. And in this case, our Habitat. To use that for recreational purposes. Option value means to protect present resources for uncertain and irreversible future. An existence value means to recognize the rights to exist for all natural means. And we've talked about the species that live in our Habitat.

So I want you to know that I looked at those areas and in my personal assessment, having read through the EIR and having listened to your testimony, that I find that those areas are balanced in this particular case.

Another thing that I look at is in this community what is in the best interest of the greater good? Now, I can't do that independent of itself. I have to do that only after I've looked at all the scientific information. Only after I've looked at the EIR. But I then have to consider what is in the best interest of the greater good in this particular situation.

think this was brought up by a couple of our speakers as they asked us to consider the impacts this would have on their children. And that is intergenerational justice. And what is my responsibility as I sit here in this capacity in 2011? What is my responsibility to the future generations of this community? Do I have a responsibility to them? I believe I do and I believe that responsibility is characterized by that term intergenerational justice.

I, as other members of this council, have had many generations in my family live here and hope to have many live here in the future. And I am not only concerned about my family members, but I'm concerned about family members of every citizen in this community. And will this benefit those members? I believe all things being weighed that, yes, this project will benefit us now and benefit us in the future. And it will benefit our children and grandchildren in the future.

At this point, Mr. Jones, in our paperwork, Exhibit B, we have a Statement of Overriding Considerations, does that statement need to be read or have the comments that have been made by colleagues been sufficient?

MR. JONES: Ms. Barlow?

I have to be mindful that this project will help to preserve our habitat and will help enhance our habitat. And that's been articulated by my colleagues as to how that will happen.

I also am concerned, but I know we have safeguards built in this project. And one of the biggest safeguards for me is the CUP process itself. The Conditional Use process itself. It has its own safeguards built in. And from time to time this council will review a Conditional Use Permit of a particular business or project that is going on within our city. And I don't know if you all remember or not, but we had a situation six or seven years ago where we had a business in uptown Whittier and they were not following their conditions of their Conditional Use Permit. We had several hearings to review those conditions and to talk to the owners of this business and they chose to not abide by the conditions that they initially said they would abide by. And, consequently, they lost their Conditional Use Permit, so this council does have a history of looking at those permits very closely and monitoring them very closely. And we have been known to take action if the businesses did not follow those permits. I see that as a safeguard.

One of the last things that I look at, and I

MS. BARLOW: It does not need to be read in. What we would like to do if you're ready -- at such a time you are ready to make a motion, we will read the title of the appropriate resolutions. But we do have some minor changes to the CEQA resolution that I can go over with you very briefly. We have more substantial changes to the proposed Conditions of Approval that you have had distributed to you. The changes to --

MAYOR WARNER: Okay. Before you get into those, do any colleagues have any other comments?

 $COUNCIL\ MEMBER\ HENDERSON:\ Yes,\ I\ have\ one.$ 

The city attorney managed to catch a misstatement I guess I may have made or one that may be misunderstood. I did mention for many years I was the Habitat's only employee. I'm sorry, I was the only employee that worked for no money and received no compensation whatsoever. So I was not technically an employee, I was a chair of the board and served functions of running the agency during that period of time. It was without compensation.

COUNCIL MEMBER NORDBAK: So you have a long history of working for free?

COUNCIL MEMBER HENDERSON: Not too bright.
MAYOR WARNER: Okay. Colleagues, any other
comments or can we turn it over to Ms. Barlow for a

1 moment? 1 MAYOR WARNER: And before that short motion is 2 Okav. Please. 2 read, do you need us to read any of this other MS. BARLOW: I'm going to go ahead and 3 3 documentation or will staff read that? 4 4 MR. JONES: We need to read the title into the distribute to you. There are two pages that we have 5 5 printed that show some changed language. Very minor. record. 6 They are on Bates-numbered page 144 and 181. And I'll 6 MS. BARLOW: Mrs. Marshall can read the title 7 7 just hand these out and then I'll explain what they are. for you. 8 MAYOR WARNER: So these are the handwritten 8 MS. MARSHALL: This is going to be Resolution 9 page numbers? 9 Number 8423. And we are adding one word to the title. 10 MS. BARLOW: Yes. In your supplemental amended 10 The word "A" to begin with. And it does have a new 11 11 section 24 regarding certification by me, city clerk. documents. 12 12 MAYOR WARNER: And this is in the binder that So we do have those two changes in addition to that. 13 13 is in the back of the room; is that correct? And this is in the public packet. 14 14 MS. MARSHALL: Do you have enough copies for So Resolution Number 8423 is entitled, "A 15 15 the public? Thank you. Resolution of the City Council of the City of Whittier, 16 16 MAYOR WARNER: Those page numbers, Counsel, California, certifying the Final Environmental Impact 17 17 refer to the book at the back of the room; is that Report for the Whittier Main Oil Field Development 18 18 correct? Project; adopting findings pursuant to the California 19 19 MS. MARSHALL: Those refer to the binder that's Environmental Quality Act; adopting a Statement of 20 20 Overriding Considerations and adopting a Mitigation dated with tonight's date. 21 21 Monitoring and Reporting Program." MAYOR WARNER: Right. 22 22 MS. MARSHALL: As opposed to the black binder MAYOR WARNER: Okay. So we'll entertain a 23 where we're putting supplemental materials. 23 motion for that resolution. 24 24 MAYOR WARNER: Okay. COUNCIL MEMBER HENDERSON: I move the 25 25 MS. BARLOW: These changes are relatively Resolution Number 8423 be read by title only, further 54 56 modest. But the one on page 144, if you will recall, 1 1 reading be waived and it be declared adopted. 2 there was a discussion about that flashing red light 2 COUNCIL MEMBER VINATIERI: Second. 3 that was proposed to be placed at the top of the drill 3 MAYOR WARNER: Roll call, please. 4 rig. And Mr. Chittick had indicated that it was not 4 MS. MARSHALL: Council Member Nordbak. 5 necessary from a mitigation standpoint. And I believe 5 COUNCIL MEMBER NORDBAK: Aye. 6 that the discussion was that it was not desirable from 6 MS. MARSHALL: Council Member Vinatieri. 7 an impact standpoint. So we have changed that language 7 COUNCIL MEMBER VINATIERI: Aye. 8 8 to provide that there will be no red flashing light. MS. MARSHALL: Council Member Henderson. 9 Because it is not required by the FAA. And the 9 COUNCIL MEMBER HENDERSON: Aye. 10 10 remaining language in that one section was eliminated. MS. MARSHALL: Mayor Pro Tem Newcomer. 11 11 MAYOR PRO TEM NEWCOMER: Aye. The other change on page 181 was to eliminate 12 the reference to speed bumps and substitute the term 12 MS. MARSHALL: Mayor Warner. 13 "traffic calming devices," which is consistent with the 13 MAYOR WARNER: Aye. 14 1 4 mitigation monitoring plan and recommended mitigation Ms. Barlow, the next step. 15 15 measures. MS. BARLOW: Yes. We have provided you --16 16 The only other changes we have made to this excuse me -- with a red line of the last clean 17 17 resolution at this point relate to the dates and numbers Conditions of Approval that we distributed to you over 18 and so on. We do have some recommended changes to the 18 the weekend. And I just wanted to go through those with 19 other resolution for you that we'll talk about when 19 you. There was some -- I beg your pardon -- some 20 20 you're ready to consider that. confusion over the definitions. And so to clear that 21 MAYOR WARNER: Okay. So you're ready for us to 21 up, we have -- if you look at page 2 of the new 22 22 break the proposed motion in half and consider documents that was provided to you this evening, we have 23 23 resolution number 8423? modified the definition of "project site," which we 24 MS. BARLOW: Yes. 24 consider sort of the biggest area that would be covered 25 25 by any of the different Conditions of Approval. And we MR. JONES: Correct. 55

have added a new definition for accessible surface areas. Recognizing that some areas outside of the pad area or the pipeline areas or the road areas may need to be accessed by the project proponent in order to get to utility lines that they need to install or to do mitigation, that type of thing. And so we have added a definition which reads, "The surface areas which may be used by Operator for oil operations or otherwise under this permit, including the pad site, areas requiring mitigation and other areas specifically authorized by the Habitat Authority shall be referred to as the accessible surface areas."

We were focusing on the surface because that is where they will accessing and we want to make sure that as we go through each condition, the Applicant and the public are aware of which areas the Operator can be in and which they can't.

MAYOR WARNER: Any questions or comments on this item, Council?

Other items.

MS. BARLOW: Yes. We added into the project description condition in number 6 that the use of the project site and the accessible surface areas, as well as all of the other conditions, shall be in substantial conformity with the Conditions of Approval.

MAYOR WARNER: And that's a document that exists within the Habitat.

COUNCIL MEMBER HENDERSON: Yes, uh-huh. It's also available on our website.

MS. BARLOW: Item number 27 was merely -- it simply said "site" and we wanted to clarify that that should be "project site."

The next change is on page 10 in condition 32, (7). Since we believe that pretty much everybody is only going to be accessing the pad site or accessible surface area, we changed that from "project site" to "pad site or accessible surface area." Likewise, we did that with subsection 8 to clear up any confusion.

We went through carefully to make sure that the right area was defined for each restriction or condition.

MAYOR WARNER: Kim, is there anywhere in this document where there are definitions? For example, of the pad site or --

MS. BARLOW: That is all in number 5.

MAYOR WARNER: Okay. Thank you.

MS. BARLOW: Item number 55, we changed the fencing for the pad site, since we don't anticipate there will be any fencing around any other portions,

except for the gas plant, which may not need fencing if

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Item number 13 had generated some confusion and so in order to clarify, we have changed "project site" to "Whittier Main Oil Field," which is what this project is. That is the subsurface area into which the wells can be drilled. So we think that adds clarity to that condition. Likewise, we have changed item 16, trips generated from the Whittier Main Oil Field development project. Because they will not all be coming necessarily from the pad site or from the project site.

Item number 22, which is on page 5 of the Conditions of Approval, was requested by the Habitat Authority to be changed from "ranger station" to "ranger residence." And so we have made that change.

MAYOR WARNER: And was that appropriate that that request from them come after the public hearing was closed?

MS. BARLOW: Technically it is a residence. So we are trying to make the conditions as correct and accurate as possible.

COUNCIL MEMBER HENDERSON: I think the term "station" implied that there is public access. And it's only a residence for the ranger.

MS. BARLOW: In addition, in item 23 we wanted to ensure that the Habitat Authority Standards and Restoration Guidelines would apply to that revegetation.

it's in buildings.

We also added a clarification with respect to condition 56 regarding storage of equipment to ensure that there would be no storage on any roads accessing the project site.

57 was changed from just "site" to "project site."

Condition 61 changed from "project site" to "pad site" to ensure that hazardous materials would only be stored at the pad site, not anywhere else.

And condition 62, number 2, the drilling rig should all be located within the pad site and not anywhere else on the project site. And so that was changed. Also, with respect to condition -- subsection 7 of that same condition indicates that the drilling and redrilling equipment should be on the pad site and not be stored elsewhere on the project site.

Condition 63 was changed from the word "well site" to "pad site" to be consistent with the other conditions and the description of the project.

Condition 64, subsection 2, again, focuses on reworking rigs and those again should be limited to the pad site. And the change was made in subsection 5 for the same reason.

Subsection 65(4) regarding tanks. Since all

1	the tanks should be at the pad site, we changed that to	1	Landfill Native Habitat Preservation Authority Area,
2	"pad site" for the tanks.	2	formerly the Whittier Main Oilfield, generally located
3	Item number 72, sub 2, which is on page 28, we	3	north of Mar Vista Street and west of Colima Road."
4	wanted to make sure that it was clear that some of this	4	MS. BARLOW: I apologize. Before you take a
5	exotic eradication within the project site may be	5	motion, there's one other change that's in the
6	without or elsewhere in the preserve. So that will	6	resolution itself on page 1. We had an error on the
7	be up to the agreement of the Habitat Authority and the	7	number of acres of roadways. It is 8.6. And so I have
8	City. So we added "preserve" in the event it needs to	8	corrected that in the resolution. That's in section 1.
9	be outside of the project site.	9	MAYOR WARNER: So we don't need to amend that
10	Condition 73, subsection 1, we changed to	10	with the motion, it's already been corrected?
11	ensure that unauthorized access would not be allowed.	11	MS. BARLOW: You would be moving that motion as
12	Personnel must remain inside accessible surface areas.	12	I've corrected it.
13	And also temporary use areas outside the pad site	13	COUNCIL MEMBER NORDBAK: All right. I'll move
14		14	_
15	require a permit.	15	Resolution Number 8424 entitled, "A Resolution of the
	Condition 85, we qualified that be the Habitat	1	City Council of the City of Whittier, California,
16	Authority Guidelines.	16	approving Conditional Use Permit Number CUP 09, dash,
17	Condition 86, we added sale, slash, purchase,	17	004 to allow the development and operation of the
18	slash, use, at the request of COUNCIL MEMBER VINATIERI	18	Whittier Main Oil Field located on City-owned land
19	and sort of on our own motion, if you will.	19	within the Puente Hills Landfill Native Habitat
20	Condition 89, we added this just to make clear	20	Preservation Authority, formerly the Whittier Main
21	that all of the Habitat restoration or replacement	21	Oilfield, generally located north of Mar Vista Street
22	should comply with the restoration plans and we gave the	22	and west of Colima," as amended by counsel.
23	website where those plans are found.	23	MAYOR PRO TEM NEWCOMER: Second.
24	And we added another condition that there	24	MAYOR WARNER: And to be clear, to be declared
25	should be no parking of vehicles related to oil	25	adopted. We need that in the motion.
	62		64
1	operations along any of the roads accessing the pad	1	MAYOR PRO TEM NEWCOMER: That it be read by
2	site.	2	title only, further reading be waived and it be declared
3	And those are our changes to the Conditions of	3	adopted.
4	Approval. And with that	4	MAYOR WARNER: Yes.
5	COUNCIL MEMBER NORDBAK: Isn't 90 duplicative?	5	COUNCIL MEMBER NORDBAK: That was not on mine.
6	MS. BARLOW: Actually, 56, the language we	6	Okay.
7	added had to do with storage. So 90 has to do with	7	MAYOR WARNER: Correct.
8		,	COUNCIL MEMBER NORDBAK: For the two of them
9	parking of vehicles.  COUNCIL MEMBER NORDBAK: All right. Good.	9	
			though.
10	MAYOR WARNER: Okay. Does that take care of	10	MAYOR WARNER: This is just for the second one.
11	everything?	11	COUNCIL MEMBER NORDBAK: All right. Then I'll
12	MS. BARLOW: That is everything.	12	move Resolution Number 8424 be read by title only,
13	MAYOR WARNER: Any questions, comments,	13	further reading be waived and it be declared adopted.
14	discussion on these changes?	14	MAYOR PRO TEM NEWCOMER: Second.
15	MAYOR PRO TEM NEWCOMER: I have none.	15	MAYOR WARNER: Roll call, please.
16	MS. BARLOW: If you are satisfied with those	16	MS. MARSHALL: Council Member Nordbak.
17	conditions as they are modified, we would ask that you	17	COUNCIL MEMBER NORDBAK: Aye.
18	have the clerk read the title of the resolution and then	18	MS. MARSHALL: Council Member Vinatieri.
19	an appropriate motion can be made.	19	COUNCIL MEMBER VINATIERI: Aye.
20	MS. MARSHALL: Resolution Number 8424 is	20	MS. MARSHALL: Council Member Henderson.
21	entitled, "A Resolution of the City Council of the City	21	COUNCIL MEMBER HENDERSON: Aye.
22	of Whittier, California, approving Conditional Use	22	MS. MARSHALL: Mayor Pro Tem Newcomer.
23	Permit Number CUP 09, dash, 004 to allow the development	23	MAYOR PRO TEM NEWCOMER: Aye.
24	and operation of the Whittier Main Oil Field Project	24	MS. MARSHALL: Mayor Warner.
0.5		100	MANOR WARNED
25	located on City-owned land within the Puente Hills	25	MAYOR WARNER: Aye.

And at this point we need to take a break for our court reporter. Shall we adjourn this meeting? MR. JONES: We are now going to adjourn this meeting and we'll take a recess and we will commence after we come back from that recess at 6:30 p.m. MAYOR WARNER: Okay. So this meeting is adjourned. (Proceedings for the special meeting concluded at 7:30 p.m.) CERTIFICATION OF CERTIFIED SHORTHAND REPORTER I, STEPHANIE WILLIAMS, a Certified Shorthand Reporter of the State of California, do hereby certify: That the foregoing proceedings were taken before me at the time and place herein set forth; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof. I further declare that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties. In witness whereof, I have this day ed my name Stephana Williams Dated: December 6, 2011 Certificate Number 13482