

**MINUTES  
WHITTIER CITY COUNCIL  
ADJOURNED SPECIAL MEETING  
WHITTIER CITY HALL  
COUNCIL CHAMBER  
13230 PENN STREET  
NOVEMBER 22, 2011**

**1. CALL TO ORDER:**

The Whittier City Council met in an Adjourned Special Session on November 22, 2011. Mayor Warner called the meeting to order at 3:08 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:**

Community Development Director Schindler 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.]

**6. ADJOURNMENT:**

Mayor Warner adjourned the City Council meeting at 9:41 p.m. to Monday, November 28, 2011 at 5:30 p.m. in the Council Chamber at Whittier City Hall, 13230 Penn Street, Whittier.

Respectfully submitted:

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Kathryn A. Marshall  
City Clerk-Treasurer

In the Matter of: )  
 )  
WHITTIER CITY COUNCIL )  
REDEVELOPMENT AGENCY )  
PUBLIC HEARING )  
\_\_\_\_\_ )

TRANSCRIPT OF PROCEEDINGS  
Whittier, California  
Tuesday, November 22, 2011

REPORTED BY: Michelle Quinones  
CSR No. 9985

<p>1 2 3 4 In the Matter of:            )   ) 5 WHITTIER CITY COUNCIL        ) REDEVELOPMENT AGENCY        ) 6 PUBLIC HEARING                ) _____) 7 8 9 10 11 12 13 Transcript of Proceedings, taken before 14 Michelle Quinones, a Certified Shorthand Reporter 15 for the State of California, with principal office 16 in the County of Orange, commencing at 3:00 p.m., 17 Tuesday, November 22, 2011, at the Whittier City 18 Council Chambers, 13230 Penn Street, Whittier, 19 California. 20 21 22 23 24 25</p> <p style="text-align: right;">2</p>	<p>1 Whittier, California, Tuesday, November 22, 2011 3:00 p.m. - 10:40 p.m. 2 3 4 MAYOR WARNER: Good afternoon. We'd like to 5 welcome you to the adjourned special meeting of the 6 Whittier City Council, November 22nd, today, at 3 p.m. 7 And, Kathryn, thank you for a new agenda. We 8 appreciate you keeping us on track. 9 And roll call, please. 10 MS. MARSHALL: Council Member Nordbak. 11 COUNCIL MEMBER NORDBAK: Here. 12 MS. MARSHALL: Council Member Vinatieri. 13 COUNCIL MEMBER VINATIERI: Here. 14 MS. MARSHALL: Council Member Henderson. 15 COUNCIL MEMBER HENDERSON: Here. 16 MS. MARSHALL: Mayor pro tem Newcomer. 17 MAYOR PRO TEM NEWCOMER: Here. 18 MS. MARSHALL: Mayor Warner. 19 MAYOR WARNER: Here. 20 I would like to ask Jeff Collier if he would 21 introduce one of our new department heads, and then we 22 will ask that individual to come up and lead us in the 23 pledge. 24 MR. COLLIER: Sure. 25 Let's see, is Aldo -- there he is. Aldo</p> <p style="text-align: right;">4</p>
<p>1 INDEX 2 3 Page 4 CITY COUCIL QUESTION AND ANSWER SESSION 4 5 6 7 8 9 10 11 EXHIBITS 12 (None) 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">3</p>	<p>1 Schindler is our new community development director, and 2 we're really happy to have him here. 3 Aldo, would you go ahead and lead in with the 4 pledge of allegiance, please. 5 (Whereupon the pledge of allegiance was 6 recited.) 7 MAYOR WARNER: Thank you very much, Aldo. 8 Welcome to the City of Whittier. 9 MR. Schindler: Thank you. 10 MAYOR WARNER: I understand that you attended 11 our meeting yesterday, and I'm glad to see that you came 12 back. And this is somewhat of a baptism by fire, but 13 we're happy that you -- you have joined us. 14 Okay. I believe when we ended last night, we 15 were doing questions. 16 Joe, had you finished? 17 COUNCIL MEMBER VINATIERI: I was completed. 18 MAYOR WARNER: Owen and/or Greg, do you have a 19 preference as to who would like to go next? 20 COUNCIL MEMBER NORDBAK: Are you ready to go, 21 because I'm still looking for my notes from last night. 22 MAYOR PRO TEM NEWCOMER: I have only one 23 additional question since I asked a bunch previously, and 24 it's not on the EIR or the CUP. It's on the referenda 25 that a lot of voters have come before us and said, why</p> <p style="text-align: right;">5</p>

<p>1 don't you put this to a referendum.  2 Could staff explain the rules and the parameters  3 for referenda.  4 MS. BARLOW: Certainly.  5 Madam Mayor and members of the Council, a  6 referendum is something that can be done to change or  7 enact a legislative act. The reason that the CUP and EIR  8 certification are not subject to referendum is because  9 they're not legislative acts, they are quasi-judicial  10 acts. In the nature of what a jury or a judge would  11 determine, it's finding of specifics facts and applying  12 existing law to those facts.  13 And for that reason, a referendum would not be  14 an appropriate vehicle to challenge the certification of  15 an EIR or the granting of a CUP.  16 MAYOR PRO TEM NEWCOMER: Thank you very much.  17 MAYOR WARNER: Owen, does that take care of  18 yours?  19 MAYOR PRO TEM NEWCOMER: That takes care of the  20 questions.  21 We will get to the statements later.  22 MAYOR WARNER: Greg.  23 MR. JONES: Just for the record, before we get  24 too far along, could we have the City Clerk call the roll  25 so we have a record of your presence?</p> <p style="text-align: right;">6</p>	<p>1 MAYOR WARNER: Thank you. Okay.  2 Now, with that, Greg, have you found yours?  3 COUNCIL MEMBER NORDBAK: I do. And the good  4 news is when we got done last night, I went home and  5 reviewed the staff report that was done by staff and  6 legal, and also my notes from MRS last night, and I'm  7 down to just a couple of questions by studying those.  8 So let me go to -- I believe this is a question  9 for Mr. McCaskey.  10 We have been talking mostly about the oil  11 process. I would like to know a little bit more about  12 the gas side of it, i.e. the revenue, potential revenue.  13 I know we've heard potential revenue numbers on  14 the oil. I haven't heard one word about potential  15 revenue on the gas.  16 And let's start with that one.  17 MR. MC CASKEY: The natural gas royalty, which  18 is -- the rate is the same as the oil. The base at  19 30 percent would be less than the oil revenue, but could  20 range -- using the same 1,000 barrels a day, the royalty  21 generated annually would be approximately 300,000. And  22 upwards, to the upper end at 10,000 barrels a day, would  23 be three million a year. So range between 300,000 and  24 3 million.  25 COUNCIL MEMBER NORDBAK: And that's the City's</p> <p style="text-align: right;">8</p>
<p>1 THE CITY CLERK: We did.  2 MAYOR WARNER: Thank you for the interruption.  3 I am remiss in not asking the City Attorney to discuss  4 our process from here on out.  5 MR. JONES: The process at this point in time  6 is you concluded the public presentation of the public  7 hearing. This is part of the ongoing public hearing  8 process, in that now it's back to the Council for this  9 questions and deliberations.  10 At the conclusion of your questions of either  11 the Applicant or of our staff, we will then begin that  12 deliberation process; whereby, you will review your  13 thoughts and processes and what findings you can make  14 with respect to this situation.  15 At the conclusion of that, if you give us  16 direction -- I mean staff -- direction of your  17 conclusions this afternoon, we will then go back and  18 prepare findings and the appropriate record to bring back  19 for your formal approval.  20 That approval will occur, based upon our current  21 time schedule, sometime on Monday of next week.  22 So it's now in the deliberative process, and  23 it's for you to ask questions and to offer opinions and  24 reach conclusions.  25 Thank you.</p> <p style="text-align: right;">7</p>	<p>1 share of it?  2 MR. MC CASKEY: Yes.  3 COUNCIL MEMBER NORDBAK: And where would that  4 fall, Mr. Helvey, with the letter we have from L.A.  5 County? Would that be a part of the number of the 7  6 million we think, or would that be not included in  7 that?  8 MR. HELVEY: They don't distinguish between the  9 mineral that's being extracted as to the revenue that  10 they believe we can use for our parks.  11 So when we talk about a 7 million number, that's  12 an estimate, obviously, based on price. That was not  13 including, in the past, the \$300,000.  14 COUNCIL MEMBER NORDBAK: Okay. And the 300, up  15 to 300 to 10 million; is that correct?  16 MR. HELVEY: Three hundred to a million --  17 3 million.  18 COUNCIL MEMBER NORDBAK: Three million. Okay.  19 Mr. McCaskey, also there was a discussion of  20 having to re-inject the excess water back into the  21 ground. How is this done, and is there any additional  22 noise created by that, and how is it actually re-injected  23 back in?  24 MR. MC CASKEY: Our project will have what's  25 called injector wells, which will be reviewed and</p> <p style="text-align: right;">9</p>

<p>1 approved by the DOG, the oil and gas division.  2 And the formation of water, which is primarily  3 saltwater, is pumped from the surface down into an  4 injection well approximately 6,000 feet below the  5 surface, into a zone that doesn't contain producible oil.  6 The DOG allows for injection back into oil  7 fields. They request that the injection be away from  8 producing wells. And so we would --  9 Our proposal has up to eight injection wells  10 that could be drilled and used for re-injection of water,  11 and so approximately a mile deep underneath the surface.  12 COUNCIL MEMBER NORDBAK: And yet, these possible  13 wells would all still be within the 6.9 acre pad;  14 correct?  15 MR. MC CASKEY: Yes.  16 COUNCIL MEMBER NORDBAK: Okay. And this does  17 not get put into the drinking or aquifer water; this goes  18 into a void area where it's not necessarily -- or it's  19 not water or potable water?  20 MR. MC CASKEY: Yes. The State won't allow for  21 injection of formation water into any producible  22 aquifers. The aquifers in this area are from 200 to  23 300 feet in depth below the surface, and as deep as  24 600 feet, where fresh water could be utilized for  25 drinking out of well waters.</p> <p style="text-align: right;">10</p>	<p>1 equipment.  2 (Pause in the proceeding.)  3 MAYOR WARNER: Let's go ahead and continue,  4 Greg.  5 COUNCIL MEMBER NORDBAK: I think that's my only  6 question directly -- my guess next question would be for  7 Mr. Jones.  8 I have some thoughts of some things I would like  9 to see put in, but not necessarily under the CUP process,  10 because if I understand, the CUP process is what is -- is  11 what Matrix and Clayton Williams are going to be held to;  12 is that correct?  13 MR. JONES: Correct.  14 COUNCIL MEMBER NORDBAK: So if I have some  15 things I wanted to put in that was on the City's dime,  16 would that come now or would that come later?  17 MR. JONES: It's really not part of this  18 process. This process is really to relate to the  19 adoption or the certification of the EIR and the  20 conditional use permit that would be issued to Matrix.  21 We could adgendize those at certain times in the  22 future as is appropriate. But at this point in time, it  23 really is not within the subject matter jurisdiction of  24 what you're considering this evening.  25 If you want to point them out for discussion, we</p> <p style="text-align: right;">12</p>
<p>1 The water beneath the surface here in between  2 the oil producing zones, which is the saltwater, it would  3 be the injection zones. And that -- the State allows for  4 injection far beneath -- in this case, almost a mile  5 beneath the surface aquifers.  6 COUNCIL MEMBER NORDBAK: I have my notes on here  7 on -- I think it was day two. You mentioned that the  8 motors would be running most of the oil equipment once  9 they were inside the casing of the housing there.  10 Are eight horsepower motors; is that correct?  11 MR. MC CASKEY: We use eight horsepower electric  12 motors on top of the wells. The pumps for the wells are  13 down inside the casing, several thousand feet below the  14 surface. And those electric pumps help pull the oil and  15 liquid to the surface.  16 So the top of each well can house an electric  17 motor that helps drive those pumps.  18 COUNCIL MEMBER NORDBAK: I was just trying to  19 get the reference point, because I talked to a pool man.  20 He says most pool motors are five horsepower, so it's  21 only three horsepower more than basically a pool motor,  22 so it's not a lot of noise.  23 MR. MC CASKEY: Right. It's very quiet.  24 MAYOR WARNER: Not a problem. We'll just pause  25 for a moment while the court reporter takes care of her</p> <p style="text-align: right;">11</p>	<p>1 can put them on the table and we can discuss them later  2 on. But they really have no nexus of relationship to  3 what we're considering this evening.  4 COUNCIL MEMBER NORDBAK: Okay. Let me ask a  5 question back to Mr. McCaskey, then.  6 Item 7 yesterday on MRS was regarding the  7 greenhouse, whether you may or may not reach the  8 exceedable level. And there was the equivalent to 20,000  9 solar panels, 20 acres of solar farms, a thousand homes  10 with solar systems or plant 1 million trees.  11 Is this something that you and Matrix are  12 responsible for?  13 MR. MC CASKEY: I'm not sure if we'd be  14 responsible for that program. We've looked into  15 two programs relative to greenhouse gases. We haven't  16 looked into the assertions by MRS.  17 COUNCIL MEMBER NORDBAK: Okay. Let me ask Luis.  18 Luis, would the -- should they exceed the  19 greenhouse gas allotment, where is it -- how do we put  20 the conditional use permit into that? Who covers the  21 excess of the greenhouse gasses?  22 MR. PEREZ: Council Member Nordbak, what we did  23 in that slide was provide you with a comparison as to  24 what it would take. I think there have been some  25 questions by different Council members as to what -- what</p> <p style="text-align: right;">13</p>

<p>1 would it take to provide the offsets required if they 2 were to exceed the 10,000 tons threshold that we have 3 identified in the environmental document.</p> <p>4 So those were examples. They're not necessarily 5 that Matrix is tied to those.</p> <p>6 The condition the way it's written now, and with 7 some modifications that were requested by a letter from 8 the AQMD, would suffice to require that they provide 9 offsets.</p> <p>10 One of the things that happens is that we really 11 don't know -- and I think we have said that. Greg has 12 said that in part of his presentation, also -- is we 13 don't know if they are going to exceed the threshold. It 14 depends on what their emissions would be.</p> <p>15 And so the AQMD will be closely watching and 16 monitoring the emissions to determine whether they will 17 in fact do that or they are likely to exceed it. And 18 they will then be required to offset whatever the 19 exceedance is.</p> <p>20 The program that we identify with the AQMD is 21 the program for planting trees that will be available to 22 Matrix if they choose to make a deal with the AQMD to do 23 that -- memorandum of understanding or something of that 24 sort -- is something that they could put in place in 25 advance of the project starting. I think that's probably</p> <p style="text-align: right;">14</p>	<p>1 And then I had another thought about job 2 creation, but I'd like to see the City of Whittier step 3 up in that, so I'll hold that for later. But I hope we 4 will think of the fact that this is an opportunity for us 5 to very possibly become a very, very green city, should 6 we handle this correctly, so --</p> <p>7 MAYOR WARNER: So maybe the policy question 8 is -- and this may or may not be the right venue or time 9 to ask the policy question. But in regards to the 10 negotiations with South Coast Air Quality, is there any 11 latitude or is there a seat at the table for the City 12 when it comes to the type of mitigation Matrix might have 13 to provide if in fact certain thresholds are exceeded?</p> <p>14 COUNCIL MEMBER NORDBAK: Yeah. A million trees 15 is a nice gesture, but I'd really like to do something in 16 our community.</p> <p>17 MS. BARLOW: If I may, Mayor, Members of the 18 Council. We have drafted some language that we would 19 offer to you with respect to the condition of approval 20 relating to greenhouse gas emissions. I don't know that 21 we need to change the language of the proposed mitigation 22 measure, but we certainly could incorporate into that 23 language that would allow the City to have a say in how 24 that greenhouse gas emission offset, or if it becomes 25 necessary, is accomplished, if that's the desire of the</p> <p style="text-align: right;">16</p>
<p>1 ideal.</p> <p>2 But the requirement that is within the 3 mitigation measure, us revise per the AQMD's language, 4 should be sufficient to provide you with assurances that 5 the impact could be mitigated. I mean, the way it's 6 described now, because there are no specifics on it, and 7 the way it's written in the environmental document and I 8 believe the way it is recommended by City Attorney's 9 office is to keep it in that fashion at this point as a 10 significant and unavoidable impact because of that.</p> <p>11 COUNCIL MEMBER NORDBAK: Thank you. It's one of 12 the things that intrigues me here, and I put a couple 13 stars by it, is the thousand home systems for solar 14 power.</p> <p>15 And thinking outside the box, should this get 16 passed by this Council, I think it would be a pretty 17 amazing thing if we could take the revenue from oil, from 18 a dirty fuel as such, and turn Whittier into a model city 19 of solar powered residences. And I am just trying to 20 think outside the box.</p> <p>21 And, you know, if we can take it and work it 22 backwards from the preserve, because there was a concern 23 about home values. And obviously if your house is 24 powered by solar, that would increase your value. So I'm 25 not sure when we discussed this.</p> <p style="text-align: right;">15</p>	<p>1 Council.</p> <p>2 MAYOR WARNER: So that would meet your 3 request.</p> <p>4 COUNCIL MEMBER NORDBAK: It would. I think we 5 as a Council need to address it ourselves at another 6 time, though.</p> <p>7 COUNCIL MEMBER VINATIERI: So as a further 8 question, I think Greg's idea, I was intrigued with it 9 when I heard it last night. This idea of a million 10 trees, is that a million trees anywhere, or can a good 11 portion of those -- potentially Whittier's already a Tree 12 City USA recipient.</p> <p>13 Is that a way of us attempting to make our 14 status and make us even greener in terms of our foliage? 15 Could that be done?</p> <p>16 MS. BARLOW: The way they are looked at -- they 17 are looking for at least regional offsets for the 18 greenhouse gas emissions. So it wouldn't necessarily 19 have to be in the City, but it would have to be in the 20 South Coast Air Basin, is my understanding.</p> <p>21 And I just want to add one final point, and that 22 is whether it's something that the City funds or not, it 23 is an impact caused by the project that you can require 24 the Applicant to fund.</p> <p>25 MR. JONES: Yeah, I think two things. One is</p> <p style="text-align: right;">17</p>

<p>1 that we can assure ourselves by condition to have a seat  2 at the table. The actual implementation process is not  3 at our level, the Council level, the debt implementation  4 level.  5 And it's a two-step process in that you first  6 have to determine that they're exceeding the greenhouse  7 gas emission requirements; and secondly, what's an  8 appropriation mediation. And that mitigation takes a  9 variety of forms, which would not only involve Matrix,  10 obviously, but South Coast Air Quality people, as well as  11 the City, as to how we address that.  12 But certainly this conversation could provide  13 direction for us at the table as to how you might want to  14 mitigation.  15 COUNCIL MEMBER VINATIERI: So if we're at a table  16 and it's a policy body, if we say, yeah, we like the idea  17 of doing the solar, we're there. Or we say, yeah, we  18 like the idea of the trees -- we can't do a million trees  19 in Whittier, but we can do some kind of derivation of  20 trees and solar or something else.  21 But that would be a policy decision for us to  22 take the carbon issue and do something positive with it  23 from the standpoint of --  24 MR. JONES: And you could use that direction,  25 and then staff could then communicate that direction to</p> <p style="text-align: right;">18</p>	<p>1 some ways for habitat disturbance. And since the -- it's  2 not required by the FAA and it's below the height of the  3 surrounding hills, couldn't that be removed, Luis or  4 Greg, I guess?  5 MR. CHITTICK: Madam Mayor, members of the City  6 Council, we're not aware of any requirement for it, as we  7 mention in the EIR. It's below the FAA heights and far  8 enough from the airports. It is something that drillers  9 usually put on there, and I don't see why it couldn't be  10 taken off, unless, you know, Matrix is familiar with some  11 other requirement.  12 MR. JONES: You couch it by saying "unless  13 there's a violation of law in some way."  14 COUNCIL MEMBER HENDERSON: Yeah, it appears not.  15 I mean, there's an argument in there that says it's not a  16 requirement of the FAA, and I just don't see any reason  17 to add that, unless Matrix has a problem with it for some  18 operational reason.  19 MR. MC CASKEY: We wouldn't need the light on  20 the rig.  21 COUNCIL MEMBER HENDERSON: Okay. Great.  22 We had a talk yesterday, Greg, about the North  23 Access Road, the NAR, and I think one of the  24 possibilities in finding a compromise amount of  25 mitigation for the noise, I think which you suggested is</p> <p style="text-align: right;">20</p>
<p>1 them.  2 COUNCIL MEMBER NORDBAK: Just to be clear I'm  3 going to make another run at this solar issue for the  4 City and the residents later. But I thought this would  5 be a good way to see if I could possibly get some of it  6 through the greenhouse gas funds, should Matrix have to  7 do it.  8 I am not trying to, as I said last night, choke  9 the life out of our chicken to get more eggs. I think  10 that there's a time when the City needs to start thinking  11 about what we're really gonna do with this money to be  12 smart and be proper with our residents.  13 So -- but if it gets to the greenhouse gas  14 issue, I would rather see solar systems in Whittier  15 residences as opposed to a million trees in Diamond Bar.  16 That's all my questions.  17 MAYOR WARNER: Okay. Owen, you're good?  18 MAYOR PRO TEM NEWCOMER: I'm fine.  19 MAYOR WARNER: Bob, did you have any additional  20 questions?  21 COUNCIL MEMBER HENDERSON: Yes, I have a few.  22 One of the things that I did not discuss last  23 night was the flashing red light on the drill rig. I am  24 kind of confounded as to why that would have to happen.  25 Obviously, it has potential to be detrimental in</p> <p style="text-align: right;">19</p>	<p>1 it's possible to lower the requirement on the decibel  2 level to 55 instead of at 60, which would still require  3 some sound mitigation but would obviously change the  4 envelope to a smaller amount than eight acres.  5 I think that would be an excellent way to  6 proceed. I don't know if you can give a guesstimate as  7 to what that envelope would now be, but it would seem to  8 me that would be a fair provision, because there  9 obviously are less trucks than there would have been in  10 the other.  11 But on the other hand, looking at our figures  12 around that area, it looks like the weighted measurement  13 for a 24-hour period in the site around the Deer Loop  14 Trail, for example, is 54 DPA. So I think that would  15 seem to be a reasonable compromise.  16 Could you address that?  17 MR. CHITTICK: Yeah. I can easily run those  18 numbers and give you an acreage value on that.  19 COUNCIL MEMBER HENDERSON: And have it for us  20 later today?  21 MR. CHITTICK: Yes.  22 MS. BARLOW: Madam Mayor, members of the  23 Council, we would recommend if that is done, that that be  24 a condition of approval rather than a change to the  25 mitigation monitoring program.</p> <p style="text-align: right;">21</p>



<p>1 COUNCIL MEMBER HENDERSON: You're saying put it 2 into the CUP, rather than into that, even though it was a 3 mitigation before? 4 MS. BARLOW: Well, the mitigation measure as it 5 currently exists would stay intact, and then you could 6 add to that through the CUP process. 7 COUNCIL MEMBER HENDERSON: I'm sorry. I don't 8 understand that, Kim. 9 MS. BARLOW: We don't want to trigger an issue 10 of differing impacts by using a different threshold than 11 that was used everywhere else in the document. 12 COUNCIL MEMBER HENDERSON: Well -- okay. I 13 mean, I guess what I was trying to do is to be fair to 14 the Applicant in the sense there was a reduction and yet 15 there's still a noise problem. And the problem is that 16 if you leave the one that's in there now, you're going to 17 end up with an eight acre mitigation for noise. 18 And then if you change it in the CUP to this, 19 you add an additional let's say four acres, three acres, 20 how do you get around that problem if you leave that 21 mitigation in place the way it is and there isn't that 22 impact? 23 Actually, the recommendation is to remove the 24 mitigation requirement now because of the dirt hauling 25 trucks being removed.</p> <p style="text-align: right;">22</p>	<p>1 I wonder if you need to make an adjustment for 2 that, or if that's enough information. I know there's a 3 letter out there. It's not absolutely guaranteed from 4 the Fire Department, but their indication is that they 5 would not have any interest in having to have that done, 6 just normal trimming and that sort of thing. 7 MR. CHITTICK: I can break out that number. I'm 8 never sure about what exactly the number's gonna be until 9 you're actually there, so we've left it in to be 10 conservative, in the EIR. 11 COUNCIL MEMBER HENDERSON: And if we did that 12 and it wasn't required, it would not be any problem, 13 because it would just be the Applicant would not have to 14 mitigate for that. 15 MR. CHITTICK: That's correct. 16 COUNCIL MEMBER HENDERSON: Okay. That's very 17 important. That changes the whole dynamic of that road 18 from being a roughly a 40-foot swath through the Habitat 19 area and also taking habitat off of some very steep 20 slopes, which I think is just a poor idea anyway. And 21 that would be very beneficial, I think, to the habitat. 22 Other than that, there was one little question. 23 I think I saw it answered, but maybe you could tell me 24 more specifically on this. 25 On -- as I read it, everything outside the lease</p> <p style="text-align: right;">24</p>
<p>1 MS. BARLOW: Right. We will look at that and 2 bring it back in an appropriate way. 3 COUNCIL MEMBER HENDERSON: Okay. Thank you. 4 Just a little technical thing from an insurance 5 agent. In the requirement for the Applicant's insurance, 6 obviously the City and its agents are mentioned. Since 7 Habitat is the administrator of the property, governs the 8 property, they should also be added. 9 And I would also recommend that -- I notice that 10 you didn't have primary and waiver of subrogation 11 language, which is very commonly in place for these types 12 of operations now, and they should be added. I would 13 think it would be appropriate. 14 It shouldn't really change the dynamics of it at 15 all. It's just a better protection for the City. 16 From MRS, I wondered when you did the 17 calculation for the impacted vegetation for fuel line, 18 did you anticipate that there was gonna be a ten foot 19 clearance on both sides of the North Access Road? 20 MR. CHITTICK: Madam Mayor, members of the City 21 Council, yes, ten feet on both sides. 22 My understanding is the latest from the Fire 23 Department is because this will be a controlled road, 24 they will not require that, which is good news to the 25 habitat.</p> <p style="text-align: right;">23</p>	<p>1 area, which we have now determined is the site area, 2 would follow the normal Habitats' requirements for 3 mitigation; is that correct? Did I misstate that? 4 In other words, there are mitigation's fees 5 basically for property that is turned over for 6 mitigation. The way I read it, you said that within the 7 site, that would not apply, and that makes absolute 8 sense. 9 But where they take and have to do re-vegetation 10 on other parts of the property, one of the revenue 11 sources for Habitat is selling those rights to other 12 developers and so on that goes back into the property. 13 So I just wanted to make sure that was clear, 14 because there's quite a bit of mitigation involved. 15 MR. PEREZ: I think that's correct, yes. 16 COUNCIL MEMBER HENDERSON: Okay. All right. 17 That's all I had. 18 MAYOR WARNER: Okay. Anyone else, any 19 questions? 20 I get a turn? Okay. 21 I would like to start with questions from 22 speakers, and I will just go chronologically as I noted 23 testimony in general. I would acknowledge the high 24 number of members of the public that spoke in regards to 25 the issues on Penn Street and Catalina. I want to</p> <p style="text-align: right;">25</p>

<p>1 acknowledge that we had a large number, and I would also  2 acknowledge that I believe we have vetted that issue.  3 The next item I'm going to bring up, I don't  4 know that we have discussed the concept, and I am not  5 sure if this is the right venue.  6 Attorneys, you'll have to direct me.  7 One of the speakers on the first night --  8 actually Speaker Number 14 -- expressed concerns and  9 requested that we consider some type of a citizen  10 oversight committee.  11 Can someone address that concept? Tell me why  12 it would be a good idea or a bad idea or a legal or an  13 illegal idea.  14 MS. BARLOW: Madam Mayor, members of the  15 Council, from a legal perspective I guess it would depend  16 on what the citizen oversight committee was charged with  17 doing.  18 The EIR includes a group of mitigation measures,  19 and the CUP would require completion in conformance with  20 those mitigation measures and a mitigation monitoring  21 program paid for by the Applicant to ensure that the  22 mitigation were properly taken and implemented.  23 Normally you would not have a citizen oversight  24 committee to do that. That's done by experts who are  25 retained in the field to ensure that the necessary steps</p> <p style="text-align: right;">26</p>	<p>1 one of the legal requirements is that there be some type  2 of a bond oversight. I think conceptually that's what --  3 my line of thinking.  4 But this whole thing then should be addressed  5 later if --  6 MR. JONES: At some point in time. And to be  7 honest with you, I believe -- and Bob, correct me --  8 because I recall, the statute of Habitat and WIKA, that  9 was part of the post-monitoring process that was  10 involved, and they've served as sort of the eyes and ears  11 as the Council, through our representatives, regarding  12 the use of those properties.  13 MAYOR WARNER: Okay. So again maybe after this  14 process if the Council moves forward with this, then a  15 discussion about some kind of a mechanism, so that if a  16 citizen has a concern, a complaint, they see something,  17 there's one person or one mechanism that they go to, so  18 that not all department heads are fielding phone calls,  19 but there's a way that they can communicate with the  20 City.  21 MR. JONES: Certainly.  22 MR. PEREZ: Madam Mayor, if I may share with you  23 just a little bit of experience that we have from  24 something similar to I think what you're suggesting for  25 the Baldwin Hills/Inglewood project.</p> <p style="text-align: right;">28</p>
<p>1 are taken to mitigate all of the impacts.  2 MAYOR WARNER: Okay.  3 MR. JONES: Let me add to that a little bit.  4 I think that with respect to this process as far  5 as the mitigation goes, that is a legal process. It  6 requires legal analysis and legal determinations.  7 If the Council at some level wants to have  8 citizen input regarding this process as it's implemented  9 in terms of expenditure of money, the use of the  10 facilities, those types of things as a  11 post-determination, the Council certainly could establish  12 whatever committees it wants to to provide input and  13 direction, to advise the Council as it deliberates in its  14 role as the Council after the project's in place.  15 But it seems to be on the monitoring side as far  16 as the development of the project at this point in time.  17 That really is a legal process. It needs to be monitored  18 properly and reported back to you as the Council.  19 MAYOR WARNER: Okay. So I've asked the question  20 brought to my attention by the citizen that gave us  21 input. And then a further comment from myself, as I  22 mentioned I had been thinking about this, and I guess I  23 compare my thinking to that of a bond oversight  24 committee.  25 So when an entity passes a bond -- and I think</p> <p style="text-align: right;">27</p>	<p>1 They created what is called a community advisory  2 panel that meets monthly, and what they did in that  3 particular case is they assigned the director of planning  4 for the County of L.A. to select a group of neighbors  5 that wanted to be on this panel, to sit in monthly  6 meetings and comment on things as they come up for the  7 site.  8 I have been participating in that, and it works  9 fairly well. It allows an opportunity for members of  10 community groups to represent themselves and ask  11 questions and understand better, and then go back to  12 their neighborhood meetings or association meetings and  13 share information as to how the project is going, how  14 compliance items are going.  15 So there are models out there that have been in  16 place that could work to serve the community so they're  17 properly informed about what's going on and to provide  18 their questions and concerns.  19 And there's a loop, a feedback loop mechanism  20 for the City to hear about those concerns and fix them as  21 appropriate.  22 MAYOR WARNER: Thank you.  23 And I hope some staff member is keeping a list  24 of these items that we're bringing up that aren't really  25 appropriate for us to delve into now, but later if we</p> <p style="text-align: right;">29</p>

<p>1 choose to move forward with the project.  2 Okay. Thank you.  3 A citizen asked if there were any alternatives  4 to flaring. And that may have been addressed somewhere  5 in the documents, but I just would like to review that --  6 not in depth, but yes or no.  7 MR. CHITTICK: Madam Mayor, members if the City  8 Council, there would be flaring during two portions of  9 the project. The first part would be during the testing  10 phase when they don't have the gas processing equipment  11 installed, so they need to do something with the gas, and  12 so they're proposing to flare the gas at that time.  13 The second time that they would flare would be  14 during the operational phase when there's some kind of  15 emergency and they need to move that gas out of their  16 equipment for safety reasons.  17 And that second phase, there's really nothing  18 you can do. That gas needs to be burned in order -- so  19 that you don't release it into the environment. So  20 that's a safety issue; that would need to stay.  21 But that wouldn't happen very frequently. The  22 AQMD has a limit on the number of hours per year during  23 operations.  24 However, during the testing phase, you either  25 burn the gas through a flare or you could burn it in an</p> <p style="text-align: right;">30</p>	<p>1 plan or a new general plan before this project could move  2 forward.  3 There isn't a requirement that every specific  4 project that you consider by CUP or otherwise be included  5 in the general plan. What you are looking for is  6 consistency with the general plan. And we have  7 recommended to you that we believe that you can make that  8 consistency determination.  9 It would be a violation, frankly, of Matrix's  10 due process rights to defer action on their application  11 pending a new general plan. You do have a current  12 general plan, and they have a right to have their  13 application considered within a certain period of time.  14 So it would not be appropriate to defer this until a new  15 general plan was adopted.  16 MAYOR WARNER: Thank you.  17 COUNCIL MEMBER HENDERSON: Kim, also on that  18 point, I mean, wasn't the analysis also that the points  19 that were raised had to do with the inconsistency of  20 zoning, that this is an open space zone, and that they  21 felt that therefore it wasn't in conformity with the  22 general plan.  23 And yet I think the argument that came back is  24 that we have statutes that allow oil production in every  25 zone in the City.</p> <p style="text-align: right;">32</p>
<p>1 engine and generate electricity. But the AQMD also has  2 requirements in terms of how your gas needs to be cleaned  3 before you can burn it like that.  4 So it introduces complications that could be  5 overcome, but it's just more complicated. But there are  6 other things that could be done aside from flaring.  7 But in terms of emissions, you're still burning  8 the gas. You're just burning it in an engine instead of  9 a flare.  10 COUNCIL MEMBER HENDERSON: Greg, could you tell  11 us, is that a visible flare?  12 MR. CHITTICK: The flare that they're proposing  13 is a shrouded flare, so the combustion of the flare  14 occurs down inside of a large tube. There may be some  15 slight glow off the top, but in general it's not like a  16 flare where you see the open flame.  17 COUNCIL MEMBER HENDERSON: Thank you.  18 MAYOR WARNER: Okay. And then a citizen  19 inquired about the mention of this potential project in  20 our general plan.  21 Can someone address that and the necessity of it  22 being I guess articulated in that plan in detail?  23 MS. BARLOW: Yes. Madam Mayor, members of the  24 Council, there was a citizen who took the position, I  25 believe, that there should be an amendment to the general</p> <p style="text-align: right;">31</p>	<p>1 MS. BARLOW: Yes, that is allowed in every zone  2 in the City, subject to the issuance of a CUP.  3 COUNCIL MEMBER HENDERSON: Right. Thank you.  4 MAYOR WARNER: Okay. Another citizen presented  5 the query, if the project cannot be done safely, who pays  6 Matrix back. In other words, if the Council determines  7 that we are going to turn down the project, is it  8 necessary for the City to reimburse Matrix for any funds  9 they have expended as part of their process to be the  10 Applicant.  11 MS. BARLOW: Madam Mayor, members of Council,  12 the answer to that is no, so long as your action is not  13 arbitrary and capricious. If you make your decision  14 based on the evidence before you, that it would be  15 inappropriate to grant the CUP, there would be no  16 requirement that you reimburse Matrix for the cost.  17 MR. JONES: The same legal standards applies for  18 proponents or opponents. So whatever decision you make,  19 the party would feel that they have been denied their due  20 process or appropriate decision, has a right to challenge  21 you under the same criteria that you acted arbitrarily or  22 capriciously, absent that standard.  23 In this case Matrix, as an investment and  24 Applicant here, has risked dollars to go forward with  25 this process at their own risk.</p> <p style="text-align: right;">33</p>

<p>1 MAYOR WARNER: A question was asked in regards  2 to the perpetuity issue in the Prop A language. I think  3 we've vetted that, but we have our legal opinions,  4 correct, that substantiate what we're doing?  5 MS. BARLOW: Yes, Mayor Warner. And we also  6 address that further in the supplemental staff report  7 that was issued to you last week.  8 MAYOR WARNER: Okay. A question was asked, does  9 Clayton Williams' company need to be vetted. I think it  10 was more of a moral question about that company.  11 Is that an issue in this process?  12 MS. BARLOW: No, ma'am, unless you feel that for  13 some reason the Applicant hasn't disclosed the required  14 information. And that is not staff's conclusion.  15 MAYOR WARNER: Okay. A question was asked about  16 the pipeline and traffic. Did the EIR review the  17 pipeline configurations?  18 MR. PEREZ: Madam Mayor, yes. I think there are  19 some specific details as to exactly where within the road  20 the pipeline would go, and those things would be done  21 when the final design is completed. But I think the  22 analysis that is provided in the document about the  23 pipeline and traffic issues and the mitigation measures  24 provide for -- these are fairly common, and they're done  25 throughout. So it's not as if this is something that is</p> <p style="text-align: right;">34</p>	<p>1 questions on why not take the issue to vote. I think  2 that was explained earlier by Mr. Jones, that there's not  3 a legal mechanism to do that.  4 There was a question about who would pay the  5 legal fees of any current and potential lawsuits that the  6 City would be involved in in regards to this project.  7 MS. BARLOW: Madam Mayor, there is a condition  8 of approval that requires the Applicant to bear the cost  9 of any litigation that results from this process and to  10 indemnify the City for those costs.  11 There's a similar provision in the lease.  12 MAYOR WARNER: Thank you.  13 A question was asked in regards to changing in  14 the project, what are our options if there are problems.  15 And I think that's built into the documents as far as the  16 CUP review process; is that correct?  17 MS. BARLOW: Yes. We also really elaborated on  18 that in the proposed conditions a little bit more than we  19 normally do, partly because of the concerns to address  20 the opportunity to review the conditions and the  21 compliance even earlier than we might normally, to ensure  22 that if additional conditions are required, they can be  23 imposed.  24 MR. JONES: I think the other thing which we  25 should probably step back and recognize, this is a</p> <p style="text-align: right;">36</p>
<p>1 groundbreaking --  2 Well, it would be ground breaking to put the  3 pipeline.  4 MAYOR WARNER: Yes, we understand the pun.  5 COUNCIL MEMBER HENDERSON: You're not gonna  6 start punning on us, are you?  7 MR. PEREZ: I'm sorry. I'm used to doing these  8 at night.  9 So suffice it to say that, yes, the analysis is  10 thorough and complete for that.  11 MAYOR WARNER: Okay. And I don't -- I will not  12 say I have memorized the answers to the questions that  13 I'm asking, but I am familiar with a lot of the answers.  14 But for me as a council member, I think it's  15 prudent to make sure that we articulate some of the  16 concerns of those that testified to us, even if it means  17 repeating some of these things. So I will ask for my  18 colleagues' indulgence on that.  19 The issue of fracking came up. I think that's  20 been addressed, and it stipulates that it's not  21 allowed.  22 And off-road vehicles, we did discuss standards  23 for stationary equipment. I think we reviewed that  24 yesterday.  25 A lot of questions on traffic plans. A lot of</p> <p style="text-align: right;">35</p>	<p>1 dynamic process. If you look at both the EIR, the fact  2 we've gone through different iterations of the EIR in  3 terms of circulation. The Appendix O, we look at the  4 conditions in the CUP process. It is an evolving  5 process, one which you are establishing conditions.  6 As you establish those conditions, then we begin  7 the implementation stage. And those conditions are there  8 to address those issues as they go forward. But it  9 creates within it the flexibility and the recognition  10 that they'll be actual decisions have to be made as the  11 process proceeds and the project is put into  12 implementation stage.  13 MAYOR WARNER: Next set of my questions have to  14 do with the CUP. And I'm wondering if it would be a more  15 effective use of our time, we need to review that  16 document anyway.  17 Should I hold my questions? I'm sure my  18 colleagues may have questions in regards to the CUP, and  19 are we at the point where we should start going through  20 that item by item?  21 MR. HELVEY: I think once you get through your  22 general questions, what we'll ask Kim and Jenetta to do  23 is print out a copy of the CUP, as they've been keeping  24 track of it, while you take a short break.  25 And we can work off that and go through them one</p> <p style="text-align: right;">37</p>

<p>1 at a time to see where there is consensus or lack of  2 consensus on those conditions. Again, not asking you to  3 vote yes or no, but simply to say, yes, I think we ought  4 to make an Applicant to do if the project's approved or  5 not.</p> <p>6 So I'd finish your questions, let them print us  7 up a copy, which they can do while we take a brief break,  8 and then we can use that as our guide.</p> <p>9 Okay. And so as I say, I have a whole set of  10 questions about that, but I can wait and do that during  11 that process.</p> <p>12 And being the last speaker, a huge majority of  13 my questions have been asked and answered because of my  14 colleagues.</p> <p>15 So with that, shall we take a break and have  16 that printed and then we'll return.</p> <p>17 Thank you.</p> <p>18 (Recess taken.)</p> <p>19 MAYOR WARNER: Okay. Mr. Jones, do we have the  20 documents we need to proceed?</p> <p>21 MR. JONES: I believe the answer's yes.</p> <p>22 MAYOR WARNER: Okay. And at this point, do you  23 want to address the meeting that is scheduled at 6:30 and  24 what's gonna happen with that meeting?</p> <p>25 That meeting will be continued to Monday at</p> <p style="text-align: right;">38</p>	<p>1 authority to move forward with an approval, this document  2 will then be finalized and presented back to you on  3 Monday, the 28th, but that's assuming you've gone through  4 this, approved the conditions and made some decision  5 relative to the EIR and the CUP.</p> <p>6 So this is purely for discussion's sake at this  7 point in time.</p> <p>8 MS. BARLOW: Madam Mayor, if I could, perhaps it  9 would be best if we just go through the document and I  10 can explain the red-line changes that are showing, and  11 you can stop me at any point if you have questions about  12 any of the conditions on that same page.</p> <p>13 MAYOR WARNER: Okay. And as we go through it,  14 if this meets with my colleagues' approval, if there are  15 no red-line changes in a particular item, then I'll just  16 ask for questions and I'll have each of you ask your  17 questions.</p> <p>18 I do have several, and I'll be the last of  19 course to ask. So in item 1, I don't see any.</p> <p>20 MAYOR PRO TEM NEWCOMER: Or we can just do it by  21 page, are there any questions on the first page.</p> <p>22 Before we start, can I ask a question?</p> <p>23 MAYOR WARNER: Sure.</p> <p>24 MAYOR PRO TEM NEWCOMER: This is a CUP. Except  25 for the red-line changes, is this what the Planning</p> <p style="text-align: right;">40</p>
<p>1 6:30 p.m., or as soon thereafter as we can meet.  2 Assuming that we conclude this meeting, we're gonna  3 adjourn this meeting to 5:30 on Monday if it meets the  4 Council's schedule.</p> <p>5 MAYOR WARNER: So we'll revisit that.</p> <p>6 COUNCIL MEMBER HENDERSON: Five o'clock or 5:30?</p> <p>7 MAYOR WARNER: Let's revisit the time when we  8 conclude here.</p> <p>9 And can I ask Mrs. Marshall to address the  10 document that the Council has just been presented with  11 and where the copies are for the public, please, and if  12 the public would like an additional copy.</p> <p>13 MS. MARSHALL: Madam Mayor, this is a copy of  14 Attachment A prepared by Assistant Attorney Barlow, and  15 has been distributed to the public in the binder on the  16 table near the rear of the room, and additional copies  17 can be obtained from my department at a cost.</p> <p>18 But they're free to see them back there now.  19 And I think -- are we distributing some extras now? We  20 have a couple extras now if people want to pass them  21 around, if you'd like to do that.</p> <p>22 MR. JONES: This is still a dynamic document.  23 We will go through this document as you reach consensus  24 as to what you're going to approve or not approve with  25 respect to these conditions. If you ultimately give us</p> <p style="text-align: right;">39</p>	<p>1 Commission recommended to us?</p> <p>2 MS. BARLOW: That is correct.</p> <p>3 MAYOR PRO TEM NEWCOMER: Okay. And will we be  4 going through the EIR mitigation, or do we -- what?</p> <p>5 MS. BARLOW: You can certainly do that. We've  6 already got some ideas, I think, of some minor changes  7 that we need to make to those mitigation measures. We  8 did want to go through the conditions of approval, and  9 then you can do the mitigation measures if you have  10 further questions about those.</p> <p>11 MAYOR PRO TEM NEWCOMER: Do we need to go  12 through them today so you have something to bring back to  13 us on Monday?</p> <p>14 MS. BARLOW: You certainly can do that. I would  15 prefer that we go through the conditions of approval  16 first. The environmental consultants would be making  17 proposed changes along with staff to any mitigation  18 measures that you would like to change. But these are  19 the conditions of approval for the CUP itself.</p> <p>20 MAYOR WARNER: And if we are anticipating doing  21 that and if any additional documents need to be presented  22 for that part of the process, maybe that can be done.</p> <p>23 MR. BARLOW: Right. We may need some additional  24 direction from the Council as a whole before we make  25 those changes.</p> <p style="text-align: right;">41</p>

<p>1 MAYOR WARNER: Okay. So, number 1, there are no 2 red lines that I see. 3 Any questions on number 1? 4 Number 2, questions? 5 I have a question on number 2. And it's in the 6 second line. Parenthesis, with legal counsel reasonably 7 acceptable to the City, to me is vague. And it may be 8 legal language that's appropriately legal language that 9 I'm just not aware of. 10 MS. BARLOW: It is, Madam Mayor, legal language. 11 We want to ensure that we have a say over who the legal 12 counsel might be. And this simply sets forth a standard 13 that our approval has to be reasonable. 14 MAYOR WARNER: Okay. Number 3, any questions? 15 My question on number 3 in the third line, it 16 says, to prohibit violation of the conditions set forth 17 herein or to mandate compliance with the conditions 18 herewith. 19 My question is: Who pays? I think that's 20 probably been answered, but because I've got different 21 questions from different documents, just very 22 succinctly. 23 MS. BARLOW: Yes. We would be paid by the 24 Applicant for those legal fees, should we be successful 25 in seeking injunctive relief.</p> <p style="text-align: right;">42</p>	<p>1 for the condition, so we won't be referring to leased -- 2 COUNCIL MEMBER HENDERSON: But that's wrong in 3 this line, in this sentence. The 6.9 should be referred 4 to as the project site. It should never be referred to 5 as the oil field. The oil field is 1,290 acres. It's 6 the main oil field. 7 MS. BARLOW: I understand that, but all of the 8 language that addresses oil field is specific to the 9 6.9 acre site. But we will go through and clean that up 10 as we -- after we've had direction from the Council. 11 COUNCIL MEMBER HENDERSON: I think it's 12 complicated. It made it more confusing. 13 MAYOR WARNER: I agree with Bob. To me the oil 14 field is the entire site. 15 MS. BARLOW: Then we'll clean that up in the 16 next version. 17 MR. JONES: So it will just say "project site." 18 MAYOR WARNER: Okay. And the reference to the 19 Planning Commission, accepted by the Planning Commission, 20 will that stay in or will it be referred to -- will it 21 refer to the Council if the Council votes to accept? 22 MS. BARLOW: It would refer to the Council. 23 MAYOR WARNER: Okay. And then a lot of my 24 questions have to do with words that I think are vague. 25 "Substantially" to me doesn't quantify anything.</p> <p style="text-align: right;">44</p>
<p>1 MAYOR WARNER: Number 4, any questions? 2 My question there is how is this item monitored? 3 MS. BARLOW: It's monitored through both the 4 mitigation monitoring program and also through the staff 5 review process that we've included. 6 MAYOR WARNER: And number 5, if you want to 7 address that since there are changes. 8 MS. BARLOW: Yes. We did add a sentence so that 9 to clarify that the oil field, which is used throughout, 10 that's really the primary project site. We will also be 11 making some additional changes to the language of some of 12 the conditions to clarify that. 13 I didn't get through them all, but this was the 14 beginning of that process to ensure that when we are 15 talking about the oil field, we're talking about the 16 primary 6.9 acre site. 17 COUNCIL MEMBER HENDERSON: And that's also the 18 leased area. 19 MS. BARLOW: We're changing that from "leased 20 area" to "oil field." 21 MAYOR WARNER: And this indicates as accepted -- 22 COUNCIL MEMBER HENDERSON: Well, wait a minute. 23 As the oil field or project site. They're 24 two entirely different things. 25 MS. BARLOW: We'll be changing it as appropriate</p> <p style="text-align: right;">43</p>	<p>1 How do you substantially adhere to the approved plans? 2 Either you do adhere or you don't adhere. 3 MS. BARLOW: Well, that's a decision that 4 typically the Director of Public Works or the appropriate 5 reviewing official would determine. 6 We don't expect perfection. So long as they 7 meet with the spirit and the intent of the approved 8 plans, that's what we're looking for. 9 COUNCIL MEMBER VINATIERI: I think it's 10 important to point out that the concept of substantial 11 compliance, not 100 percent, but substantial compliance 12 is a very well known quantity within the body of law, so 13 that when you say substantial, there are some guidelines 14 as to what constitutes substantial. 15 MAYOR WARNER: Okay. Then I will say as a 16 council member, I would anticipate 100 percent compliance 17 with the rules. 18 MS. BARLOW: Well, by way of example, it might 19 be that in the field, the building plans might say one 20 thing, but in the field they may look at it, decide that 21 something a little bit different needs to be done. It 22 still substantially complies, and it meets the intent, 23 and that's what this is about. 24 MAYOR WARNER: Okay. So I guess I have a 25 concern, but since I'm not one of you guys, I shouldn't</p> <p style="text-align: right;">45</p>

<p>1 have that concern.  2 MR. JONES: It does meet the legal task.  3 MAYOR WARNER: You want to go over number 5 --  4 or wait. I'm sorry, number 6.  5 Number 6, any questions?  6 COUNCIL MEMBER VINATIERI: No.  7 MAYOR WARNER: Okay. Number 7.  8 MS. BARLOW: That was the substantial  9 compliance.  10 MAYOR WARNER: Okay. Number 9. Any questions  11 on number 8? Number 9?  12 Is it -- does it matter in number 9, the order  13 of the items? Does that order indicate priority at all?  14 MS. BARLOW: No. Whatever condition is most  15 protective of the environment will be the one that will  16 prevail.  17 MAYOR WARNER: Okay. Number 10?  18 COUNCIL MEMBER VINATIERI: None.  19 MAYOR WARNER: Will there be a particular  20 department in the City of Whittier as the lead agency in  21 reviewing conditions?  22 MS. BARLOW: For most conditions that are  23 imposed, it is the public works department, but there are  24 from time to time other departments that are  25 designated.</p> <p style="text-align: right;">46</p>	<p>1 MR. JONES: Correct.  2 MS. BARLOW: Correct.  3 MAYOR WARNER: Any discussion?  4 COUNCIL MEMBER VINATIERI: Yes. Let's break  5 that sentence down into two. It's a run-on, and I would  6 suggest that what we do is take the text on page 2, and I  7 note that the first -- the first "and" there, so we have  8 the first clause is following initial, and then and, can  9 we just break up and say, following the initial  10 approval's permit, if any condition imposing a fee is  11 added -- is added -- is added and that newer expanded  12 condition is challenged, period, by the operator. Let's  13 take it out of the context of a -- it strikes me, it's  14 not a parenthetical, it's like a parenthetical. If we  15 could just go ahead and take that and drop the -- where  16 it talks about the CCP Section 1094.6.  17 MS. BARLOW: We can reword that and bring it  18 back to you if the project is approved and we have --  19 we'll do that.  20 COUNCIL MEMBER VINATIERI: I would appreciate  21 it. I think it's legalese, and I understand it's  22 legalese, but let's see if we can't make it just a little  23 easier.  24 MAYOR WARNER: And once again, the rewording, we  25 would have a copy in our hands before we would be asked</p> <p style="text-align: right;">48</p>
<p>1 MAYOR WARNER: So it's appropriate to say  2 "City"?  3 MS. BARLOW: Yes.  4 MAYOR WARNER: Okay. And please address  5 number 11.  6 MS. BARLOW: With number 11, we were trying to  7 address some concerns with Matrix, that at the staff  8 level we felt we could modify this condition in such a  9 way that they wouldn't have to cease operations following  10 initial approval.  11 If the project is approved and they begin  12 operations, and then we subsequently want to impose a new  13 or different condition, under the language as it was  14 previously drafted they would have had to shut down all  15 operations at the site pending a legal review.  16 So what we did was to say after initial approval  17 and start-up, if we impose a new condition, they can  18 continue to operate under the old conditions unless we  19 get some sort of stay or otherwise. They don't have to  20 shut down operations. So that is what that change is  21 meant to address.  22 MAYOR WARNER: Okay.  23 COUNCIL MEMBER HENDERSON: You have a bailout  24 there for any condition that is validated by court of  25 law.</p> <p style="text-align: right;">47</p>	<p>1 to act on the matter?  2 MR. JONES: Yes.  3 MS. BARLOW: Yes, that is the plan.  4 MAYOR WARNER: Okay. Anything on 13?  5 Fourteen, is "suitable" another one of those  6 words, legal words?  7 MR. JONES: Yes.  8 MAYOR WARNER: All right. So I won't ask that  9 question.  10 And in number 14, is it necessary to refer to  11 the document that allows the City to reasonably determine  12 what's going on?  13 MS. BARLOW: No. We're comfortable that the  14 language as drafted is sufficient.  15 MAYOR WARNER: And on 16, "fair share," I  16 need --  17 COUNCIL MEMBER VINATIERI: I'm sorry, can we go  18 back to 15?  19 MAYOR WARNER: Fifteen.  20 COUNCIL MEMBER VINATIERI: Kim, is there another  21 place in here where we talk about the traffic management  22 plan and the ability of the residents to be involved in  23 that plan?  24 MS. BARLOW: No. The traffic plan is primarily  25 addressed in the mitigation measures, and this is the</p> <p style="text-align: right;">49</p>

<p>1 only place as I recall in the conditions of approval.  2 I think it's our understanding that Council  3 would want staff to involve the public in the approval of  4 that, but you can certainly specify that in the condition  5 if you like.  6 COUNCIL MEMBER VINATIERI: I would like that,  7 some language that just indicates it's the Council's  8 intent that those interested parties have opportunity to  9 be part of that traffic management plan.  10 COUNCIL MEMBER HENDERSON: I agree.  11 MAYOR PRO TEM NEWCOMER: I agree, too.  12 And I think there's one other thing we need, and  13 maybe I'm missing it and maybe it's already there. And  14 that would be to require offsets not just during the  15 operation phase, but during all the phases, to the extent  16 that out-of-city trucks are going to our landfill.  17 I understand we have contracts with the in-city  18 ones and the contract-city ones that can't -- you know,  19 that can't be dealt with. So if I got the numbers right  20 the other night, there may be a maximum 30 truck trips  21 for the project -- excuse me, for either the testing or  22 the construction phase. And there would be, on average,  23 11 of the out-of-city trucks.  24 So what would be the wording if Council would  25 agree that we should require the offset, to the extent</p> <p style="text-align: right;">50</p>	<p>1 contributing to the need for traffic improvements.  2 MAYOR WARNER: So fair share is not just some  3 subjective word.  4 MS. BARLOW: No.  5 MAYOR WARNER: It actually is defined and means  6 something.  7 MR. BARLOW: Yes.  8 MR. JONES: Yes.  9 MAYOR WARNER: Do you want to address 17? We  10 see changes.  11 COUNCIL MEMBER NORDBAK: I have a question on  12 17, Kim.  13 You switched "project excavation" to "retaining  14 walls." Is there later anything related to berming?  15 MS. BARLOW: Well, there are requirements in the  16 mitigation measures related to berming. But this was  17 specific to the fact that we did not need them -- they're  18 not gonna be doing excavation to put in the retaining  19 walls. They'll just have to submit the plans to us  20 before they construct those retaining walls.  21 Is that correct, Mr. Perez?  22 MR. PEREZ: Yes.  23 COUNCIL MEMBER NORDBAK: And how's that handled?  24 How's that have to do with berming on there?  25 MS. BARLOW: All of the plans, if they have to</p> <p style="text-align: right;">52</p>
<p>1 there are these out-of-city trucks that can be diverted?  2 MS. BARLOW: I believe that that requirement is  3 already included either in a different condition or in  4 the mitigation.  5 MS. BARLOW: I'm sorry, 16?  6 MAYOR PRO TEM NEWCOMER: And it applies it all  7 phases, not just the operation phase?  8 MAYOR WARNER: It says for the contract.  9 MS. BARLOW: Yeah. And if you take a look at  10 item number 12, permit conditions are intended to apply  11 to the project during all phases.  12 MAYOR PRO TEM NEWCOMER: Okay. And where is the  13 offset language?  14 MR. JONES: Sixteen, paragraph 16.  15 MR. BARLOW: To maintain existing, equivalent  16 overall truck trip traffic.  17 MAYOR PRO TEM NEWCOMER: For the project. And  18 the project is not just the operation phase, it's all  19 three phases.  20 MAYOR WARNER: And in 16, "fair share," I think  21 if I understood Chris last night, that that's a term that  22 they use that's defined as really determining who owes  23 what; is that correct?  24 MS. BARLOW: Yes. They have a fair share plan  25 where they determine who -- which projects are</p> <p style="text-align: right;">51</p>	<p>1 do any grading, berming, remaining walls, all of that  2 would be subject to approval from the building  3 department.  4 COUNCIL MEMBER NORDBAK: Okay. So where's -- 17  5 says retaining walls. Where's it in here about berming?  6 MS. BARLOW: The berming is addressed in the  7 mitigation measures.  8 MAYOR PRO TEM NEWCOMER: The EIR.  9 COUNCIL MEMBER NORDBAK: That requires our  10 approval?  11 MR. PELSER: Excuse me, if I may. David Pelsler,  12 Public Works Director.  13 There is a requirement that the grading plan be  14 reviewed and approved by the Public Works Director, and  15 the berms would be included in the grading plan. And  16 that's in a separate condition.  17 COUNCIL MEMBER NORDBAK: Thanks.  18 MAYOR WARNER: Anything else on 17?  19 Eighteen, questions?  20 COUNCIL MEMBER VINATIERI: Yes, I have a  21 question.  22 It says coordinator, but it also says  23 coordinators, meaning that there could be more than one.  24 Who's gonna make the determination whether  25 there's one or two?</p> <p style="text-align: right;">53</p>



1 MS. BARLOW: Madam Mayor, normally that would be  
 2 up to the City to determine, based upon all of the  
 3 conditions and the need to have one or more.  
 4 COUNCIL MEMBER HENDERSON: That's the final  
 5 sentence, isn't it?  
 6 MR. JONES: Yes. The answer's yes.  
 7 MS. BARLOW: Yes.  
 8 MR. HELVEY: Joe, I think you're viewing it as  
 9 an employee, maybe. And what we're suggesting, I think,  
 10 is that there may be certain areas of expertise required  
 11 for different phases of the operation that would require  
 12 us to hire a contractor similar to the annual oil audits  
 13 we do when we hire a petroleum engineer to go on our  
 14 behalf. So there may be multiples.  
 15 COUNCIL MEMBER VINATIERI: So we're not looking  
 16 at employee as much as we are an independent contractor?  
 17 MR. HELVEY: Probably would be tough to find an  
 18 employee with that skill set, but it could be an  
 19 employee. It could be an employee, but I think that's  
 20 not really the point. The point would be to have the  
 21 expertise out there.  
 22 MAYOR PRO TEM NEWCOMER: But it could be an  
 23 employee if that was the City's choice.  
 24 MR. HELVEY: Sure.  
 25 MR. JONES: The City has that authority.

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1 COUNCIL MEMBER VINATIERI: Thank you.  
 2 MAYOR WARNER: And in respect to what Bob has  
 3 suggested earlier where it refers to oil field, will that  
 4 be changed?  
 5 MS. BARLOW: Yes. We'll be addressing all of  
 6 that.  
 7 MAYOR WARNER: So that's an example. Okay.  
 8 Anything more on 18?  
 9 On 19, is carpooling an issue with  
 10 subcontractors, et cetera, and is that addressed  
 11 somewhere?  
 12 MR. BARLOW: Carpooling is addressed. I don't  
 13 think it's in 19, though.  
 14 MAYOR WARNER: But specifically regarding  
 15 subcontractors. I know we addressed carpooling for the  
 16 employees. But as far as subcontractors or others that  
 17 are coming on the site?  
 18 MS. BARLOW: I believe that would include all of  
 19 the -- both subcontractors and employees.  
 20 MAYOR WARNER: And that's addressed somewhere?  
 21 MS. BARLOW: I believe it's in the mitigation  
 22 monitoring program. Carpooling.  
 23 COUNCIL MEMBER HENDERSON: Mr. McCaskey talked  
 24 to us about staging offsite, but I don't know that that's  
 25 actually covered anyplace in any condition or any

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1 mitigation measure. They said that's the way they like  
 2 to operate and do it.  
 3 Maybe it would be good to clarify it and add it  
 4 in either to the EIR or to the conditions.  
 5 MAYOR WARNER: I recall reading about carpooling  
 6 somewhere, but I just don't remember which part of what  
 7 document.  
 8 MS. BARLOW: That would be part of the traffic  
 9 plan as well. We will ensure that that is incorporated  
 10 in the traffic plan.  
 11 MAYOR WARNER: And on 19, part 2, does safety  
 12 training need to be articulated in that section, or is  
 13 that assumed?  
 14 MS. BARLOW: All employers would have certain  
 15 statutory safety training they would have to do under Cal  
 16 OSHA regulations with their employees, and probably under  
 17 DOGGR regulations, that we wanted to make sure that in  
 18 addition to that training, they would get the training  
 19 necessary to address the specific biological needs and  
 20 environmental needs of the habitat.  
 21 MAYOR WARNER: And if it's a subcontractor or  
 22 vendor that's not a direct employee, is it assumed that  
 23 they follow those guidelines?  
 24 MS. BARLOW: It requires them to have all  
 25 employers and vendors do that.

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1 MAYOR WARNER: Okay.  
 2 And let's see, 20 -- 21, I had a question about  
 3 the timing, just to make sure it was consistent with the  
 4 other documents, timing as is reflected in 21, making  
 5 sure it's consistent with other documents pertaining to  
 6 the project.  
 7 MS. BARLOW: I believe this one is a little more  
 8 restrictive than what's in the mitigation monitoring  
 9 program, and it was recommended by staff.  
 10 MAYOR WARNER: Any questions?  
 11 COUNCIL MEMBER HENDERSON: Well, I think there  
 12 are two situations here. One, this was a recommendation  
 13 to staff because of the foraging characteristics of  
 14 certain animals that like to hunt at either twilight or  
 15 dawn.  
 16 But I think in addition to that, you put a  
 17 restriction on the time that trucks can be on  
 18 Penn Street, so it would actually be more restrictive  
 19 than what is here, I believe. I mean, isn't it 9:00 to  
 20 3:00?  
 21 MS. BARLOW: Yes.  
 22 COUNCIL MEMBER HENDERSON: Okay. But that's in  
 23 the EIR, I believe.  
 24 MS. BARLOW: No. That restriction actually was  
 25 added by the Planning Commission, and it's toward the end

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<p>1 of the conditions of approval.</p> <p>2 COUNCIL MEMBER HENDERSON: Okay.</p> <p>3 MAYOR WARNER: Okay. Twenty-two, comments or</p> <p>4 questions?</p> <p>5 Bob, I know you had questions on that earlier</p> <p>6 on. Are you good with this?</p> <p>7 COUNCIL MEMBER HENDERSON: Yes. On the ranger</p> <p>8 station we talked about the fact that Matrix agrees with</p> <p>9 the fact that they anticipate during the construction</p> <p>10 that there would be an off-site facility. And I think</p> <p>11 this wording seems to take care of that.</p> <p>12 The only other problem that we have is the</p> <p>13 existing ranger station's gonna be a bit of a problem.</p> <p>14 If it has to be abandoned for a couple years, the problem</p> <p>15 is you get rodents, you get insects, you get other</p> <p>16 deterioration problems. And it may be that when it comes</p> <p>17 back, it may not be functional.</p> <p>18 The other -- and so there would have to be</p> <p>19 something worked out on that.</p> <p>20 The other situation is that since they're</p> <p>21 putting a sewer line in to the facility, it would be very</p> <p>22 helpful if arrangements were made that eventually that</p> <p>23 trailer could be hooked up to the sewer line when it came</p> <p>24 back in. So if they could just stub it to that, it would</p> <p>25 be helpful.</p> <p style="text-align: right;">58</p>	<p>1 re-vegetation would have to comply with the Habitat</p> <p>2 Authority's plan.</p> <p>3 MAYOR WARNER: Well, you know, it's great to</p> <p>4 assume, but --</p> <p>5 MS. BARLOW: I'd be more than happy to qualify</p> <p>6 it.</p> <p>7 MAYOR WARNER: I would just think the greater</p> <p>8 degree of specificity, it's not only fair to the</p> <p>9 Applicant because they know what's expected, and later</p> <p>10 they don't say, well, you didn't tell me it was according</p> <p>11 to this standard or that standard. And then the entity,</p> <p>12 you know, the habitat is clear for them.</p> <p>13 MS. BARLOW: We will revise that condition</p> <p>14 accordingly.</p> <p>15 MAYOR WARNER: Okay. Twenty-four, input or</p> <p>16 questions?</p> <p>17 Question the middle part where it says,</p> <p>18 undertake clean-up activities. Should that be further</p> <p>19 defined, or is that a term that's an industry term that</p> <p>20 is assumed to be -- does the industry know what that</p> <p>21 means?</p> <p>22 MS. BARLOW: If there's a spill -- I'm sorry.</p> <p>23 If there's a spill, there are going to be multiple</p> <p>24 agencies with jurisdiction over that clean-up.</p> <p>25 MAYOR WARNER: And their requirements.</p> <p style="text-align: right;">60</p>
<p>1 I don't think we're talking about anything</p> <p>2 significant. It runs right by the house, anyway.</p> <p>3 MAYOR WARNER: Anyone else on 22?</p> <p>4 Twenty-three?</p> <p>5 My question is in the second line where it says</p> <p>6 reflecting trees that have been previously removed shall</p> <p>7 be re-vegetated. Does it need to state according to what</p> <p>8 plan?</p> <p>9 MS. BARLOW: I'm sorry, which?</p> <p>10 MAYOR WARNER: Number 23, the second line.</p> <p>11 MS. BARLOW: Twenty-three.</p> <p>12 MAYOR WARNER: Re-vegetated accordingly.</p> <p>13 Don't you guys have some sort of plan --</p> <p>14 COUNCIL MEMBER HENDERSON: We do. I think the</p> <p>15 phasing of the re-vegetation and to the standards of the</p> <p>16 habitat's restoration, we -- this particular thing has</p> <p>17 been planned.</p> <p>18 Actually, we were going to do this, and then</p> <p>19 when there was a discussion about putting a site there,</p> <p>20 we did not finish that re-vegetation like we did on the</p> <p>21 south side of Colima Boulevard.</p> <p>22 But the intent is that this would be a seeded</p> <p>23 project, so it's much less expensive than a planted</p> <p>24 project.</p> <p>25 MS. BARLOW: And we would presume that the</p> <p style="text-align: right;">59</p>	<p>1 MS. BARLOW: And they will be mandating that.</p> <p>2 This is simply to ensure that there's a fund</p> <p>3 available to comply with those requirements.</p> <p>4 MAYOR WARNER: Okay. And 25, anything?</p> <p>5 On 25, the operator shall provide adequate,</p> <p>6 again, according to what standards?</p> <p>7 MS. BARLOW: That will be determined by the</p> <p>8 County Fire Department.</p> <p>9 MAYOR WARNER: Okay. And down in the bottom</p> <p>10 where you have county, can you indicate L.A. County Fire</p> <p>11 Department?</p> <p>12 MS. BARLOW: Sure.</p> <p>13 MAYOR WARNER: And throughout the document when</p> <p>14 you refer to County Fire Department, can you refer to</p> <p>15 Los Angeles County Fire Department?</p> <p>16 MS. BARLOW: Certainly.</p> <p>17 MAYOR WARNER: And a question on 25.</p> <p>18 Inspected and reported, how often? Or is that a</p> <p>19 function of the Fire Department as to what they</p> <p>20 determine? Is that their call?</p> <p>21 MS. BARLOW: Yeah. That's up to the Fire</p> <p>22 Department.</p> <p>23 MAYOR WARNER: Twenty-six.</p> <p>24 On 26 where it says the operator shall ensure</p> <p>25 that protective fencing, is it ensure that it's there, or</p> <p style="text-align: right;">61</p>

<p>1 is it provide that it's there, or is this clear enough 2 the way it is? 3 MS. BARLOW: They're required as part of their 4 project description to provide it. This condition is 5 designed to really require them to make sure that it 6 stays put. 7 MAYOR WARNER: Okay. Do you want to address 27, 8 since it has been changed? 9 MS. BARLOW: Yes. There was some question about 10 when we would need that number, and so we qualified it, 11 that it would be prior to whatever the first required 12 permit was, that we would get that contact information. 13 MAYOR WARNER: And any questions on that one? 14 I have a question. Is this referring to 15 one person, or will there be multiple people, and how 16 will we know the order of who to call first? 17 MS. BARLOW: We would expect the Applicant to 18 provide that to us. They would be giving us names and 19 title, and they would be telling us, this is the person 20 in charge of the facility, this is the person in charge 21 of construction, so that we could determine who we would 22 need to contact, depending upon what the issue was. 23 MAYOR WARNER: Okay. And a further question, 24 and this might be piggybacking on something I brought up 25 earlier, and that is: A citizen drives by, they see a</p> <p style="text-align: right;">62</p>	<p>1 be another person that's a City employee, or depending on 2 what the City requires? 3 MS. BARLOW: Absolutely. 4 COUNCIL MEMBER NORDBAK: Okay. Thanks. 5 MAYOR WARNER: On 28, can you explain why that 6 was changed? 7 MS. BARLOW: There was a feeling that they 8 wouldn't necessarily need to have an on-site public 9 relations officer, primarily because the public won't 10 have access to the site. And so we wanted to make sure 11 that they might have somebody available. It may be at 12 their office, which is gonna be off-site, or it may be 13 through some other means. But it didn't seem to make 14 sense to have it be on-site, since nobody can get to 15 them. 16 MAYOR WARNER: And since they're having an 17 office in Whittier, would this be someone that would be 18 at the office in Whittier, or what's the intent? 19 MR. MC CASKEY: The -- in our current 20 operations, the phone number allows contact of our field 21 personnel, which is not only running the operations on 22 the site, but also acts in a capacity of answering 23 questions to the public. 24 So we could expand that aspect to a 25 second person, relative to being available to the public,</p> <p style="text-align: right;">64</p>
<p>1 concern. If it's a fire, they obviously call the Fire 2 Department. But if it's a concern, who do they call? 3 And further, I guess in the future, the City 4 would need to have that information, make that 5 information available to its residents in some type of 6 communication plan. 7 MS. BARLOW: Yes. There's also a requirement 8 that they have a phone number posted on site. 9 MAYOR WARNER: Twenty-eight, any questions on 10 that? 11 COUNCIL MEMBER NORDBAK: Hold on. 12 MAYOR WARNER: Sure. Twenty-seven? 13 COUNCIL MEMBER NORDBAK: Yeah, Kim, back at 27. 14 Is that a condition that we could later step into if the 15 City decided to have a City employee as that contact 16 person? Would this condition still allow that? 17 MS. BARLOW: I don't know that the City would 18 want to be responsible. 19 COUNCIL MEMBER NORDBAK: That's not what I'm 20 asking. 21 MS. BARLOW: What we're asking them to give us 22 is the information about the people who are physically 23 there and in charge of Matrix's production facilities and 24 construction project. 25 COUNCIL MEMBER NORDBAK: Okay. So there could</p> <p style="text-align: right;">63</p>	<p>1 and then that contact list also could be extended further 2 to one of us. 3 I get phone calls and answer concerns over the 4 last few years. So we'll develop that program to the 5 satisfaction of the City. 6 MAYOR WARNER: And, Michael, would not the 7 company be inundated with phone calls or -- not that the 8 public relations would be inundated. I would hope as 9 expressed earlier, that the City would have a mechanism, 10 as was discussed earlier, for citizens to bring their 11 concerns, that sort of thing, and have some kind of a 12 process. 13 But I would envision perhaps a public relations 14 person on behalf of your company interacting with the 15 City and/or citizen groups. I personally don't perceive 16 it as someone that's gonna be interacting with each 17 citizen individually, but somehow whatever is set up with 18 the City, that that occurs. 19 MR. MC CASKEY: Well, that's a very good idea. 20 We anticipate as the program develops there will be a 21 person needed in Whittier to address concerns or interact 22 for any programs on education or others that would be 23 more under a public relations aspect. So we're fine with 24 that. 25 MAYOR WARNER: Anything else on this one?</p> <p style="text-align: right;">65</p>

1 Twenty-nine, there's changes.  
 2 Do you want to address those, Kim?  
 3 MS. BARLOW: Yes. This was a minor change.  
 4 There was some concern expressed by the Applicant that  
 5 they didn't want there to be a blank check and no  
 6 opportunity to review whatever the expenditures were from  
 7 the drawdown account.  
 8 So we simply added a sentence that would allow  
 9 them to review those expenditures to ensure that they are  
 10 in fact related to the project.  
 11 MAYOR WARNER: Any questions?  
 12 COUNCIL MEMBER VINATIERI: I would add that  
 13 after the word "review", I think there ought to be a  
 14 comma and it ought to say during normal business hours,  
 15 the expenditures, so it'd make it clear that when they  
 16 have an opportunity, what those times would be.  
 17 MS. BARLOW: It's in, Mr. Vinatieri.  
 18 COUNCIL MEMBER VINATIERI: Thank you.  
 19 MAYOR WARNER: And the operator would have the  
 20 opportunity to review those documents as frequently as  
 21 they wish then during --  
 22 MS. BARLOW: During normal business hours,  
 23 within reasonable bounds. We wouldn't expect them to be  
 24 there every day.  
 25 MAYOR WARNER: And I had a note to myself for

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1 the Section 2, based on what fee structures. I haven't  
 2 reread totally Section 2, but I think this talks about  
 3 using the account, the City using the account.  
 4 But who's determining what the fees are for the  
 5 different functions?  
 6 MS. BARLOW: Well, that depends. The City has a  
 7 right to contract with certain people to review different  
 8 aspects of it. Obviously, the City when it contracts,  
 9 always tries to get the best combination of price and  
 10 qualifications, so the City will be making that  
 11 determination.  
 12 Obviously, we're not gonna be arbitrary and  
 13 capricious and hire somebody from Fuji, for example,  
 14 rather than somebody more local. But again, that's part  
 15 of the reason that I think the Applicant wanted to be  
 16 able to review those expenditures.  
 17 MAYOR WARNER: Right. So we don't want to be  
 18 viewing that as a blank check.  
 19 MS. BARLOW: Exactly.  
 20 COUNCIL MEMBER NORDBAK: So Kim, is this --  
 21 these item's gonna be reviewed by the contractor. At  
 22 what level is it reviewed by the City? Is it at the  
 23 Council level or is it staff level?  
 24 MS. BARLOW: It depends on the contract. This  
 25 would be no different than any other situation where the

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1 City would be entering into a contract with a consultant  
 2 of some kind. If it's within the City Manager's  
 3 authority, it would be approved by the City Manager,  
 4 subject to your purchasing and contracting roles.  
 5 If it's a Council, the amount requires Council  
 6 review, it will come to you.  
 7 COUNCIL MEMBER NORDBAK: Yeah. My concern is  
 8 that on certain items it would come back to the Council,  
 9 can discuss it publicly, so we don't have the appearance  
 10 of something being approved without consent or knowledge  
 11 of the public.  
 12 MS. BARLOW: Right. We would always comply with  
 13 whatever the contracting limitations are.  
 14 MAYOR WARNER: As we continue on in that item,  
 15 any questions from Council on number 4 under that item?  
 16 COUNCIL MEMBER VINATIERI: I'm sorry, we're --  
 17 MAYOR WARNER: We're on 29.  
 18 COUNCIL MEMBER HENDERSON: Twenty-nine, four?  
 19 COUNCIL MEMBER VINATIERI: I have a question on  
 20 29-3.  
 21 MAYOR WARNER: Okay. We'll go back to that.  
 22 COUNCIL MEMBER VINATIERI: Kim, why do we have  
 23 29-3 and also have item 2, both of which relate to  
 24 indemnification? Why are they not combined?  
 25 MS. BARLOW: I'm sorry, item 2 relates to the

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1 drawdown account.  
 2 COUNCIL MEMBER VINATIERI: No. Item 29-3,  
 3 versus item 2 under the conditions of approval.  
 4 MR. JONES: Condition 2.  
 5 MS. BARLOW: The item 2 would include everything  
 6 including challenges, for example, to the granting of the  
 7 CUP, environmental review, et cetera.  
 8 Item 3 is more specific to oil operations and  
 9 contamination or damages to the soil.  
 10 So we're really looking at two different things.  
 11 One has to do with indemnification for what they actually  
 12 do on the site. The second provision really relates to  
 13 other legal challenges and the like.  
 14 COUNCIL MEMBER HENDERSON: Indemnification is  
 15 basically broader, whereas the drawdown account in that  
 16 is a funding mechanism to take care of the conditioned  
 17 monitoring, enforcement permitting inspection,  
 18 coordination of compliance monitoring, et cetera.  
 19 MS. BARLOW: Right. And condition 3 requires  
 20 that that indemnification agreement be in a form approved  
 21 by the City Manager and if necessary by the City Council.  
 22 So it requires a separate agreement, as opposed to just  
 23 the condition of approval in item number 2.  
 24 COUNCIL MEMBER VINATIERI: I wouldn't do it that  
 25 way, but it's doable. Fine. Thank you.

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<p>1 MAYOR WARNER: And, Bob, you wanted to address 2 number 3.</p> <p>3 COUNCIL MEMBER HENDERSON: I don't think you had 4 a right to incorporate my comments about that.</p> <p>5 MS. BARLOW: We did not, but we will be doing 6 that.</p> <p>7 COUNCIL MEMBER HENDERSON: Well, it has to do 8 with the general liability, and it needs to add the 9 Habitat Authority as an additional named insured. And I 10 suggested that you also include waiver of subrogation and 11 primary language wording, which are common on any kind of 12 a heavy duty construction project.</p> <p>13 MS. BARLOW: We will be adding that. 14 The change that is there is just because that 15 type of coverage has undergone a name change.</p> <p>16 Madam Mayor, I'm gonna have to leave in about 17 five minutes. So I'm wondering if there's any particular 18 one that you would like me to address, or if you would 19 like to continue on with Ms. Giovinco until I can get 20 back here.</p> <p>21 MAYOR WARNER: We will continue to go forward. 22 Dick, will you help us with who answers what 23 questions.</p> <p>24 MR. JONES: We're gonna have Steve take the 25 lead, and Jenetta and I will provide backup.</p> <p style="text-align: right;">70</p>	<p>1 them to do that. And that's why we recommended the 2 dollar threshold.</p> <p>3 MAYOR PRO TEM NEWCOMER: And who will put in the 4 dollar figure, and when will we get said dollar figure?</p> <p>5 MS. BARLOW: That is a question for the 6 Council's determination. I imagine that the Applicant 7 may have some feedback on that point. We couldn't at our 8 level determine what that figure ought to be on balance, 9 but we did feel that that was an appropriate way to 10 address the issue.</p> <p>11 And with that, I'm going to take my leave.</p> <p>12 MAYOR PRO TEM NEWCOMER: Steve, do you have any 13 suggestions, or staff have any other suggestions for the 14 dollar figure?</p> <p>15 Steve, I think it's a mistake to put a dollar 16 figure in there, actually, for something that goes for 17 25 years. I think that we can always indicate that we 18 would consult with our petroleum engineer to make sure 19 that current technology be used on new and replacement 20 equipment on the site if it's deemed technically and 21 financially feasible, and just leave it at that, and 22 allow it to be rough.</p> <p>23 I know the Applicant is gonna be a little 24 nervous about that. But, you know, we aren't going to -- 25 we need to have a way to make sure that we just aren't</p> <p style="text-align: right;">72</p>
<p>1 MS. BARLOW: If I could, before I go, I would 2 like to address item number 31, the change in that.</p> <p>3 This was -- the language that you see in black 4 is what the Planning Commission approved. The Applicant 5 had some concerns about that because of potential cost of 6 having to replace a practically new piece of equipment, 7 for example, with something that was marginally better 8 but on balance wouldn't provide that much benefit.</p> <p>9 And so the language that we have added -- and 10 there's no dollar amount in there. It's different from 11 what Matrix proposed to you in their letter that preceded 12 the beginning of this public hearing. But it is what 13 staff recommended I think in the handout that you 14 received on the first evening, language like this, with 15 some sort of dollar amount, so that we're really looking 16 at, yes, if there's new technology and you have to 17 replace the equipment, you're gonna replace it with 18 better technology. But if it's existing functional 19 equipment, we're gonna give you some leeway in terms of 20 making -- you know, if the cost is too high, we're not 21 gonna make you do it.</p> <p>22 What we didn't want to do was just blanketly 23 accept new technology if it was inexpensive. So if 24 there's something that comes out that's a lot better but 25 it's not terribly expensive to implement, we would want</p> <p style="text-align: right;">71</p>	<p>1 putting in a used part that maybe perpetuates a bad 2 impact that we've experienced, when a new part for only a 3 small amount of additional money could be put in that 4 would make it better. But we don't have that experience, 5 and we can't put a note there.</p> <p>6 But if I were the Applicant, this would be 7 nerve-racking to even have this additional language in 8 there, I would think.</p> <p>9 I'm not looking at Mike. Is he passing out?</p> <p>10 MAYOR PRO TEM NEWCOMER: Kim, was that in your 11 job description?</p> <p>12 MS. BARLOW: Apparently.</p> <p>13 MR. HELVEY: So I would prefer to indicate that 14 we would consult with an expert and consider replacements 15 as appropriate when the field needs to be repaired.</p> <p>16 I think we're gonna have to be fairly flexible 17 on that. To put a dollar number in there is just tough 18 for both parties, I think.</p> <p>19 COUNCIL MEMBER NORDBAK: How do you put a dollar 20 on something if you don't know what the equipment is and 21 what the purpose is? It's absurd.</p> <p>22 MR. BARLOW: That's fine. I think the point 23 that we were trying to make was that we wanted something 24 that was objectively measurable.</p> <p>25 I think Mr. Helvey's suggestion is fine. What</p> <p style="text-align: right;">73</p>

<p>1 we were trying to do was relieve the Applicant of the  2 burden that was imposed by the original language, which  3 would have required them to replace it regardless of cost  4 or benefit. And so --</p> <p>5 COUNCIL MEMBER NORDBAK: I'm comfortable with  6 Mr. Helvey's revision of the wording.</p> <p>7 MS. BARLOW: Okay. That's what we'll do then.</p> <p>8 MR. HELVEY: Okay. And Kim, thank you.</p> <p>9 Jenetta, you're staying with us; is that  10 correct?</p> <p>11 MS. GIOVINCO: Yes.</p> <p>12 MAYOR WARNER: Wait a minute. Before we move  13 on, we still need to go back to 29.</p> <p>14 And Joe, you finished on 29-3, did you?</p> <p>15 COUNCIL MEMBER VINATIERI: Correct.</p> <p>16 MAYOR WARNER: You're 29-4. And then I have a  17 question on 29-4.</p> <p>18 As this discusses and relates to different  19 levels of insurance, is the concept of buying into higher  20 level pools of insurance involved here? In other words,  21 worse case scenario, there's just a major, major, major  22 disaster, and the insurance limits are breached. Then  23 what happens?</p> <p>24 Like in the school districts, they have the  25 different levels, and you buy into these different pools</p> <p style="text-align: right;">74</p>	<p>1 that couldn't respond.</p> <p>2 I realize you might have to talk to your broker  3 about that to see if that was a particular problem. I  4 don't think it would be. I've seen your certificates as  5 they've been furnished to Habitat over the years. But  6 I'd like to see a little more assurance about the  7 financial responsibility of them, especially as respects  8 the very high limit excess liability or umbrella  9 policy.</p> <p>10 So maybe you can look into that, and before we  11 take final action we can think about that.</p> <p>12 Like I say, it's a very old phrase, and it's  13 kind of out of date now that so many companies are --  14 have conglomerated into such big, big entities.</p> <p>15 So I would feel more comfortable if you could  16 check that out and come back to us with a decision.</p> <p>17 And then, like I say, other than that, the  18 Council can make a decision that they would like to have  19 higher liability limits. Obviously, that's a cost to the  20 Applicant, but --</p> <p>21 COUNCIL MEMBER NORDBAK: What's your  22 recommendation?</p> <p>23 COUNCIL MEMBER HENDERSON: Well, \$15 million is  24 a lot of coverage. I mean, you know, it's easy to start  25 talking about something like British Petroleum's billion</p> <p style="text-align: right;">76</p>
<p>1 of insurance, and your levels go up.</p> <p>2 Bob, do you know what I'm talking about?</p> <p>3 COUNCIL MEMBER HENDERSON: Well, I know what  4 you're talking about. I think the answer to it, the way  5 it is currently worded, which is the 15 million for  6 general liability, would be that after, there is no  7 relief from 29-3, which means that they still have to  8 indemnify us.</p> <p>9 Obviously, another alternative would be for the  10 Council to require higher limits of liability to begin  11 with. But I know the pollution liability is \$30 million,  12 which seems to be pretty adequate.</p> <p>13 I did have one little question about is there  14 any actual thought -- I mean, unfortunately there's an  15 old term that I keep seeing in leases and so on, and that  16 is that through an insurance company having a best rating  17 of A minus 7, which is a small to medium-sized company in  18 the insurance field, I know that at the current time, you  19 are with insurers of much higher quality.</p> <p>20 In this era of rating problems with various  21 rating agencies, that's a pretty low bar. I wonder if  22 the Applicant knows enough about it to make a decision  23 now. But, I mean, it would seem to me like an A 10  24 company or better would make a lot more sense today.</p> <p>25 None of us want to be involved with a company</p> <p style="text-align: right;">75</p>	<p>1 dollar loss. But that's not a type of exposure here.</p> <p>2 But it would not be uncommon to see something at  3 \$20 or 25 million in large risk operations these days.</p> <p>4 MAYOR WARNER: And who provides a standard or a  5 comparison -- I'm not saying you don't, because I know  6 this is your area of expertise, but I don't know if you  7 normally do oil fields.</p> <p>8 COUNCIL MEMBER HENDERSON: No. I would just  9 have them in conjunction with other high-risk liability  10 exposures. And obviously, how high is high is not  11 enough. That's the reason that the attorneys have put in  12 a complete indemnity.</p> <p>13 I mean, it's sort of also the oil company's  14 situation for Clayton Williams and for Matrix is to say,  15 how much protection do we want so we're not just simply  16 on our own in the indemnity after the amount of coverage.</p> <p>17 So it can be to their benefit, too, and it might  18 be you discuss that with your brokers and with Clayton  19 Williams. It might be that they would actually prefer  20 having somewhat higher limits on this position.</p> <p>21 MAYOR WARNER: Jim, can you weigh in on this?</p> <p>22 MR. JONES: Two things. One of which is that by  23 the nature of the agreement, they have ultimate  24 indemnification responsibility.</p> <p>25 Number two, the insurance limits we've</p> <p style="text-align: right;">77</p>

<p>1 established would seem in our mind acceptable levels. We  2 can have this dialogue with Matrix.  3 If Matrix thinks that this higher limit would be  4 appropriate and it makes economic sense, we can have that  5 conversation and raise it.  6 But, again, given the fact that they have  7 ultimate responsibility due to the indemnification, this  8 is as much a protection for them as it is for us.  9 MAYOR PRO TEM NEWCOMER: So for now we'll leave  10 it at 15 million?  11 MR. JONES: I would suggest that, and we will  12 have a conversation with Matrix to see for some change.  13 MAYOR WARNER: Any other comments on this item?  14 Under number 5, I indicated earlier on that I  15 had questions. First of all, my question's regarding to  16 the CUP. And some of my questions that related to the  17 CUP were in regards to Matrix's letter to the City and  18 the Council. They had some concerns about some of the  19 conditions.  20 And so the way I noted my CUP document was just  21 to indicate that they had concerns about 5-a, b and c.  22 And so my question is: Whether it's the staff or Matrix,  23 have those concerns been resolved that Matrix has had?  24 MR. HELVEY: I think it's appropriate to ask  25 them in their view of the current CUP conditions, do they</p> <p style="text-align: right;">78</p>	<p>1 back to the Applicant. I mean, \$10,000, for example,  2 will not close a well.  3 MR. MC CASKEY: I think in the recommendation  4 that I'm looking at here is per well.  5 COUNCIL MEMBER HENDERSON: Right. Can you close  6 and cap a well to current standards at \$10,000 a well?  7 MR. MC CASKEY: I believe the current costs are  8 25 to 50,000 per well.  9 COUNCIL MEMBER HENDERSON: So if it's a matter  10 of the bond being something that DOGGR requires, that  11 might be fine. But I want to make sure that again  12 there's the obligation of the Applicant. Because 20  13 years out, I don't know exactly who we'll be dealing  14 with, for one thing. And obviously, we want to make  15 sure, whatever the cost of the closure was, that there  16 was a legal obligation to do it and to clean it up.  17 I mean, one of the things that's kind of hard to  18 imagine in this project is that eventually this comes  19 back to be habitat. It has to be cleaned up. It has to  20 be re-vegetated and becomes habitat again. So it may be  21 a long time out, but it needs to be done.  22 I think there's other wording and other  23 conditions that kind of cover that, but I want to make  24 sure that Jenetta feels comfortable.  25 MAYOR WARNER: And again, if you need some time</p> <p style="text-align: right;">80</p>
<p>1 meet their needs and as relates to Sections a, b and c,  2 under 5.  3 MR. MC CASKEY: It's my understanding that most  4 of the recommendations we made to staff were met. So I  5 think --  6 MAYOR WARNER: And if later in the discussion if  7 you determine that they haven't been, I'd like to know  8 where we are with them.  9 MR. MC CASKEY: I'll do a quick review for these  10 three items here.  11 MAYOR WARNER: Okay.  12 COUNCIL MEMBER HENDERSON: As respect to a, the  13 performance bond; is that correct? Maybe I'm confusing  14 this with a closure bond.  15 MAYOR WARNER: Give us the item number, Bob.  16 COUNCIL MEMBER HENDERSON: I'm sorry. It's 5-a,  17 29-5-a.  18 Is that \$10,000, the performance bond? There is  19 someplace in here where I've seen correspondence going  20 back and forth that is a standard amount, and also the  21 closure bond is \$10,000.  22 I wonder about the adequacy of that and wanted  23 to make sure that while the bond is an amount that may be  24 required by DOGGR, that it's clear that the ultimate  25 responsibility, the indemnity if you will, still goes</p> <p style="text-align: right;">79</p>	<p>1 to get back to us, that's fine.  2 MR. MC CASKEY: Our current bond states 100,000.  3 The bond requirements go up, so we will be reviewing  4 relative to the number of operated wells here. I believe  5 the next step is a million. And so the State bond, which  6 is held, could be applied here.  7 COUNCIL MEMBER HENDERSON: That's per field?  8 MR. MC CASKEY: Well, that's just for per  9 company, that each company that operates, California has  10 a bond level or an account for the State, and the State  11 would use those funds for various wells, should that  12 company not be responsible.  13 So our current level is a hundred thousand,  14 which we anticipate would go up with this project.  15 MR. JONES: And again, this condition simply  16 says an amount to be determined by the City Manager. It  17 doesn't specify an amount. It specifies it will be an  18 amount as determined by the City Manager.  19 COUNCIL MEMBER HENDERSON: That's here on the  20 performance bond.  21 MR. JONES: Right.  22 COUNCIL MEMBER HENDERSON: There's another  23 section --  24 MR. PORTER: Bob, that's under the abandonment  25 procedures on page 25. That's condition 68-4.</p> <p style="text-align: right;">81</p>

<p>1 COUNCIL MEMBER HENDERSON: What does it require?  2 MR. PORTER: That is again to be determined by  3 the director, is the way it's worded in that particular  4 condition.  5 COUNCIL MEMBER HENDERSON: That's fine. That  6 would do it.  7 MAYOR WARNER: Okay. Anything else on this one,  8 Council?  9 I know we've discussed 31. In my notes I had  10 noted that Matrix had a concern about this one.  11 Has that concern been addressed and satisfied?  12 MR. MC CASKEY: Which condition, I'm sorry?  13 MAYOR WARNER: In 31. I had just indicated that  14 in your letter you had expressed a concern about --  15 COUNCIL MEMBER NORDBAK: That was the open  16 dollar amount.  17 MR. MC CASKEY: I think that Mr. Helvey made a  18 good suggestion, the aspect of a certain level,  19 considering how prices have changed in the last ten years  20 and going forward, it would be hard to have that amount  21 in there. I think he suggested new language.  22 MR. JONES: The language he suggested were  23 technically and financially feasible. I think we can  24 work through that.  25 MAYOR WARNER: Okay. Any questions on 32 from</p> <p style="text-align: right;">82</p>	<p>1 MR. HELVEY: We could certainly make it subject  2 to some kind of future survey to be held, I mean --  3 MAYOR WARNER: Okay. Let's get input from the  4 Council.  5 COUNCIL MEMBER VINATIERI: You know, I disagree.  6 I've heard enough. As far as I'm concerned, 15 miles an  7 hour I think is what's been recommended, and I think  8 there's credible evidence to back stop that figure. I  9 would just stick with 15 as we have it right here.  10 MAYOR WARNER: Okay.  11 Bob, you want it per a survey?  12 COUNCIL MEMBER HENDERSON: Not survey, but a  13 study.  14 MAYOR PRO TEM NEWCOMER: I think a study would  15 be appropriate.  16 MAYOR WARNER: Greg, where do you weigh in?  17 COUNCIL MEMBER NORDBAK: I would prefer 15 after  18 the testimony from MRS.  19 MAYOR WARNER: And I would as well.  20 So you have our consensus there.  21 Okay. Thirty-three, 34, would someone like to  22 address 34? We have revisions, Steve.  23 MR. HELVEY: Yes, this is really just how we  24 deal -- and it came up I think during your discussion  25 last night, how you deal with violations of any of the</p> <p style="text-align: right;">84</p>
<p>1 the Council? Greg, Joe?  2 COUNCIL MEMBER NORDBAK: No.  3 MAYOR WARNER: On 32 I had an indication that  4 Matrix had a concern about item 9.  5 Has that been resolved?  6 MAYOR PRO TEM NEWCOMER: That's the speed  7 limit.  8 COUNCIL MEMBER HENDERSON: My suggestion had  9 been that there be a traffic safety study be performed in  10 order to make that determination as to whether it was 10  11 or 15 miles an hour in the various parts. I think that  12 would make more sense.  13 If, for example, it's not a safety issue and the  14 noise issue is not a major factor, 10 miles an hour would  15 be more acceptable. But if there's a safety issue, then  16 obviously that has to be addressed.  17 MAYOR WARNER: And in our new document it  18 indicates 15.  19 Steve, do you want to address it, or does  20 Jenetta?  21 MR. HELVEY: Well, I really think it's probably  22 something that Greg or Luis could deal with. I mean, we  23 have the whole issue about the effect of the speed limit  24 on the noise generated.  25 MAYOR WARNER: Right.</p> <p style="text-align: right;">83</p>	<p>1 conditions that you have put into -- whether they're  2 conditions of approval for the CUP or mitigation  3 measures.  4 And I think that this is just basically adding  5 some discretion on the part of the City Manager to  6 implement those measures and make sure that he moves to  7 seek a cure.  8 MAYOR WARNER: Questions, comments on this one?  9 COUNCIL MEMBER VINATIERI: I think this is  10 consistent with other portions of our Municipal Code  11 where the City Manager is given discretion relative to  12 penalties. So it seems to me this fits in with what we  13 already expect of Applicants on other types of code  14 sections in our Municipal Code. So I'm in favor of it.  15 MAYOR WARNER: Any other questions or  16 discussion?  17 COUNCIL MEMBER HENDERSON: It seems to me we  18 ought to have a little better standard than just a range  19 from 1,000 to \$10,000 per day. I wonder if there  20 couldn't be something in here about a stepped up for, you  21 know, continued violation, or something like that.  22 MAYOR PRO TEM NEWCOMER: A question, wouldn't  23 staff and the City ultimately be able to come up with a  24 schedule within that? Isn't that -- this allowing us to  25 do that?</p> <p style="text-align: right;">85</p>



1 MR. JONES: The answer's yes.  
 2 MAYOR PRO TEM NEWCOMER: So that stepped up and  
 3 more precise penalties don't have to be listed here. We  
 4 have the authority based on this to do that.  
 5 MS. GIOVINCO: If I may, Madam Mayor and City  
 6 Council members, I believe that was the intent, was to  
 7 have some flexibility in there so that there could be  
 8 something like a schedule developed, and also based on  
 9 the severity of the type of issue that was occurring.  
 10 MAYOR PRO TEM NEWCOMER: But the flexibility is  
 11 with the City, and it's the City's discretion within  
 12 these guidelines.  
 13 MS. GIOVINCO: Absolutely.  
 14 MAYOR WARNER: And in the addition where it  
 15 says, during that period, does that period refer to the  
 16 30 days, and should it say that?  
 17 I think it references back to the 30 days. Is  
 18 that adequate, or should it say it again?  
 19 COUNCIL MEMBER VINATIERI: It's the period of  
 20 noncompliance, is it not?  
 21 MS. GIOVINCO: It's my understanding that the  
 22 intent was for it to be the period of noncompliance. I  
 23 think the reference to the 30 days, if I'm understanding  
 24 where you're looking, was simply with respect to deposit  
 25 into the interest bearing account.

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1 MAYOR WARNER: Okay. And if two of us have a  
 2 difference of opinion, maybe it better be spelled out a  
 3 little more.  
 4 I thought it was one thing. Joe thought it was  
 5 another. She said what it was. So if we're not sure,  
 6 why not clarify it.  
 7 MR. HELVEY: Well, Jenetta can work on that and  
 8 bring it back to you Monday with refined language.  
 9 COUNCIL MEMBER NORDBAK: I understood it as Joe  
 10 did.  
 11 MAYOR PRO TEM NEWCOMER: I am happy with the way  
 12 it is.  
 13 COUNCIL MEMBER NORDBAK: Yeah, I understood it  
 14 the way Joe said.  
 15 MAYOR WARNER: Okay. So my point is it's not  
 16 clear to all of us. So in the future, I just hope that  
 17 all of these things are as clear as they can be. And  
 18 that's my intent.  
 19 Anything else on 34?  
 20 Let's see. Okay. On 34, let's see, on  
 21 number 2, right of entry, what is line 3 in the former  
 22 document where it says reasonable times, what does  
 23 reasonable mean?  
 24 MR. JONES: Again, that has legal  
 25 significance.

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1 MAYOR WARNER: Okay. We will let it go.  
 2 And in that right of entry section, the last  
 3 couple lines where it says in accordance with the  
 4 operator's established health and safety policies, are we  
 5 referring to OSHA policies or all agency policies that  
 6 the operator has to follow?  
 7 MR. HELVEY: Well, you know, what they are  
 8 saying is by the time you enter the confines of the  
 9 operation, the operating section, we can send a building  
 10 inspector in there, we might send a plan checker, we  
 11 might send a City Manager in there. And when you enter  
 12 the gates, you agree to live by their safety standards.  
 13 MAYOR WARNER: Right.  
 14 MR. HELVEY: And those safety standards may be  
 15 OSHA driven. They may be Matrix driven to say that we  
 16 don't want trash thrown on the ground. But whatever they  
 17 say, those rules apply. We just want to have unfettered  
 18 access to see what they're doing.  
 19 MAYOR WARNER: So when we say "operator," it  
 20 refers to any and all standards?  
 21 MR. HELVEY: Yes. This operator or a subsequent  
 22 one, yes.  
 23 MAYOR WARNER: All right. Thirty-six, that has  
 24 a change. Do you want to address that?  
 25 MR. HELVEY: Well, I think what we're saying is

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1 that it's not necessarily the facility that would be  
 2 creating a hydrogen sulfite problem, it's a well head.  
 3 And so they've changed it to be more specific to indicate  
 4 that one or more wells can be ordered shut down if  
 5 there's a hydrogen sulfite problem.  
 6 MS. GIOVINCO: And I think, if I may, the intent  
 7 here, I believe -- and this was a staff supported  
 8 recommendation -- was to change this so it's limited so  
 9 that the entire operation does not need to be shut down  
 10 in its entirety if there is a problem in one limited  
 11 location in the facility.  
 12 COUNCIL MEMBER VINATIERI: I'm in agreement. I  
 13 think it was overly broad, and this specifies it so that  
 14 it's clear that if there's one well that's spewing H2S --  
 15 and if you recall, I talked about that the first night --  
 16 that you only shut down that well or the wells involved,  
 17 so that the rest of the operation is not impacted. It's  
 18 reasonable.  
 19 MAYOR WARNER: Further comments or questions?  
 20 MR. JONES: Yes.  
 21 COUNCIL MEMBER NORDBAK: Well, we also discussed  
 22 I think two days ago with Matrix when they brought the  
 23 concern up, I think this is a more balanced and fair  
 24 resolution.  
 25 MAYOR WARNER: Anything else?

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<p>1 COUNCIL MEMBER HENDERSON: I agree.  2 MAYOR WARNER: Okay. Let's see.  3 My next question is on 40. Anyone have anything  4 to say about it?  5 COUNCIL MEMBER HENDERSON: No.  6 MAYOR WARNER: Okay. On 40, the design of all  7 new and/or modified on-site facilities, my question is  8 within what time period does this refer to?  9 MR. HELVEY: Well, I think it would be during  10 the entire operation of the facility. At any time they  11 use potable water, they would have to use water  12 conserving fixtures and the like. But this could be  13 something that would run for 25 years of use.  14 MR. JONES: It's an ongoing condition of the CUP  15 if there were modifications that were made 20 years out.  16 MAYOR WARNER: Okay. And in 41, where it  17 addresses cost effective energy conservation techniques,  18 what standard does that refer to, or that is defined by  19 what agency?  20 MR. HELVEY: Well, it is relatively obscure, but  21 it is defined by the current California codes, and Edison  22 would provide guidance.  23 But there's discretion, you know, what kinds of  24 light bulbs you use, wattages, things like that. It is a  25 moving target that they will be having to deal with the</p> <p style="text-align: right;">90</p>	<p>1 And if you want to further take a look at that,  2 you can get back to us. Do you want to get back to us on  3 that one? Have your concerns been resolved in regards to  4 that particular item?  5 MR. MC CASKEY: Yes.  6 MAYOR WARNER: Okay.  7 COUNCIL MEMBER HENDERSON: Forty-five, five.  8 MAYOR WARNER: Let's see. Forty-five 3b, or  9 other devices as determined by who and based on what?  10 MR. HELVEY: Well, there are fairly standard  11 geotechnical criteria for erosion control that the Public  12 Works Department and potentially even the Habitat  13 Authority will work with them on, depending upon the  14 situation or what slope they are on, what kinds of  15 natural planning or how steep it is.  16 I think they would be comfortable with that kind  17 of vague language on that one.  18 MR. JONES: Especially gives us a 25-year  19 doctrine or longer with those devices, might require some  20 professional interject.  21 MAYOR WARNER: Okay. And then item 5 on the  22 bottom on page 14, you want to address that, Steve?  23 MR. HELVEY: Yes. That actually deals with some  24 of the questions that speakers and the Council had about  25 seismic activity and how the field would be protected</p> <p style="text-align: right;">92</p>
<p>1 entire operation cycle of the plant.  2 MAYOR WARNER: So my question is: Does it need  3 a greater degree of specificity?  4 MR. JONES: No, I don't think so.  5 MR. HELVEY: No.  6 MAYOR WARNER: Okay. And 42, there's that  7 satisfaction word. We will leave that alone.  8 Any questions from Council down to 44? We have  9 a change in 3b.  10 MAYOR PRO TEM NEWCOMER: And is that the word we  11 wanted to use, given the previous discussion between  12 project site and oil field?  13 MR. HELVEY: Well, I think we defined earlier,  14 and I don't know that this reflects that, that the above  15 ground piping would be limited to the seven-acre  16 fenced-in area. And I'm not sure that language is --  17 COUNCIL MEMBER HENDERSON: I think she agreed to  18 go through and change it all.  19 MS. GIOVINCO: Yes. We'll go through and make  20 sure that that change is reflected.  21 MAYOR WARNER: And 45, any questions?  22 We have one slight change on 45.  23 I had a note that Matrix had a concern about  24 this particular item.  25 Has that been resolved, Mike?</p> <p style="text-align: right;">91</p>	<p>1 from leaking or undue leaking as a result of seismic  2 activity.  3 And they're really suggesting that the field be  4 equipped with the necessary seismic identification  5 equipment so that they can shut down the activity if a  6 seismic event occurs that might endanger the plant.  7 So it's really just bulletproofing to make sure  8 the plant can tell if something's happened and protect  9 itself from spills.  10 MAYOR WARNER: Questions or comments?  11 COUNCIL MEMBER HENDERSON: Well, the change I  12 think is actually -- before, it was basically had to  13 cease all operations and examine. And I think the  14 concern was that they might have structural damage to one  15 piece of equipment and the rest of the plant would be  16 fine.  17 So they are now required to examine the  18 equipment after any seismic event, isolate and address  19 any damage or equipment failure as appropriate to  20 minimize environmental or safety impacts.  21 So I think it's just limiting it down so they  22 wouldn't have to automatically close everything down if  23 they get an earthquake event that's more than .15 of  24 gravity.  25 MAYOR WARNER: Any further questions? Comments</p> <p style="text-align: right;">93</p>

<p>1 from Council?</p> <p>2 COUNCIL MEMBER VINATIERI: Yes. I think it's</p> <p>3 important.</p> <p>4 What Bob just said, I think is very important</p> <p>5 for purposes of the operator. But I want to point out</p> <p>6 that I think we need to look at the word "oil field." We</p> <p>7 need to do the crafting of the language again.</p> <p>8 And I think it's also very important that this</p> <p>9 language in here, until it can be reasonably determined</p> <p>10 by the City -- so in other words, if there is an event</p> <p>11 that is more than 15 percent of gravity, then the City</p> <p>12 has an obligation to get out there and check it out to</p> <p>13 make sure that any repairs, et cetera, have been made and</p> <p>14 everything is structurally sound.</p> <p>15 So I think this is a further -- a further</p> <p>16 mitigation, in a sense if there is some type of seismic</p> <p>17 event, that the City, they just don't go on their own,</p> <p>18 but some city inspector has to go out and make sure that</p> <p>19 everything is okay after the event where there has been</p> <p>20 some type of damage and it's been repaired appropriately</p> <p>21 and is still structurally sound.</p> <p>22 COUNCIL MEMBER HENDERSON: Yeah. It's a</p> <p>23 tightening of the requirement of on inspection. You're</p> <p>24 absolutely right, Joe.</p> <p>25 MAYOR WARNER: Other support, Greg? Owen?</p> <p style="text-align: right;">94</p>	<p>1 Catalina at certain hours. And now this is talking about</p> <p>2 deliveries to the oil field not be permitted after 7 p.m.</p> <p>3 or before 7 a.m.</p> <p>4 I think actually now it's half an hour after</p> <p>5 sunset -- I mean before sunset and after dawn.</p> <p>6 MAYOR PRO TEM NEWCOMER: So it's not 9:00 to</p> <p>7 3:00?</p> <p>8 COUNCIL MEMBER HENDERSON: Well, yeah -- no --</p> <p>9 yeah. And then on top of that, it's the 9:00 to 3:00</p> <p>10 limitation. So I don't think this is consistent with</p> <p>11 what's in the rest of the document.</p> <p>12 MAYOR WARNER: Can staff review that and get</p> <p>13 back to us as to the different sections where this is</p> <p>14 noted?</p> <p>15 MS. GIOVINCO: Yes. Absolutely.</p> <p>16 MAYOR PRO TEM NEWCOMER: And there's a reason</p> <p>17 for the differences because of conditions, let us know.</p> <p>18 COUNCIL MEMBER HENDERSON: I think it's older</p> <p>19 language. I mean, I remember that went in right away,</p> <p>20 and I think then after that, it kept adding conditions to</p> <p>21 it.</p> <p>22 COUNCIL MEMBER NORDBAK: Mayor, I think when you</p> <p>23 get a chance, I think it's time for a break here, to give</p> <p>24 the reporter a chance.</p> <p>25 MAYOR WARNER: Thank you, Greg.</p> <p style="text-align: right;">96</p>
<p>1 COUNCIL MEMBER NORDBAK: I think it's a good</p> <p>2 idea.</p> <p>3 MAYOR PRO TEM NEWCOMER: Yeah. I think it's</p> <p>4 good that it's been added.</p> <p>5 MAYOR WARNER: And I had a note that --</p> <p>6 And, Steve, I appreciate you pointing out that</p> <p>7 we've addressed concerns of our speakers.</p> <p>8 I noted Matrix had a concern on item 5.</p> <p>9 Has that been resolved?</p> <p>10 MR. HELVEY: I'd have to look to Mike or Jordan.</p> <p>11 Do you have any issues with number 5 as it's</p> <p>12 currently worded?</p> <p>13 MR. MC CASKEY: It's fine.</p> <p>14 MR. HELVEY: It's fine.</p> <p>15 MAYOR WARNER: Okay. Let's see. Forty-six, 47.</p> <p>16 On 47 does a report need to be given to the</p> <p>17 City, and if so, how often? Or does the Code -- does the</p> <p>18 Municipal Code dictate that?</p> <p>19 MR. HELVEY: Well, in this habitat area I think</p> <p>20 this is going to be part of the monitoring activities</p> <p>21 from the mitigation, yes.</p> <p>22 MAYOR WARNER: And --</p> <p>23 COUNCIL MEMBER HENDERSON: Number 4 under that,</p> <p>24 is this consistent? I'm not sure. We put restrictions</p> <p>25 earlier on trucks and other vehicles coming in and out of</p> <p style="text-align: right;">95</p>	<p>1 And we also have a reception going on downstairs</p> <p>2 with a young artist. So why don't we take that break</p> <p>3 now, and when we come back, we have a further question on</p> <p>4 5, so we'll start there.</p> <p>5 (Recess taken.)</p> <p>6 MAYOR WARNER: Okay. We are going to continue</p> <p>7 our adjourned public meeting.</p> <p>8 And Dick, again, our regularly scheduled meeting</p> <p>9 at 6:30, if you would make that announcement, please.</p> <p>10 MR. JONES: We are anticipating that meeting be</p> <p>11 continued by the City Council. We can do so at 6:30 this</p> <p>12 evening. Then we will be continued, if the Council so</p> <p>13 makes that determination, to 6:30 on Monday night,</p> <p>14 November the 28th, in these chambers. That will occur</p> <p>15 sometime in the course of this evening.</p> <p>16 In the meantime, we will continue this item</p> <p>17 until such time as we conclude the deliberations with</p> <p>18 respect to the proposed oil project.</p> <p>19 MAYOR WARNER: Okay. And going back to page 16,</p> <p>20 item 47, number 5. My question was: It states all</p> <p>21 construction equipment powered by internal combustion</p> <p>22 engine shall be properly muffled and maintained.</p> <p>23 According to what standard?</p> <p>24 MR. HELVEY: Well, I think that any time you</p> <p>25 have something like that, they're to be muffled and</p> <p style="text-align: right;">97</p>

<p>1 maintained per factory specification. So the argument  2 would be that the decibel output of the equipment when  3 new would be maintained during its useful life.  4 MAYOR WARNER: Okay. As long as that's  5 understood.  6 And again, I ask a lot of these questions from  7 the perspective that if this is approved and if this does  8 move forward for 25 years, none of us will probably be --  9 well, maybe that really young guy right that. But most  10 of us probably will not be here to define those items.  11 MR. JONES: That's sure. But what I can give as  12 some assurance in that is that both legal counsel for us,  13 Matrix and the Planning Commission, have gone over these  14 conditions and have looked at them carefully.  15 We believe that we have an objective analysis  16 and understanding of what those qualifying terms do mean.  17 MAYOR WARNER: Okay. And on number 6 where it  18 says unnecessary idling, again, does that need to be  19 defined, unnecessary?  20 MR. HELVEY: I think not.  21 COUNCIL MEMBER HENDERSON: I think it's actually  22 covered in the EIR, not more than five minutes.  23 COUNCIL MEMBER VINATIERI: Yeah, it's not more  24 than five minutes, exactly.  25 MAYOR WARNER: Okay. Forty-nine, number 2.</p> <p style="text-align: right;">98</p>	<p>1 recollection of the discussion that occurred on this item  2 at the staff level as well, was simply to ensure that  3 these are functioning; however, not to penalize the  4 Applicant if there's a drop or two of oil or water,  5 because there needs to be some flexibility.  6 MAYOR WARNER: Questions, comments?  7 COUNCIL MEMBER NORDBAK: So we're not losing  8 perspective, we are at a construction site; correct?  9 MS. GIOVINCO: That's correct.  10 COUNCIL MEMBER NORDBAK: Good.  11 MAYOR WARNER: Any other comments on this one?  12 On number 3, and I just don't know, so is this  13 an issue at all as far as small animals getting into  14 these areas?  15 COUNCIL MEMBER HENDERSON: It can be. That's  16 the reason it needs to be covered, and so that animals  17 can't just fall in and so on.  18 There's also other provisions in the EIR which  19 have to do with covering and protecting from amphibians  20 or reptiles getting into areas, and basically they drain  21 them all the time.  22 MAYOR WARNER: Okay. And any questions on  23 number 54 with that change, from anyone?  24 MAYOR PRO TEM NEWCOMER: That was 51 -- oh,  25 51.4, got it.</p> <p style="text-align: right;">100</p>
<p>1 Where is the main entrance?  2 MR. HELVEY: I believe it would be deemed on  3 Catalina.  4 MAYOR WARNER: And is that specified somewhere?  5 MR. HELVEY: Well, it's the only entrance to the  6 actual operating area off of city streets, so I would  7 think it would have to be the main entrance.  8 MAYOR WARNER: Number 3, is the inference again  9 there, Dick, when it says required?  10 MR. JONES: Yes.  11 MAYOR WARNER: Do you want to address 51, Steve  12 or Jenetta, with the changes?  13 MR. HELVEY: Jenetta, go ahead. I think you  14 were in that meeting when you developed the changes on  15 51.  16 I think while she's thinking about it, the well  17 cellars do have fluids in them. You know, there's  18 rainwater that gets in there. There's oil that gets in  19 there, and lubricants as they go in and work on them.  20 And I think what this is to say, is that they  21 need to be in a clean and operable and safe condition,  22 but they don't need to be 100 percent dry and without any  23 fluids in them. It just would be impossible, I think, to  24 maintain them to that level.  25 MS. GIOVINCO: That's correct. That's my</p> <p style="text-align: right;">99</p>	<p>1 MAYOR WARNER: Fifty-four, condition 54?  2 MS. GIOVINCO: I believe that revision was  3 simply to make it clear that this would depend on any  4 requirement, so it was just to add clarity to the  5 condition.  6 COUNCIL MEMBER HENDERSON: Yeah, I think at one  7 time there was actual talk about having to maintain wells  8 to test and so on. But if I recall the rationale -- I  9 think it was in the EIR -- that unless there's -- someone  10 requires it to be done, these are not actual potable  11 water aquifers. There's no wells in this area at all.  12 All water, it all comes from down in the river and so on,  13 on the Whittier side.  14 MAYOR WARNER: On 57 -- or I'm sorry, 56, I  15 think we had a discussion about this the other night.  16 And I'm not sure that I'm clear on the equipment and  17 machinery in regards to -- well, I guess oil field will  18 be change to project area. Okay. Maybe that will  19 provide the clarification, then.  20 COUNCIL MEMBER NORDBAK: I want to go back and  21 ask Bob a question on 54.  22 MAYOR WARNER: Sure.  23 COUNCIL MEMBER NORDBAK: Bob, is there any other  24 private water companies or anybody else who has any  25 pumping rights or producing any potable water in the</p> <p style="text-align: right;">101</p>

<p>1 preserve?</p> <p>2 COUNCIL MEMBER HENDERSON: My understanding is</p> <p>3 no. We've checked that. And these are not used aquifers</p> <p>4 in this area at all. As you know with your water</p> <p>5 experience, everything comes from the water.</p> <p>6 COUNCIL MEMBER NORDBAK: It's well above the</p> <p>7 central basin, so I'm don't think there's much use in</p> <p>8 it.</p> <p>9 MAYOR WARNER: Anything up to 58?</p> <p>10 COUNCIL MEMBER VINATIERI: Let me ask one</p> <p>11 question. We have storage of equipment here. We're</p> <p>12 gonna have the yard where the equipment comes in -- or</p> <p>13 excuse me.</p> <p>14 Is there a staging area where equipment comes in</p> <p>15 that is separate and apart from the actual yard where</p> <p>16 there will be equipment that is then gonna go into the</p> <p>17 6.9 acre area, or are they one and the same?</p> <p>18 COUNCIL MEMBER NORDBAK: I thought they had it</p> <p>19 by the ranger station during the testing time, they could</p> <p>20 use it, but that's the part we talked about at the ranger</p> <p>21 station. They could use that for pre-hauling.</p> <p>22 MR. MC CASKEY: I believe the initial work out</p> <p>23 there because the site is covered with vegetation, the</p> <p>24 initial parking of any vehicles to start the work would</p> <p>25 have to be in the vicinity of that temporary area.</p> <p style="text-align: right;">102</p>	<p>1 that's in essence a layup area.</p> <p>2 MR. MC CASKEY: Right.</p> <p>3 COUNCIL MEMBER VINATIERI: And then you'll go</p> <p>4 into the 6.9, which becomes actually 2, and you're gonna</p> <p>5 do in there and you are going to move everything over</p> <p>6 there.</p> <p>7 MR. MC CASKEY: That's right.</p> <p>8 COUNCIL MEMBER VINATIERI: Okay. So how long do</p> <p>9 you anticipate you're gonna need that 4 acre area or</p> <p>10 whatever? I know it's gonna be temporary obviously. Do</p> <p>11 you have any idea how long?</p> <p>12 MR. MC CASKEY: Well, once that 2 acre area for</p> <p>13 the test drilling is set up, we won't need that 4 acres</p> <p>14 at all. And so for that first period of time, which is,</p> <p>15 you know, three months to drill the wells and extra time</p> <p>16 to test, everything's done inside that 2 acre area.</p> <p>17 COUNCIL MEMBER VINATIERI: Okay. So you're</p> <p>18 looking at that layup area, the 4 acres, as maybe three</p> <p>19 to four months?</p> <p>20 MR. MC CASKEY: Well, I think -- I'm not an expert, but I</p> <p>21 don't think it will take very long to clear a 2 acre flat</p> <p>22 area to, you know, for the test drilling. We will set up</p> <p>23 an area for parking right there.</p> <p>24 COUNCIL MEMBER VINATIERI: Okay. Thank you.</p> <p>25 MAYOR WARNER: On 61 is the implication that the</p> <p style="text-align: right;">104</p>
<p>1 COUNCIL MEMBER NORDBAK: Which is the rangers</p> <p>2 station?</p> <p>3 MR. MC CASKEY: Over by the rangers station.</p> <p>4 Once we clear a pad for the initial test wells, which we</p> <p>5 anticipate to be 2 acres, that 2 acres would be fenced,</p> <p>6 temporary fencing, for soundproofing and everything else,</p> <p>7 that had pad will be big enough to house all the vehicles</p> <p>8 for the test drilling.</p> <p>9 So -- and with car pooling specifically, workers</p> <p>10 or equipment would go in and deliver inside that -- we</p> <p>11 will just say it's 2 acres. We have to determine the</p> <p>12 final area. But everything would be inside that 2 acres.</p> <p>13 And then once we start working on the 7 acre or 6.9 acre,</p> <p>14 the expansion of that will allow areas for equipment or</p> <p>15 vehicles inside of there as the -- as the site's</p> <p>16 developed.</p> <p>17 I can't say with one hundred percent certainty</p> <p>18 that during at least that initial construction, depending</p> <p>19 on how much equipment, there wouldn't be some use of that</p> <p>20 area that was analyzed for the EIR, but to say -- I can</p> <p>21 say with 100 percent that that whole 4 acres wouldn't be</p> <p>22 necessary. So equipment would go into those particular</p> <p>23 areas.</p> <p>24 COUNCIL MEMBER VINATIERI: So the initial,</p> <p>25 you're gonna use the area by the ranger station, so</p> <p style="text-align: right;">103</p>	<p>1 operator shall comply with all provisions of the</p> <p>2 hazardous materials plan? Is that the L.A. County Fire</p> <p>3 Department plan?</p> <p>4 MR. HELVEY: Yes.</p> <p>5 MAYOR WARNER: Okay. And then --</p> <p>6 COUNCIL MEMBER NORDBAK: Well, wouldn't</p> <p>7 hazardous materials also be a Cal OSHA issue?</p> <p>8 MAYOR WARNER: I don't know. That's why I'm</p> <p>9 asking. Is it more than one agencies plan?</p> <p>10 COUNCIL MEMBER NORDBAK: It would have to be.</p> <p>11 MR. HELVEY: Yeah. We have a fireman out in the</p> <p>12 audience. I don't think he's here to speak to that.</p> <p>13 But, yeah, it would be that.</p> <p>14 Can we go back to 58 for one second?</p> <p>15 MAYOR WARNER: Yes, we can go back to 58.</p> <p>16 MR. HELVEY: Was there a discussion last night</p> <p>17 about those sliding gates being automated?</p> <p>18 COUNCIL MEMBER VINATIERI: Yes.</p> <p>19 MR. HELVEY: And does that need to be changed on</p> <p>20 the security section, all unmanned entrances shall be</p> <p>21 equipped with sliding gates. But it doesn't say they are</p> <p>22 automated. Is that something that you wanted Jenetta to</p> <p>23 add?</p> <p>24 MAYOR WARNER: Well, let's see where the Council</p> <p>25 is. Who proposed -- Bob, I think you proposed the</p> <p style="text-align: right;">105</p>

<p>1 automated?</p> <p>2 COUNCIL MEMBER HENDERSON: Yes, uh-huh.</p> <p>3 MAYOR WARNER: Okay.</p> <p>4 COUNCIL MEMBER VINATIERI: I would agree with</p> <p>5 that.</p> <p>6 MR. HELVEY: I'm sorry. I just didn't want us</p> <p>7 to skip over that.</p> <p>8 MAYOR WARNER: And the rationale for that, Bob?</p> <p>9 COUNCIL MEMBER HENDERSON: Well, one of the</p> <p>10 problems that we have at Sycamore from time to time is</p> <p>11 when you get independent truckers coming in and stuff,</p> <p>12 they forget to, you know, lock the gates behind them, and</p> <p>13 people actually come in that gate and they have a</p> <p>14 tendency to dump things or just come in and they</p> <p>15 shouldn't be there. And this is a high security area.</p> <p>16 So it's real important that that happens, that every time</p> <p>17 a vehicle goes through, that the gates get closed. And</p> <p>18 if that could be done manually because you have a</p> <p>19 surveillance person there during the test well or</p> <p>20 something like that, that's fine. But during the</p> <p>21 operations phase, construction and operation phase, it</p> <p>22 really should be automated so that it can make sure these</p> <p>23 things get closed.</p> <p>24 MAYOR WARNER: Okay. Joe, you were okay.</p> <p>25 Greg?</p> <p style="text-align: right;">106</p>	<p>1 way Kim explained it. She said there can be one drilling</p> <p>2 rig and one rework or pulling rig or whatever you want to</p> <p>3 call it, working rig. Or there can be two reworking rigs</p> <p>4 at a time.</p> <p>5 MR. HELVEY: That's my understanding, too. And</p> <p>6 as you say that, I'm not sure that the language actually</p> <p>7 says that.</p> <p>8 MR. JONES: It should say but not two drilling</p> <p>9 rigs, as I recall.</p> <p>10 MAYOR PRO TEM NEWCOMER: Well, it does say in</p> <p>11 that first line. No more than one drilling.</p> <p>12 COUNCIL MEMBER HENDERSON: The alternative was</p> <p>13 there can also be a rework rig, and then if they wanted</p> <p>14 to they can remove the main rig and have two reworking</p> <p>15 rigs.</p> <p>16 MR. HELVEY: This might be okay. But that is</p> <p>17 what the understanding was I believe, yes.</p> <p>18 COUNCIL MEMBER NORDBAK: That's what yesterday's</p> <p>19 understanding was?</p> <p>20 MR. HELVEY: Yes.</p> <p>21 MR. JONES: But I know it will be more than one</p> <p>22 drilling rig at the same time.</p> <p>23 MR. HELVEY: Right.</p> <p>24 MAYOR WARNER: Mike, from your perspective, is</p> <p>25 this clear?</p> <p style="text-align: right;">108</p>
<p>1 COUNCIL MEMBER NORDBAK: Fine.</p> <p>2 MAYOR PRO TEM NEWCOMER: Sure.</p> <p>3 MAYOR WARNER: Okay. We have a consensus.</p> <p>4 MR. HELVEY: I'm sorry to take you back to that.</p> <p>5 I just didn't want to skip over it.</p> <p>6 MAYOR PRO TEM NEWCOMER: Thank you for getting</p> <p>7 it. I know that we mentioned it and we should address</p> <p>8 it.</p> <p>9 MAYOR WARNER: Okay. Back to 61. Are we okay</p> <p>10 going there? So if we can just add LA County before fire</p> <p>11 chief.</p> <p>12 And I hesitate to ask, but in the second to</p> <p>13 last line, reasonably protected, is that a legal word?</p> <p>14 MR. JONES: Yes.</p> <p>15 COUNCIL MEMBER VINATIERI: Standard.</p> <p>16 MR. JONES: It's a legally acceptable standard.</p> <p>17 MAYOR WARNER: Okay. Steve, 62-2, it changes</p> <p>18 there.</p> <p>19 MR. HELVEY: Yes. Well, it basically notes that</p> <p>20 you can have two rigs on site. Only one of those rigs</p> <p>21 can be a drilling rig, and that as Mr. McCaskey responded</p> <p>22 to your questions, I think it was last night. So that</p> <p>23 refers to that definition of how many rigs can be on the</p> <p>24 property.</p> <p>25 COUNCIL MEMBER HENDERSON: This wasn't quite the</p> <p style="text-align: right;">107</p>	<p>1 You can get back to us if you need to.</p> <p>2 MR. MC CASKEY: I think it's clear. I think</p> <p>3 clarifying it relative to that one last part to workover</p> <p>4 rigs or pulling rigs out there would help the sentence.</p> <p>5 MAYOR PRO TEM NEWCOMER: Another possible</p> <p>6 suggestion would be simply to reorder them. If the</p> <p>7 second sentence became the first and the first the</p> <p>8 second, I think it might read clearer, because it would</p> <p>9 start with no more than two rigs, and then it would go</p> <p>10 on, but no more than one drilling rig.</p> <p>11 MR. JONES: We will fix that.</p> <p>12 COUNCIL MEMBER VINATIERI: Yeah. Let's ask</p> <p>13 counsel to fix it.</p> <p>14 MAYOR WARNER: Okay. You know our intent.</p> <p>15 MR. JONES: We have got that figured out.</p> <p>16 MAYOR WARNER: Okay. Item 8 under this item,</p> <p>17 neat and orderly fashion. Now come on, guys.</p> <p>18 MR. HELVEY: Well, there's neat and orderly in</p> <p>19 the kitchen and neat and orderly in my garage and neat</p> <p>20 and orderly on a drilling site, and they're probably all</p> <p>21 slightly different. But I think the idea is that any</p> <p>22 site, as Greg mentioned this is a construction site, can</p> <p>23 get sloppy, and this is just to reemphasize the fact that</p> <p>24 they can't be keeping materials that aren't in active use</p> <p>25 there just as a junkyard.</p> <p style="text-align: right;">109</p>

<p>1 MAYOR WARNER: So no one feels there needs to be 2 greater specificity?</p> <p>3 MR. MC CASKEY: I think it's fine. Current 4 standards that DOGGR does annual inspections, and that's 5 one of the things they look for, is neat and orderly and 6 that the operator's maintaining a clean site, orderly 7 site, which gets into is it a safe site.</p> <p>8 COUNCIL MEMBER NORDBAK: I think if you tried to 9 define it more you would actually complicate it as 10 opposed to make it any better.</p> <p>11 MAYOR WARNER: So when I'm out there doing my 12 visit and have my hard hat on and --</p> <p>13 COUNCIL MEMBER NORDBAK: Just remember everybody 14 has their own agree degree of neat and orderly.</p> <p>15 MAYOR WARNER: That's why I asked for 16 specificity.</p> <p>17 COUNCIL MEMBER NORDBAK: I'll look inside your 18 trunk and you look inside mine.</p> <p>19 MAYOR WARNER: And I saw yours tonight.</p> <p>20 COUNCIL MEMBER NORDBAK: It's neat and 21 orderly.</p> <p>22 MAYOR WARNER: Okay. It's 6:30. Mr. Jones, 23 will you address our 6:30 meeting please again.</p> <p>24 MR. JONES: Yes. Let's recess briefly and ask 25 the regular City Council meeting duly noticed and posted</p> <p style="text-align: right;">110</p>	<p>1 information of the audience that's here, if you have 2 joined joined us in anticipation of the regular City 3 Council meeting at 6:30, what we have just done is to say 4 that that meeting is going to be held next Monday 5 evening. When you walked in, if you obtained a blue 6 agenda, it probably says special meeting.</p> <p>7 We're in the midst of having a public meeting in 8 regards to oil drilling. And if you are from our high 9 schools, this probably will give you credit for attending 10 a Council meeting. And this will be going on tonight 11 until we're finished. If you need to stay a certain 12 length of time, feel free to leave at a break. And if 13 you need your paper signed, you can come up and have the 14 lady with her hand raised sign your papers.</p> <p>15 Okay. 63, is that where we are? Okay. 16 Anything on 63?</p> <p>17 Oh, and I'm sorry. I did want to acknowledge 18 Nancy, our visitor from the fire department. Did we want 19 to introduce him?</p> <p>20 UNIDENTIFIED SPEAKER: He will come back on 21 Monday.</p> <p>22 MAYOR WARNER: Okay. Great. We look forward to 23 seeing you on Monday, then.</p> <p>24 COUNCIL MEMBER NORDBAK: Do you need us to sign 25 to say you were here?</p> <p style="text-align: right;">112</p>
<p>1 for this evening as the regular Council meeting of the 2 Whittier City Council, that we ask this meeting be called 3 to order and then be continued to 6:30 on November 28th 4 in these chambers.</p> <p>5 MAYOR WARNER: Do we need a recess to address 6 this special meeting?</p> <p>7 MR. JONES: The chair can so order it.</p> <p>8 MAYOR WARNER: So ordered.</p> <p>9 MR. JONES: And then the chair can call the 10 meeting to order.</p> <p>11 MAYOR WARNER: We will call the meeting to order 12 of the regular City Council meeting at 6:30 on November 13 22nd.</p> <p>14 MR. JONES: And obtain a motion to continued 15 that meeting to 6:30 on November 28th in these chambers.</p> <p>16 MAYOR PRO TEM NEWCOMER: So moved.</p> <p>17 COUNCIL MEMBER VINATIERI: Second.</p> <p>18 MAYOR WARNER: Voice vote. Okay. All those in 19 favor.</p> <p>20 (Whereupon all Council Members responded "Aye")</p> <p>21 MR. JONES: And now we're back into session 22 regarding our ongoing --</p> <p>23 MAYOR PRO TEM NEWCOMER: I see that number 64.2 24 actually covers --</p> <p>25 MAYOR WARNER: Bob, just a moment. For the</p> <p style="text-align: right;">111</p>	<p>1 MAYOR WARNER: Should we go to 64. 2 And Steve, do you want to address those changes?</p> <p>3 MR. HELVEY: Yes. Item 64 is -- I'm sorry. I 4 moved too far away. Item 64 actually in subparagraph 2 5 does deal with the issue we brought up before about the 6 number of rigs permitted on the site. On number 3 we're 7 just talking about federal holidays instead of legal 8 holidays, because legal holidays do vary city by city, 9 and jurisdiction by jurisdiction.</p> <p>10 And then the equipment removal is really just 11 determining how long rigs can sit there unused. And at 12 the number the company addressed at \$24,000 a day rent, I 13 don't think they are going to be sitting there long. So 14 that's probably -- it just gives them a couple of days to 15 handle logistics of getting the rig off the site.</p> <p>16 MAYOR PRO TEM NEWCOMER: Question on the sub 17 point 2, is there any reason to have it and the sub point 18 2 back 62, which both deal with the number of drilling 19 rigs?</p> <p>20 MR. HELVEY: Leave that up to Jenetta. I mean, 21 it is duplicative, but it is consistent, so I don't 22 know.</p> <p>23 MS. GIOVINCO: We will take a look at that about 24 streamlining.</p> <p>25 MAYOR WARNER: Any other comments on 64?</p> <p style="text-align: right;">113</p>

<p>1 COUNCIL MEMBER VINATIERI: I'm actually on 63.  2 MAYOR WARNER: Go ahead.  3 COUNCIL MEMBER VINATIERI: 63.5 -- excuse me, 6,  4 gas meter station. I don't know if this is the  5 appropriate place, but there was a discussion about  6 taking a metering station and putting it on the 6.9 acre  7 pad site.  8 And Jenetta, maybe I'll ask you, is it  9 appropriate to talk about that here and put that in here,  10 or should that go somewhere else? Is there another place  11 where there's a discussion of the gas metering station?  12 MS. GIOVINCO: It's my recollection that this  13 might have been the best location to put it. I think  14 we're just waiting for direction from the Council as to  15 whether that was the direction as to where you wanted it  16 or whether there was desire to make it that specific or  17 leave some flexibility.  18 MAYOR PRO TEM NEWCOMER: I certainly would like  19 to move it, if it's feasible, to be moved onto the 6.9  20 acre site.  21 COUNCIL MEMBER VINATIERI: Let's see what the  22 Applicant has to say.  23 MR. MC CASKEY: We certainly would like to look  24 at that. I think our concern -- well, we'd like to look  25 at two things. Can the metering station be placed in a</p> <p style="text-align: right;">114</p>	<p>1 can't fully define at this time.  2 COUNCIL MEMBER VINATIERI: So if I recall, I had  3 a concern -- we talked about this the first night. I had  4 a concern about it in terms of above ground by Colima,  5 where you indicated that the -- you had talked about  6 above ground versus partially underground.  7 I think Bob last night talked about it being in  8 the habitat restoration area. And then you had  9 indicated, well, we have room on the 6.9 acre area  10 subject to however concerns vis-a-vis So Cal Gas.  11 So here's my question for Mr. Jones: In light  12 of what is being said here by the Applicant, is there  13 some way that we can craft a condition that I don't want  14 a straight jacket the Applicant. On the other hand it's  15 clearly preferable in my view if it is done on the 6.9  16 acre site.  17 So how can we put a stipulation in that  18 basically says we want it there. However, under the  19 circumstances if you have problems with So Cal Gas, then  20 it should go somewhere else? And how do we properly  21 ensure the concerns that myself and Mr. Henderson had?  22 That's the question.  23 MR. JONES: I think the question, what you have  24 to do first, as a condition you have to acknowledge the  25 meter will exist some place.</p> <p style="text-align: right;">116</p>
<p>1 position which was originally approved by the So Cal --  2 by the utility, in such a place that it's maybe of  3 minimal disturbance visually away from an area that  4 contained sensitive habitat. Look at that.  5 We would also look at the placement of the  6 metering station in our facility. We certainly have the  7 metering station at Sycamore at our facility. I think we  8 were concerned that the So Cal Gas, the utility, comes  9 and goes very frequently from the facilities to access  10 their meter. Actually we pay and put the equipment in,  11 but it's theirs. And also they have certain standards  12 relative to looking over the pipeline, which they would  13 be overseeing the pipeline into and over through the  14 habitat. So we were concerned that they would need to  15 review the aspect of the conservation easement and agree  16 to terms. We felt that there was enough complications  17 that we'd potentially look at that relative to placing it  18 in the facility.  19 I think if you set this up as a condition, and  20 it certainly is a reasonable condition to place, we  21 didn't want to come back later and have to present bad  22 news relative to the Gas Company, saying well, we're not  23 gonna agree to various park or habitat rules relative to  24 us coming and going and doing our own inspections. So I  25 just wanted to mention that that's a complication that we</p> <p style="text-align: right;">115</p>	<p>1 Then secondly, it seems to me what you could do  2 is establish a criteria that says that that meter should  3 be located in a place that reasonably addresses the  4 Council's concerns and Matrix's economic concerns  5 relative to its location. And that we will explore those  6 alternatives and come up with a reasonable solution.  7 Now, beyond that it's gonna be a challenge,  8 because having -- as a general statement, having dealt  9 with the Gas Company in the past, an idea of going  10 through a conservation easement with them, I realize that  11 could be a whole new journey unto itself.  12 And the only reason I say that is because it's  13 just one more challenge. On the other hand, if it's  14 clearly Council's concern and desire and focus to go into  15 the 6.9 acre site, then I think you should indicate that  16 as a preferable location and direct us to make every  17 reasonable effort to locate it there. And if you want,  18 if we can't meet that accommodation, come back to the  19 Council for further direction.  20 COUNCIL MEMBER NORDBAK: Let me weigh in on  21 this. I personally would prefer to see it not on the 6.9  22 acre pad. And my reasoning is I think we're now gonna  23 put additional traffic up on either Catalina, Penn and  24 through the preserve and give the Gas Company well access  25 to that more often than you think.</p> <p style="text-align: right;">117</p>



<p>1 And I think Matrix here is making every attempt they can 2 to limit the traffic going in and out of the preserve up 3 and down Penn and on Catalina. And I think if we put 4 that gas metering station on the pad, we're putting 5 another vendor in there that they are not gonna be 6 controlled by Matrix, and I think it's a lot better to 7 leave it out where it is, figure out a way to either 8 landscape it or get it off the side of the road up on 9 Colima. And for those reasons, I am completely against 10 putting that on the 6.9 acre pad.</p> <p>11 MAYOR WARNER: And what's the size of it, Mike, 12 the size of this facility?</p> <p>13 MR. MC CASKEY: The gas metering station is ten 14 feet by twenty feet.</p> <p>15 I think we're not trying to come up with an 16 excuse not to put it on the 6.9 acres. We're happy to 17 place it where it's most practical.</p> <p>18 Just to mention So Cal Gas comes to our other 19 metering station more than 15 times a month. They just 20 come in with their vehicles and they're there with 21 actually one or two or three, because they're actually 22 doing readings. And at the metering station there's a 23 chromatograph which is measuring the gas, and they just 24 do what they do which is more every year for everybody. 25 So it's just a concern that they are not a vendor. I</p> <p style="text-align: right;">118</p>	<p>1 sage scrub and you are going to have disturbance there. 2 And I have no information about the field modification 3 requirements around a structure that I would think would 4 have to take at least the same fuel mod clearances that 5 any constructed building would, especially because it's 6 got gas inside. So I'm assuming there's at least a 7 hundred foot fuel modification clearance.</p> <p>8 So it's gonna have a big ugly scar affect right 9 next to the trails. And I haven't seen that analyzed as 10 far as esthetic impact. So I think number one it's bad 11 that way.</p> <p>12 As respects the easement issue, I don't think 13 that's much of a problem, because we spent the last 14 couple weeks crafting the conservation easement in a way 15 to say that it would exempt out any of the oil 16 operations, and this is certainly part of the oil 17 operation.</p> <p>18 So if there needed to be a dedicated easement to 19 Southern California Gas, that could be done prior to the 20 time that the conservation is put over, and it would 21 react to that, and it would react to modifications as 22 necessary, because we have been crafting that language 23 carefully to think of things that might happen in the 24 future.</p> <p>25 So I really think that any place else that you</p> <p style="text-align: right;">120</p>
<p>1 think it's we just want to mention they're gonna be 2 coming and going.</p> <p>3 COUNCIL MEMBER NORDBAK: They're utilities. 4 They have their own set of rules. And I just think we 5 are going backwards by allowing them to start traversing 6 through the habitat and up Penn and up Catalina.</p> <p>7 MAYOR WARNER: You make a good point, Greg. 8 Let's weigh in on it.</p> <p>9 MAYOR PRO TEM NEWCOMER: I think it's a problem 10 out by Colima, especially in the proposed configuration 11 above ground, et cetera. So understanding that 12 configuration, I think getting it away and putting it on 13 the operation side has lots of advantages. I can go with 14 Dick's proposed language that says here's kind of our 15 goal, let's work it out and do what's feasible, whether 16 that ends up being underground, at Colima, on the 17 operation side, et cetera, because I'm not sure we can 18 resolve it tonight.</p> <p>19 MAYOR WARNER: Bob, what do you think?</p> <p>20 COUNCIL MEMBER HENDERSON: Well, I don't think 21 it's properly analyzed in the EIR for one thing as it is. 22 As I mentioned the other night, you are putting building 23 -- the way it's proposed, you're putting a structure 24 that's going to be visible from both Colima and from the 25 trail. You're putting it in an area with the coastal</p> <p style="text-align: right;">119</p>	<p>1 put it, you have those same concerns, because it's going 2 to have to go down the Arroyo Pescadero Loop Trail down 3 to the Dear Loop Trail, and it's gonna be someplace in 4 there that's gonna be very visible and visible from the 5 entire view shed of the Arroyo Pescadero trail head from 6 the raised areas there, the overlooks.</p> <p>7 So I think it's a problem, and I think that 8 while I understand there can be reasons that they 9 absolutely can't do it, and we will have to find 10 something to do like completely underground it, perhaps, 11 I think that the correct answer is to try to move it back 12 down to the site, incorporate it in the site. And while 13 I understand Greg's point that there will be some more 14 visitation and stuff, this is really minor stuff, mostly 15 in the middle of the day. These guys aren't out at night 16 looking at the stations. And that is a very small 17 additional amount of trip. And if it's up at the other 18 location, it's gonna be coming into the habitat as well. 19 And if they need to inspect any of the piping, they could 20 get into the same kind of problem.</p> <p>21 So I think the best solution is Dick recommended 22 is craft it in such a way that every effort should be 23 made that they place it within the site, and if it can't 24 possibly be done, then we will work out a solution to 25 remove those impacts that I've discussed, which as far as</p> <p style="text-align: right;">121</p>

<p>1 I can see, the only thing you can do is possibly 2 underground it. And I can imagine there's great 3 resistance of Southern California Gas for undergrounding 4 a facility like that. They don't like vaults. 5 But I think it's something we really need to 6 address. It's a big impact. We talk about these other 7 things, seeing the top of a drill rig at half a mile, and 8 that's a major impact. And you've got this big building 9 that's sitting right there on your trail. 10 MAYOR WARNER: What's the height, Mike, of this 11 building? 12 MR. MC CASKEY: Well, the metering station 13 doesn't need a building. In fact, most of them don't 14 have any closure or building. I think that was just 15 shown in the EIR just to demonstrate potentially where it 16 is, because it's a -- the metering equipment is four to 17 five feet. With a chain link fence around it and 18 plantings, I think it's very low profile. We could also 19 not put it fully underground, but dig down. So there's 20 steps and, you know, just try to make it low profile and 21 also disguised. 22 COUNCIL MEMBER VINATIERI: And I think that 23 makes a lot of sense, in light of there's a divergence of 24 opinion on the Council on this issue. 25 Let me ask Mr. Perez, can you go back to when</p> <p style="text-align: right;">122</p>	<p>1 property line. There is no space to place it there. No 2 suitable space to place it there. 3 I should point out, we did analyze a building 4 there 20 to 30 feet, and this is as defined by Matrix 5 when this came up as part of the project description. So 6 we do have analysis of a 20 by 30 foot building. We did 7 analyze fuel modifications to ten feet from the building. 8 We did not analyze a hundred feet. Partly the reason for 9 that is because it's not considered a habitable 10 structure. It's not a place where people are gonna live 11 in, so we didn't feel -- there's some interpretation here 12 on the Code. Our interpretation was that because it 13 wasn't a habitable building, it should not require the 14 hundred foot set back. 15 So we used -- certainly the fire department can 16 change that. The analysis that we have for affected area 17 is that 20 by 30 feet. 18 Another aspect of this is the esthetic aspect of 19 it. We did take a look at whether this would have any 20 impacts, and we concluded that it wouldn't have any 21 impacts, any esthetic impacts. And partly the reason for 22 that is from Colima Road it is set back. You can drive 23 by and never see it. It's also something that is 24 typically expected. You see these things everywhere. It 25 sort of becomes a bit as a -- maybe this is not the right</p> <p style="text-align: right;">124</p>
<p>1 you did the presentation on this, can you pull up the 2 slide where you showed where it's anticipated under the 3 proposed project where it could -- where it's supposed to 4 go, and maybe can we look at another location that might 5 do the mitigation that deals with the site, et cetera, 6 the esthetic. 7 MR. JONES: We can certainly go back to that 8 slide. 9 Let me also indicate that I think the 10 appropriate condition then is to allow a more full 11 exploration of alternative sites, because there might be 12 other locations. I don't know. 13 COUNCIL MEMBER VINATIERI: I would agree with 14 that. But you're gonna get a lot of your vision based 15 upon the dialoge you hear from the Council right now. 16 MR. PEREZ: So a couple of points on this, and 17 let me try to get the cursor over. This is the location 18 of the metering station. It's immediately north of the 19 entrance there. 20 Now, and we have looked at this a number of 21 times. Greg and I out of curiosity went back again this 22 morning because this was something that was brought up 23 yesterday. You know, there was some commentary about 24 being able to put it south of the road immediately there 25 next to the gate. That's a steep area, very close to the</p> <p style="text-align: right;">123</p>	<p>1 analogy, but as a power pole or things of that nature, 2 where your expectation to see it then takes away from the 3 feeling impacted by it. 4 Nevertheless it's an area that can be landscaped 5 and it would not be as visible from the trail areas or 6 others. So we feel that the analysis fully supports what 7 was described by Matrix at the time that the project 8 description was written for placing it there. And so 9 from the EIR perspective, I think you're covered. There 10 is analysis to support that. 11 When we were looking at the impacts, you're 12 looking at something much bigger when you're looking at 13 drilling rigs and other things that are part of the 14 facility. So this was such a small component of it that 15 it did not raise to the level of where it would have any 16 type of impact. 17 COUNCIL MEMBER VINATIERI: So Mr. Jones, in 18 light of the fact that there are at least two people who 19 believe it should be on the 6.9 acre seat, there's at 20 least one person who says that it shouldn't be there, but 21 it should be somewhere along the lines of what Mr. Perez 22 has just indicated, can you -- and understanding that 23 maybe we're not talking about a structure. Understanding 24 that we're talking about maybe something, as Mr. McCaskey 25 has discussed, that it can be partially underground and</p> <p style="text-align: right;">125</p>

<p>1 appropriately camouflaged. In light of those various  2 alternatives, I know that you and Jenetta can put  3 together some wonderful language that would give proper  4 flexibility to provide the appropriate response.  5 Am I correct?  6 MR. JONES: We can create language that allows  7 that analysis and the give and take of negotiations to  8 get to a resolution, recognizing the various variables  9 that exist.  10 I think it's still more important at this stage  11 to understand what the Council's preference is. Because  12 if the Council's first preference is to locate it on the  13 6.9 acre production site, then give us that direction so  14 we focus there, then look for the alternatives as  15 secondary.  16 If you're comfortable in looking at the Colima  17 site and the appropriate mitigation measures that may  18 exist depending upon the parameters with the fire  19 department and everybody else, we can look at that. But  20 you need to give us some direction.  21 COUNCIL MEMBER VINATIERI: So you want a vote.  22 Mr. MR. JONES: Some consensus.  23 COUNCIL MEMBER VINATIERI: You want a vote.  24 MR. JONES: Or direction.  25 MAYOR PRO TEM NEWCOMER: Given that, shall we</p> <p style="text-align: right;">126</p>	<p>1 67?  2 68?  3 COUNCIL MEMBER NORDBAK: If you hurry up, we can  4 get done before Cathy gets back.  5 MAYOR PRO TEM NEWCOMER: 69?  6 COUNCIL MEMBER VINATIERI: Let me ask -- let me  7 ask a question here. On 68 on abandonment procedures, I  8 think we already kind of had a discussion. This is going  9 to be a very important thing because the habitat needs to  10 be restored to what it was prior to the time that this  11 project took place.  12 The language that was added here, or as soon  13 thereafter as practicable, what was the impetus of that?  14 MR. MC CASKEY: The abandonment procedures have  15 to be witnessed by the DOG and scheduled with them.  16 COUNCIL MEMBER VINATIERI: So in other words,  17 this is -- so you don't know when DOGGR is going to be  18 available, so you're trying to make it as practicable  19 because you've got to work off their schedule.  20 MR. MC CASKEY: And the other is you schedule  21 with a company that comes in and specializes in  22 abandoning wells. So there's two aspects there.  23 COUNCIL MEMBER VINATIERI: Thank you.  24 MAYOR PRO TEM NEWCOMER: And is practicable a  25 word as opposed to practical?</p> <p style="text-align: right;">128</p>
<p>1 wait until Cathy's able to come back for this particular  2 item to get direction on what the first choice would be,  3 because I think all of us will say we need the flexible  4 language. It's indicating what the first choice is.  5 MR. JONES: Exactly.  6 MAYOR PRO TEM NEWCOMER: So let's wait for Cathy  7 to come back and we will get back to this particular  8 issue and she will be back shortly.  9 And let's move on.  10 I believe we are in number 64. Are there any  11 other questions about 64?  12 I have just a very minor one. Matrix mentioned  13 the other day that they thought there were better ways to  14 camouflage a derrick by coloring, et cetera. Is that  15 anywhere in any of the rules? This is talking about  16 derricks? Would this be a place to put that?  17 MR. HELVEY: I think that's part of the EIR  18 analysis, the camouflage and soundproofing of the  19 derrick.  20 MR. PEREZ: There is information within the  21 landscape plan about painting and so on as part of  22 mitigation measure 81, yes.  23 MAYOR PRO TEM NEWCOMER: Okay. Any questions on  24 65?  25 66?</p> <p style="text-align: right;">127</p>	<p>1 COUNCIL MEMBER VINATIERI: Yes, it is a word.  2 MAYOR PRO TEM NEWCOMER: Okay. It's a word.  3 Moving on.  4 COUNCIL MEMBER HENDERSON: Wait a minute. I  5 think the understanding here though on the abandonment  6 procedure, is these are when individual wells are  7 abandoned; is that right, Mike?  8 MR. MC CASKEY: That's how we read that.  9 COUNCIL MEMBER HENDERSON: Yeah. So this isn't  10 the situation where you would abandon an entire well  11 cellar it and it would be reestablished to native habitat  12 standards at that point. It's just closing individual  13 wells within a 20 well cellar. But there are provisions  14 in other places for how you have to abandon it and close  15 it and bring it back up to standards.  16 Again, and let me ask Jenetta. Jenetta, is it  17 clear enough in other places that beyond the performance  18 bond, which I understand is \$10,000 per well on closure,  19 that the oil companies would be responsible for the full  20 closure cost regardless?  21 MS. GIOVINCO: I believe that there is language  22 elsewhere, but I'll confirm that.  23 COUNCIL MEMBER HENDERSON: Okay. Thank you.  24 MAYOR PRO TEM NEWCOMER: Any other questions on  25 this item?</p> <p style="text-align: right;">129</p>

<p>1 COUNCIL MEMBER VINATIERI: Bob, just let me 2 point out to you. I think you're correct, but you'll 3 note there with respect to 68.2 it does talk about well 4 pad re-vegetation. 5 COUNCIL MEMBER HENDERSON: Yeah, I think it is. 6 Though I don't think it's actually the case. That's what 7 I was trying to point out. 8 MAYOR PRO TEM NEWCOMER: Do we need to clarify 9 the language? 10 COUNCIL MEMBER HENDERSON: I think that's 11 language that's usually used for stand alone wells. And 12 I think that got pulled in, but maybe I'm wrong. I'm 13 willing to be educated on it. The way it's talking about 14 individual wells instead of sites seems to me, or 15 cellars. 16 MAYOR PRO TEM NEWCOMER: Does staff have any 17 suggestions of what the language needs clarifying and how 18 to do so? 19 MR. PEREZ: I do believe this is, as 20 Mr. Henderson points out, is a leftover from general 21 regulations. It so happens that you have two 1's on this 22 set, so maybe if you can get rid of that second one 23 numeral. I don't think it will affect. 24 COUNCIL MEMBER VINATIERI: No. I think that has 25 to be done also. But the concern I now have in light of</p> <p style="text-align: right;">130</p>	<p>1 finalized. 2 COUNCIL MEMBER HENDERSON: Right. Once there's 3 a full abandonment of it. And I think there's also a 4 fund in the lease agreement that is required to be 5 available for it. 6 MR. PEREZ: So maybe everywhere where it says 7 well pad -- 8 COUNCIL MEMBER HENDERSON: Check that language 9 and make it some kind of a condition that concurs with 10 what's in the lease. 11 MAYOR PRO TEM NEWCOMER: Is that satisfactory? 12 COUNCIL MEMBER VINATIERI: Yes. 13 MAYOR PRO TEM NEWCOMER: Okay. Thank you. I 14 believe that's 68. 15 Anybody, any questions on 69? 16 70? 17 71? 18 COUNCIL MEMBER VINATIERI: Hold on. 19 COUNCIL MEMBER HENDERSON: I'm in agreement with 20 71's modification. It was a mistake the way it was 21 worded before, and I don't know if you remember it, but 22 basically it was gonna require every time they thinned 23 the vegetation in the field mod zone, they we're gonna 24 have to also do re-vegetation work for the entire field 25 mod zone.</p> <p style="text-align: right;">132</p>
<p>1 our discussion is it appears that this language is 2 language where you're looking at one well here, one well 3 there, one well there, versus a consolidated site which 4 as we have here. 5 And I think the concern I have is to make sure 6 that when the consolidated site is played out, that we 7 make sure we have the proper language that takes care of 8 re-vegetation and putting it back to where it was. I 9 don't recall seeing any language in another part of the 10 conditions here that talk about that situation. Ergo my 11 thought is that this is probably the only spot, and if 12 this is the only spot then I think we need to clarify it 13 and clean it up, because it appears to be language that 14 doesn't totally apply to the consolidated type situation 15 we have here. 16 COUNCIL MEMBER HENDERSON: Joe, I know that's 17 handled in the lease agreement. But you're right. I 18 don't think it applies in any of the conditions. 19 MAYOR PRO TEM NEWCOMER: That's a big issue. 20 So Jenetta, any recommendation? 21 MR. PEREZ: I do believe it's covered somewhere 22 else. But I think you can preserve the -- change the 23 language, and you still have to change the numerals 24 because they're repeated there. And then change that the 25 oil site will be re-vegetated once the project is</p> <p style="text-align: right;">131</p>	<p>1 So that didn't make any sense. It's been 2 properly mitigated for, because for all the field mod 3 areas, there's a one to one aerial replacement of the -- 4 of that amount of acreage and it would be re-vegetated. 5 So it's been taken care of. 6 And the fact they have to trim it every year, 7 because that's fire department regulations, would be an 8 unfair burden on the operator. 9 MAYOR PRO TEM NEWCOMER: Joe, you had a question 10 on 70 or 71? 11 COUNCIL MEMBER VINATIERI: I had one on 70. 12 MAYOR PRO TEM NEWCOMER: Okay. 13 COUNCIL MEMBER VINATIERI: You know what, we're 14 okay. I heard something earlier that takes care of my 15 problem. Thank you. 16 COUNCIL MEMBER HENDERSON: On 72. 17 MAYOR PRO TEM NEWCOMER: 70-2. 18 COUNCIL MEMBER HENDERSON: 70-2, the ongoing 19 exotic ratification thing. I just wanted to make sure 20 that we included in that what I mentioned yesterday, that 21 the Habitat Authority really should implement that 22 mitigation because it's done in small pieces. If we find 23 out that there's an exotic plant that's in an area, we 24 put out a little contract of a thousand dollars or 25 something like that to solve that problem right away.</p> <p style="text-align: right;">133</p>

<p>1 And it's real important that you do it right away before  2 you get spread and it contaminates the whole area.  3 MAYOR PRO TEM NEWCOMER: So that would replace  4 the language on -2 where the sentence starts, the project  5 component. Instead it would read, the Habitat Authority.  6 Is that language you're suggesting?  7 MR. JONES: No, I don't think that's correct.  8 COUNCIL MEMBER VINATIERI: You're talking about  9 71(2); correct?  10 COUNCIL MEMBER HENDERSON: Correct.  11 MAYOR PRO TEM NEWCOMER: Oh, 71. I thought you  12 were on 70.  13 COUNCIL MEMBER HENDERSON: 70.  14 MAYOR PRO TEM NEWCOMER: So 70-2 which is near  15 the top of page 28?  16 COUNCIL MEMBER HENDERSON: It says the  17 eradication program will be reviewed and approved by the  18 Habitat Authority. I think it should be reviewed and  19 implemented by the Habitat Authority would probably cover  20 the problem.  21 MAYOR PRO TEM NEWCOMER: Okay. Works for me.  22 How about the rest of you?  23 COUNCIL MEMBER VINATIERI: Yes. That's fine.  24 COUNCIL MEMBER NORDBAK: Fine.  25 MR. PORTER: Do we need to change the first</p> <p style="text-align: right;">134</p>	<p>1 recorded with the Los Angeles County Recorder's Office.  2 I'm assuming -- I ask this question of counsel. I'm  3 assuming of what we saw last night carries out the  4 construct set forth here in 74?  5 MR. HELVEY: It will. It is still under  6 refinement, though. It's kind of an evolutionary  7 document right now. So there are are some minor changes  8 being made. But what it really does is it doesn't allow  9 any development outside the 6.9 acres except for those  10 specified with the underground pipelines and the uses  11 that we have permitted, with the exception of the water  12 tanks up at the top of Ocean View, a new tank could be  13 put in within five hundred feet. But Kim's still working  14 on the actual language.  15 COUNCIL MEMBER HENDERSON: It's about done now.  16 Like I said, we wanted to make sure there weren't any  17 unintended consequences, like if there was a requirement  18 by the State to no longer inject formation water down  19 into the formations, that they could have the ability to  20 build an underground waste water disposal line and that  21 there could be other uses that needed to be facilitated  22 in the development of the oil tank. For instance, if  23 there was a requirement for additional water to come in,  24 there was always gonna have to be a trenched underground  25 pipe to bring potable water in so on and so form. So we</p> <p style="text-align: right;">136</p>
<p>1 sentence to talk about the Applicant funding that  2 program?  3 COUNCIL MEMBER VINATIERI: Isn't that already in  4 there, the mitigation fund.  5 COUNCIL MEMBER HENDERSON: The Applicant will  6 establish a mitigation fund and ensure annual  7 contributions.  8 COUNCIL MEMBER HENDERSON: Right.  9 MR. HELVEY: I think they are concerned about it  10 says implement in both sections. So they're got the  11 Applicant implementing it.  12 COUNCIL MEMBER HENDERSON: That's the Applicant  13 will implement, yeah. And the proponent -- project  14 proponent shall implement an exotic enhancement program.  15 I think they shall fund an exotic enhancement program,  16 and then the other wording would fall into place.  17 MAYOR PRO TEM NEWCOMER: Okay. I believe that  18 finishes 70.  19 71. And Bob's already made some comments.  20 72?  21 73?  22 74, the conservation easement?  23 COUNCIL MEMBER VINATIERI: I'm sorry. 74, this  24 is a discussion we had that Kim brought forth last night  25 and gave us a copy of the proposed deed that would be</p> <p style="text-align: right;">135</p>	<p>1 have been working really hard with Lori Collins, from the  2 Habitat Authority, our attorney attorney there, Jenetta,  3 Kim, Dick I'm sure, and staff to fine tune those. But  4 the basic thing that it does, and which I think is really  5 important, is it locks this development in place. It  6 cannot move. Basically the basic site cannot ever be  7 moved. There cannot be any other such developments on  8 that. There cannot be any other types of uses,  9 commercial or whatever on the property.  10 And most of that is also theoretically covered  11 under the Prop A agreements, but there's been some  12 attorneys that have advised us that the Prop A agreement  13 actually expires in 2019.  14 MR. HELVEY: '15.  15 COUNCIL MEMBER HENDERSON: '15, I'm sorry. And  16 there's some question about would those provisions still  17 hold up. This just takes it completely out of discussion  18 and locks it into place, but still giving flexibility to  19 the operator.  20 COUNCIL MEMBER VINATIERI: So this is -- I mean,  21 we heard this in the public comments about that there was  22 the opportunity potentially to do further development on  23 further parts of the habitat, and this is responsive to  24 that, basically saying no. Once this conservation  25 easement's done, there's no other place anything could</p> <p style="text-align: right;">137</p>

<p>1 happen except in an urgency type situation that you've 2 just indicated.</p> <p>3 COUNCIL MEMBER HENDERSON: Well, and even those 4 are very closely defined as to what's an emergency and 5 what it is. It all has to do with the operations here or 6 certain reserve rights that the City wanted.</p> <p>7 For example, it's possible that in future years 8 some oil fields now are actually taking that formation 9 water and if it's not incredibly salty, they are actually 10 turning it into nonpotable water and using it for 11 irrigation purposes and to sell it.</p> <p>12 So we made a provision that if that should ever 13 happen, we could put an underground pipeline up the north 14 access road underground to the landfill and you can fill 15 a treatment facility up there on our property, City 16 property, and maybe treat it and sell it and so on. So 17 that would be another economic advantage and perhaps an 18 important advantage to the City 10 years, 15, 20 years 19 down the line when water is at multiples of what we're 20 paying today.</p> <p>21 COUNCIL MEMBER NORDBAK: So we can build a 22 diesel plant at the landfill.</p> <p>23 COUNCIL MEMBER HENDERSON: Yeah. On part of the 24 landfill that's not actually being used for filament.</p> <p>25 COUNCIL MEMBER NORDBAK: The bottom area.</p> <p style="text-align: right;">138</p>	<p>1 generated -- was generated by the Planning Commission at 2 the Planning Commission meeting. This is mainly for 3 everybody to understand it. Generated from a comment I 4 had made at the initial statements during the Planning 5 Commission that we have two different types of streets, a 6 concrete street and an asphalt street.</p> <p>7 The asphalt street I had mentioned may be 8 substandard in design because it's from the '50s.</p> <p>9 So that's kind of how this all started.</p> <p>10 Now, we have a pavement management system for 11 the City, which is commonly known as the five year 12 surface treatment program. Okay.</p> <p>13 So with all that said, this is above and beyond. 14 This will establish a baseline or they will establish a 15 baseline pavement condition saying, here's where we're 16 at. Now once construction traffic starts coming on that, 17 we will see if that is actually causing damage or causing 18 any causing any degradation to the pavement. They will 19 then assign, based on what their pavement management 20 study will tell us, a type of treatment to take care of 21 that problem. Basically fix the street.</p> <p>22 We will not go out during our pavement 23 management system and just fix the street automatically, 24 but we will next year be looking at Catalina and Penn 25 automatically as a part of our five year program. So we</p> <p style="text-align: right;">140</p>
<p>1 COUNCIL MEMBER VINATIERI: But we were talking 2 earlier about solar and trees and that. This is another 3 green type possibility if it were to pan out.</p> <p>4 COUNCIL MEMBER HENDERSON: Yeah.</p> <p>5 MR. HELVEY: Yeah.</p> <p>6 MAYOR PRO TEM NEWCOMER: Anything else on 74? 7 75? 8 76?</p> <p>9 COUNCIL MEMBER VINATIERI: Excuse me, I'm 10 sorry.</p> <p>11 75, I had brought up last night my concern about 12 Catalina and Penn Street relative to getting beat up and 13 utilization of the payment there. I'm assuming by this 14 particular stipulation or condition that does this 15 provide the flexibility that if it appears to be 16 appropriate to do something on Penn Street, for example, 17 that the operator or the Applicant -- and I think this is 18 a fair share situation -- that we'd have the opportunity 19 to study that and actually make that change as a way of 20 mitigating the traffic cost.</p> <p>21 Am I correct on that?</p> <p>22 MR. JONES: Chris?</p> <p>23 MR. MAGDOSKU: Good evening. Chris Magdosku, 24 assistant director of public works, City of Whittier. A 25 little background on this condition. This condition</p> <p style="text-align: right;">139</p>	<p>1 have two things kind of going on. This will protect us.</p> <p>2 COUNCIL MEMBER VINATIERI: But Chris wouldn't 3 this also enter into the traffic management study that 4 we're talking about for Penn Street, for Catalina where 5 we previously indicated this evening that we'd like to 6 have the residents weigh in on the traffic management. 7 Wouldn't this be part of that?</p> <p>8 MR. MAGDOSKU: This is separate. This is an 9 integrity of the pavement section versus a traffic volume 10 or circulation type of impact. They could be seen as the 11 same, I agree with you. But they were two different 12 things because we have a situation where the pavement is 13 designed for a certain type of traffic loading, versus 14 here's how many cars and here's how many trucks are gonna 15 come down your street and when. So it's somewhat 16 separate in that regard. This is something we crafted at 17 the meeting based on Commissioner Stone's request.</p> <p>18 So it's a safeguard above and beyond our five 19 year surface treatment program.</p> <p>20 COUNCIL MEMBER VINATIERI: Thank you.</p> <p>21 MR. MAGDOSKU: I highly recommend it.</p> <p>22 MAYOR PRO TEM NEWCOMER: Okay. And now that 23 Cathy's back, let's go back to 64. And the issue there 24 was our preference of the location of the metering 25 facility, pipes, building, whatever it turns out to be.</p> <p style="text-align: right;">141</p>

<p>1 And again, I think we were all in agreement that the  2 language that Dick had proposed was the desired language,  3 but staff wanted an indication of what our first chose  4 was as we worked through the different feasibilities.  5 So if you want to make a persuasive argument or  6 just vote, we can start by going down the row.  7 Greg, what's your --  8 COUNCIL MEMBER NORDBAK: My preference,?  9 MAYOR PRO TEM NEWCOMER: Yes.  10 COUNCIL MEMBER NORDBAK: Out on Colima. Not on  11 the pad is my preference.  12 MAYOR PRO TEM NEWCOMER: Joe.  13 COUNCIL MEMBER VINATIERI: To be candid, I  14 thought the pad was the place to be, but once I heard  15 that about the  16 15 trips a day or trips a month that the So Cal Gas goes  17 to the other facility, and I'm sensitive about the  18 traffic issue, and in height of what was said, I want to  19 go out to Colima. I'd like to minimize it along the  20 lines we talked about, partially underground, cover it  21 up, do all that wonderful stuff so the aesthetics are not  22 a major issue there. So I just assume go out by Colima.  23 MAYOR PRO TEM NEWCOMER: Okay. Bob.  24 COUNCIL MEMBER HENDERSON: I strongly feel it  25 needs to be in the site.</p> <p style="text-align: right;">1 4 2</p>	<p>1 will look at that. We will also follow what the Council  2 wants, and look at the other objective, which we  3 described, which would be placing it, working with  4 habitat personnel, in a place that's the best relative to  5 visual and other aspects.  6 MAYOR WARNER: So you've head our consensus  7 direction. But I for one am still open to rationale that  8 you would present that, you know, and other rationale if  9 we haven't discussed it or fully vetted it.  10 Dick, how do we characterize that?  11 MR. JONES: Having heard your discussion and  12 your direction, the direction given is that Colima's your  13 first choice, and we ask Matrix to analyze that and see  14 what the impacts are regarding not only the habitat, but  15 also ways to locate it in such a way that has the least  16 impact to the environment.  17 Secondly has to do with the analysis on site and  18 perhaps quantify what So Cal Gas' impact might be if they  19 have to come out to the site.  20 Having said that, we will do that analysis if  21 that's the Council's direction. But all things being  22 equal, the current direction is to go to Colima. So  23 absent some significant environmental or habitat type  24 issue arising, this direction now is that Colima's your  25 first choice. If that's not your direction, then so</p> <p style="text-align: right;">1 4 4</p>
<p>1 MAYOR PRO TEM NEWCOMER: I also believe it  2 should be in the site.  3 And so with that, we will give it to Cathy and  4 let you take over the meeting as well.  5 MAYOR WARNER: Thank you.  6 I support the language as far as some latitude  7 as far as some latitude. As far as a personal  8 preference, I respect what the Applicant has said, and I  9 also am concerned about the number of trips inside the  10 preserve. So I think I would prefer that it not be in  11 the preserve, but I want to be sensitive to Logistics  12 that you have to deal with and also the logistics with  13 the Gas Company and the easement.  14 MR. MC CASKEY: Well, it will be our purpose to  15 thoroughly investigate putting it be on the site and also  16 asking the Gas Company relative to visits. This will be  17 a new facility and, you know, respecting the ingress,  18 Egress aspect. So our intention is to make the facility  19 consolidated, and we will do that, and I think that will  20 be put together with the wording and we will follow  21 through with that objective.  22 COUNCIL MEMBER NORDBAK: We just had a vote and  23 three Council Members said they prefer not to have it on  24 the site.  25 MR. MC CASKEY: Again, I'm just expressing we</p> <p style="text-align: right;">1 4 3</p>	<p>1 speak now or forever hold your peace kind of thing.  2 MAYOR WARNER: I think that's our direction.  3 Okay. All right.  4 I apologize for having to step out. My mom was  5 scheduled to have surgery at 5:00 at City of Hope. It  6 had been postponed months, and it's postponed again. The  7 doctor had another emergency procedure. So I apologize,  8 but I needed to have some communication with my family.  9 MR. JONES: We are on item 76.  10 MAYOR PRO TEM NEWCOMER: Do you have questions  11 on 65 up to that point? This would be the appropriate  12 time.  13 MAYOR WARNER: And I do need to go back to 71.  14 I had noted that Matrix had concerns. Mike, in your  15 letter to us in regards to 71-1, you had expressed  16 concerns. Have those been resolved?  17 Okay. Your colleague is indicating they have.  18 MR. MC CASKEY: Yes, they have.  19 MAYOR WARNER: Okay. And then item 74, I know  20 we have discussed this at length. You had concerns about  21 this. Have your concerns been resolved?  22 MR. MC CASKEY: Yes.  23 MAYOR WARNER: Okay. And where were we, did you  24 say?  25 MAYOR PRO TEM NEWCOMER: We finished 75. So 76</p> <p style="text-align: right;">1 4 5</p>

<p>1 would be the next one we have not reviewed.  2 MAYOR WARNER: Let me go to this other copy.  3 76. Any questions or comments on 76?  4 COUNCIL MEMBER VINATIERI: I also a question.  5 We have been already talking about is it 9 to 3, is it 9  6 a.m. to  7 5 p.m? I think didn't we already give direction or ask  8 the staff to go back and try to make this thing  9 consistent, Mr. McCaskey?  10 MR. MC CASKEY: I believe the more restrictive  11 provision, 76, deals with the large transport trucks for  12 the oil shipments. The others are just general delivery  13 hours, which is smaller vehicles coming and going from  14 the site, delivery.  15 MR. JONES: That's my understanding as well. If  16 you look at the beginning, the first word is oil tanker.  17 Oil tanker trucks shall be permitted. So this is a more  18 restrictive paragraph that relates to oil tanker  19 trucks.  20 MAYOR PRO TEM NEWCOMER: So there is no clash  21 between that other language and this.  22 MR. JONES: The other language requires non-oil  23 tanker trucks to go, as I recall, halfway between sunrise  24 or sunset or something like that.  25 COUNCIL MEMBER VINATIERI: So in my mind this</p> <p style="text-align: right;">146</p>	<p>1 there's no limitation? Am I being --  2 COUNCIL MEMBER NORDBAK: How about fracturing of  3 any type?  4 COUNCIL MEMBER VINATIERI: That's what my  5 thinking was.  6 MR. MC CASKEY: We would not recommend that.  7 The objections raised in the Planning Commission and  8 throughout the history of the project have been to the  9 hydraulic fracturing, the high volume, high pressure  10 procedures using in excess of Millions of gallons of  11 water, which is featured in the various gas land and  12 other. Those methods are employed in the Los Angeles  13 basin, and just saying fracturing of any kind, which  14 there are many procedures where materials are pumped into  15 the formations relative to cementing, other procedures to  16 control sand from flowing into wells, and just saying  17 fracturing could be construed to putting any materials  18 into the formation.  19 For instance, the Department of Oil and Gas  20 requires some forms of pumping materials in to test some  21 injection. So we were trying to not have the City  22 Council -- we were recommending that the City Council not  23 get into a regulatory body and interfere with procedures  24 that are allowed under State law.  25 We are happy to relative to the Planning</p> <p style="text-align: right;">148</p>
<p>1 raises another issue. I thought, and maybe incorrectly,  2 that the oil tanker trucks we're gonna be on Penn Street,  3 not on Catalina. Is my recollection correct or  4 incorrect?  5 MR. MC CASKEY: The testing phase is Catalina.  6 COUNCIL MEMBER VINATIERI: Okay. So it's other  7 than the testing phase, it goes on --  8 MR. PASKET: Yeah.  9 COUNCIL MEMBER VINATIERI: Okay. Thank you.  10 MAYOR WARNER: Other questions or comments about  11 this item?  12 Okay. I think we're ready for 79.  13 MAYOR PRO TEM NEWCOMER: 77.  14 COUNCIL MEMBER VINATIERI: 77. The fracturing  15 brief prohibition.  16 MAYOR WARNER: I'm sorry. There wasn't a  17 change. Is there a comment on 77?  18 COUNCIL MEMBER VINATIERI: Yes.  19 MAYOR WARNER: Please.  20 COUNCIL MEMBER VINATIERI: I understand that  21 hydraulic fractures or fracking is a concern, and I do  22 also understand that fracking is generally high volume  23 and high pressure. But I would -- instead of saying high  24 volume, high pressure hydraulic fracturing, can't we just  25 say fracturing shall not be employed in the project so</p> <p style="text-align: right;">147</p>	<p>1 Commission state we're not gonna be doing gas well  2 hydraulic fracturing, and this language, I believe, was  3 taken from the State of New York, which initially  4 prohibited fracturing, but then later modified it to use  5 the high volume, high pressure type.  6 COUNCIL MEMBER VINATIERI: Do you know why they  7 changed, New York?  8 MR. MC CASKEY: Well, there's many procedures  9 that are used in oil fields and have been used safely for  10 50, 60, 70 years where rocks are fractured and in a very  11 limited way.  12 I think the problems and what the E.P.A. is  13 looking at and many other organizations are the newer  14 hydraulic fracturing techniques. So I believe that the  15 State and other organizations have gone through and  16 modified to either prohibit or somehow study the newer  17 techniques, which is the hydraulic fracturing.  18 COUNCIL MEMBER VINATIERI: I'm looking at your  19 letter from your counsel, Donna Black, dated October  20 24th, 2011. And I wanna make sure -- maybe I fully don't  21 understand fracking. But she indicates here, she says,  22 it's stated here in the Matrix will only agree on CUP  23 recommendations to the City Council that it will prohibit  24 activities in its operations that would undertake shale  25 gas hydraulic fracking, per methods used in other parts</p> <p style="text-align: right;">149</p>



<p>1 of the country that would use millions of gallons of  2 water injected in a Whittier project well to fracture,  3 stimulate thick shale sections placed on rock for oil and  4 gas development above 4,000 feet below the surface.  5 Is what she is describing there, is that the  6 same thing that we're talking about here with high  7 volume, high pressure hydraulic fracturing?  8 MR. MC CASKEY: Yes. The principal person in  9 other parts of the country and potentially in California  10 is that there's danger to ground water, and that danger  11 is caused by the operator taking large volumes of water,  12 pumping them down the well bore to enhance perosity  13 permeability, all of those things, and forcing the water  14 into the rock fracturing it. That water is produced back  15 up in the early production phase, and then the operator  16 in other parts of the country has a challenge with  17 disposal.  18 That technique isn't used particularly in the  19 L.A. basin, so we have always advocated that we would not  20 be using that and wanted to specify those techniques  21 relative to documents such as this. And that was  22 described by Donna Black in her letter.  23 COUNCIL MEMBER VINATIERI: Okay. So there are  24 different types of fracturing, the kind that is the most  25 injurious to the environment is the high pressure,</p> <p style="text-align: right;">150</p>	<p>1 that they have to break up, so on and so forth. So I  2 think this is appropriate and reasonable. And it takes  3 care of the major problem, which is the high pressure,  4 high volume fracture.  5 MAYOR WARNER: Okay. Shall we move on to 78?  6 Any questions or comments on this one? I think we have  7 articulated our designs.  8 MAYOR PRO TEM NEWCOMER: That's good.  9 MAYOR WARNER: Okay. 79. Steve?  10 MAYOR PRO TEM NEWCOMER: Well, I just have a  11 quick question. 79 and 84 both deal with the height.  12 Should these be combined or sequenced together?  13 MS. GIOVINCO: That was going to be my  14 recommendation in reviewing this. Post condition number  15 79 I believe was something that Matrix had requested a  16 condition, and then item number 84, condition number 84  17 is newly added. And I believe it is designed to track  18 some of the language that we understood at least one of  19 the council members had supported and I believe is  20 supported by staff as well.  21 MAYOR PRO TEM NEWCOMER: So the recommendation  22 would be to combine them or sequence them together or  23 what?  24 MS. GIOVINCO: I think for purposes of  25 consideration, it would make sense to consider them both</p> <p style="text-align: right;">152</p>
<p>1 high -- how do we describe it here, high volume. So I  2 certainly don't want to put you in a position where if  3 the State's forcing you to do something, that we're tying  4 your hands, but I certainly don't want the situation,  5 which I think a lot of us were familiar with, that's done  6 in other parts of the State. So I think in light of what  7 you've just explained to me, I'm good to go on the  8 condition with that understanding.  9 MAYOR WARNER: Other comments on this item?  10 COUNCIL MEMBER HENDERSON: I'm good with that  11 wording. We don't want the unintended consequences that  12 some of these pressure checks or putting in concrete in  13 order to make sure that the well casing is properly held.  14 If it breaks a rock, we don't want somebody to come in  15 and say, well, that's fracturing because you broke a  16 rock. What we're talking about is exactly what  17 Mr. McCaskey has said, is that you're talking about  18 making sure that you don't use this.  19 I've read extensively about this and been  20 informed by a number of people, geologists and so on,  21 that this just isn't proper in these kind of formations.  22 We basically drill into soft sand stone, and it's very  23 permeable and it doesn't require these kinds of breaking  24 that they are doing back east primarily in these big  25 shale formations where you have this very, very hard rock</p> <p style="text-align: right;">151</p>	<p>1 at the same time, but I believe that they actually -- it  2 would be difficult to implement both of them. I think  3 it's more a question of whether you would select one or  4 the other, or to the extent that item -- I'm sorry, item  5 84 would be selected, I think it's somewhat rendering  6 moot the necessity for the earlier one.  7 MAYOR PRO TEM NEWCOMER: Let me ask a question,  8 and this might be for MRS. 84 puts an 85 foot limit for  9 wells of 85 feet or less. There's certainly potential  10 for wells much deeper than that, and thus I would think  11 for the deeper wells 79 would apply. Is that the case,  12 or are these one or the other would be the better route  13 to go? Are they mutually exclusive or can they work  14 together? Maybe that's a better way to ask it.  15 MR. PEREZ: I don't believe they are mutually  16 exclusive. The reason I was thinking about this a little  17 bit more is there is actually the possibility that they  18 may be able to drill below 4,000 feet with an 85 foot  19 rig.  20 MAYOR PRO TEM NEWCOMER: So then let me ask  21 another question. Jenetta or staff, do you have a  22 suggested language that would best phrase the goal of  23 short rigs to the extent they're feasible?  24 COUNCIL MEMBER HENDERSON: I think that's 84.  25 They say they are not gonna go down below 4,000 feet.</p> <p style="text-align: right;">153</p>

<p>1 They use an 85 foot rig. Simple.</p> <p>2 MAYOR PRO TEM NEWCOMER: If I understood it</p> <p>3 right, there's a possibility that we could have short</p> <p>4 rigs like that that do in fact drill deeper than 4,000</p> <p>5 from the last comment.</p> <p>6 COUNCIL MEMBER NORDBAK: Matrix, how much does</p> <p>7 this tie your hands, Matrix?</p> <p>8 MR. MC CASKEY: I think we were describing the</p> <p>9 different types of rigs to indicate the shorter rig is</p> <p>10 very suitable for shallow depth drilling, which the</p> <p>11 objectives in the oil field as we understand it from</p> <p>12 2,000 feet to 4,000 feet is fully capable and also costs</p> <p>13 less and is smaller and has many advantages. So we were</p> <p>14 happy to, because of our experience using that smaller</p> <p>15 rig at Sycamore Canyon, we were happy to agree to a</p> <p>16 condition, and I think leaving it there is fine.</p> <p>17 I think the other -- the other stipulation gives</p> <p>18 us flexibility for deeper wells, and it certainly</p> <p>19 presents that the new technology rig, if it's so -- if it</p> <p>20 becomes part of the California market where it's more</p> <p>21 available and with less restrictive contracts associated</p> <p>22 with it, we would also consider using that for the deeper</p> <p>23 wells.</p> <p>24 COUNCIL MEMBER NORDBAK: So you're comfortable</p> <p>25 with both these remaining?</p> <p style="text-align: right;">154</p>	<p>1 who is the chief ecologist for many years for the Santa</p> <p>2 Monica Mountains Conservative Vanity, did an analysis</p> <p>3 trying to figure out the amount of land that can be</p> <p>4 purchased and the cost for it.</p> <p>5 They had a much more aggressive plan of several</p> <p>6 million dollars to be put in early and so on. When I did</p> <p>7 the analysis, I came up with about the same cost and</p> <p>8 figured that that would be a reasonable amount in order</p> <p>9 to hopefully acquire somewhere around 40 to 50 acres of</p> <p>10 land, which is possibly available within the contiguous</p> <p>11 areas to the subject property.</p> <p>12 But also realize that because of the test phase</p> <p>13 operation and because of the thought that I thought that</p> <p>14 it should be limited to a maximum of 1,000 barrels per</p> <p>15 day unless certain conditions were met, that it wouldn't</p> <p>16 be reasonable to put in large capital investments like</p> <p>17 that.</p> <p>18 And yet at the same time, I think it's necessary</p> <p>19 to show that this large project, which is in a preserve,</p> <p>20 is willing to do extraordinary things in order to make</p> <p>21 sure that the preserve is protected and expanded and that</p> <p>22 there's no net loss of land in the long run and that the</p> <p>23 animals and the rest of the habitat will benefit.</p> <p>24 So that's why I designed it at 15 million. It's</p> <p>25 not a magic number. I've bought land both much higher</p> <p style="text-align: right;">156</p>
<p>1 MR. MC CASKEY: Yes.</p> <p>2 MAYOR PRO TEM NEWCOMER: And comments or</p> <p>3 questions on 79 and 84?</p> <p>4 Okay. 80. And this is the fund to acquire more</p> <p>5 land.</p> <p>6 Mr. MR. JONES: Correct.</p> <p>7 MAYOR PRO TEM NEWCOMER: Any questions?</p> <p>8 Yes, Jenetta.</p> <p>9 MS. GIOVINCO: I was gonna point out this was</p> <p>10 one of the conditions that was proposed by Mr. Henderson</p> <p>11 that was introduced last night.</p> <p>12 MAYOR PRO TEM NEWCOMER: Yes. Any questions?</p> <p>13 COUNCIL MEMBER NORDBAK: Questions?</p> <p>14 MAYOR PRO TEM NEWCOMER: Comments?</p> <p>15 COUNCIL MEMBER VINATIERI: I asked the question</p> <p>16 of Bob last night, the magic of 15 million. I guess the</p> <p>17 question here is we're essentially setting up the</p> <p>18 Applicant's setting up a mitigation fund. That's what</p> <p>19 this is all about; right?</p> <p>20 COUNCIL MEMBER HENDERSON: And that mitigation</p> <p>21 fund, it's not true mitigation because it's not CEQA.</p> <p>22 But it's a CUP condition. It's in reference to a number</p> <p>23 of comments about the need to add additional land,</p> <p>24 especially for the core habitat. And the way we got to</p> <p>25 the 15 million is basically the same way as Carl Eddleman</p> <p style="text-align: right;">155</p>	<p>1 than I thought I should pay for it and much lower over</p> <p>2 the years, and so I can't tell you. But the residual</p> <p>3 properties that are around are mostly closely held and</p> <p>4 they will be expensive to buy, and so that's why these</p> <p>5 figures came up here.</p> <p>6 COUNCIL MEMBER NORDBAK: Are you done, Joe?</p> <p>7 COUNCIL MEMBER VINATIERI: Well, let me ask one</p> <p>8 other question. Bob, does the Habitat Authority right</p> <p>9 now have any funds to acquire further lands for the</p> <p>10 Authority?</p> <p>11 COUNCIL MEMBER HENDERSON: Well, until the</p> <p>12 interest rates dropped through the bottom and when it</p> <p>13 dropped from over 5 percent down to about 1.1 percent,</p> <p>14 and the landfill dropped from about \$3.8 million per year</p> <p>15 to \$1.1 million per year, there was anticipation that by</p> <p>16 the time the closure we had about \$8 million that we were</p> <p>17 trying to hold for very critical properties. Because of</p> <p>18 the situation now, we're running about a \$600,000 per</p> <p>19 year deficit at current funding levels.</p> <p>20 COUNCIL MEMBER VINATIERI: And that's just for</p> <p>21 operations?</p> <p>22 COUNCIL MEMBER HENDERSON: Just for operations,</p> <p>23 yeah. We have had to put a hold on all that. We have</p> <p>24 one property, and I rather not mention the exact amount,</p> <p>25 was quite a bit less than that 8 million as I said that</p> <p style="text-align: right;">157</p>

<p>1 we think is critical, and we're trying to hold onto that.  2 But quite frankly, we're in a situation where if things  3 don't turn around, interest rates or tipping fees, we're  4 on the verge of having to make some very serious cuts in  5 the whole operation of Habitat.  6 You're right. We basically don't have any  7 money, Joe, I guess is the long term thing right now for  8 operations.  9 COUNCIL MEMBER VINATIERI: Yeah, that's my  10 question. Part of this whole reason for doing this, this  11 whole even consideration of this oil project, is to take  12 revenues that would come from this project and fund the  13 Habitat Authority, just on a basic operating basis, which  14 you are saying you're running a deficit right now.  15 What this does, as I understand it, is this  16 says, okay, not only are you going to be able to have  17 money to run the authority, but you're also going to have  18 money to set aside to once again start acquiring lands  19 which you can't even do now.  20 COUNCIL MEMBER HENDERSON: Yeah. Actually this  21 fund in particular is just for fund acquisition. Like I  22 said, if you absolutely can't buy land, then that money  23 should go into re-vegetation to improve the quality of  24 the habitat. The other operations money will have to  25 come from other sources. And in particular the City has</p> <p style="text-align: right;">158</p>	<p>1 MAYOR WARNER: That's the discussion. Has the  2 Council taken action on that?  3 COUNCIL MEMBER HENDERSON: We have not. We have  4 not taken action on any of the money and how we'd spend  5 it. But we have had discussion. We have discussed it.  6 And I do want to put it out there because it shows this  7 Council is very eager to put money back into the  8 wilderness preserve and maintain it and share some of the  9 money. I'm very grateful for that. I think it's a great  10 cause, and this is where we're getting the oil, and I  11 think it's appropriate we put something back.  12 COUNCIL MEMBER NORDBAK: Yeah. Bob, yesterday I  13 think you know I was not happy with this. And I'm gonna  14 speak on 80 and 81 at this point. I think a lot of it  15 caught me off guard that I didn't know about it, but the  16 Brown Act wouldn't allow me to know about it. Regarding  17 what you just said, Bob, about the 4 percent, none of  18 that's been agreed by the Council. It's been discussed  19 loosely.  20 COUNCIL MEMBER HENDERSON: That's correct.  21 COUNCIL MEMBER NORDBAK: I'm still not crazy  22 about this, but I have a couple of reasons why I'm gonna  23 support it. First of all, I've watched Matrix and they  24 haven't been grabbing their hearts and flopping around on  25 the floor. But it seems like such a large number.</p> <p style="text-align: right;">160</p>
<p>1 indicated we will be sharing a portion of our royalties  2 with the Habitat Authority in order to make sure its  3 mission continues and we continue this.  4 But in reality, that money won't be available  5 for many years with the test well phase. With the  6 possibility of a thousand barrels a day limitation, there  7 will be very little money to Habitat Authority for  8 several years.  9 So we have contingency plans about possibly how  10 to get through that, and if there's money coming down the  11 line, we think we can, you know, perhaps manage it for  12 several years. But, yes, this is very important, the  13 long term goals of protecting the corridor and protecting  14 the preserve.  15 MAYOR WARNER: What are the City royalties? Has  16 that been specified yet?  17 COUNCIL MEMBER HENDERSON: We have talked about  18 a minimum of four percent of our share of the royalties.  19 So that amounts to 1.2 percent in the early days of the  20 gross, and if it grows to 50 percent, the royalties,  21 which it can if we get above 3,000 barrels a day, then it  22 would grow. That would be, you know, a higher  23 percentage. It could go as high as 2 percent of the  24 royalties. But that's probably several, you know,  25 several years down the line, if not before.</p> <p style="text-align: right;">159</p>	<p>1 But the way it's structured, it seems workable  2 and it's not that much of an impact, both 80 and 81.  3 Thinking about it and sleeping on it, I also  4 like the fact, like the Council's position that we  5 wouldn't do it unless it can be done on our terms safely.  6 And also discussion of giving money back. I like the  7 fact that Matrix is willing to give us parts of their  8 money and see the big picture, which is the Habitat. So  9 I had a chance to sleep on it. I'll support it at this  10 point, but I also like what you said about how you like  11 Matrix getting involved and giving money back to the  12 Habitat, because I'm gonna ask and remind all of you to  13 keep that in mind should this pass, that we do the same  14 thing for the residents in the areas that are being  15 impacted, because I think that's gonna be important on  16 our side if this goes through.  17 So like I said, I was a little shocked last  18 night with it, but having a chance to think about it and  19 sleep on it, I think it's probably for the better part of  20 the preserve and I guess I'll just have to see if it  21 happens, say Matrix thanks for stepping up and taking it  22 out of your share, because yesterday I probably wanted it  23 out of mind, but not now.  24 MAYOR PRO TEM NEWCOMER: I also believe 80 is a  25 good addition. I think it's a needed project, a feasible</p> <p style="text-align: right;">161</p>

<p>1 way to do it. I'm very much supportive of 80 and 81 as 2 well.</p> <p>3 MAYOR WARNER: Mr. Vinatieri?</p> <p>4 COUNCIL MEMBER VINATIERI: I understand what is 5 being done here. And we're only talking about 80. We're 6 not talking about 81.</p> <p>7 MAYOR PRO TEM NEWCOMER: Technically, yes.</p> <p>8 COUNCIL MEMBER NORDBAK: Technically, but I've 9 spoken on 81 personally as well now.</p> <p>10 COUNCIL MEMBER VINATIERI: I understand the 11 argument from Bob. I just think \$15 million is a whole 12 bunch of money. I understand that the way it would come 13 about and the way it seems to me, if it comes about, it 14 would come about in a way that's reasonable, because 15 you're not asking anyone to plunk down 15 million bucks 16 from right from the get go. It's predicated on some 17 success here. But I think 15 million is an awful lot of 18 money. And I'm going back and forth on it, to be candid.</p> <p>19 MAYOR WARNER: I don't like -- and again, like 20 Greg said, because of the Brown Act we can't talk about 21 these things ahead of time. We have to talk about them 22 within the context of the meeting, a duly constituted 23 meeting.</p> <p>24 I don't like something like this coming towards 25 the end of a process. To me it appears to be an exacting</p> <p style="text-align: right;">162</p>	<p>1 from all of the conditions and try to determine the 2 various levels, how are the test wells and future wells 3 gonna support doing these many good projects. So I think 4 these two items in that context, 80 and 81, which will 5 add to complexity for us analyzing the economics, I think 6 they're good objectives. I think the -- you know, just 7 speaking philosophically, we always felt that land 8 purchases and City objectives relative to expansion of 9 things would come out of an aggressive royalty that was 10 set up relative to the contract, 30 percent, moving 11 upwards to 50 percent. I think for our company we have 12 to analyze that particular aspect.</p> <p>13 We're mindful that the State of California's 14 considering adding somewhere between an 8 and 12 percent 15 severance tax to that, which further complicates things 16 for us. But we feel that, you know, we want to do things 17 at an extraordinary level, a high level.</p> <p>18 I think that, you know, speaking to 80 with the 19 aspect of re-vegetation, you know, I'm just looking at 20 this more simply, if all of the mitigation funds and 21 projects and everything were rolling into one account to 22 handle the many, many priorities, that that might make it 23 simpler just for us. But I know that will all get sorted 24 out.</p> <p>25 I think as I understand this, this is an extra</p> <p style="text-align: right;">164</p>
<p>1 in the taking on the one hand to the Applicant. But on 2 the other hand, we have heard days and days of public 3 testimony, and this is also a way to respond to and 4 address public testimony from a lot of the environmental 5 groups as a way to further mitigate concerns. So I think 6 it's prudent to look at this from all different 7 perspectives.</p> <p>8 All the environmental issues, have they all been 9 addressed and do we have mitigation measures for all of 10 them? I understand that we do in the EIR document. So 11 this is then another layer.</p> <p>12 So as I think this through, is this providing 13 that extra degree of mitigation so that many of the 14 organized groups and many of the people that spoke feel 15 that their concerns have been addressed? Because I'm 16 trying to look at this from both perspectives.</p> <p>17 Also, is the methodology here, the 1 percent, is 18 that reasonable and feasible if this is enacted from the 19 perspective of the company?</p> <p>20 MR. MC CASKEY: Well, I'm not gonna say we're 21 flipping and flopping all over. I think we have very 22 much respect for the process here, and we understand 23 there's many mitigation programs and objectives. And I 24 think we're still getting our arms around it. But one of 25 our challenges is to model -- take the business model</p> <p style="text-align: right;">163</p>	<p>1 project relative to re-vegetation outside of the ones 2 identified in the document.</p> <p>3 So I think relative to 81, an additional tunnel, 4 we felt just looking at it in the last few weeks the 5 project to enhance the current tunnel made sense. We 6 weren't sure where an additional tunnel would go. The 7 geography gets fairly complicated as you go up Colima. 8 There's a fairly large hillside and everything else. But 9 we're willing to take a look at it, if it makes sense.</p> <p>10 And there's certainly experts that can take a 11 look at that and will understand our project better 12 relative to how animals are moving potentially from our 13 project. And if it made sense in the future and our 14 project's very successful, how could we not want to 15 support, you know, a good objective like that.</p> <p>16 So I think what I'm trying to say is that these 17 two items are relatively new for us, and my partners as 18 well as our other corporate partner will be taking a hard 19 look at this and analyzing the economics of all this. So 20 I just want to say that that's -- we're not gonna come 21 out and say heck no, but we're also gonna be willing to 22 hopefully do these things if the wells and everything 23 supports it.</p> <p>24 MAYOR WARNER: Thank you. In regards to 80, I'd 25 like to stay on 80 for just a minute. The methodology</p> <p style="text-align: right;">165</p>

<p>1 and the amount is set forth in this particular condition.  2 Would the Council give any thought to having some type of  3 a sliding formula so that when and if the royalties went  4 above 30 percent, would the Council consider  5 participation from the City within that 31/50 percent  6 range as far as funding, part of this 15 million? Or is  7 that even something that we can discuss at this point?  8 COUNCIL MEMBER NORDBAK: Mr. Jones, can we even  9 do that legally on a CUP? I didn't think we could.  10 MR. JONES: I'm uncomfortable as I sit here  11 right now.  12 COUNCIL MEMBER VINATIERI: Well, there's another  13 aspect of it, and that is if the Applicant is willing  14 based upon the success of the project to pay that amount  15 of money, then I think why would we as a City want to get  16 involved in helping out.  17 COUNCIL MEMBER HENDERSON: Well, remember the  18 structuring on 80 is 1 percent. That means in their  19 initial test wells, that's something like \$100,000 a  20 year, maybe. You know, prices go way up and therefore  21 they make more money, it's maybe 120, 30, \$40,000 a year.  22 It is not a huge amount of money for a project this  23 size.  24 If the wells are successful, then the money will  25 flow to them initially at 70 percent. And if volume</p> <p style="text-align: right;">166</p>	<p>1 MAYOR WARNER: But I ask my question kind of  2 with those thoughts in mind.  3 So to wrap up 80, any other comments or  4 questions, discussion from the Council?  5 MR. JONES: Let me add more to it. With respect  6 to this condition, this condition standing alone is  7 legally supportable. And what really is occurring here  8 is Matrix's position I guess would be sort of try to be  9 benignly assisting in the process, recognizing it's  10 ultimately an economic decision.  11 And so as they look at any one condition, as  12 counsel was just saying, when you complete these  13 conditions and you add five more conditions to another  14 several millions of dollars, they will have to go back  15 and reconsider this if that was to occur. So I think  16 what really is occurring here is this one condition as it  17 stands alone can legally be supported and there's no  18 issues by itself.  19 COUNCIL MEMBER NORDBAK: No. It becomes a  20 business decision for Matrix.  21 COUNCIL MEMBER HENDERSON: Of course it does.  22 The entire project does. On the other hand we have to  23 balance what are the proper mitigations for this very  24 large project in a very sensitive area. And I think that  25 it's incumbent upon us to make this a model project.</p> <p style="text-align: right;">168</p>
<p>1 finally gets up there, the incremental will then drop to  2 50.  3 But there will be tens of millions of dollars  4 available. And you're talking about something that's  5 capped. It doesn't keep going forever. If the  6 production is low and stays low, the fund grows very  7 slowly. If it goes very quickly, it grows quickly.  8 COUNCIL MEMBER NORDBAK: Yeah. That was the  9 reason why I stated after studying it and seeing how it  10 was structured, I can live with it. I don't think it's  11 a -- you know, it's not an up-front tough demand on  12 Matrix as I see it.  13 MAYOR WARNER: And Joe makes a salient point  14 about if you're somewhat agreeing to, why would we invite  15 our participation in it. But on the other hand, you have  16 a business plan and you are gonna have a business model  17 and the bottom line is you're gonna have X number of  18 dollars or you're gone.  19 Are you gonna go into this fund or as you've  20 graciously done in the past, you're gonna be making  21 contributions to nonprofit organizations in our  22 community? And so there's gonna be a certain amount of  23 dollars coming into this community. And I realize that's  24 probably a subject of a further discussion.  25 COUNCIL MEMBER VINATIERI: It is.</p> <p style="text-align: right;">167</p>	<p>1 I know that Matrix has said many times that's  2 what they want the to do. I'm trying not to overload it  3 in the sense of making this unfeasible for Matrix.  4 I know that things are always difficult and  5 especially when you're putting money in and you are  6 putting a lot of money in initially for well development  7 and site development and all these other costs. But we  8 knew it was gonna be tough coming into it. We knew this  9 was a very unusual project. And I think it has a  10 potential for being a very, very successful project for  11 everybody. But I think that it's got to be shown that we  12 are taking care of the habitat, which is what we promised  13 from day one.  14 And just simply some of the direct mitigations  15 that have been in the EIR which are all appropriate, I  16 think are still somewhat lacking, and it certainly is the  17 feeling of the environmental community that they have  18 been lacking.  19 I think that these are the things that we need  20 to do. And I'm not saying we're not gonna get sued  21 because we do these things. I'm telling you that I think  22 this makes a legitimate case. I agonized for many  23 months, and you know how involved I've been in this.  24 I've agonized about this, about whether we were making  25 enough impact and so on, and decided that basically after</p> <p style="text-align: right;">169</p>

<p>1 consulting with a lot of friends in the environmental  2 community and so on and listening to their counsel, that  3 these are the kind of big mitigations that still need to  4 be made. And that's my best judgment, and I'm trying to  5 convince you of that.</p> <p>6 I think that we will work and have enough  7 flexibility on timing and phasing that we can give  8 benefit to Matrix to not unload them at the front end.  9 As I told you, this 81 is a project that will take  10 several years. It's not --</p> <p>11 MAYOR WARNER: Well, that's 81 right now.  12 Okay. So consensus from everyone, support 80?  13 COUNCIL MEMBER NORDBAK: Yes.  14 MAYOR WARNER: Greg?  15 COUNCIL MEMBER NORDBAK: Yep.  16 MAYOR WARNER: Joe?  17 COUNCIL MEMBER VINATIERI: I do want to tie into  18 81.  19 MAYOR WARNER: Well, we're past time for a break  20 for our court reporter. We're ten minutes over the  21 limit. So can we give consensus on 80 and then continue  22 discussion on 81, or do you need to tie the two together  23 for whatever way you're gonna go, because if you do, we  24 will continue our consensus when we come back.  25 COUNCIL MEMBER NORDBAK: Or you can ask if we</p> <p style="text-align: right;">170</p>	<p>1 MAYOR PRO TEM NEWCOMER: The dollar amount, you  2 mean?  3 COUNCIL MEMBER VINATIERI: That's correct.  4 That's correct. So it says in here, shall bear all costs  5 of the design and engineering, environmental review and  6 mitigation and construction costs to the wildlife  7 passageway crossing.  8 If we're gonna ask them to come up with  9 15 million, then I think this condition should be part of  10 80 and should be financed under the \$15 million. That's  11 where I'm at.  12 COUNCIL MEMBER HENDERSON: Joe, the problem that  13 I have with that is that at the rate that this is going,  14 it could be another five or six years before there's a  15 million dollars accumulated in that fund.  16 This is something that should be done now and in  17 anticipation. It's already a known wildlife sink,  18 meaning animals are getting killed there. And we  19 anticipate that some of this construction stuff will push  20 animals further north and around the existing Colima  21 tunnel and down into this area.  22 And then, you know, if they want to get  23 someplace, they think they can cross, and then we lose  24 animals. So that's my problem.  25 I think that this would still be spread over</p> <p style="text-align: right;">172</p>
<p>1 want to do 80 and 8 together.  2 MAYOR WARNER: Well, we need to take a break for  3 the last time.  4 COUNCIL MEMBER VINATIERI: That's where I'm at.  5 I think they need to be tied together.  6 MAYOR WARNER: Let's take a break now. We will  7 tie them together and then we will get consensus on each  8 one.  9 (Recess taken.)  10 MAYOR WARNER: Okay. We're gonna return to our  11 session, and we were at a point where we were discussing  12 CUP item 80 and 81. And I would still like a separate  13 consensus on each one of these, but Joe wanted to address  14 them both before he gave his consensus on 80. So that's  15 where we are.  16 COUNCIL MEMBER VINATIERI: That's correct. I've  17 got a real problem with asking them to come up with  18 another million dollars for overpass or underpass. I  19 mean, I think if we're gonna go with the \$15 million, I  20 don't think it's reasonable to say, well, then on top of  21 that you've gotta do study, and if you have to buy or  22 build an overpass that's another million bucks.  23 It seems to me that if we're gonna do something  24 like that, then it should be part of 80. So for myself  25 personally, I'm --</p> <p style="text-align: right;">171</p>	<p>1 several years, probably three years, and if we give them  2 a chance to spread that money out.  3 The study, which would be done first, which will  4 figure out whether or not it's feasible or -- and if it  5 is, and so on, is a little over \$4,000. It's not a huge  6 situation.  7 We'd bring in a specialist that does this sort  8 of thing and has done for us in Harbor Boulevard and also  9 has done a number of them for Caltrans, and he would make  10 an assessment.  11 If it comes up that it's not feasible, then that  12 would end the project, as far as I'm concerned. It has  13 to be feasible. It's not something you just try and do.  14 COUNCIL MEMBER NORDBAK: Bob and Joe, let me ask  15 a question of both of you. What if we took 81 and we  16 said that the cost could be borne by Matrix, but it'll be  17 split equally between Matrix, the City and the Habitat,  18 and they can have a credit of taking it out at a later  19 time on payments, because all three of us actually have a  20 value interest in the habitat.  21 COUNCIL MEMBER HENDERSON: I don't know. Didn't  22 Dick just give us advice that we couldn't be spending our  23 money?  24 COUNCIL MEMBER NORDBAK: But that's why I said  25 that they would front it, but it would be agreed that</p> <p style="text-align: right;">173</p>

<p>1 they could deduct it back out of payments later.  2 MR. JONES: Any conditions upon dollars that you  3 haven't already earned, I got a real concern about.  4 We can analyze that. But it seems to me right  5 now we're in the process is to look at conditions to be  6 imposed upon the company.  7 COUNCIL MEMBER NORDBAK: Well, they haven't  8 earned any dollars either.  9 MR. JONES: Well, they have to make a business  10 decision as to whether they want to take that risk.  11 My concern is that it becomes very speculative  12 as to whether or not we're ever gonna see those dollars  13 that you give them credit back for.  14 We can analyze it and see if that's something  15 that can be appropriately conditioned.  16 COUNCIL MEMBER VINATIERI: What if, Greg -- not  17 exactly the same idea, but something similar. What if we  18 said, okay, on 80 it's \$15 million; 81 is a million  19 dollars. What if there was a credit mechanism so that  20 whatever the cost was vis-a-vis 81 is credited against  21 80, so that the net proceeds of 80 and 81 ends up being a  22 total of \$15 million, and there's some kind of credit  23 mechanism.  24 MR. JONES: Legally can you do that? The  25 answer's yes. Is that necessarily what Habitat Authority</p> <p style="text-align: right;">174</p>	<p>1 want 81, the money for 81, included in 80. I'm fine with  2 the process, but I would want a limit of 15 million.  3 And I too would wonder what my colleague asked,  4 if there could be a formula or some kind of verbiage to  5 work it out as far as how you do it, the mechanism for  6 how it's done.  7 MR. JONES: If the Council's consensus is to  8 make 81 a credit within 80, the answer is we can come up  9 with language to that effect. What I'm hearing about the  10 consensus is the consensus is to have 80, 81 stand alone  11 as presented right now.  12 MAYOR WARNER: Let's go to 81. So Joe, you said  13 81 only if it's included in, the money is included in 80?  14 COUNCIL MEMBER VINATIERI: Correct.  15 MAYOR WARNER: Greg, where are you on 81?  16 COUNCIL MEMBER NORDBAK: What did we do on 80?  17 MAYOR WARNER: The consensus was Bob said yes.  18 Owen said yes. Greg said yes. Kathy and Joe said yes.  19 And we wanted the cost of 81 included in the proceeds  20 from 80.  21 COUNCIL MEMBER NORDBAK: Let me think about it.  22 MAYOR WARNER: Owen?  23 MAYOR PRO TEM NEWCOMER: I like 80 and 81 as  24 written.  25 MAYOR WARNER: Okay. And on 81, Joe and I are</p> <p style="text-align: right;">176</p>
<p>1 is recommending? The answer's no.  2 COUNCIL MEMBER VINATIERI: No, I understand  3 that. But I have a real problem with -- I don't have a  4 problem doing the study. But I have a problem with  5 asking them to fund a million dollar overcrossing and  6 then throwing in another \$15 million. I've got a problem  7 with that.  8 MAYOR WARNER: Bob, do you want to respond to  9 that recommendation?  10 COUNCIL MEMBER HENDERSON: Well, I don't know.  11 I think we can go back and re-vote it, but, I mean, I  12 think we had a consensus of three of us.  13 MAYOR WARNER: We didn't get a total consensus  14 on 80 yet. So you want to continue getting a consensus  15 on 80?  16 Greg, I believe -- well, I had Joe saying yes,  17 Bob saying yes.  18 MAYOR PRO TEM NEWCOMER: I said yes.  19 COUNCIL MEMBER NORDBAK: I was a yes on 80.  20 MAYOR WARNER: And, Joe, were you a yes only if  21 81 is contained in 80?  22 COUNCIL MEMBER VINATIERI: Yes. I want a total  23 amount of \$15 million that would include any  24 overcrossing.  25 MAYOR WARNER: And I would be the same. I would</p> <p style="text-align: right;">175</p>	<p>1 okay with that process if the money is included in 80.  2 So you want to give us your answer now, Greg, or do you  3 want us to go on, or do you want us to come back?  4 COUNCIL MEMBER NORDBAK: Come back.  5 MAYOR WARNER: Okay. But you've got direction  6 on 80; is that correct?  7 MR. JONES: Yes.  8 MAYOR WARNER: Okay. So let's go on to 82, and  9 don't let me forget to come back to 81.  10 Steve, 82.  11 MR. HELVEY: Well, 82 is really just a, if you  12 will, a test phase, I guess for lack of a better term, to  13 allow you, through your City Manager, to watch the  14 progress of the contractor out on the site, or the owner  15 out on the site, and make sure that you're comfortable  16 that he's dealt with all the mitigation measures and  17 conditions before you allow an excess of a thousand  18 barrels a day to be produced.  19 I don't think the owner really sees this or the  20 lessee sees this as a big problem for a couple years,  21 because all they can do is produce 450 barrels anyway.  22 But it really just gives you the opportunity to  23 see if the conditions are being met before you allow  24 excess production to take place.  25 MAYOR WARNER: Comments, questions, discussion?</p> <p style="text-align: right;">177</p>

1 MAYOR PRO TEM NEWCOMER: I like it.  
 2 COUNCIL MEMBER VINATIERI: I'm good.  
 3 MAYOR WARNER: Greg, anything?  
 4 COUNCIL MEMBER NORDBAK: Good.  
 5 MAYOR WARNER: Question to Mike. Is this  
 6 feasible with your proposal?  
 7 MR. MC CASKEY: Eighty-two's feasible.  
 8 MAYOR WARNER: Okay. So -- and I would be  
 9 supportive. So we have consensus on 82.  
 10 Steve, 83?  
 11 MR. HELVEY: Eighty-three's a tricky one because  
 12 the question that comes up here is when does the owner or  
 13 the operator have to buy credits or buy offsets for any  
 14 greenhouse gas emissions that exceed -- is it  
 15 10,000 pounds, Luis? What's that number?  
 16 Mr. PEREZ: Ten thousand tons.  
 17 MR. HELVEY: Ten thousand tons.  
 18 And, of course, the owner would say, well, okay,  
 19 I'll do it when the time comes. The time may never come.  
 20 And so this is tricky, you know. Do we force them to do  
 21 it in advance, buy credits and then sell them off every  
 22 year until they need them? It's a very tricky thing.  
 23 What's disturbing about it, I guess from your  
 24 perspective, is that even with this, I think the MRS is  
 25 telling you you have to make a statement of overriding

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1 considerations. And that's a little troubling, because  
 2 it seems as though we've got a fix in terms of how to  
 3 offset those greenhouse gas emissions and drop them below  
 4 the impactful level.  
 5 But you may still have to make that finding,  
 6 because they can't have -- they don't want to buy credits  
 7 they don't need. And so, you know, they don't want to  
 8 sit there with 5,000 tons of credits and find out they  
 9 never needed to own them. And it's a chicken or the egg  
 10 thing, I guess, for lack of a better analogy, yes.  
 11 MAYOR PRO TEM NEWCOMER: I did not have that  
 12 interpretation. I thought we were -- this would require  
 13 them to buy them when needed.  
 14 MAYOR WARNER: That's what I thought.  
 15 MAYOR PRO TEM NEWCOMER: Well, as opposed to  
 16 buying them now and putting them aside in case they're  
 17 needed. So what is the case?  
 18 MR. HELVEY: Well, Luis, I guess the question  
 19 is, if they do that, do you still have to make a  
 20 statement, a finding?  
 21 COUNCIL MEMBER HENDERSON: Yes.  
 22 MR. HELVEY: Yes, you do. That's the problem.  
 23 MS. BARLOW: If I may?  
 24 MAYOR WARNER: Go ahead. Thanks for coming back  
 25 to our meeting after you went to your other meeting.

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1 MS. BARLOW: I'm sorry it took so long.  
 2 Because of the fact that we can't be sure  
 3 whether they will exceed and if so, how much, and if  
 4 there will be sufficient credit or other program offsets  
 5 that are actually available to the Applicant, that's why  
 6 we still need to make the statement of overriding  
 7 considerations.  
 8 The way that the condition is termed, they would  
 9 not be required to buy those offsets unless they did  
 10 exceed the threshold. And we have modified the condition  
 11 so that if they are going to do a program, rather than  
 12 buy emission credits, that that would be something the  
 13 City of Whittier would have input on, as requested by  
 14 Member Nordbak.  
 15 MAYOR WARNER: And the way this reads it says,  
 16 the City shall have the right to approve the offset.  
 17 But is that even allowable under SQ -- SC -- the  
 18 agency's air quality's conditions?  
 19 MS. BARLOW: Yeah. They will still have to meet  
 20 the SCQAMD's authorized --  
 21 MAYOR WARNER: I was close.  
 22 MS. BARLOW: -- authorized programs and meet  
 23 their requirements. But this would add an additional  
 24 layer of review for the City of Whittier for any such  
 25 program.

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1 And then if, through that program, they couldn't  
 2 meet whatever offsets they would have to do, then they  
 3 would have the option of buying credits.  
 4 MR. JONES: Our right of approval gives us a  
 5 seat at the table in that discussion.  
 6 MAYOR PRO TEM NEWCOMER: Madam Mayor, can we ask  
 7 Matrix how they're interpreting that?  
 8 MAYOR WARNER: Yes. Before we do, any other  
 9 questions or comments from Council?  
 10 Okay, Mike, how does this one work out for you?  
 11 MR. MC CASKEY: We think it's written to take  
 12 care of the greenhouse gas emissions. It's got  
 13 flexibility in it.  
 14 I just want to comment that we've contacted and  
 15 had a phone meeting with the SCAQMD, the AQMD  
 16 representative, to talk about a specific program called  
 17 the Station Fire Re-forestry Program.  
 18 And the conversation was very positive. The  
 19 program -- and we're waiting on a proposal or a  
 20 memorandum of understanding from them, to allow us to  
 21 register into that program, which we would initiate on an  
 22 annual basis to pay into that program to create, as they  
 23 described it, a bank.  
 24 Now, we can't trade those or use those for carb  
 25 reasons, and there's all sorts of complexities, but we

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<p>1 felt that our project has the potential for going above 2 the action level, and we don't know that it will. We'll 3 know more after the testing.</p> <p>4 But if we establish an account and initiate that 5 account after the CUP is potentially approved, then we're 6 in the system and we are participating in a program that 7 we anticipate would be able to offset, per this 8 condition, impacts, because we're building up a bank.</p> <p>9 MAYOR WARNER: So you have to pay ahead of time 10 before you know if you've exceeded the limits?</p> <p>11 MR. MC CASKEY: They will allow you to, of 12 course, initiate a contract with them, and you're 13 contributing to this program, which is this re-planting, 14 which is trees.</p> <p>15 And that's an improved program for them, so the 16 actual activity relative to our account and what we're 17 paying into contributes to the plantings. And so you get 18 the credits for offsetting gasses.</p> <p>19 And so once you're into the system and 20 contributing to the system, you can vary it.</p> <p>21 For instance, say five years from now we have 22 activity, and with all of the analysts to determine your 23 activity is 15,000 tons. And we've already built up an 24 account that is -- I think we talked to them initially 25 about 2,000 tons a year or 3,000 tons.</p> <p style="text-align: right;">182</p>	<p>1 would be required as a result of an exceedance of about 2 6,000 tons per year.</p> <p>3 The cost of that is fairly significant. We did 4 not discuss what that will be, but the cost of that would 5 probably be somewhere around \$20 million.</p> <p>6 The cost of the program that Mr. McCaskey was 7 referring to with the AQMD would be substantially less 8 than that.</p> <p>9 I think the requirement for the Applicant is to 10 be able to offset whatever exceedance they have of the 11 greenhouse gasses, if they happen to have that 12 exceedance. As far as how you want them to do that, if 13 you want them to do something different from what they 14 can do with the AQMD, that's something completely outside 15 of the environmental document.</p> <p>16 MAYOR WARNER: So it's not just a matter of them 17 hitting a certain level and then you pay X amount of 18 dollars because you've hit that level, regardless of the 19 project? It's sounding like if you do something with the 20 Air Quality District, then it costs less than if you do 21 some other random thing. Is that what we're hearing?</p> <p>22 MR. PEREZ: I think what you're talking about is 23 creating a specific program on your own, or for Matrix to 24 create a specific program on their own to go and put 25 solar panels or whatever, exactly. And typically those</p> <p style="text-align: right;">184</p>
<p>1 Based on analysis with MRS, they said you 2 potentially have an annual contribution of 16,000 tons, 3 which would be 6,000 above, only for a certain number of 4 years.</p> <p>5 So we thought we would at least register into 6 the program and start receiving the benefit of creating a 7 bank. And then as we -- as our activity increases, then 8 we're able to either pay more into the program or not, 9 but it gives us the flexibility to take care of this item 10 here, which said we should be available or ready to 11 contribute relative to our offsets.</p> <p>12 So I guess, long winded, but you can see that we 13 would set up an account with the AQMD that's approved.</p> <p>14 COUNCIL MEMBER NORDBAK: I have a concern about 15 that.</p> <p>16 Luis, you mentioned that we could set up a 17 thousand solar homes in the City here -- or where are my 18 notes? There was a number of solar panels in the City, a 19 thousand homes or 20,000 solar panels.</p> <p>20 How can we get Matrix to do that, as opposed to 21 planting trees somewhere that doesn't affect our 22 community?</p> <p>23 Mr. PEREZ: Again, I think I mentioned before, 24 we provided you with a slide that gave you an idea as to 25 what it would take to provide the kind of offsets that</p> <p style="text-align: right;">183</p>	<p>1 programs would be more expensive.</p> <p>2 I mean some sort of carbon sequestration program 3 that --</p> <p>4 MAYOR WARNER: Okay. Well, we may have just not 5 have had enough background information. I mean, I for 6 one am clueless about all this kind of stuff. Maybe we 7 made an incorrect assumption that you just paid X amount 8 of dollars if they went over a threshold.</p> <p>9 MR. JONES: Let me walk you through this. This 10 is a two-step process. The first is that with respect to 11 the greenhouse gas emission, there's a standard. If they 12 exceed that standard, they have to take certain steps to 13 address that issue.</p> <p>14 So the first question is -- and they may or may 15 not exceed that standard. But if they do exceed that 16 standard, then they have to address it. So that's the 17 first question, are they going to exceed. So if they do 18 exceed, then what level do they exceed.</p> <p>19 And then the next part of that question is how 20 do they mitigate or resolve that amount of -- they've 21 exceeded it by. And there's a variety of ways they can 22 address that. That isn't the environmental pair's 23 responsibility. Matrix will come back and suggest 24 alternative ways that they can address that. And I'm 25 sure part of their consideration will be economics, you</p> <p style="text-align: right;">185</p>

<p>1 know. It's just reality.</p> <p>2 On the other hand, because we now are part of</p> <p>3 that approval process, you're gonna have some say with</p> <p>4 respect to that interaction between Matrix and the</p> <p>5 South Coast Air Quality District and the City with</p> <p>6 respect to how they address that excess emission that's</p> <p>7 generated.</p> <p>8 MAYOR WARNER: Okay. Am I the only one that was</p> <p>9 under the impression that they paid X number of dollars</p> <p>10 regardless of what they did?</p> <p>11 COUNCIL MEMBER NORDBAK: No, I agree. Item</p> <p>12 number 7 on the 21st from MRS said greenhouse gasses.</p> <p>13 And this was from Greg. He says you can do 20,000 solar</p> <p>14 panels, you can do 20 acres of a solar farm, you can do a</p> <p>15 thousand home systems, or plant a million trees over 25</p> <p>16 years.</p> <p>17 And I put stars by the homes systems because I</p> <p>18 thought we can bring it back to our community.</p> <p>19 So now I'm just confused. So evidently there's</p> <p>20 a deal -- if they deal with the state, they can get a</p> <p>21 discount.</p> <p>22 MR. HELVEY: There's a supply and demand. And</p> <p>23 when construction is slow, credits are cheaper to buy.</p> <p>24 And there are certain credits that you can buy that may</p> <p>25 have incentives. The South Coast Air Quality Management</p> <p style="text-align: right;">186</p>	<p>1 Matrix to conduct their own program, not to suggest that</p> <p>2 they should go do this.</p> <p>3 I think the intent is they need to find the</p> <p>4 6,000 tons if they exceed the 10,000 threshold by that</p> <p>5 amount.</p> <p>6 The one thing with regards to the AQMD -- and we</p> <p>7 did quite a bit of research. Greg spent quite a bit of</p> <p>8 time talking to the manager of the program there -- is</p> <p>9 they like to encourage that program, particularly because</p> <p>10 being within the general area, the general vicinity,</p> <p>11 you're going to get offsets that are within the general</p> <p>12 area.</p> <p>13 Now, keep in mind greenhouse gasses is a global</p> <p>14 issue, so --</p> <p>15 MAYOR WARNER: Well, according to some people.</p> <p>16 COUNCIL MEMBER HENDERSON: If you believe in</p> <p>17 greenhouse gasses at all, it's a global issue. We have</p> <p>18 one atmosphere.</p> <p>19 So the problem, then, is what you're saying is</p> <p>20 if it was a thousand homes, you're probably looking at</p> <p>21 \$25,000 a home, you're talking about \$25 million in order</p> <p>22 to implement that.</p> <p>23 If you're talking planting trees, which I knew</p> <p>24 this program and it seemed like a logical one, because</p> <p>25 they are trying to plant hundreds of thousands of trees</p> <p style="text-align: right;">188</p>
<p>1 District may be working to try to get --</p> <p>2 COUNCIL MEMBER NORDBAK: Can we not get solar</p> <p>3 credits?</p> <p>4 MR. HELVEY: But there's gonna be a different</p> <p>5 cost. You know, obviously the cost of the panels, the</p> <p>6 cost of the installation, may not offset the incentives.</p> <p>7 They're trying to get you to re-forest the</p> <p>8 Station Fire damage. So there is an active -- it's a</p> <p>9 commodity, and there are different ways to get it. And</p> <p>10 it is gonna be a cost issue if you select different</p> <p>11 options.</p> <p>12 COUNCIL MEMBER HENDERSON: As I understand when</p> <p>13 we got the thousand homes, that's for 6,000 tons one</p> <p>14 year; is that right?</p> <p>15 MR. PEREZ: Well, I think once you have the</p> <p>16 solar panels in place, they will continue to accrue</p> <p>17 through the time the project is on.</p> <p>18 Correct, Greg?</p> <p>19 So, I mean, you can envision perhaps a situation</p> <p>20 where 20 years from now, if the project no longer exists,</p> <p>21 they can sell those credits.</p> <p>22 But I think -- and I hope my point is clear, is</p> <p>23 that the reason that we provided that slide is because</p> <p>24 there was some interest from some members of the Council</p> <p>25 for us to help you understand what it would take for</p> <p style="text-align: right;">187</p>	<p>1 up there, that it is much, much cheaper for them to do.</p> <p>2 So it's just an economic situation.</p> <p>3 MAYOR WARNER: Yeah. And understanding that,</p> <p>4 for me, gives me a whole different perspective on this.</p> <p>5 It would be lovely if Matrix maybe takes into</p> <p>6 consideration what might be done locally. But if it</p> <p>7 boils down to an economic situation where you can fulfill</p> <p>8 this requirement by doing it a certain way, then from a</p> <p>9 business perspective, that's what you should do, in my</p> <p>10 opinion.</p> <p>11 COUNCIL MEMBER NORDBAK: I guess I'm struggling</p> <p>12 with the fact we have just agreed to give \$15 million to</p> <p>13 the deer and the elk and the animals, but I can't get \$20</p> <p>14 million for our residents for solar energy, and I'm</p> <p>15 frustrated with that. I think that's a mixed message of</p> <p>16 what we're serving here and the impact. So I need to</p> <p>17 think about this.</p> <p>18 MAYOR PRO TEM NEWCOMER: I agree with Greg's</p> <p>19 goal. I think promoting solar in the City is a great</p> <p>20 idea. This language allows us to participate in the</p> <p>21 discussion.</p> <p>22 Also, remember although he is not part of this</p> <p>23 process, that we will as a city be getting revenue which</p> <p>24 we could then be dedicating to the solar in any way that</p> <p>25 we wish to.</p> <p style="text-align: right;">189</p>

1 COUNCIL MEMBER NORDBAK: I have every intent of  
 2 bringing that up.  
 3 MAYOR PRO TEM NEWCOMER: I think the goal can be  
 4 approached. I think this gives us a way to talk about  
 5 it.  
 6 Obviously, nothing gets done unless they need  
 7 it, and then if they only need a little of it, there  
 8 wouldn't be enough to do the solar that we would like to  
 9 do, but we have other ways to do it. So I think we can  
 10 get there, but I think this language is probably the best  
 11 we can do on this issue.  
 12 COUNCIL MEMBER NORDBAK: I appreciate that. But  
 13 I think my frustration is the fact that the AQMD says  
 14 there's a different tariff. We want to get trees  
 15 planted, so we'll give you a better buy, as opposed to  
 16 whether you believe in greenhouse gasses or not. I think  
 17 the playing field should be level of what you have to  
 18 contribute. And it's just --  
 19 MAYOR WARNER: Well, I agree, Greg, and I  
 20 assumed that, but that's --  
 21 COUNCIL MEMBER NORDBAK: It just continues why  
 22 our State and our Federal government is in such bad  
 23 shape --  
 24 MAYOR WARNER: Those aren't the rules.  
 25 COUNCIL MEMBER HENDERSON: Well, Greg, I agree

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1 with you on the solar panel. We've talked about this  
 2 before. Always one of my goals has been that money that  
 3 comes out of here for the City -- one of the great goals.  
 4 I know you think this, too -- would be to green the City.  
 5 I mean, to put solar panels in commercial buildings, over  
 6 city parking lots, in parks, hopefully make some  
 7 available to schools, it not only reduces the carbon  
 8 footprint, but it also puts real long-term savings to  
 9 those entities.  
 10 I mean, I think I said it when I was campaigning  
 11 that my son Ken, who's president of the elementary school  
 12 board, they did a study, and they found if they just  
 13 covered the parking area at the two intermediate schools,  
 14 Katherine Edwards and Dexter, they could save a half a  
 15 million dollars a year in electricity costs.  
 16 Now, that to me is just a great goal for this  
 17 city. I'm not trying to spend the money now, but those  
 18 types of projects to me are a great potential asset for  
 19 This city and for the long-term benefit of this city. So  
 20 I think they are.  
 21 But I think that just because there's different  
 22 costs and ways to solve sequestering of gasses, that if  
 23 there are cheaper ways for them to do it, and it still  
 24 meets the requirements, that's fine.  
 25 If there was a way to build brand-new houses and

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1 cost \$200,000 apiece and it took a thousand of them to do  
 2 it, we wouldn't think it was reasonable for them to do  
 3 it. I just think this just doesn't happen to be  
 4 reasonable for them.  
 5 The only way I can see -- and I don't think  
 6 anybody would take this capital cost. It's just too much  
 7 money up-front, if they really need it, and it's too  
 8 indeterminate as to whether they are gonna need it.  
 9 They may actually never need to buy any of these  
 10 credits, but if they could get the savings and pay back  
 11 these expenses, I can see an operator coming in to do  
 12 that.  
 13 In other words, if you said, okay, you go and  
 14 put in all these, but you get to save all the money  
 15 yourself, all the costs and benefit, and sell the power  
 16 at the same price, yeah, then it becomes an economic  
 17 thing that you might do.  
 18 But it's a huge capital up-front cost, so --  
 19 COUNCIL MEMBER NORDBAK: I hear you.  
 20 COUNCIL MEMBER HENDERSON: Yeah.  
 21 MAYOR WARNER: So any more comments, or are we  
 22 ready to give a consensus on this one?  
 23 COUNCIL MEMBER VINATIERI: Yes.  
 24 MAYOR PRO TEM NEWCOMER: Yes.  
 25 COUNCIL MEMBER HENDERSON: Yes.

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1 MAYOR WARNER: And hearing our comments, guide  
 2 us as to how we express our yea or nay.  
 3 MR. JONES: You approve condition 83. Based  
 4 upon the consensus, you're adopting condition 83 as  
 5 presented.  
 6 MAYOR WARNER: Okay. And if we don't support  
 7 this condition, if we just want to leave it up to the  
 8 Applicant to deal with this issue as they choose to deal  
 9 with it from a business perspective, do we still need any  
 10 verbiage as a CUP item?  
 11 MR. JONES: Two things. First off, I think you  
 12 got a consensus to adopt 83 as is. Secondly, I think the  
 13 verbiage as presented provides that flexibility for all  
 14 the parties concerned. It does allow us to have an  
 15 approval role in this, but I think we also have to  
 16 recognize the economic realities, that if one alternative  
 17 is 2 and-a-half million versus 25 million, we can't be so  
 18 unreasonable, I think in terms of our approval process,  
 19 as to not recognize that economic reality.  
 20 Having said that, it seems to me that  
 21 condition 83, as presented, based on your consensus, is  
 22 subject to approval now.  
 23 MAYOR WARNER: And if we do approve this, is  
 24 this item still an unmitigated issue?  
 25 MS. BARLOW: Yes, because what the condition

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<p>1 does is attempt to have them go and offset anything, any  2 exceedances to the extent that they feasibly can.  3 There's still the possibility that they can't do it all  4 the way.  5 COUNCIL MEMBER HENDERSON: I think this is  6 really a silly situation that the AQMD has put us in. I  7 mean, we know we can mitigate the effect, because there's  8 several options they can choose from. There are other  9 tree projects, and so on. And so we can require them to  10 do it, but because AQMD had some lawsuit issues on other  11 case, they don't want us to do anything except treat this  12 as a significant unmitigatable impact.  13 I'm okay with that. I don't like it, but I am  14 okay with it, as long as we make sure that the actual  15 effect is that the greenhouse gasses are reduced to below  16 a level of significance, and that's what we're really  17 trying to do. And if we have to play games, semantic  18 games with AQMD to get there, it's the result that's  19 important.  20 MAYOR WARNER: Okay. So give me your yea or nay  21 again, please.  22 COUNCIL MEMBER VINATIERI: Yea.  23 MAYOR PRO TEM NEWCOMER: Yea.  24 COUNCIL MEMBER HENDERSON: Yea.  25 MAYOR WARNER: Greg.</p> <p style="text-align: right;">194</p>	<p>1 MS. BARLOW: But it was something that was  2 raised, and we did have a chance to craft some language  3 for it.  4 Again, there was a mitigation measure. It  5 was -- became unnecessary in the view of the environment  6 consultants as a result of the changes in Appendix O.  7 Member Henderson has requested basically that we  8 sort of add it back in, and the consensus of staff and  9 the consultant is that we should add it as a condition of  10 approval and not as a mitigation measure.  11 And the language would be: To mitigate any  12 temporary impacts to native and naturalized habitats due  13 to noise impacts associated with truck traffic on the  14 North Access Road, the Applicant shall provide minimum  15 one-to-one aerial replacement of native habitat affected  16 by 55 DBA or above, averaged hourly.  17 COUNCIL MEMBER HENDERSON: And, Greg, were you  18 able to get a calculation on that?  19 MR. PEREZ: I believe it's 7.6 acres. So you  20 went from 8.4 to 7.6.  21 COUNCIL MEMBER HENDERSON: Didn't do much, did  22 it?  23 MR. CHITTICK: Madam Mayor, Members of City  24 Council, what happens is you have fewer truck trips, so  25 your noise becomes less, but then you go out to 55, so</p> <p style="text-align: right;">196</p>
<p>1 COUNCIL MEMBER NORDBAK: No.  2 MAYOR WARNER: Bob, you were yes?  3 COUNCIL MEMBER HENDERSON: Yes.  4 MAYOR WARNER: And if I understand your  5 explanation correctly, it still gives them the latitude  6 to look at the least expensive way to fulfill this  7 requirement; is that correct?  8 MR. JONES: That is correct.  9 MAYOR WARNER: And with that, I would support.  10 Okay. Greg, do you have a response for us on  11 81?  12 COUNCIL MEMBER NORDBAK: No.  13 MAYOR PRO TEM NEWCOMER: Eighty-four we've  14 already dealt with, but there may be other provisions  15 that some members wish to suggest.  16 MS. BARLOW: If I may, we have some proposed  17 language for the situation on the North Access Road that  18 Member Henderson was concerned about.  19 There was a mitigation measure that was  20 originally included but was deleted as a result --  21 MAYOR WARNER: Is this a CUP item?  22 MS. BARLOW: Yes. It would be condition 85.  23 I just have some language that I can read to  24 you. We haven't -- it wasn't included in your draft.  25 MAYOR WARNER: Oh, okay.</p> <p style="text-align: right;">195</p>	<p>1 you get almost back to your 8 acres that you had  2 before.  3 COUNCIL MEMBER HENDERSON: What would the  4 calculation have been? Maybe I misunderstood you. What  5 would the calculation have been if you had done the 60  6 with the lesser number?  7 MR. CHITTICK: It would have been less acreage.  8 I didn't run that calculation.  9 COUNCIL MEMBER HENDERSON: I'm sorry. Well,  10 that was my intent, was to get to that. I misheard you  11 saying that you thought 55 would -- I thought you said it  12 would reduce it.  13 So the idea was to do this. Because in all  14 fairness, the amount of noise is, while it's still gonna  15 startle animals and it's gonna move them away, it is not  16 the rumbling freeway that we would have had with the  17 9,000 truck trips.  18 So I didn't think it was fair to use the same  19 mitigation measure that you'd applied, which was based on  20 60. But I did miss the fact that it was also based on  21 the number of truck trips.  22 So if we did a 60, would that reduce it, do you  23 think, to around 4 acres or something like that?  24 MR. CHITTICK: I'd have to run the numbers to  25 see. I couldn't pull a number out of the air like</p> <p style="text-align: right;">197</p>

<p>1 that.</p> <p>2 COUNCIL MEMBER HENDERSON: Yeah. That's the</p> <p>3 problem with math.</p> <p>4 MR. CHITTICK: It takes about 45 minutes to run</p> <p>5 the model and stuff.</p> <p>6 COUNCIL MEMBER HENDERSON: Well, perhaps we</p> <p>7 could have it Monday.</p> <p>8 MAYOR WARNER: So are we gonna give a consensus</p> <p>9 on this one?</p> <p>10 COUNCIL MEMBER HENDERSON: Well, I'm sorry. I'd</p> <p>11 like to get what it is first. I mean, I just think</p> <p>12 that's a fair situation. It seems like it's too extreme</p> <p>13 to try to build it on the same mitigation measure as</p> <p>14 9,300 truck trips over six months. That's not fair to</p> <p>15 the Applicant.</p> <p>16 And yet there is an impact. So if we can get</p> <p>17 that back Monday night, we can quickly add it or delete</p> <p>18 it.</p> <p>19 MAYOR WARNER: Okay. Where do we go from here?</p> <p>20 COUNCIL MEMBER HENDERSON: What about 81?</p> <p>21 MAYOR WARNER: It's still out there.</p> <p>22 COUNCIL MEMBER NORDBAK: I have further</p> <p>23 questions.</p> <p>24 It doesn't state when the money and when the --</p> <p>25 it says that the -- obviously the study's only \$4,000,</p> <p style="text-align: right;">198</p>	<p>1 COUNCIL MEMBER NORDBAK: What about an EIR for</p> <p>2 the project?</p> <p>3 COUNCIL MEMBER HENDERSON: Yeah. The EIR has to</p> <p>4 be -- it's actually not an EIR. It was a mitigated</p> <p>5 negative declaration. There are very few issues involved</p> <p>6 with this, other than traffic control.</p> <p>7 And so it was a pretty simple process, but, you</p> <p>8 know, you know what a negative dec. takes. It takes</p> <p>9 several months to get that through. So that probably</p> <p>10 adds another four or five months to get that through.</p> <p>11 So I'm looking at probably construction out at</p> <p>12 maybe two years starting, or maybe two-and-a-half years,</p> <p>13 and completion in about six months after that.</p> <p>14 COUNCIL MEMBER NORDBAK: So you think the</p> <p>15 project would start about two-and-a-half years from the</p> <p>16 time it gets clearance?</p> <p>17 COUNCIL MEMBER HENDERSON: Yeah. That's not to</p> <p>18 say there wouldn't be any cost, because working drawings</p> <p>19 and that sort of thing would, you know, would have some</p> <p>20 cost for that. But the big construction cost --</p> <p>21 COUNCIL MEMBER NORDBAK: I understand that.</p> <p>22 Matrix, within that time frame, you would have a</p> <p>23 pretty good idea whether your wells are good or not?</p> <p>24 COUNCIL MEMBER HENDERSON: Oh, way before</p> <p>25 that.</p> <p style="text-align: right;">200</p>
<p>1 and it would go now. But it doesn't state when the</p> <p>2 operator would be responsible for building the tunnel,</p> <p>3 and that could be probably up to \$1.4, 1.5 million.</p> <p>4 So when is the tunnel going to have to be built?</p> <p>5 COUNCIL MEMBER HENDERSON: Well, Greg, based on</p> <p>6 my experience before with dealing with trying to put a</p> <p>7 tunnel under Harbor Boulevard, which is about the same</p> <p>8 situation I think as Colima, it seems to us that probably</p> <p>9 that's gonna stretch out over about a three-year period</p> <p>10 of time.</p> <p>11 We've got to first of all do the study, and then</p> <p>12 analyze it and make sure that you -- that there are</p> <p>13 things to do. If you did do it, you'd probably want to</p> <p>14 do some kind of a geological study in order to find out</p> <p>15 about whether the conditions were right. If we're gonna</p> <p>16 put an overpass, whether the anchoring points were</p> <p>17 correct and the soils were correct. Or if you're going</p> <p>18 to do a tunnel, what you're getting into.</p> <p>19 Then you come back and you do design drawings of</p> <p>20 the -- well, first you deal with the prevailing agencies.</p> <p>21 And then you'd come back and you would do the working</p> <p>22 drawings for it, which usually, which I think in our case</p> <p>23 took about eight months just to do those, if there are no</p> <p>24 other problems. Then it would have to be bid out and it</p> <p>25 would have to be incurred. So from the time --</p> <p style="text-align: right;">199</p>	<p>1 COUNCIL MEMBER NORDBAK: I'm talking to</p> <p>2 Matrix.</p> <p>3 MR. MC CASKEY: We would know with our test</p> <p>4 drilling and be able to forecast better at that point,</p> <p>5 which would be ahead of this schedule.</p> <p>6 I think we're -- I think as we read this, we</p> <p>7 weren't sure. When it says perform a study, we weren't</p> <p>8 sure if the study was to analyze that this was</p> <p>9 necessary.</p> <p>10 COUNCIL MEMBER HENDERSON: If it's feasible.</p> <p>11 Yes, if it's feasible. And if it's feasible, what type</p> <p>12 of structure would be appropriate.</p> <p>13 MR. MC CASKEY: Because I think we had --</p> <p>14 there's a couple of projects to -- relative to -- under</p> <p>15 consideration of the animal migration. One is to enhance</p> <p>16 the current tunnel. But we don't know if the animals</p> <p>17 would use that tunnel, as opposed to a new one. So</p> <p>18 hopefully all of that studies, we will take that into</p> <p>19 consideration.</p> <p>20 We think this is a terrific goal, but if all the</p> <p>21 experts say the current tunnel and everything to enhance</p> <p>22 it, we'd be thrilled. We're developing our site. We're</p> <p>23 not a tunneling company.</p> <p>24 I don't know if I'm answering your question.</p> <p>25 COUNCIL MEMBER NORDBAK: You're getting there.</p> <p style="text-align: right;">201</p>

1 MR. MC CASKEY: We have a bit of reservation  
2 about this, but we understand it's an important  
3 project.  
4 COUNCIL MEMBER NORDBAK: So where are you on it?  
5 MR. MC CASKEY: I think your question, would we  
6 know initially, right away.  
7 Hypothetically, if we drilled our test wells  
8 next year, we would know next year, after drilling the  
9 wells.  
10 COUNCIL MEMBER NORDBAK: So, Bob, back to you on  
11 the question.  
12 COUNCIL MEMBER HENDERSON: Let me explain  
13 something, because I don't know if I made that clear.  
14 Nothing would happen as far as any kind of  
15 moving ahead with the project. I think it should be  
16 studied. You know, do the \$4,000 study.  
17 But nothing would happen unless they go to  
18 construction. It would not happen until they started  
19 actual construction.  
20 COUNCIL MEMBER NORDBAK: And they wouldn't have  
21 to go to construction and they wouldn't have to do this  
22 project, period, if the test wells --  
23 If they don't work out, they're not gonna  
24 drill.  
25 COUNCIL MEMBER HENDERSON: That's correct.

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1 MR. JONES: Is there a distinction for the  
2 Council between "necessary" and "feasible," in that  
3 you've used those words interchangeably?  
4 And I want for clarification's sake, there would  
5 be, one, then, to use the study whether it's necessary to  
6 have this, and the second is, is it feasible, based upon  
7 that topography and cost and everything else.  
8 COUNCIL MEMBER NORDBAK: Well, I think the first  
9 question in my mind there would be: Is it necessary? If  
10 it's necessary, the secondary question would be: Is it  
11 feasible? That would be my interpretation.  
12 MR. JONES: You need to let Matrix know what --  
13 COUNCIL MEMBER NORDBAK: Bob, how would you see  
14 that?  
15 COUNCIL MEMBER HENDERSON: Well, the problem on  
16 that is a lot of this is somewhat speculative. And as I  
17 said, one of the problems that you have when you go into  
18 a sensitive area like this, you try to make all the  
19 judgments you can and try to mitigate through the EIR all  
20 of the things that you can.  
21 The problem is if you make a mistake, you make a  
22 big mistake. And if you make a mistake and you find that  
23 the animals are moving out that way and you're starting  
24 to get road kill in large numbers because they're no  
25 longer -- some of the animals are no longer going to the

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1 Colima tunnel, then the question is are you going to now  
2 start to retrofit that, because you're not gonna have  
3 anybody to come to and say pay for it.  
4 So, yes, it's somewhat speculative.  
5 It is the consensus of the environmental groups  
6 that have commented on it. It's a consensus of the  
7 habitat ecologist and executive director.  
8 And I would say it is certainly commented on  
9 in -- I think every environmental group that I saw  
10 thought that this was a sensible thing to do.  
11 But is there a magic thing that says do it? No.  
12 We could probably go do an animal collaring  
13 study, get base lines and do that for about two years,  
14 and then come back and approve the project and so on.  
15 COUNCIL MEMBER NORDBAK: But you confuse me with  
16 your answer. My question is: You said all these people  
17 think it's necessary. Well, if all these people think  
18 it's necessary, then why are we doing the study? If the  
19 question is --  
20 COUNCIL MEMBER HENDERSON: No. The study is to  
21 see the feasibility. I said feasibility, which means is  
22 it physically possible to build something in that  
23 location, and is there -- are there topological or soil  
24 conditions or anything like that that would make it not  
25 possible to do.

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1 COUNCIL MEMBER NORDBAK: Okay. So we're under  
2 the impression that it is necessary. The question now  
3 is: Is it feasible.  
4 MAYOR PRO TEM NEWCOMER: Can I offer a different  
5 opinion?  
6 It was my understanding when I supported this  
7 that the study was going to see the benefit, what would  
8 be the benefit of doing it, and then see whether the  
9 benefit was sufficient enough to justify the cost.  
10 And, in fact, it says the operator shall cause a  
11 study to be performed to determine the benefit.  
12 So I did not believe that the study was assuming  
13 that we were going to do it if it could physically be  
14 done; that rather, we were studying the animal movement  
15 to see what the benefit would be of such an underpass or  
16 overpass, and then look to see whether that benefit  
17 justified an underpass or overpass.  
18 COUNCIL MEMBER HENDERSON: Well, in order to do  
19 that, you'd have to do a much more expensive study. Like  
20 I said, we do know that in point of fact that there's a  
21 large number of animals that try to cross at this area.  
22 In particular, some of the mega fauna, in other  
23 words deer and bobcats and other larger animals which are  
24 killed there. So we know there's movement there. We  
25 know they like to cross there.

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<p>1 And to then quantify is the number, you know, if  2 it's six deer a day, it that -- I mean that it's viable,  3 or is it three a day or what.  4 On Harbor Boulevard, for example, typically we  5 get three or four deer per day. But that's a big  6 movement cross. So bobcats, less likely coyotes, several  7 times a day, and so on.  8 So these openings where they become -- where the  9 animals will come down and see a road and hopefully back  10 up and go away, but sometimes try to rush across, are  11 areas where it makes sense to put these kinds of  12 facilities.  13 COUNCIL MEMBER NORDBAK: So, Owen, where are you  14 now, now that you know?  15 MAYOR PRO TEM NEWCOMER: I still like the goal,  16 so I'm still thinking about it. I probably still  17 support, because I like the goal. But that wasn't the  18 way I understood it.  19 COUNCIL MEMBER NORDBAK: So what we're looking  20 at -- so let's get back to the economics of it. So its  21 -- the study would take how long, Bob?  22 COUNCIL MEMBER HENDERSON: The study itself  23 would take about a month. Chris would fly out here.  24 He's from Colorado right now. He would spend probably  25 only about two days here. And he's already received</p> <p style="text-align: right;">206</p>	<p>1 15 million?  2 COUNCIL MEMBER HENDERSON: Well, the only  3 problem again is it may take years to build up to that  4 amount, and they are not gonna start incurring costs if  5 they are not sure the money is there.  6 MAYOR PRO TEM NEWCOMER: Well, if they don't go  7 ahead with the project, they don't have to do the  8 underpass/overpass, do they?  9 MAYOR WARNER: No.  10 COUNCIL MEMBER HENDERSON: If they don't start  11 the project.  12 MAYOR PRO TEM NEWCOMER: Yeah. And if they do  13 start the project --  14 COUNCIL MEMBER HENDERSON: Under either  15 condition, they don't have to do that.  16 MAYOR PRO TEM NEWCOMER: But what I'm trying to  17 do is have a system where we get it, assuming the project  18 goes forward, but that the total cost of the limit for  19 the total cost of 80 and 81 is the \$15 million figure.  20 MS. BARLOW: If I may make a suggestion, if that  21 is the consensus of the Council, we could add to item  22 number 81 that it would be a credit against the fund  23 provided for in number 80.  24 COUNCIL MEMBER VINATIERI: Agreed.  25 COUNCIL MEMBER HENDERSON: But where does the</p> <p style="text-align: right;">208</p>
<p>1 biological information that we keep, you know, the road  2 kill and all this sort of stuff.  3 He would then come out and look at the  4 properties, try to -- look at them to see whether he  5 thinks that these are reasonable trails and so on leading  6 up to it, try to make a determination of whether an  7 overpass or underpass would make a defense, and then go  8 back and analyze it and have a report for us in about a  9 month.  10 COUNCIL MEMBER NORDBAK: That sounded to me, he  11 was looking to see if it was necessary rather than  12 feasible.  13 MAYOR WARNER: Who's jurisdiction is Colima Road  14 under?  15 MR. HELVEY: For the most part, ours. Until we  16 go over the Crest Hill, it's ours.  17 MAYOR WARNER: So we have the ultimate decision  18 on whether there's an overpass or an underpass?  19 MR. HELVEY: Well, bridges are a different  20 thing.  21 MR. JONES: We'd have to look at -- there are  22 parties that would have to be --  23 MAYOR PRO TEM NEWCOMER: What if we make this  24 change: Change the word "benefit" to "feasibility" and  25 include the cost of this as a deduction against the</p> <p style="text-align: right;">207</p>	<p>1 money come from to build the --  2 MS. BARLOW: They would have to advance it.  3 COUNCIL MEMBER HENDERSON: They would advance  4 it. All right. That's a different situation. I could  5 live with that.  6 COUNCIL MEMBER VINATIERI: They've got \$15  7 million. They can use it anyway they want, as far as I'm  8 concerned.  9 COUNCIL MEMBER HENDERSON: Well, no, absolutely  10 not.  11 MAYOR PRO TEM NEWCOMER: Well, I like the  12 language that our -- that our Council proposed. I would  13 support the language that Kimberly just proposed.  14 COUNCIL MEMBER NORDBAK: I'll support that.  15 MAYOR WARNER: All right. So Owen and Greg, on  16 81 then you're saying, as opposed to additional cost,  17 it's included in the 15 million.  18 MS. BARLOW: I don't have the exact wording, but  19 in essence we would change the word "benefit" to  20 "feasibility," and we would provide that the cost of  21 design and engineering would be advanced by the operator  22 so that the overpass or underpass would be built, and the  23 cost of that would be credited against the required fund  24 that is required in number 80.  25 MAYOR PRO TEM NEWCOMER: And it would be</p> <p style="text-align: right;">209</p>

<p>1 up-front money for the building of the bridge or 2 underpass. 3 MS. BARLOW: That's correct. 4 MAYOR WARNER: Joe, do you support advancing the 5 funds? 6 COUNCIL MEMBER VINATIERI: Yes. 7 MAYOR WARNER: Greg? 8 COUNCIL MEMBER NORDBAK: Yep. 9 MAYOR WARNER: And the rest of you do. 10 COUNCIL MEMBER HENDERSON: Yes. 11 MR. JONES: Did anybody ask Matrix if they do? 12 MAYOR WARNER: And a question to Matrix -- I am 13 trying to do that, and I don't know if I support 14 advancing the funds or not. I'd like to hear from 15 Matrix. 16 MR. MC CASKEY: I'll be right back. I think 17 this seems to be a reasonable consideration relative to 18 the advancing it in context of credit against the 19 condition in 80. 20 COUNCIL MEMBER NORDBAK: And your construction, 21 you're probably at least two years out. Now I'm talking 22 about on the bridge, if it's feasible. 23 MR. MC CASKEY: Right. 24 MAYOR WARNER: And would the assumption be that 25 Matrix would not actually advance the money until it was</p> <p style="text-align: right;">210</p>	<p>1 MS. BARLOW: We will be getting it to you as 2 soon as possible, but no later than noon on Monday. 3 MAYOR WARNER: Now, seriously from a logistical 4 standpoint from those of us that work eight hours a day 5 on Monday and are expected to be back here by -- I don't 6 know what time -- 5:00, 5:30, that doesn't work. 7 MS. BARLOW: Well, I can tell you right now I'll 8 be working on it tomorrow, Thursday, Friday. As soon as 9 it's done, it will be out. 10 MAYOR WARNER: Okay. Again from a practical 11 standpoint, we need to have this to read it and digest it 12 ahead of time. 13 MR. JONES: I can appreciate, again. They are 14 working over Thanksgiving. They are going to do it as 15 fast as they possibly can, and we'll get it to you as 16 quickly as we possibly can so you can review it. 17 I'm not sure what else I can tell you, other 18 than the fact that we've come this far, we want to be 19 sure what they do is accurate and correct and reflects 20 the directions of this body. 21 Secondly, we're gonna get it to you as quickly 22 as we possibly can. We recognize the reality. The 23 sooner you get it, the more time you have to review it. 24 And so -- 25 MS. BARLOW: I can make a commitment to you,</p> <p style="text-align: right;">212</p>
<p>1 needed to get to the point? 2 COUNCIL MEMBER HENDERSON: Sure. It would only 3 be advanced as needed. It wouldn't be a lump sum. It 4 would be paying for the costs as incurred. 5 MAYOR WARNER: Okay. So are you clear on that? 6 MS. BARLOW: I'm clear on what I need to do to 7 rework the language. 8 MAYOR WARNER: Are we through with this 9 document? 10 MAYOR PRO TEM NEWCOMER: No. There are some 11 additions that other members have suggested. 12 MS. BARLOW: I also wanted to clarify one thing 13 that we will be doing when we bring this back to you in a 14 revised form. 15 There are various times, specified time 16 restrictions specified in the mitigation measures that 17 are at some points in conflict with what is in the 18 conditions of approval. So we will be syncing those up 19 with anything that's in the mitigation measures, as the 20 more restrictive will be taken out of the conditions of 21 approval. And anything that's in the conditions of 22 approval more restrictive than the mitigation measures 23 will be left in. 24 MAYOR WARNER: So we can have the opportunity to 25 read all of this.</p> <p style="text-align: right;">211</p>	<p>1 Mayor, that you will have the revised conditions of 2 approval on Sunday at the latest. We will have them up 3 for the public on the Web site by noon on Monday. 4 MAYOR WARNER: Okay. That would be great. Does 5 that give everyone -- if we have them by Sunday, will 6 that be okay? 7 COUNCIL MEMBER NORDBAK: Yeah. But I'm not 8 comfortable with Council working on Thanksgiving. 9 MAYOR WARNER: Well, I'm not either. 10 COUNCIL MEMBER NORDBAK: Well, I'm not. I mean, 11 if that's the case -- 12 MR. JONES: How about on Sunday? 13 COUNCIL MEMBER NORDBAK: Sunday's fine, but not 14 on Thanksgiving. And I'm serious about that. 15 I think there needs to be some sort of common 16 sense here. This is getting ridiculous. 17 MS. BARLOW: I have to do something between 18 basting the turkey, Greg. 19 COUNCIL MEMBER VINATIERI: Let the professionals 20 do their job. They'll get it done in time. 21 COUNCIL MEMBER HENDERSON: Only the 22 professionals are working on Thanksgiving. And I 23 wouldn't let them do that personally, but -- 24 COUNCIL MEMBER VINATIERI: Let them do what they 25 need to do.</p> <p style="text-align: right;">213</p>



1 MAYOR WARNER: Well, and I'm not trying to say  
 2 when they have to work. I'm just trying to approach this  
 3 from a practical standpoint.  
 4 COUNCIL MEMBER VINATIERI: I have two more  
 5 conditions.  
 6 MAYOR WARNER: Okay. Go ahead.  
 7 COUNCIL MEMBER VINATIERI: Mr. McCaskey had  
 8 indicated that relative to the tax that would be  
 9 generated on this project for purpose of purchasing  
 10 materials, that this project -- we'd like to work that so  
 11 that it comes to the City of Whittier. I'm talking about  
 12 the sales tax.  
 13 I would like to see a condition included  
 14 vis-a-vis that if we could, Kim, please.  
 15 MS. BARLOW: I can draft that.  
 16 COUNCIL MEMBER VINATIERI: If you'd do that.  
 17 Second item is --  
 18 MAYOR WARNER: Before we get to your  
 19 second item, do you have any concerns or objections from  
 20 Council?  
 21 COUNCIL MEMBER NORDBAK: To be clear, that means  
 22 they are gonna have to have an office that's gonna have  
 23 to be delivered in the City.  
 24 COUNCIL MEMBER VINATIERI: They will work it  
 25 out.

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1 MAYOR WARNER: So, Mike, are you good with that?  
 2 MR. MC CASKEY: Yes, we are.  
 3 COUNCIL MEMBER VINATIERI: Second item relates  
 4 to the idea of purchasing from local merchants, to the  
 5 extent feasible. I think this has been talked about  
 6 previously, but there is an economic aspect of this  
 7 that's part of the overriding consideration.  
 8 And I understand that there are times where you  
 9 purchase things that are you're not capable or not able,  
 10 I should say, of purchasing from a local merchant within  
 11 the confines of the City or the regional area. But to  
 12 the extent you have the ability to purchase from a local  
 13 merchant -- and I'm saying local in a generalized  
 14 sense -- that I'd like to see that as part of the  
 15 condition.  
 16 MAYOR WARNER: Greg?  
 17 COUNCIL MEMBER NORDBAK: Yep.  
 18 MAYOR WARNER: Bob?  
 19 COUNCIL MEMBER HENDERSON: That's fine. You  
 20 said feasible.  
 21 MAYOR WARNER: Does that present an issue for  
 22 you?  
 23 MR. MC CASKEY: I bought a shirt today from a  
 24 local merchant.  
 25 COUNCIL MEMBER VINATIERI: They're already doing

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1 it.  
 2 MR. MC CASKEY: No. It's our intent to work  
 3 with the Whittier businesses. So we will do our best to  
 4 do that. And some of the aspects of our business  
 5 companies are maybe more regional that we use, but we'll  
 6 do everything we can.  
 7 MAYOR WARNER: You probably had to buy that  
 8 shirt because you had to be here another day that you  
 9 weren't anticipating.  
 10 MR. JONES: We will see what he wears on Monday.  
 11 MAYOR WARNER: Joe, any others?  
 12 COUNCIL MEMBER VINATIERI: That's it.  
 13 MAYOR WARNER: Greg, any?  
 14 COUNCIL MEMBER NORDBAK: No, not to condition on  
 15 Matrix.  
 16 And I also do want to explain my vote on the  
 17 greenhouse gasses.  
 18 I understand we have to do it. It's just a  
 19 protest of frustration that we can't bring that money  
 20 back into our City, and it just irritates the heck out of  
 21 me.  
 22 MAYOR WARNER: Well, it does me as well, and I  
 23 will admit I didn't understand the whole structure of  
 24 discounts and credits and all that business.  
 25 Owen?

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1 MAYOR PRO TEM NEWCOMER: No additional CUPS.  
 2 COUNCIL MEMBER HENDERSON: I'm done.  
 3 MAYOR PRO TEM NEWCOMER: I had a question on the  
 4 EIR. MAYOR WARNER: Well, wait a minute.  
 5 Before you go there, tell us what else we need to  
 6 accomplish before we go back to questions.  
 7 MR. JONES: As far as we're concerned, with the  
 8 staff perspective, you've now gone through the CUP  
 9 process. You've vetted all the various conditions, and  
 10 you've given us direction to come back and prepare those  
 11 appropriate conditions for your presentation and  
 12 ultimately for your deliberation and potential approval  
 13 or disapproval come Monday. That's where we are  
 14 regarding the CUP.  
 15 What's now left is going back through the EIR  
 16 and reviewing those mitigation issues. And are there  
 17 mitigation issues that have been raised that you want  
 18 further clarification from Luis or anybody else regarding  
 19 those mitigation measures.  
 20 Now, I would suggest we don't go line by line  
 21 through those, or we will be here for several weeks. But  
 22 it does seem to me that you've now had the chance to read  
 23 the documents, and you've had a good opportunity.  
 24 If you have questions about the EIR document,  
 25 now's the time to get that clarification or suggest the

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<p>1 changes, again recognizing that there's some limitation  2 regarding change, because if we get outside the process  3 or the footprint, it will cause recirculation. But  4 again, we're here to help guide and direct you.  5 The important role at this time is to look at  6 the EIR, the environmental documents. And if you have a  7 desire for clarification, modification or suggestions,  8 now's your time to address the staff.  9 MAYOR WARNER: I'll let Owen ask a question, and  10 then we will decide how to do this.  11 MAYOR PRO TEM NEWCOMER: I'll ask MRS, are there  12 any changes to the EIR or any changes to the mitigation  13 features that would be desirable, given the CUP  14 conditions that we've put here?  15 And I'm thinking particularly, but not  16 exclusively, to rate hike air emissions, the metering  17 station. Is there anything that we should be changing or  18 thinking about in mitigation features, given what we did  19 in the CUPs?  20 MR. PEREZ: Not for the issues that you  21 mentioned. And I think the way it works is the condition  22 or use permit, the conditions that you have discussed  23 will override some of the mitigation measures.  24 There are some changes that we have, and they  25 are thankfully very few, and they are based on some of</p> <p style="text-align: right;">218</p>	<p>1 MR. PEREZ: Yes.  2 The document is red lined for you.  3 The first change --  4 MAYOR WARNER: And is this available for the  5 public?  6 MR. JONES: Yes.  7 MR. PEREZ: Let me preface the discussion on the  8 changes. These are made to reflect -- and we're assuming  9 that if the Council were to move forward and approve the  10 project, that you would approval the project with the  11 Appendix O refinements included. So that's our  12 assumption to begin with.  13 So what we have done, and you see this as  14 consistent with the analysis that we did in Appendix O,  15 where some of the mitigation may no longer be applicable.  16 And so that is what you would see in some of the red  17 lining.  18 So if you look for example at AQ1D, which is on  19 page A-5, A-5. And if everybody's there with me,  20 obviously the soil hauling will no longer have to occur  21 as a result of the Appendix O refinement. So that is  22 removed.  23 The next one that I have is on the following  24 page, page A-6. And at the bottom of this page, at AQ2B,  25 these are changes that are made based on a letter from</p> <p style="text-align: right;">220</p>
<p>1 the conversations, some of the dialog that has occurred  2 here over the last few meetings that we have, and others  3 that we recommend you not do, and we can explain to you  4 why.  5 MAYOR PRO TEM NEWCOMER: I'll ask them to go  6 ahead and do that, if that's agreeable with my  7 colleagues.  8 MAYOR WARNER: Okay. And is the best way just  9 to have you take us through that?  10 MR. PEREZ: I would walk you through just the  11 change from what the mitigation measures are. And I  12 think Mr. Adams has hard copies for all of you of the  13 revised version so that we can go directly to those  14 pages.  15 MAYOR WARNER: Okay. Is everybody okay with  16 that procedure?  17 COUNCIL MEMBER NORDBAK: Yes.  18 COUNCIL MEMBER VINATIERI: Yes.  19 MAYOR WARNER: So he's giving us copies of only  20 the pages that have changes?  21 MR. PEREZ: He's giving you all the -- actually  22 the finalized version of all the mitigation monitoring  23 program.  24 MAYOR WARNER: That now replaces, if we approve  25 it, what's in here?</p> <p style="text-align: right;">219</p>	<p>1 the AQMD regarding mitigation for NOx emissions, and so  2 they wanted the order to reflect their own requirements  3 as to how you would implement the program.  4 And if you have questions about any of this,  5 please let me know.  6 MAYOR WARNER: And, Kim, you already have or you  7 are checking to make sure that these correspond with the  8 CUP list that we just went through?  9 MS. BARLOW: That's what we're gonna do. That  10 will be our final clean-up after we've made the other  11 changes. We'll go and coordinate and make sure that  12 everything, yeah, between the documents is consistent.  13 MAYOR WARNER: Okay.  14 COUNCIL MEMBER HENDERSON: I had a question on  15 the -- Mike made representations that he would support  16 planting in the critical spots for vegetation screening  17 of the site as much as possible, and wherever possible,  18 the rig.  19 Are those actually incorporated into any  20 mitigation measure in the EIR or into any condition in  21 the CUP?  22 MR. PEREZ: With regards to plantings?  23 COUNCIL MEMBER HENDERSON: Well, I know you had  24 landscape planting, but I wasn't sure that the screening  25 planting which would be done to make sure there's no</p> <p style="text-align: right;">221</p>

<p>1 visibility from, for example, the school yard, which was 2 identified as being an impact before, or from the Deer 3 Loop Trail, took place. 4 And I just wondered if they did that and how 5 that affects the required overriding consideration of 6 those impacts. 7 MR. PEREZ: Mr. Henderson, I believe that even 8 though it's called a landscaping plan as part of the 9 esthetics, and it is part of the screening, it is 10 specifically designed for screening, that landscape plan. 11 So it covers that. 12 COUNCIL MEMBER HENDERSON: Okay. And how does 13 that affect the significant unmitigatable impacts of 14 those? 15 MR. PEREZ: The impact remains significant and 16 unmitigatable. It requires that mitigation, but the 17 impact remains significant and unmitigatable. 18 COUNCIL MEMBER HENDERSON: Okay. I find that 19 hard to understand. I mean, at most the impact would be 20 for a couple of years, I guess, at the very most. And if 21 you have larger trees in there, it's practically gone 22 immediately. So why does it still remain as significant 23 and unmitigatable if we mitigated it? 24 MR. PEREZ: Well, I think I can give you 25 two answers. And the first answer is the CEQA requires</p> <p style="text-align: right;">222</p>	<p>1 your independent judgement, as required by CEQA. 2 COUNCIL MEMBER HENDERSON: Okay. I've gone back 3 over a few EIR's, and I think one of the big lessons I've 4 learned from attorneys is that basically don't ever try 5 to deny a significant impact, even if you are going to 6 try to mitigate it. So I understand that. 7 I think the important thing, again, like the 8 greenhouse gas emissions, is are we gonna solve the 9 problem and then leave the most defensible document for 10 the EIR. 11 I'll let my colleagues understand clearly that I 12 think we can actually make these impacts go away. And 13 now we're playing with the attorneys instead of really 14 the reality of it. 15 It's frustrating, but I think it's probably the 16 best way to go, but we can discuss that more, I guess. 17 MAYOR WARNER: Kim, want to weigh in on that? 18 MS. BARLOW: I agree with Luis. I do think you 19 do have the right to exercise your independent judgment, 20 but we would recommend that you go ahead, adopt a 21 statement of overriding considerations. 22 I know that staff really wants to ensure that 23 all parts of this facility are as invisible as possible, 24 and the mitigation measures had been crafted with that in 25 mind. The color scheme and the plantings and so on, the</p> <p style="text-align: right;">224</p>
<p>1 the City -- and you're the body that certifies the 2 environmental document. And so it requires the City to 3 actually exercise your independent judgement in the 4 review of the environmental document. 5 So you don't have to take MRS's word for it, and 6 you are within your rights. 7 And the reason I say I give you two answers is 8 because the attorneys may want to tell you otherwise, 9 but -- 10 COUNCIL MEMBER HENDERSON: They usually do. 11 MR. PEREZ: But my answer is I think we feel 12 that in order to retain the defensibility of the 13 document, but we recommend that you keep it the way it 14 is. 15 However, if you so desire -- and I think if the 16 City Council as a whole desires to change that impact, I 17 think you're within your right to do so. You're 18 exercising your independent judgement. 19 This is something that, as I've said before, is 20 subjective in nature, and we are doing our best to 21 appreciate it based on the guidelines that we have. And 22 I think we have talked to you about temporary and 23 permanent and given you a few examples as guidance on 24 that. 25 I think you have the opportunity to exercise</p> <p style="text-align: right;">223</p>	<p>1 screening, the remaining, leaving the eucalyptus trees, 2 all of those steps have been required as mitigation 3 measures in order to minimize to the maximum extent, and 4 obviously the new condition that you've added on. 5 But we do believe we that beauty is in the eye 6 of the beholder, and there will certainly be somebody who 7 continues to believe that it's an impact. And for that 8 reason, we do believe that a statement of overriding 9 consideration should be adopted. 10 MR. JONES: And let me add one more thing, and 11 that is the defensibility of the document is important. 12 So we need to recognize that. And the second is that as 13 Luis just said, your ability to exercise your independent 14 judgement is part of why you're up here. You are the 15 quasi-judicial determiners of what -- where we're gonna 16 go. 17 And you can make a determination to completely 18 go out and re-circuit the whole thing and start all over 19 again. So that's part of your independent judgment. 20 But we're trying to prepare, from a professional 21 perspective, the most defensive document that reflects 22 the current professional standards in this profession. 23 MAYOR WARNER: Okay. We're on page -- you good? 24 COUNCIL MEMBER HENDERSON: I'm good. 25 MAYOR WARNER: We're on page 8.6, I think, or</p> <p style="text-align: right;">225</p>

<p>1 8.7. 2 Did you finish that one? 3 MR. PEREZ: Yes, I believe I did. 4 MAYOR WARNER: Any questions or concerns from 5 Council on that one? 6 Okay. Please go ahead. 7 MR. PEREZ: The next change that I have is on 8 Bio 1A, on page 8.8-9. I'm sorry. And what we're 9 suggesting here is there is a change -- 10 MAYOR WARNER: We don't see any red. 11 MR. PEREZ: There's red in the change in acreage 12 from 4.16 to 4.84. 13 MAYOR WARNER: You're on page 8.9? 14 MS. BARLOW: It's not showing as red, but 15 there's a strike out. 16 MAYOR PRO TEM NEWCOMER: I do see it. But 17 you're right; it's not red. 18 MAYOR WARNER: Go ahead. 19 MR. PEREZ: Sorry. I'm color blind either 20 way. 21 So anyway, the changes are to reflect the 22 changes that are required per the Appendix O refinements. 23 And if you recall some of them, there's an additional 24 piece of road in the design that Matrix put together as 25 part of the Appendix O refinement that captures a little</p> <p style="text-align: right;">226</p>	<p>1 MR. PEREZ: If not, I'll move on to the next 2 one, which is on page 8 -- I'm sorry, 8-12. Actually, 3 it's the following page, 8-13, at the top of the page. 4 This is in response to Mr. Henderson's desire to 5 include extra language to reflect the Habitat Authority's 6 opinion on when the restoration efforts would occur. 7 So we have added a bullet on this mitigation 8 measure to say, scheduling of all restoration efforts 9 shall be done in coordination and with approval by the 10 Habitat Authority. 11 MAYOR WARNER: Okay. 12 MR. PEREZ: The next one that I have is moving 13 down to page 8-39. What it does is it removes T1E, which 14 is talking about during phase 2 soil expert again. There 15 is no longer a need for the soil expert there, so we're 16 doing that clean-up. And then what would happen is the 17 following condition or the following mitigation would be 18 T1E. T1F would become T1E. 19 COUNCIL MEMBER VINATIERI: So a question on T1E. 20 The concern -- we put in a condition regarding the 21 utilization of the residents on Penn Street as part of 22 the Penn Street traffic program. I don't see that in 23 here. 24 MS. BARLOW: If I may, that isn't necessary as a 25 mitigation measure. It's desirable as a condition of</p> <p style="text-align: right;">228</p>
<p>1 bit more of a coastal sage scrub, so that is reflected 2 here. 3 MAYOR WARNER: Okay. Next page. 4 MR. PEREZ: In Bio 1B, there is -- 5 MAYOR WARNER: Page number? 6 MR. PEREZ: That's 11. Sorry. 7 MAYOR WARNER: Thank you. 8 MR. PEREZ: There are some changes there that 9 are going to be captured by the condition that Ms. Barlow 10 spoke of earlier. And so it's regarding the mitigation 11 of the temporary impacts to native and naturalized 12 habitat due to noise impacts that Mr. Henderson 13 discussed. So we are removing the language here to not 14 be redundant with that. 15 MAYOR WARNER: Okay. 16 MS. GIOVINCO: Can I just ask for clarification 17 on that, actually. 18 In terms of the total acreage that's mentioned 19 here, right now it says 22.5. Am I correct that that 20 number will be finalized based on the numbers that are 21 run with the 60 decibel contour? 22 MR. PEREZ: Thank you. That's correct, yes. 23 MAYOR WARNER: And, Council, if any of you have 24 questions or comments, please just jump in after Luis 25 gives us the introduction to the item.</p> <p style="text-align: right;">227</p>	<p>1 approval, and so for that reason it will be included in 2 the condition of approval. 3 COUNCIL MEMBER VINATIERI: Thank you. 4 MR. PEREZ: Now, those are all the changes that 5 I have. 6 I have one clarification based on an earlier 7 request by Mr. Henderson with regards to the condition 8 Bio 4N and the exclusion of that. 9 MAYOR WARNER: Page? 10 MAYOR PRO TEM NEWCOMER: Eight, twenty-one. 11 MR. PEREZ: Thank you. 12 There's a desire to remove some of the language 13 that requires some of the mitigation there for 14 recreation. And after discussions with Council and 15 internally within the environmental preparers, the 16 biologist and others, we felt that it was important to 17 preserve the integrity of the document where you have an 18 impact and then you have the mitigation measure that 19 corresponds to it. 20 And if we were to take that out, I think it 21 would create some issues. I think because the baseline 22 that we started with contains that recreational use, 23 that's where we have to analyze to preserve again the 24 integrity of that document. 25 I believe that if in the future, the Habitat</p> <p style="text-align: right;">229</p>

<p>1 Authority makes decisions that are separate from the  2 constraints of this project to do other things, I think  3 obviously you would have the ability to do that.  4 COUNCIL MEMBER HENDERSON: Well, let me give you  5 a for an example. Obviously, I mentioned we can build  6 another trail down off the Arroyo Miguel parking lot.  7 But if as we did that we discovered that it was bad  8 biologically, we still have the flexibility to protect  9 the environment and thereto change that mitigation or  10 ignore it.  11 MR. PEREZ: I'm not gonna tell you that you can  12 ignore the mitigation measure at this point. I think  13 that because of this project, we have identified a  14 recreational impact that requires this mitigation to  15 occur.  16 COUNCIL MEMBER HENDERSON: I see.  17 MR. PEREZ: I would also state that there is --  18 within the mitigation measure, there are provisions for  19 flexibility where there are equivalent things that you  20 can identify, perhaps similar to what you have stated,  21 that could serve to mitigate that impact.  22 MS. BARLOW: In addition, I think it's important  23 to note that if, independent of the project, the Habitat  24 Authority makes changes in recreational access to  25 different locations for biological or other reasons, that</p> <p style="text-align: right;">230</p>	<p>1 able to see the differences. And we can walk through  2 those in whatever order you deem appropriate at your next  3 meeting.  4 MAYOR WARNER: Thank you.  5 MR. JONES: I've got a few more things, yes.  6 First off, as Kim and Jenetta give these  7 documents to you, if you note typographical errors or for  8 example clarify the oil field versus the project area,  9 whatever it was, if you spot those type of things and  10 they missed it, let them know so we can correct those  11 type more administrative type of errors that may occur.  12 Secondly, let me walk you through the process  13 this evening.  14 Based upon the discussion this evening, this is  15 a consensus building process. It doesn't reflect  16 approval or denial of the project. It's necessary  17 because you have the project and the documents before you  18 and the conditions for your deliberation. So what you've  19 been going through is a consensus process to address what  20 the environmental and the conditions of approval  21 documents, with the appropriate conditions that reflect  22 your current consensus.  23 The mere fact that you reached consensus here  24 doesn't reflect your ultimate decision whether you're  25 going to approve or not approve the document come</p> <p style="text-align: right;">232</p>
<p>1 would be independent of the project, and that would still  2 remain within the purview of the Habitat Authority as the  3 manager of the property.  4 COUNCIL MEMBER HENDERSON: Thanks, guys.  5 MR. PEREZ: So I think that's all I have for you  6 with regards to the mitigation measures.  7 MAYOR WARNER: Okay. Any questions or comments  8 from the Council on these items?  9 MAYOR PRO TEM NEWCOMER: I assume this then will  10 be brought back as we just saw it in this version with  11 some language clean-up for our approval on Monday night,  12 along with the CUP?  13 COUNCIL MEMBER NORDBAK: Well, for our  14 discussion. I wouldn't say it's for our approval.  15 MAYOR WARNER: Correct. Right. So no questions  16 tonight?  17 MS. BARLOW: If I could make a suggestion of how  18 we would be proceeding, then we will be bringing to you  19 then a revised -- two revised resolutions to incorporate  20 the changes and discussion that has been held, and the  21 changes to the mitigation measures that are recommended  22 by staff, as well as a revision to Appendix -- I'm sorry,  23 Attachment A to the conditions of approval themselves.  24 We will also be bringing you clean and red-lined  25 versions of each of those documents so that you'll be</p> <p style="text-align: right;">231</p>	<p>1 Monday.  2 The document presented to you on Monday, those  3 documents will still allow you the ability to amend,  4 modify, enhance, whatever you desire, as well as approve  5 or deny those documents when presented to you.  6 The mere fact they are coming up Monday does not  7 require you to necessarily take action that evening, but  8 rather to reflect on the documents that should be in a  9 condition now that reflects your current consensus.  10 The final point I would say to you is this:  11 That as you then meet on Monday, it is now at that point  12 in time where you begin the deliberative process of  13 expressing your opinions, your conclusions, your reasons  14 for either approving or disapproving the project as going  15 forward that could then reflect the appropriate findings  16 and the appropriate level of either approval or denial of  17 these particular documents presented to you.  18 The important thing is, is that we are now  19 concluding the public hearing process and really  20 beginning the deliberative process.  21 I now ask you to present a motion to close the  22 public hearing process, which has not been closed at this  23 point in time, and recognize you're now in the  24 deliberation stage, which will occur on Monday when we  25 return, on the 28th.</p> <p style="text-align: right;">233</p>

1 COUNCIL MEMBER NORDBAK: So moved.  
 2 COUNCIL MEMBER VINATIERI: Second.  
 3 MAYOR WARNER: And before we vote, with all due  
 4 respect, we've had a few ups and downs with opening and  
 5 closing things. So you're absolutely certain this is  
 6 what you want us to do at this point in time?  
 7 MR. JONES: The answer's yes.  
 8 MAYOR WARNER: All right. Roll call, please.  
 9 MS. MARSHALL: Council Member Nordbak?  
 10 COUNCIL MEMBER NORDBAK: Yes.  
 11 MS. MARSHALL: Council Member Vinatieri?  
 12 COUNCIL MEMBER VINATIERI: Aye.  
 13 MS. MARSHALL: Council Member Henderson?  
 14 COUNCIL MEMBER HENDERSON: Aye.  
 15 MS. MARSHALL: Mayor pro tem Newcomer?  
 16 MAYOR PRO TEM NEWCOMER: Yes.  
 17 MS. MARSHALL: Mayor Warner?  
 18 MAYOR WARNER: Aye.  
 19 MR. JONES: The meeting will be at 5:30?  
 20 MS. BARLOW: Can I make one final point that I  
 21 just want to remind everyone.  
 22 We will have an agenda for that meeting. You  
 23 will be acting on the -- once you've done your  
 24 deliberations, you will be acting on the environmental  
 25 document first, and then on the CUP. So no matter what

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1 order we address or review the documents in, the  
 2 environmental document action will be taken on that  
 3 first.  
 4 MAYOR WARNER: And this is the same meeting, is  
 5 that correct, Kathryn?  
 6 MS. BARLOW: Yes, same meeting.  
 7 MAYOR WARNER: So we're adjourning to that date,  
 8 continuing the same meeting.  
 9 MR. JONES: Correct.  
 10 MAYOR WARNER: And Council, let's take a poll on  
 11 the time, the beginning.  
 12 MAYOR PRO TEM NEWCOMER: Five-thirty works for  
 13 me. I can start as early as you want.  
 14 COUNCIL MEMBER VINATIERI: Five-thirty.  
 15 COUNCIL MEMBER NORDBAK: Five-thirty works, but  
 16 I'd like for us to be able to make comments tonight  
 17 before we adjourn.  
 18 MAYOR WARNER: We will.  
 19 COUNCIL MEMBER HENDERSON: Five-thirty is  
 20 fine.  
 21 MAYOR WARNER: So 5:30. And then we have our  
 22 regular meeting schedule after that.  
 23 MR. JONES: To start at 6:30.  
 24 MAYOR WARNER: Right. Okay. End comments.  
 25 Greg.

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1 COUNCIL MEMBER NORDBAK: Yeah. I would like to  
 2 really take a minute to thank everybody in this process,  
 3 especially staff. This has been a very difficult and  
 4 challenging week, and particularly for staff.  
 5 We've had all the meetings at the Radisson and  
 6 getting everything set up and getting things done and  
 7 back to here. Our Council's been outstanding. And the  
 8 audience as well, I see faces that have been here all --  
 9 since all three weeks.  
 10 With that being said, I would like to sincerely  
 11 wish everyone a happy and thankful Thanksgiving, and  
 12 remember that all of us, regardless of this issue, have  
 13 many, many things to be thankful for.  
 14 And I request that sometime during your  
 15 Thanksgiving with your family, you take a moment and  
 16 remember those that are making sure -- our men and women  
 17 in the armed services, that give them a thought, because  
 18 they're making this Thanksgiving possible for all of us.  
 19 So with that, I'm ready to get to Day 7.  
 20 MAYOR WARNER: Joe?  
 21 COUNCIL MEMBER VINATIERI: We do indeed have  
 22 much to be thankful for. To be candid with you, I'm  
 23 tired and I'll be glad when this process is over. But  
 24 overriding this whole thing, and not overriding statement  
 25 of overriding importance is the fact that we do have much

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1 to be thankful for, and that's above everything that we  
 2 do.  
 3 So anyways, happy Thanksgiving, and may you have  
 4 a blessed one.  
 5 MAYOR WARNER: Bob?  
 6 COUNCIL MEMBER HENDERSON: Well, like Greg, I'd  
 7 really like to thank especially the staff. They have  
 8 been outstanding in all this. You've stayed through it  
 9 month after month in many of our cases. I know everybody  
 10 here is tired.  
 11 MRS has done a wonderful job. They've been very  
 12 responsive through several months of this, a year and a  
 13 half, I guess.  
 14 The Applicant has been very helpful, very polite  
 15 in all this, has tried to find solutions and has made  
 16 many changes to the project. We like that.  
 17 We appreciate the people that are both for and  
 18 against it that have spoken on it, written on it, made  
 19 comments.  
 20 I know that sometimes it seems as though we  
 21 probably have an opinion one way or the other, but there  
 22 are absolutely things that I picked up from both sides as  
 23 we've gone through this project, and I hope it's made it  
 24 better.  
 25 And we'll find out where the final shoe drops

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1 next Monday. But it's been a good process. I really  
 2 appreciate Jeff and Steve in particular.  
 3 Like I say, the whole legal team has just been  
 4 outstanding, and wish you all a very happy and merry  
 5 Thanksgiving. And we'll see you after the weekend.  
 6 MAYOR WARNER: Owen, please.  
 7 MAYOR PRO TEM NEWCOMER: I also wanted to  
 8 express my thanks. By my calculations, we're just 31  
 9 hours into this public hearing.  
 10 But MRS, our attorneys, our staff, the Applicant  
 11 and all the people that came to speak, it's been civil;  
 12 it's been an expression of ideas. There have been things  
 13 that clued us into changes that needed to be asked about,  
 14 needed to be made.  
 15 As long and tired as this process is, I think  
 16 it's been a very good process, and I look forward to its  
 17 completion.  
 18 But just 31 hours into it, have a merry and  
 19 happy Thanksgiving. And we'll see you on Monday night  
 20 for Hour 32, and we'll see.  
 21 MAYOR WARNER: Professor Newcomer, that sounds  
 22 like -- that sounds like it's enough hours to receive  
 23 credit for a class.  
 24 MAYOR PRO TEM NEWCOMER: Probably.  
 25 MAYOR WARNER: I too would add my thanks to our  
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1 outstanding staff and the auxiliary personnel that have  
 2 come in, and appreciation to the public, both those for  
 3 this project and those opposed to this project.  
 4 One thing that sets us apart as a city and a  
 5 country and a nation is the fact that we are among the  
 6 5 percent that have and will live on this earth, that  
 7 live in a country that's free, and we have the ability to  
 8 vote and to go through the democratic process.  
 9 We will not always agree, but I hope that you  
 10 will feel respected, regardless of how this ends out in  
 11 the end, and I hope you will feel that we have listened  
 12 to you with our ears, and I hope that you will feel that  
 13 we have taken what we have heard and asked questions and  
 14 implemented conditions based on your comment.  
 15 And I hope that we will have your participation  
 16 in the future, regardless of how this comes out.  
 17 Hope you all have a blessed Thanksgiving and  
 18 forget all about us.  
 19 I'm sorry that you have missed birthdays.  
 20 Luis, apologize to your son.  
 21 You haven't gone on vacations yet, Mac.  
 22 And I'm sure there are many other situations  
 23 that we the Council are unaware of because of these  
 24 meetings continuing to go on and on and on.  
 25 So we appreciate the sacrifices that you have  
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1 made, and let your family know that we know that you have  
 2 made many sacrifices.  
 3 Thank you and good evening.  
 4 And we are adjourned until next Monday at 5:30  
 5 for this same meeting.  
 6 (Whereupon, the deposition concluded at  
 7 10:40 p.m.)  
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1 CERTIFICATION  
 2 OF  
 3 CERTIFIED SHORTHAND REPORTER  
 4  
 5 I, the undersigned, a Certified Shorthand  
 6 Reporter of the State of California do hereby certify:  
 7 That the foregoing proceedings were taken  
 8 before me at the time and place herein set forth; that  
 9 any witnesses in the foregoing proceedings, prior to  
 10 testifying, were placed under oath; that a verbatim  
 11 record of the proceedings was made by me using machine  
 12 shorthand which was thereafter transcribed under my  
 13 direction; further, that the foregoing is an accurate  
 14 transcription thereof.  
 15 I further certify that I am neither financially  
 16 interested in the action nor a relative or employee of  
 17 any attorney of any of the parties.  
 18 IN WITNESS WHEREOF, I have this date  
 19  
 20 subscribed my name \_\_\_\_\_.  
 21  
 22 Dated: \_\_\_\_\_  
 23  
 24 Certificate Number 9985  
 25  
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