



Kriss Worthington

Councilmember, City of Berkeley, District 7
2180 Milvia Street, 5th Floor, Berkeley, CA 94704

PHONE 510-981-7170 FAX 510-981-7177 kworthington@ci.berkeley.ca.us

ACTION CALENDAR

June 10, 2014

To: Honorable Mayor and Members of the City Council
From: Councilmember Kriss Worthington

Subject: City Manager Referral: Ordinance to Ban Hydraulic Fracturing and Oil Extraction in Berkeley

RECOMMENDATION

That the City of Berkeley begins the process to set in place a ban on hydraulic fracturing and oil extraction in Berkeley.

BACKGROUND

According to Food & Water Watch, over 250 communities in the United States have passed resolutions banning hydraulic fracturing. The City of Berkeley likewise finds it necessary to ban hydraulic fracturing and oil extraction to protect residents and visitors from the adverse health effects, environmental impacts, and threats to long term physical and economic well-being.

The City Council of Berkeley has repeatedly passed anti-fracking legislation.

On May 6, 2014, the Council adopted a resolution in support of Senate Bill (SB) 1132 which would place a moratorium on the use of hydraulic fracturing to extract oil and gas until further study that finds no risk to or impairment of public health and the environment.

On November 12, 2013, the Berkeley City Council urged the Alameda County Board of Supervisors to pass a moratorium on hydraulic fracturing and join the multiple other county-issued fracking moratoriums across the state including Los Angeles, Santa Cruz, and Marin.

At its January 22, 2013 meeting, the Council unanimously voted to adopt a resolution calling for a fracking moratorium in the state. This resolution urged the State of California's Division of Oil, Gas & Geothermal Resources to place a moratorium on hydraulic fracturing in California until adequate regulatory safeguards were put in place.

Groups that support anti-fracking include the Food & Water Watch, <http://www.foodandwaterwatch.org/water/fracking/>, and the Keep Tap Water Safe, <http://keeptapwatersafe.org/>.

ENVIRONMENTAL SUSTAINABILITY

Hydraulic fracturing processes are detrimental for the environment as they produce substantial amounts of toxic waste, cause accidents, methane leaks and spills, and emit many hazardous pollutants into the air and surrounding water. Banning these processes would therefore help lead Berkeley to a more sustainable future.

FINANCIAL IMPLICATIONS

Minimal.

CONTACT PERSON

Councilmember Kriss Worthington 510-981-7170

ATTACHMENT:

1. Beverly Hills Ordinance Banning Hydraulic Fracturing
<file:///C:/Users/kworthington/Downloads/Beverly+Hills+Ordinance.6-9.pdf>

Attachment 1

Ordinance

ORDINANCE NO. 14-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS TO PROHIBIT HYDRAULIC FRACTURING, ACIDIZING OR ANY OTHER WELL STIMULATION TREATMENT IN CONJUNCTION WITH THE PRODUCTION OR EXTRACTION OF OIL, GAS OR OTHER HYDROCARBON SUBSTANCES FROM ANY SURFACE LOCATION IN THE CITY OR ANY SUBSURFACE BOTTOM HOLE IN THE CITY

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS FOLLOWS:

Section 1. Section 10-5-303 of Article 3 of Chapter 5 of Title 10 of the Beverly Hills Municipal Code is hereby amended to insert the following definition between the terms “EXPLORATORY AREA” and “OIL WELL” as they presently appear in Section 10-5-303, with all other definitions in the Section remaining as previously adopted:

“HYDRAULIC FRACTURING: Any well stimulation treatment that, in whole or in part, includes the pressurized injection of hydraulic fracturing fluid or fluids, which may include a mixture of water, chemicals and sand, into an underground geologic formation in order to fracture or with the intent to fracture the formation, thereby causing or enhancing the production of oil, gas or other hydrocarbon substances from a well.”

Section 2. Section 10-5-303 of Article 3 of Chapter 5 of Title 10 of the Beverly Hills Municipal Code is hereby amended to insert the following definition above the term “APPLICANT” as it presently appears in Section 10-5-303, with all other definitions in the Section remaining as previously adopted:

“ACIDIZING: Any well stimulation treatment that uses, in whole or in part, the application of one or more acids, at any pressure, to an underground geologic formation with the intent to cause or enhance the production of oil, gas or other hydrocarbon substances from a well. Acidizing may be used in conjunction with hydraulic fracturing or any other well stimulation treatment. Acidizing may include, but is not limited to, processes known as acid fracturing and acid matrix stimulation.”

Section 3. Section 10-5-303 of Article 3 of Chapter 5 of Title 10 of the Beverly Hills

Municipal Code is hereby amended to insert the following definition after the term

“PERMITTEE” as it presently appears in Section 10-5-303, with all other definitions in the

Section remaining as previously adopted:

“WELL STIMULATION TREATMENT: Any treatment or process of a well designed to enhance oil, gas or other hydrocarbon substance production or recovery by increasing the permeability of the underground geologic formation. Well stimulation treatments include, but are not limited to, hydraulic fracturing and acidizing. Well stimulation treatments do not include routine maintenance work or other routine activities that do not affect the integrity of a well or underground geologic formation.”

Section 4. Section 10-5-318 of Article 3 of Chapter 5 of Title 10 of the Beverly Hills

Municipal Code is hereby amended to insert a new Subsection (A)(48) to read as follows, with

all other provisions of Section 10-5-318 remaining as previously adopted:

“48. The permittee shall not use or cause to be used hydraulic fracturing, acidizing, or any other well stimulation treatment.”

Section 5. Section 10-5-324 of Article 3 of Chapter 5 of Title 10 of the Beverly Hills

Municipal Code is hereby added to read as follows:

“10-5-324: HYDRAULIC FRACTURING, ACIDIZING AND WELL STIMULATION TREATMENTS

Notwithstanding any other provision of this article, it shall be unlawful to use or cause to be used hydraulic fracturing, acidizing, or any other well stimulation treatment in conjunction with the production or extraction of oil, gas or other hydrocarbon substances from any surface location in the City or from any site outside the City limits where the subsurface bottom hole is located in the City.”

Section 6. This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds and determines that the adoption of this Ordinance is exempt from CEQA pursuant to Section 15308 of the Guidelines for actions taken by regulatory agencies to assure the maintenance, restoration,

enhancement, or protection of the environment. The Class 8 exemption is applicable because this Ordinance is intended to amend the City's regulatory process for permitting oil and gas production in such a way as to better protect the environment.

Section 7. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 8. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

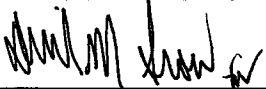
Adopted:
Effective:

LILI BOSSE
Mayor of the City of
Beverly Hills, California

ATTEST:

BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY C. KOLIN
City Manager



SUSAN HEALY KEENE,
Director of Community Development