

**CITY OF LAREDO
SPECIAL CITY COUNCIL MEETING
M-2015-sc-05
CITY COUNCIL CHAMBERS
1110 HOUSTON STREET
LAREDO, TEXAS 78040
MAY 27, 2015
5:30 P.M.**

I. CALL TO ORDER

With a quorum present, Mayor Pro Tem Narvaez called the meeting to order.

II. PLEDGE OF ALLEGIANCE

Mayor Pro Tem Narvaez led in the pledge of allegiance.

III. ROLL CALL

Rudy Gonzalez,	District I
Esteban Rangel,	District II
Alejandro Perez, Jr.,	District III
Juan Narvaez,	Mayor Pro-Tempore, District IV
Roque Vela, Jr.,	District V
Charlie San Miguel,	District VI
George J. Altgelt,	District VII
Roberto Balli,	District VIII
Gustavo Guevara, Jr.,	City Secretary
Jesus Olivares,	City Manager
Cynthia Collazo,	Deputy City Manager
Horacio De Leon,	Assistant City Manager
Raul Casso,	City Attorney

IV. PUBLIC HEARINGS

1. Public hearing and introductory ordinance amending the Zoning Ordinance (Map) of the City of Laredo by authorizing a Special Use Permit and Drilling Permit for Oil and/or Gas Extraction and Production for Hachar 5H Well on a 2.62 acre pad site out of a 6,132.06 acre tract known as the Hachar Lease, located East of F.M. 1472; providing for publication and effective date.

Staff is in support of the application and the Planning and Zoning Commission recommends approval of the proposed Special Use Permit.
District VII

Motion to open the public hearing.

Moved: Mayor Pro Tem Narvaez

Second: Cm. Vela

For: 8

Against: 0

Abstain: 0

Tricia Cortez representing the Rio Grande International Study Center gave a presentation before Mayor Pro Tem and City Council. She explained that she would be for this item if they were given enough time to study the issues involved.

Horizontal Drilling and Fracking Inside City Limits: Why Strict Safeguards Are Needed First

- This type of drilling and fracking is nearly 10x more intense – in its use of water, silica, chemicals, and trucks – than traditional drilling.
- Four years ago, we were told repeatedly that this type of heavy industrial activity wouldn't come to Laredo.
- Laredo has 52 active gas wells: 1976 to present (Railroad Commission of Texas, via DIDesktop)
- 49 wells were completed prior to 2010 – BEFORE the Eagle Ford Shale boom.
- Laredo will now consider allowing horizontal drilling and fracking to take place inside City limits.
- Laredo's oil and gas ordinances are decades old.
- We believe that they are outdated and grossly inadequate to deal with the realities of this type of drilling in populated areas.

- In North Texas – the Barnett Shale –multiple cities have enacted ordinances to strictly regulate oil and gas activity inside City limits because of the risks and nuisances involved:
 - Arlington
 - Dallas
 - Southlake
 - Flower Mound
 - Bartonville
 - Denton (ban)
 - and others

- A 2013 study by Duke University linked methane in people's drinking water wells to gas-drilling operations in surrounding areas.
- A 2014 study by the University of Colorado documented that people living within a ½-mile of fracking and other gas-drilling operations have an increased risk of health problems, including cancer from benzene air emissions.
- Laredo's outdated ordinance allows drilling to take place 600 feet from a school & 400 feet from a residential home.

- A property owner is only notified if they live 200 feet from a proposed well site.
- Transporting 2 to 5 million gallons of fresh or waste water requires an estimated 1,400 truck trips.
- Webb County requires 7 to 10 million gallons of fresh water to frack 1 well, so more trucks would be needed.
- Chemicals make up 0.5% to 2% of the total volume of the fracturing fluid.
- But when millions of gallons of water are being used, the amount of chemicals per fracking operation is significant.
- For example, a 4 million gallon fracturing operation would use 80 to 330 tons of chemicals.
- In Webb and Laredo, that number is estimated to be double that amount.
- Activity from drilling operations, compressor stations and natural gas storage tanks.
- Cancer-causing Volatile Organic Compounds (VOCs) vent continuously and invisibly off the well site, as shown by TCEQ infrared cameras.
- Diesel exhaust from trucks mixed with VOCs creates ground- level ozone.
- Methane – a potent green house gas – is also released into the air.

- In 2005, Congress passed an Energy bill exempting hydraulic fracturing from environmental laws that protect clean air and water:
 - Safe Drinking Water Act
 - Clean Water Act
 - Clean Air Act
 - Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) - Superfund Act
 - National Environmental Policy Act (NEPA)

- Let's do the math: Water consumption for fracking
 - 400 gallons – average amount used per month per home
 - x 350 homes – Green Ranch subdivision
 - x 12 months in a year
 - 1,680,000 gallons used by Green Ranch families each year.
 - 7,500,000 gallons – needed to frack, on average, one well in Webb County
 - Divided by 1,680,000 gallons – Green Ranch annual consumption
 - 4.46 years

- The amount of water used to frack 1 well could supply the families of Green Ranch for nearly 4.5 years.
- Green Ranch sits only 2,000 feet away from the well.
- It has nearly 350 families.
- Developers plan to develop more homes, businesses and UISD schools around current and future well sites.

- Request: More information is needed at this time.
- The health, safety and well-being of Green Ranch residents and Laredoans is

now at stake.

- We ask that you TABLE the two permits until the risks are properly studied, and strong safeguards are put in place to ensure that horizontal drilling and fracking is indeed safe for our community.

Adolfo Campero, attorney for Laredo Energy, mentioned that he disagrees with Ms. Cortez because this was not a rushed process at all, and he would venture to say that it was the most time and scrutiny ever given by city staff and Council to a permit application of this nature. He went on to state that a permit was approved for this type of drilling in December by City Council adjacent to the Green Ranch Subdivision and that there were three different wells already drilled there with no incidents, complaints or need for emergency response. He added that he was in agreement with the conditions of the Special Use Permit and that they would comply with them and had responded explaining how they would need for them to be modified for them to be able to live with them. He concluded that at this point, there were only a handful of conditions added after the Planning and Zoning meeting which they found objectionable.

Planning Director Nathan Bratton reported that the Planning and Zoning Commission looked at a list of 22 questions and answers for Laredo Energy and they then imported those into the Special Use Permit language. He added that they had additional conversations with different experts and city staff and added a few more conditions for the review of Laredo Energy.

Jose J. Rodriguez spoke against the introduction of items 1 and 2.

Ron Castro stated that it is important that this situation not develop into a PR campaign, and that the conditions would have genuine capacity for enforcement. He added that if that would not be possible, then they needed to urge a tabling of the SUP so that Council could research the item and amend outdated ordinances with regard to appropriate and reasonable setbacks.

Priscilla Castillo stated that their problem was with the City of Laredo having outdated ordinances, not with Laredo Energy itself. She asked that they table the item because there wasn't enough time.

City Attorney Raul Casso reported that the permit application was a ministerial act, and Council had no discretion in granting the permit so long as the applicant would meet the requirements imposed by their ordinance. He added that the only restriction placed on this permit was the 600-foot setoff requirement, which had been met. He went on to explain that there was a law that spoke to it, and this was Chapter 245 of the Local Government Code which said that a law that applied to a particular permit was the law in existence at the time when the application for the permit was filed. He went on to state that as far as this particular permit application, what would govern it was the ordinance in effect at the time that the permit was filed although the current ordinance may be outdated. He advised that

if they chose not to grant the permit although they met with the qualifications specified in the ordinance, this law waived immunity that municipalities would otherwise enjoy (meaning that the municipality could be sued) and the only enforcement mechanism in that act meant that they could get a district court to order them to issue the permit.

Planning Director Nathan Bratton presented the general conditions:

1. The Special Use Permit is issued to Laredo Energy VI, LP (“Laredo Energy”) and is non-transferable.
2. The Special Use Permit is restricted to the site plan, Exhibit “A,” which is made hereof for all purposes.
3. The Special Use Permit must abide by statements made in letter, Exhibit “B,” which is made hereof for all purposes.
4. The Special Use Permit shall comply with all Fire Code requirements including the location and treatment of premises.
5. The Special Use Permit shall be subject to an annual inspection.
6. Laredo Energy agrees to execute a written contract with the City of Laredo, Exhibit C, binding it to abide by all conditions included in this Special Use Permit.

Prior to the commencement of any drilling activities, including clearing, grubbing, or any earth-work, Laredo Energy, its partners, subsidiaries, agents or employees hereinafter cumulatively referred to as “LE”) shall:

1. Move the drilling site one hundred fifty feet (150 ft.) north of the current site.
2. Provide updated metes and bounds description of the site as well as a survey map of the site showing any flood plain within the general area as well as access roads to the site from any public roadway.
3. Obtain Haz-Mat Permit from the Environmental Service Department which conforms to Laredo’s Hazardous Materials Storage and Handling Ordinance and update the chemical storage information as required.
4. Obtain a Storm Water Permit from the Environmental Service Department which conforms to Laredo’s Storm Water Management Ordinance. All captured storm water will be removed from the site and transported to a licensed commercial disposal facility.
5. Obtain a permit from the Laredo Fire Department for any above ground fuel storage containers.
6. Conduct an air quality assessment of the drilling site, the Green Ranch neighborhood and at least one additional site in the surrounding area and provide the results to the City of Laredo Environmental Services Department and Health Department prior to the spudding of the well.
7. Provide a copy of General Liability insurance (Section 24.72.10(1) Bonds and Insurance, Laredo Land Development Code) as well as a surety bond in the amount of One Hundred Thousand Dollars (\$100,000) as provided by Section 24.73.10 (2) Bonds and Insurance, Laredo Land Development Code.
8. LE shall provide the City of Laredo Fire Chief or his designee a copy of its Emergency Management Plan for the drilling operations at this site no less

than fourteen (14) business days prior to the commencement of drilling (spudding the well). The Emergency Management Plan will include information on the type and location of all emergency equipment, shut-off valves and relief valves as well as protocols and procedures to be used in the event of an emergency and a copy of the emergency preparedness or training records of the personnel working at the site.

9. The Emergency Management must also include and incorporate requirements from the Emergency Planning and Community Right-to-Know Act, and require reporting to the City of Laredo Fire Department, Health Department and Environmental Services Department within 30 minutes or less of discovery of: produced water spills greater than one barrel, oil spills greater than five barrels, any fires or unexpected gas releases, any worker injury requiring EMS response.
10. The Fire Chief will, without unreasonable delay, review the Emergency Management Plan and approve the plan or request changes and modifications to the plans and then approve the amended Plan.
11. Twenty foot noise abatement walls will be installed on the edge of the drilling pad prior to the spudding of the well as well as for any compression facilities operator installs.
12. Noise abatement walls shall, to the extent feasible, shall be installed in a manner which reduces the impact of lighting on nearby residential neighborhoods. All lighting shall be directed down and/or in toward the drill site.
13. Water trucks with sprayers shall be utilized a minimum of two times in a twenty-four hour period to control dust on the pad site and unpaved roads which provide ingress and egress to the pad site, should the City of Laredo Health Department find the level of dust or particulate matter is smaller than 10 micrometers it shall direct LE to increase the frequency of spraying accordingly.
14. Water for the spraying operation may be from water wells on the lease premises or surface water on the lease premises.
15. LE shall utilize U.S. 83 north or I.H. 35 north to their intersection with S.H. 255 to its intersection from F.M. 3338 to its intersection with the proposed Hachar Parkway (located north of Millenium Industrial Park) for all heavy truck traffic accessing of leaving the site.
16. LE will provide the City of Laredo Environmental Services Department and City of Laredo Health Department with a Pre-Drill Site Assessment of the subsoil conditions.
17. All storage tanks, tank batteries and surface tanks shall have flame arresters installed, have lightning rods and shall be grounded.
18. Install windsocks at the Green Ranch neighborhood and the site the locations of which shall be approved by the City of Laredo Health Department Director.

Drilling stage:

1. LE shall use a "closed loop" system in lieu of any earthen reserve pits during the drilling operation. Any waste derived from this system shall be removed

- from the site and disposed of at a licensed commercial disposal facility.
2. All fluids from flowback operations and other produced water shall be contained in surface tanks and subsequently transported via vacuum trucks to a licensed commercial disposal facility at least once every fourteen (14) days. All tanks shall be inspected prior to use. LE shall have personnel on-site on a 24 hour basis during the flowback period which is anticipated to last 7-10 days.
 3. Conduct air quality assessment of the drilling site, the Green Ranch neighborhood and at least one additional site in the surrounding area and provide the results to the City of Laredo Environmental Services Department and Health Department during the drilling operation.

Post-Drilling Activities:

1. There shall be no venting or flaring of natural gases or other combustible materials from completion, production, or other activities, except for safety reasons.
2. Within 14 calendar days of the completion of the well conduct an air quality assessment of the drilling site, the Green Ranch neighborhood and at least one additional site in the surrounding area and provide the results to the City of Laredo Environmental Services Department and Health Department during the drilling operation.
3. Within 14 calendar days of the completion of the well LE shall provide the City of Laredo Environmental Services Department and the Laredo Health Department with an analysis of the subsoil conditions.
4. Any compression of wells on site shall utilize either natural gas powered compressors or electrical compressors in order to abate noise.
5. LE shall have tank battery monitoring in a manner consistent with standard operating procedures, industry best management practices and TCEQ regulations.
6. Post completion activities (after the well has been turned to sales) shall be conducted during daylight hours.
7. Provide the City of Laredo Environmental Services Director and Health Director LE's standard well abandonment and site rehabilitation plan.
8. A final site closure and restoration plan designed to restore the site to natural conditions, to the extent feasible, shall be submitted to the City Environmental Services Department within sixty (60) days of cessation of production in commercial quantities unless an extension is granted for good cause.
9. LE shall allow representatives of the Laredo Fire Department, Laredo Health Department and the Laredo Environmental Services Department access to the site. LE shall have the right to accompany and escort any City representatives at the site.
10. The site is subject to an annual inspection.
11. Air Sampling shall be by Summa canisters utilizing TO-15 analysis and continue until the well is abandoned.

Adolfo Campero stated that they did not want to sidestep the ordinance and opt

out of the legal framework existing in the State of Texas, which would be done by entering into a contract, something that they were not willing to do. He went on to explain that they could impose conditions that were commercially reasonable and necessary as long as they did not conflict with the ordinance itself.

He then spoke on the second condition #6, stating that it seemed vague as to what constituted an air quality assessment; however, they were willing to conduct an assessment at their own expense to test for H2S, methane and VOC's. They wished to know who would be interpreting and implementing that.

He added that as regards condition #11, they did not know yet if compression facilities would be required and it may be unreasonable to require walls if they would be located some distance from the nearest landowner, depending on where they were located and so they asked that this may be determined at a later date.

He advised regarding condition #13 that the time period prior to drilling was not defined, and so he asked that it be during times when there were active operations.

He stated concerning condition #15 that they could not agree to reroute all heavy truck traffic, and they did not want to be prohibited from using Mines Road.

Finally, he concluded that condition #1 on page 4 under Post-Drilling Activities conflicted with the ordinance.

Motion to table for seven days.

Moved: Cm. Altgelt
Second: Cm. Perez

No voting took place.

Cm. Vela stated that he questioned Cm. Altgelt's privilege of tabling the items due to a wish to cease discussion or to take no action during this meeting.

Motion to kill the table.

Moved: Cm. Vela
Second: Cm. Gonzalez

For: 6
Cm. Gonzalez
Cm. Rangel
Mayor Pro Tem Narvaez
Cm. Vela
Cm. San Miguel
Cm. Balli

Against: 2
Cm. Perez
Cm. Altgelt

Abstain: 0

Motion to postpone until the following meeting.

Moved: Cm. Altgelt

Second: Cm. Perez

For: 2

Cm. Altgelt

Cm. Perez

Against: 6

Cm. Gonzalez

Cm. Rangel

Mayor Pro Tem Narvaez

Cm. Vela

Cm. San Miguel

Cm. Balli

Abstain: 0

Motion dies.

Motion to approve as amended to include that at Monday's Council Meeting the conditions regarding which Laredo Energy had concerns be addressed; that staff be directed to change setbacks from 600 to 1,200 feet; that staff work with TML to explore an option of creating an injunction with HB 40; and that they increase their notice from 200 feet to 1,500 feet.

Moved: Cm. San Miguel

Second: Cm. Gonzalez

For: 6

Cm. Gonzalez

Cm. Rangel

Cm. Vela

Mayor Pro Tem Narvaez

Cm. San Miguel

Cm. Balli

Against: 2

Cm. Altgelt

Cm. Perez

Abstain: 0

Motion to close the public hearing and introduce.

Moved: Cm. San Miguel

Second: Cm. Gonzalez

For: 6

Cm. Gonzalez

Cm. Rangel

Cm. Vela

Mayor Pro Tem Narvaez

Cm. San Miguel

Cm. Balli

Against: 2

Cm. Altgelt

Cm. Perez

Abstain: 0

Ordinance Introduction: City Council except Cm. Altgelt and Cm. Perez

2. Public hearing and introductory ordinance amending the Zoning Ordinance (Map) of the City of Laredo by authorizing a Special Use Permit and Drilling Permit for Oil and/or Gas Extraction and Production for Hachar 6H Well on a 2.62 acre pad site out of a 6,132.06 acre tract known as the Hachar Lease, located East of F.M. 1472; providing for publication and effective date.

Staff is in support of the application and the Planning and Zoning Commission recommends approval of the proposed Special Use Permit. District VII

Motion to open the public hearing.

Moved: Mayor Pro Tem Narvaez

Second: Cm. Vela

For: 8

Against: 0

Abstain: 0

This was discussed together with Public Hearing #1.

Motion to close the public hearing and introduce.

Moved: Cm. San Miguel

Second: Cm. Gonzalez

For: 6

Against: 2

Abstain: 0

Cm. Gonzalez

Cm. Altgelt

Cm. Rangel

Cm. Perez

Cm. Vela

Mayor Pro Tem Narvaez

Cm. San Miguel

Cm. Balli

Ordinance Introduction: City Council except Cm. Altgelt and Cm. Perez

V. EXECUTIVE SESSION

None.

VI. ADJOURNMENT

Motion to adjourn.

Moved: Cm. San Miguel

Second: Cm. Rangel

For: 8

Against: 0

Abstain: 0

I, Gustavo Guevara, Jr., City Secretary, do hereby certify that the above and foregoing is a true and correct copy of the minutes contained in pages 01 to 11 and they are true, complete, and correct proceedings of the Special City Council meeting held on May 27th, 2015.

Gustavo Guevara, Jr.
City Secretary