

**PLANNING COMMISSION SPECIAL MEETING**

**Kennedy High School, Multi-Purpose Room  
4300 Cutting Boulevard  
Richmond, CA 94804**

June 5, 2008  
7:00 p.m.

**COMMISSION MEMBERS**

Virginia Finlay, Chair  
Stephen A. Williams  
Charles Duncan

Vice Chair Nagarajo Rao  
Jeff Lee, Secretary  
Vacant

The meeting was called to order by Chair Finlay at 7:00 p.m.

**Vice Chair Rao** led in the Pledge of Allegiance.

**ROLL CALL**

**Present:** Chair Finlay, Vice Chair Rao, Secretary Lee and Commissioner Williams and Duncan

**Absent:** None

**INTRODUCTIONS**

**Staff Present:** Director of Building and Planning Richard Mitchell, Senior Planner Lamont Thompson, Ellen Garber, Attorney; Principal Planner Janet Harbin; Assistant City Attorney Carlos Privat; Assistant City Attorney Mary Renfro.

**Others Present:** Mr. Chuck Bennett, Bob Barank and Tim Morgan of ESA; and Brewster Birdsall of Aspen Environment; Barry Young, Greg Solomon, Brian Bateman and Janice Stromberg of BAAQMD.

**Chair Finlay** provided an overview of the procedures for speaker registration, stating persons wishing to speak on a) greenhouse gas emissions in the EIR; b) clarifications, amplifications, and insignificant modifications necessary to finalize the EIR; and c) conditions of approval addressing the crude slate issue and other issues raised by staff should file a speaker form prior to discussion of the item. She reviewed public hearings held, continuation of the public hearing and outline of the presentation, and other restrictions and meeting protocols contained on the formal agenda.

**Continued Item**

- 1. DR/CU/EID/EIR 1101974 – Chevron Energy and Hydrogen Renewal Project at 841 Chevron Way** - The Planning Commission will continue the Public Hearing to deliberate and make a decision on the proposed project's Design Review Permit, Conditional Use Permit, and adequacy and certification of the Environmental Impact Report (including a Draft and Final EIR, with associated Technical Appendices) for the Chevron Energy and Hydrogen Renewal Project, located at 841 Chevron Way in Richmond, California (APN: 561-040-016; 561-100-003, -001, -003, -008, -009, -010, -011, -012, -013, -017, -020, -025, -026, -029, -034, -035, -036, -036, -037, -038, -040; 561-400-008; 561-410-002; 561-410-003). The applicant proposes to replace the existing Hydrogen Plant, Power Plant, and Reformer, tanks and install new equipment in order to increase the Refinery's ability to produce gasoline that meets California specifications, and use a wider range of crude oil sources than are currently processed. The new equipment would improve Refinery reliability, energy efficiency, meet State and Federal Standards and add environmental controls. Chevron Products Company, owner/applicant. Planner: Lamont Thompson.

Senior Planner Thompson gave the staff report, said a 50% performance standard was set to address greenhouse gas emissions on Chevron Property and Chevron does not agree. Volume 6 was reprinted to clarify and consolidate the EIR and no significant, new information was included in the document. Numerous letters were received since, and he introduced Dr. Ron Sahu.

Ron Sahu, scientist and engineer consultant, discussed his work to provide expert opinion to City staff to sort through disparate and conflicting conditions the City was crafting with regards to the project as part of the CUP. He hoped to convey information which balances concerns and benefits from the project, said he met with Chevron staff, CBE, and discussed his work in evaluating the project in accordance with what the project is proposing, as was discussed and commented upon; evaluated its consistency with CEQA; reviewed the laws of physics, chemistry and engineering that apply to the project; and reviewed common sense economic principles. Two issues were dirty crude and heavy crude, which were used anonymously throughout the proceedings, and both are not interchangeable terms, but a fair amount of testimony has been made about the dangers of using heavier crude and conditions C.12 and C.13 discuss the balancing act between the two and gets to the environmental goal of CBE, but doing it in a simpler, more effective and more robust manner. Another concern was flaring emissions, and innovative conditions have been created to address them. He worked to craft conditions so that in the future, they will get to a more data rich and opinion poor place, as time progresses. He said conditions have been put into place to address the major issues; the crude slate issue, the flaring issues and the monitoring issues.

Commissioner Duncan questioned what Mr. Sahu's rationale was of opting out of the cap. Dr. Sahu said there is a cap, but a very specific and narrowly constructed cap on a particular piece of equipment. Because the refinery is a connected and complex process, you can think of it as a chain and a chain is only as strong as the weakest link, which should be focused on, and if properly constrained, not all other links in the chain should be worried about. He said things will need to be monitored and kept track of and the City is better off something that will provide the best results and the equipment allows Chevron to do this. Regarding the reasonably foreseeable argument, could Chevron change the refinery and go with a different type of processing that would allow them to do different types of crude, it is, but it must be vetted in the public light, with permits obtained. But under its current and not easily changed configuration, the cap serves the purpose. He said Chevron most likely does not like the limits on the cap, which goes fundamentally with the project description. He added that just because one can do a little heavier crude, this does not imply it is dirty crude coming into the refinery or that it will

necessary exist the refinery in the air or water stream so as to cause environmental impact outside of the refinery. But not relying on that, conditions are crafted where Chevron must account for things coming in and out of their refinery.

Commissioner Duncan asked for a definition of heavy versus dirty crude. Dr. Sahu said heavy crude has to do with definitions of API gravities in the heavy range of 18 or below. Dirty crude is loosely defined and not an agreed upon term, but in this project's context, it means crude that has higher levels of contamination such as a higher metal.

Commissioner Lee confirmed with Dr. Sahu that the heavy crude is not at issue, but it is heavier than what is currently being used in the refinery. He referred to Condition C.13 and whether incoming stock can come through the pipeline and he questioned why this was important. Dr. Sahu said the condition merely states the current obvious scenario; it is not constraining to the applicant, but is a condition that is simply put on paper recognizing that the process of crude oil coming from central California will continue.

Vice Chair Rao said dirty and heavy crude has been brought up and he confirmed with Dr. Sahu they have been used, but one can be heavy without being dirty and dirty without being heavy. Lower API gravity crude by definition would be heavier crude. He said if heavier crudes are going to be processed, what it means is you will have a greater proportion of the tar arysidium fraction. Most of the contamination will be partitioned into that fraction. Dr. Sahu said if you were to make a single statement that, are lower API gravity crudes more likely to contain heavier metals and contaminants, that is possibly true, and heavier sulfurs, as well.

Vice Chair Rao said upon preparing the report, he asked Dr. Sahu if he presented it to the City or Chevron, and in going to either one or both, did he come across minor changes or modifications of the report. Dr. Sahu said there is no work product, he met with Chevron to get an understanding after having met with City staff, he received information, then met with CBE, and from that point on, he worked with City staff, outside counsel to get at the heart of creating the permit conditions and his work product is reflected in the conditions which are before the Commission.

Vice Chair Rao questioned confidential information and Dr. Sahu said it is not uncommon for companies to have confidential information and he asked for certain data which was useful to him in his evaluation and development of permit conditions. He reiterated there was no stand-alone report. He said he has reviewed the EIR, confirmed that his contract is with the City, and said he was a neutral party.

Chair Finlay disclosed that on June 4<sup>th</sup> she and Commissioner Lee held meetings with CBE, Asian Pacific Environmental Network, and the Ocean Organizing Project, Zell & Associates, and Bob Chamberlain with Chevron to hear concerns. Commissioner Lee said in addition, he met with two representatives from Chevron, a conference call discussion with the BAAQMD. Vice Chair Rao said he met with the Asian Pacific Environmental Network and on June 9 he attended the meeting as an individual. Commissioner Williams and Duncan said they did not meet or speak with anyone.

#### Applicant Presentation:

Mike Coyle, General Manager for Chevron's Richmond Refinery, thanked everyone for their efforts into making the EIR and CUP as sound as it can be, believed it has been thoroughly evaluated, said emission to the environment are minimized and in most cases, reduced, the

project will improve their record on flaring, he gave a recap of the renewal project and their work with staff, consultants, the community and BAAQMD, and asked the Planning Commission to consider approval of the conditional CUP.

Bob Chamberlain, Manager of the Renewal Project Permitting project, Chevron, discussed the amount of work that has gone into the EIR, said they have worked hard to resolve as many issues as they possibly could, and said key findings identified are that there is no switch to heavy crude, no increase in greenhouse gasses, there is a reduction of criteria air emissions, they mitigate VOC emissions to insignificance and they plan to take them down to zero, and the project meets all public safety and health standards, flaring will be reduced, there will be new equipment modernization, their gas systems will all be cleaner, there was no credit given for the health impacts removed and taken away completely by shutting down the old equipment, and the new equipment alone exceeds the Air District's health risk standards. He said there is no hidden plan by Chevron to process heavy crude and the project is as exactly as described in the EIR. He discussed they types of crude Chevron is able and not able to run, future crude ranges, sulfur limits, flaring, their need to meet permit requirements of the Air District and the Regional Water Quality Control Board, graphs of levels of ozone in Richmond which shows good air quality which will only get better, and he thanked everyone for their efforts to date, said they are pleased with the progress, and asked the Commission to move forward by certifying the EIR and approving the CUP.

Vice Chair Rao said Dr. Sahu indicated that there is more sulfur content is there in lower API gravity crude oil, and he shared Form 10K from Chevron which was filed with the SCC on February 28, 2008 and read page 25 and 26 from the document, in part; "In 2007, the company completed modifications at its refineries in El Segundo, California to allow the processing of heavier crude oil into gasoline, diesel and other light products and in the United Kingdom to increase the capability to process Caspian blend crude oils. In October 2007, the company approved plans to construct \$500,000 million continuous catalyst unit at the Mississippi refinery which is expected to increase gasoline production by 10% or 600,000 gallons per day by mid-2010. Design and engineering for the project to increase the flexibility to process lower API gravity crude oils at the company's Richmond, California refinery continued in 2007."

Mr. Chamberlain said the comment relates to the renewal project, and as he clarified in his presentation, any increase in API gravity would be within the range of what they currently run at, so they need the flexibility to run crude oil to an API gravity of about 28 which is their current range, and they do not plan to go beyond that, and that is the scope of their project.

Commissioner Duncan said in the staff report, he confirmed with Mr. Chamberlain that there is a reference to an increase in sulfur content from 1.7% to 3%, which was correct.

#### Opponent Presentation:

Roger Kim, Asian Pacific Environmental Network and the Richmond Alliance for Environmental Justice, questioned whether Richmond will be a hub for dirty oil refining or will it choose to be a global hub for solutions by supporting clean and green technology, development and jobs. If approved, the project will be approved based on secrets, deceptions, and confidential information from Chevron, it will lock Richmond into the Bay Area into decades of increased pollution, more children with asthma, more cancer, more spills, fires and explosions. He asked the Commission to adopt a comprehensive cap on the type of oil Chevron will process, re-circulate the EIR.

Greg Karras, Senior Scientist, CBE, thanked the Commission for paying attention to the project, Dr. Sahu for clarifying that heavier oil doesn't necessarily have to be dirtier; lighter oil can, as well. Regarding whether staff's proposed cap would adequately prevent increased pollution impacts from the heavier oil refining Chevron has admitted to and increase contamination. He felt this was the heart of the matter, Chevron expects to include tar sand derived oils, and he said his main concern is the pollutants that come in that would not be limited at all by the proposal staff is making and being distributed potentially anywhere in the refinery. There are other pollutants and those sometimes come in the lighter distill cuts and often come out in gas oil. The second question he was asked to answer is, suppose staff's proposed cap on the SDA were to be in place and all of the controls on the output that are needed were to be in place, the question is do we still need to cap the oil quality. Can we limit or control the pollutant outputs instead of the pollutant inputs, and the simple answer is no. The reason Chevron continues to show average levels is that the wind blows a lot and the average levels are not the problem, but the issue is you cannot hold your breath when there is a major flare or spill. Flaring has been proven to impact air quality, he presented examples of flaring from Chevron and 4 other refineries which shows it went up to 1% to 1.7%. He said the concentration of emissions from flaring goes up as the level of sulfur goes up, and Chevron has significant incidents more often at times when they are running a higher sulfur slate. As it went up, they flared more which demonstrated poorer air quality. He further discussed emergency situations which are exempt from Air District rules, but Chevron will get more products from refining heavier oil when they put a larger amount of more flammable, toxic, acidic, corrosive material under high temperature and pressure.

Julia May, CBE, said she was brought in for additional technical evaluation, said the Commission is right in looking at the crude cap issue, however, she concurs the EIR does allow Chevron to increase hazardous sulfur compounds inside the refinery that are going to cause significant impacts, but beyond the crude cap issues, there are basic Clean Air Act and CEQA deficiencies not being met by the EIR. Chevron plans to bank emission credits from reductions from the project, so the EIR calculates the emissions as if the emissions are going to go away. Unfortunately if Chevron banks those credits, they get to take them out of the bank later to increase emissions later. So, consequently, the EIR cannot be approved because the results are entirely wrong because they count those reductions as real reductions in emissions, which are not permitted. She said there is no discussion in the EIR on uncontrolled pressure release devices, said they are essential to prevent equipment from over-pressure, and new equipment is venting to the gas recovery system, but unfortunately they have admitted that the TKN unit will not have control on their pressure relief devices, so they could emit up to 150 tons of VOCs, and a host of other toxins, which were not included in the EIR. Beyond the crude slate cap, there are other severe problems with the EIR and she urged the Commission to add the cap because without it, hazardous sulfur compounds and metals will be allowed to increase.

Adrian Block, CBE, said this process is exactly the type of situation CEQA was designed to address and she discussed the CEQA process and need for disclosure, stating it is not about balancing interests but disclosing impacts. She read quotes into the record from Chevron representatives, asked for a true project description and asked that the City demand it.

Torm Nompraseurt, Asian Pacific Environmental Network, recognized members in the audience, said they trust the City will do the right thing for the community's health and future, asked to make Chevron accountable, asked the Commission to cap the quality and quantity of the crude or re-circulate the EIR.

Dr. Henry Clark, West County Toxics Coalition, said the issues relate to environmental justice, asked the Commission to take a stand, clear the air in Richmond, and spoke of the laws of environmental justice and the fight for the Richmond people from chemical assault.

Greg Karras, said he received Chevron's late comments tonight, he worked on the cap with the Attorney General's office and Chevron called it unprecedented.

Vice Chair Rao referred to the presentation made by the applicant of Richmond's air quality, this is the first time he learned Richmond's air quality was one of the best, and provided a copy to Mr. Karras and asked for comment on averages taken.

Mr. Karras said Julia May is an expert on the ozone standards, but this is one of many pollutants of concern, a lot of smog is most concentrated in Sacramento, and it is not a good example of a pollutant to use as an example unless one is trying to hide what is really going on. The major important point is that in this community, concerns about air quality are disproportionately concerns about what happens a small amount of the time, but is very bad. He analyzed more than 50,000 data at Chevron and other refineries and the record levels of sulfur compounds were always on days when flaring occurred. The entire mixture of pollutants is what people are smelling; what is burning their eyes, and what one should think of is how long can one hold their breath. Therefore, people should question what are the impacts in the worst hour or incident, and that is why the data is misleading.

Julia May said specifically it is the wrong pollutant to look at relating to Chevron's impact because ground level ozone is not directly emitted from Chevron. It is the product of reactivity of other pollutants in smog. Pollutants directly coming out of this project locally are SOx, NOx, VOC's, and benzene.

Dr. Henry Clark disagreed with Chevron's assertions, citing asthma, cancer and other health and respiratory problems and noted Chevron representatives did not live in Richmond.

Commissioner Duncan said he was unaware that certain crudes circumvent the solvent de-asphalter, and if this is the case, how would the cap be augmented to focus on the SDA?

Mr. Karras said none of the scientists at Chevron are saying the whole crude is going in raw into the SDA, but what they are saying is that crude goes into the distillation units and then it boils and the heaviest part of that is going into the SDA, and other oils are going into the refinery, which is the question. He said their proposal is to do three things; 1) cap the crude at the solvent de-asphalter; 2) the solvent de-asphalter is a bottleneck and when you add the cracking processes, this gets to where they bring the other heavier crude in, so they recommend capping the cracker for volume; and 3) they looked at the oil input and output, and there is significant variability. Chevron already blends oil for business reasons and they measure it and he believes 80% of them would meet the cap, but it comes in two different ways—a crude oil input, and they just learned gas oil can sometimes include pre-processed tar sands which are very, very contaminated oils and polluting and can range in quality. He asked to cap the crude in put after blending, cap the separate imported oil input after blending and cap the volume as staff proposes at the SDA and then add the cracking processes.

#### Presentation from TRAC:

Bruce Baeyart, Chair of TRAC, said this is the only opportunity for the City to undo the roadblock and complete its portion of the San Francisco Bay Trail, he spoke of the study done

for the Option 2 route which is the best route, asked the Commission to adopt Condition H, recommended in Exhibit A of CUP Resolution 08-03, require Chevron to place \$5 million in escrow to help the City design and build the Bay Trail segment, and require Chevron to maintain the trail facilities by it.

## **BREAK**

Chair Finlay called for a 10-minute break at 9:12 p.m. and thereafter reconvened the special meeting at 9:22 p.m. She asked that first neutral speakers come forward, then opposed speakers and then those supporting the request. She briefly read into the record speaker protocols and ground rules.

Daniel Dolsted requested a proper bike trail be built around Chevron to Pt. Malady, noting he and his friend were hit while riding their bikes.

Michael Meyer spoke of Mr. Dolsted's paralysis caused by the accident and his friend who died from the injuries, asked for the dangerous bike route from Pt. Malady to be fixed, and supported the recommendations of TRAC.

Zelda Holland spoke of her friend's death due to Chevron not building the Bay Trail extension and hoped for it to be done.

Janie Anker said she is not neutral, said the crude oil is killing people in Richmond, questioned why the refinery is in Richmond and not in the shareholders' headquarters, spoke of significant letter-writing without response and asked Chevron to live up to their promises.

Mitchell Anderson felt it was important to assess the motivations of each side, said scientists have cited the consistency principle where Chevron is interested in its own self-interests, and the community is motivated solely by concerns of health. He said Chevron dumped 18 billions of toxic wastewater into the Amazon creating a public health crisis 40 years ago and felt they are not operating in good faith.

Reverend Kenneth Davis spoke for the many who cannot speak for themselves, said he coughs and gags every morning, and begged the Commission to study the request further, and hoped for a right and proper decision.

Khamphany Phaphonychanh voiced concerns over health and Chevron's expansion.

Marleen Quint spoke of her breast cancer and her other diseases, Chevron's poisons coming from their stacks and demanded the City cap the crude.

Ginny Reed said she met a top executive for Chevron at an event who was stunned she lived in Pt. Richmond, asked Chevron to clean up their act and look for a new environment.

Juan Reardon opposed the lack of common sense and environmental justice policies staff has brought forward with their recommendation, demanded a crude cap and a re-circulated EIR, questioned the number of lives lost due to toxins and urged the Commission not to allow Chevron to further poison people.

Rose Marie Castro said heavy or light crude is still dirty crude which dirties the air, asked to cap the crude and re-circulate the EIR.

Jovanka Beckles spoke of presentations from community members, Chevron's monetary interests at stake and asked not to approve the project without capping the crude slate.

Victoria Sawicki spoke for those people in other countries whose lives have been devastated by big oil, said on her block there are 3 residents with breast cancer, 1 lung cancer, 1 brain cancer and 2 asthma, had her indoor air tested and she found she lives in a toxic dump and chemicals are exclusively from the refinery.

Terry Schoaff, Contra Costa Council, spoke in favor of the project on behalf of economic growth and development, Chevron's new equipment and emission reduction.

Antwon Cloird, Local 324, spoke of his experience working in refineries and stringent safety regulations, jobs and tax revenue for the City.

Terry Palumbo, speaking on behalf of Chevron employees, said everyone has the same goal—a clean environment, which he felt the project provides.

Richard Lompa said we would be a third world society if not for Chevron and believes they are a world-class company.

Jason Gallia, Local 324, said he was born and raised in Richmond and supported the jobs and economic growth Chevron will bring to the City.

Alferd Rolling, Local 324, spoke of the jobs, training and economic impact Chevron provides and said people need jobs.

Jim Jacobs, International Union of Operating Engineers Local 3, Sacramento, introduced Rick Miller who wears a picture of his family around his neck, introduced all labor employees who stood up, and said Chevron promotes safe operations and felt the expansion is a win-win for both sides.

Paul Miao asked the Commission to approve the project and felt sources of future energy will be limited.

Leo Debose, Director of East Bay Biking Coalition and Director of the Bay Trail, said they have tried to get access around the refinery and asked the Commission to provide this access for bicycles and pedestrian uses.

Tarnell Abbott spoke on behalf of the more than 350 members of SEIU members who oppose the proposed plan, urged the Commission to require re-circulation of the EIR and to put a cap on the crude. Ten permanent jobs will not bring back those who died of cancer at the refinery and she read the names into the record.

Reverend Franklin Sterling thanked the Commission for being the stewards of the air, said there are between 7-8 million people in the Bay area who breathe the same air and whatever toxins are expelled goes all over the Bay area.

Scott Denman said he represents many clergy groups in the Bay Area, said certain aspects of the EIR have not been studied, and asked to end the meeting with justice for all.

Joey Smith urged the Commission to not permit the CUP, we know the new green economy is not going to be based on heavier crude and said Chevron has a pattern to use communities as a latrine.

Malcolm Quint said his wife suffered from breast cancer, thyroid disease, a hysterectomy and our family suffered along with her, said talk is cheap and action is dear and asked the Commission to provide legally binding assurances that emissions will be decreased and not just empty promises. He asked to cap the crude, re-circulate the EIR and make Chevron provide legally binding guarantees to reduce emissions.

Ruth Gilmore said everyone is affected by bad air, felt there is a crisis and asked for everyone to work together.

Paul Kilkenny felt the draconian issue here is that Chevron sucks oil out of the earth, uses it to line its pocket and leaves everyone with lots of pollution, particulate matter, VOCs and toxins. He asked the Commission to institute the cap, make sure the environment is better, and do what is right.

Dr. Jeff Ritterman said the deepest concern is for the health of the community, said he does not feel confident that there won't be more pollution without a crude cap and we cannot afford more greenhouse gasses.

Vice Chair Rao confirmed with Dr. Ritterman's single most concern about the project is the health of the community and planet.

Jeremy Miller spoke as an ex-employee of Chevron and ex-resident of Richmond and a victim of adverse health effects, stating Chevron can pollute the community resulting in disease and death and questioned fiscal responsibilities and environmental impact.

David Solnit said his company works with peace issues and climate issues, urged the Commission to re-circulate the EIR and have a comprehensive cap on the crude.

Antonia Juhasz, Oil Change International, said the key word Chevron uses is "flexibility" to their ability to refine different levels of crude, they cannot guarantee they will not refine heavy crude and the reason is that the world's supply of crude is changing and Chevron must respond to the change in heavier crude. The information provided to investors is different from what they provide to the community, and she showed a map of their global heavy oil portfolio, demonstrating their increased production of heavy oil.

Vice Chair Rao asked for a continued explanation from Ms. Juhasz. Ms. Juhasz said we should ask the question why Chevron is doing this project. If they only wanted to replace 70 year old pipes it would be great, but the reason they are doing the project is for the increased flexibility to meet their new crude stream, which is heavy oil and they have not guaranteed to anyone adequately that they will not be refining heavy oil.

Jessica Tovar, CBE, felt the final EIR is incomplete, and if certified, the Commission would consciously be violating the environmental justice of the City of Richmond and surrounding community. She introduced a woman and her children who lives directly across the refinery for 14 years suffering from respiratory problems and allergies, and asked for a comprehensive cap.

Sean McConnell said he is a big supporter of unions and jobs and believes the refinery was built in 1902, but questioned where were the jobs in Richmond, improved environment, and he asked what the refinery was also doing to the bay.

Bill Pinkham, East Bay Bicycle Coalition, was not opposed to cars as long as they do not run on gas and said if Chevron was really concerned about the environment, they would take some of the obscene profits and devote them to alternative energy research.

Lepo Jim Tsnasack opposed Chevron's request and cited health concerns.

Thongsoun said he has lived in Richmond for 30 years, said many community members have died from cancer and asked to have Chevron to tell us everything they are planning to do.

Torm Nompraseurt, Chair of the Asian Pacific Environmental Network, supports Chevron to operate their business and jobs, but he asked them to disclose what they really plan to do and asked that they be made to do the right thing.

Michael Green, Executive Director, Center for Environmental Health, said their organization protects families from toxic chemicals and urged the City to protect the most vulnerable communities, prioritize community health over Chevron's profits, and toxins from flares were recently measured at record levels and spoke of impacts as a result such as bronchitis, respiratory problems, nausea, dizziness, confusion, loss of smell and decreased fertility.

Christine Cordero, CBE, said she is a survivor of cancer, said she lived next to a similar chemical company and had breast cancer at the age of 19, said more and more science shows chemical exposure is the trigger, and until Chevron can provide for clean jobs and clean health in Richmond, the Commission should not approve the project.

Adrienne Harris said she was trained as a computer scientist at UC Berkeley and the weakest link logic makes no sense, said Chevron has demonstrated an on-going unwillingness to provide adequate data to the City and she asked to re-circulate the EIR and demand comprehensive data from Chevron.

Michael Beer said we now know what "wider range of crude oils" really means and asked for a comprehensive crude cap.

Sylvia Hopkins said she is grateful for the continuance and work of the Commission, she has been told refineries are gearing up all over the country to do heavier crude processing, communities are crying out and she quoted Margaret Meade about citizens being able to change the world.

Sheryl Lane, Urban Habitat, said they stand is solidarity that the project does not affect the public's health, asked the Commission to consider all of the speaker's comments for quality jobs, a clean environment and improved public health which will show true corporate responsibility.

Chair Finlay confirmed the conclusion of public comments at 10:40 p.m. The Commission voted to continue the public hearing up to 11:30 p.m.

*Rebuttal - Applicant*

Bob Chamberlain, Chevron, said Mr. Karras presented a chart that appeared to show a trend of increased flaring related to increased sulfur in their crude oil. The trend was not actual quantities of flaring but the concentration of the gas stream that was being flared and he did not believe a conclusion could be drawn from the chart. He said he also believes the impression was made that they take tar sand and inject it into their process, but their comment referred to gas oils that are extracted from tar sands and not processed tar sands and he further explained the process. He also noted Julia May made references to the EIR allowing for the collection of ERC's, and the CEQA process does not allow ERC's to be used or credited. ERC's are part of the BAAQMD's new source review process and they are required for Chevron to do projects within that program. They have existing ERC's because of reductions made in the past, they were not able to use any of them to contribute toward the emission reductions of their project, nor will they be able to use emission reductions from this project on a future project under CEQA review. Regarding atmospheric pressure release valves, the Isomax is a general term to describe the area of the refinery, and he described the booster compressors which will be modified, and the situation will actually be better than it is today. In addition, Mr. Chamberlain said there was discussion about the ozone map and the project reduces emissions and the BAAQMD can confirm this. He reinforced they are not switching to heavy crude; they are looking at a variation of crude in the range of medium to light crudes and they believe that the environmental analysis has been extremely complete for the project, and asked the Commission to proceed with certifying the EIR and approving the resolutions and permit conditions.

#### *Rebuttal – Opponents*

Michael Leedy, West County Toxics Coalition, CBE and Teamster, asked for the Commission to mandate a comprehensive cap, requested re-circulation of the EIR, include missing data about dirty crude that Chevron wants to process, asked Chevron to refit the refinery with the least polluting technology but without dirty crude, make toxins part of the past and not the future, and asked the Commission to compost the project.

Greg Karras, CBE, said Chevron has indicated the crude cap is unprecedented, but he questioned this and said a cap is necessary and feasible and this should be all that needs to be proven. Soon utilities will not be able to buy coal-fired electricity from plants out of state, said sulfur goes out into the community and he questioned the cap was unprecedented. He asked the Commission not be a part of environmental racism and allow people who live by refineries the environmental protection that everyone else gets.

The Program Director of CBE said she has been working for 8 years with residents and environmental organizations on the health impacts of polluting industries, particularly the Chevron Refinery, testified that in all of her time, she has never witnessed such an incredible situation in regards to the audacity of Chevron's proposal and in regards to the enormous consensus in the community, certified experts, public interests lawyers, and public agencies around the fundamentally flawed nature and unacceptably high risk of a proposed industrial project. She said the Commission has been in the thick of complicated details and meetings to help them in their job. She said Chevron has proposed a project to upgrade and retrofit very outdated equipment which would also allow them to conveniently widen the range of crude oil that they can process. She said volumes of comments have pointed out to the inaccuracy of the EIR, hundreds of hours of independent research proves that Chevron has covered up a massive effort to enable the refining of heavier, dirtier and more contaminated crude oil that would result in a huge un-mitigatable pollution increase threatening the health of residents, air quality and global climate change. Five highly acclaimed scientists, experts, engineers, public health experts have explicitly stated they support CBE's findings, as well as the vast majority of the

Richmond community, and those in favor of the project all have one thing in common—a financial stake in the outcome. Unions have put their principles before their pocketbook and have said no to the expansion. CBE supports jobs for current and future workers, but not jobs that will threaten worker's health. She said Chevron should instead be building infrastructure for clean energy and fuel production providing hundreds of clean jobs for residents. She felt the Commission will make a choice and thousands of people will watch their actions, and she asked the Commission to vote on capping the crude and make a healthy, safe and just Richmond a possibility.

Dr. Henry Clark concluded, stating no representatives of Chevron live in or near Richmond, said the issue is more than just jobs, but jobs with dignity and safety, and nothing they have heard meets the requirements of environmental justice.

Mr. Thompson gave staff summation, stating staff recommends the Planning Commission certify the Final EIR for the project, finding it is adequate and complete, that it has been prepared in compliance with the CEQA and the City of Richmond's guidelines and procedures for implementation of CEQA, Resolution 125-03 adopted September 23, 2003, and that it reflects the City's independent judgment based on the analysis, documents, correspondence, verbal testimony and other material which constitutes a record of proceedings, all of which is set forth in Resolution 08-02 (Exhibit A). Staff also recommends that the Planning Commission adopt and make conditions of approval from all mitigation measures identified in the final EIR and in the CEQA findings, and in other pertinent conditions related to the project. Staff also recommends the Planning Commission adopt the mitigation and monitoring and reporting program attached in the proposed Resolution 08-02 as Exhibit B, adopt the zoning ordinance findings as set forth in proposed Resolution 08-03, adopt supplemental findings as set forth in Exhibit A to proposed Resolution 08-03 and approve combined CUP 1101974 and Design Review Permit 1104423 which is attached as Exhibit B to the proposed Resolution 08-03 subject to the conditions of approval listed therein, and instruct the Director of Building and Planning Services to send a letter to the State Lands Commission requesting that said Commission require that certain conditions of approval related to the Bay Trail to identify two ships for coal mining and to operating temperature of the Marine Vapor Recovery System be incorporated into the lease renewal for the Long Wharf.

Commissioner Duncan asked Dr. Sahu for his opinion. Dr. Sahu said Mr. Karras' comprehensive oil quality cap has three measure elements; 1) a set of volume caps through different pieces of equipment in the refinery which are expressed in barrels; 2) there is a set of quality caps for the crude oil. It cannot have as much sulfur, acidity, viscosity, and 3) a similar set of quality caps for the gas oil that the refinery is planning to import that will go directly bypassing its distillation process into what is basically the FCC area. He spent more time looking at those specific caps and the reason they were proposed and what their intent is than anything else over the last month and one half. He said the opinion could not be more considered. With the SDA limit he has proposed, Mr. Karras is satisfied that the crude side of things going into the refinery will not be any heavier than what is currently being done in the refinery. Therefore, there is no additional need to have the quality of the crude oil capped. He raises prima fascia that if the crude oil is getting any worse, then it will make everything dirty, it will make the likelihood of upset conditions, flaring, processing dirtier quality products throughout the refinery and exacerbate conditions of safety and flaring, which in turn could have environmental impacts. Dr. Sahu said refineries make money when the equipment runs and not when things are shut down. Catalysts will and can remove products so they do not go into the air and water streams which are the primary mechanisms where communities get impacted.

Dr. Sahu said Chevron has said they procure gas oil from a variety of sources. Their equipment will have the catalyst that is going to remove most of the metals. Some of the metals will partition somewhere differently. He has looked at each of the metals in detail, and the one limit where he and Dr. Karras did not agree was sulfur. Dr. Karras proposes a 1.5 cap on sulfur. Dr. Sahu said the applicant proposes a 3% sulfur limit, and he sees this as a re-definition of the project, which is a policy choice. Dr. Sahu said he believes that the manner in which the gas oils will be processed provides the necessary assurance that you do not need any additional caps. He also felt the focus should be on data collation on flare capacity as this is where community impacts are.

Commissioner Lee said condition C.12 and C.13 address this issue and he questioned if Dr. Sahu was comfortable that those conditions are capable of having the same effect in getting us where we want to be in preventing the use of heavy crude oil. Dr. Sahu said yes, taken together, they will get the City where it wants to be for heavy and heavier crude oils.

Commissioner Duncan questioned the reason there is confusion here. He said as stated in the EIR, with regard to GHG, the State of California has provided no guidance for the significance of thresholds. He said a revision to the EIR came out in May on page 4.3-24 of the consolidated document, stating, "since the time the BAAQMD advised the City on the approach that should be used in the EIR to analyze the effects in the environment of GHG's..." he asked where is the BAAQMD with regards to stepping up to the plate and developing criteria. He said one of the problems the City has had with the entire hearing is that City staff, scientists, and Chevron have been trying to hit a target that does not exist. BAAQMD is the agency that would define those criteria, and he asked for the status of this.

Brian Bateman, Director of Engineering, said their staff as well as other air districts and other lead agencies have been working a lot on this, but unfortunately, they are not quite complete in establishing a specific threshold of significance for GHG emissions under CEQA. For this particular project, after reading the Final EIR and response to comments, Chevron has committed to conditions that would assure that there would not be a net increase in GHG emissions associated with the project. Based upon that, BAAQMD feels that in terms of GHG issues, the impact is less than significant.

The public hearing was closed. Chair Finlay restated the options for further consideration by the Commission, appeal procedures.

## **EXTEND MEETING**

<p><b>ACTION:</b> It was M/S Duncan/Lee to extend the meeting until midnight; which was unanimously approved.</p>
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Commissioner Lee said he has dealt with this matter for six months now, said he is a mechanical engineer and he admitted that many of his decision-making is based upon the expert opinions and information provided by others.

Commissioner Duncan said at the outset when he came on the Commission, the first thing he reviewed was the EIR, which he found was starved for information and disingenuous. With the condensed version that came out in late May, some of the clarifications and mitigations having to do with GHG's provide some of the remedy he would like to see. He was not in favor of protracting the issue of the EIR any further. While it still has a lot of holes in it, there has been

more than ample discussion and comment on it. He would support a motion to certify the EIR with those reservations. He also said based on the CUP, the central issue has to do primarily with GHG's and those affected by them. The crux is a cap on the crude oils that come in and he would favor a comprehensive crude cap. This issue will go to the City Council, but he wanted to send a message to the Council that the health of the community is at stake, which he felt was the heart of the matter.

Vice Chair Rao said he supported bicycle access, Bay Trail, permanent and temporary jobs, but at the same time, he sees nothing in writing a crude cap, and thinks a comprehensive crude cap is a must in order for him to support the project.

Commissioner Lee said he debated the cap early on in the process, and in the last week or so he has become comfortable with Dr. Sahu's influence and work into the process, and he is comfortable with the conditions he has arrived at which he believes will give the same net end result as the crude cap. He also said he was impressed with an effort put forth by the BAAQMD. He asked them to compare conditions of staff with steady State current conditions, and he was amazed at how much more stringent the conditions are going to be on this process when approved than they are now, and he briefly discussed an example. He felt this project allows significantly higher levels of conditions and restrictions on the process than we would have if the project did not go forth at all. Therefore, he would not be in support of a crude cap for those reasons.

Commissioner Williams said based upon what he has heard, read, seen and experienced, he would be in favor of a crude cap. He does not know why it is being resisted by Chevron to the level it is, which makes him nervous, as well as the way Chevron is trying to accomplish the outcome.

Chair Finlay confirmed with the Commission they were amenable to separating out motions in order to handle one action at a time. She referred to the staff report that outlines the actions needing to be taken.

**ACTION:** It was M/S (Duncan/Lee) to: Certify the Final EIR for the project finding it adequate and complete, that it has been prepared in compliance with the CEQA and the City of Richmond's guidelines and procedures for implementation of CEQA; Resolution 125-03, adopted September 23, 2003; and that it reflects the City's independent judgment based on the analysis, documents, correspondence, verbal testimony and other material which constitute the record of proceedings, as set for in Resolution 08-02; Adopt and make conditions of approval all mitigation measures identified in the final EIR and in the CEQA findings and other pertinent conditions related to the project attached to proposed Resolution 08-02 as Exhibit A; Adopt the mitigation and monitoring program attached to proposed Resolution 08-02 as Exhibit B. Vote: 4-1. (Rao voted no).

Chair Finlay noted the next action is Item 5, to adopt the zoning ordinance findings, supplemental findings, and approve the combined CUP and DRP. She confirmed revised findings were before the Commission and those were the findings to be voted on.

Commissioners reviewed and discussed the conditions contained in the CUP to ensure they should be maintained in the CUP. Commissioner Duncan said to craft language for the motion, they want to define what the cap is, and he questioned Dr. Sahu how to properly propose the condition to put a cap on the type of crude after blending, a cap on the gas oil after blending,

and a cap on the volume. Dr. Sahu said Condition C.12 is far more stringent than what CBE has proposed, and Vice Chair Rao did not believe Dr. Sahu should be consulted on what he would like. Dr. Sahu said he spoke with Dr. Dolbert who is the expert of the Attorney General who had opined on the issue, and he felt comfortable with C.12. The Commission must decide whether they want a sulfur limit, and Commissioner Duncan said he would prefer the 1.5 limit. He said if you look at the different criteria which also can be limited, you have a much tighter control on the emission situation rather than just having one control. He acknowledged they are partitioning differently, but we are seeing crude of a certain quality passing through a system, but bypasses its restriction point, and Dr. Sahu said this is not crude but gas oils. Commissioner Duncan said then the question becomes how much is circumventing the SDA. Dr. Sahu noted that it is limited by the capacity of the DKC and the FCC, which are two units with finite capacity, which are not changing in the project. Commissioner Lee said he thought C.13 had something to do with this, and Dr. Sahu said it does; it provides the added assurance of the gas oils.

Commissioner Duncan said he would like a comprehensive crude cap, the meaning of which should be interpreted more fully, and conditions C.12 and C.13 would stay intact.

## **EXTEND MEETING**

<p><b>ACTION:</b> It was M/S (Duncan/Lee) to extend the meeting to 12:30 a.m. Vote: 4-1 (Rao voted no).</p>
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Chair Finlay said she believed some of the conditions that have to do with community benefits do not belong in a CUP. She said although she understands the legal arguments regarding nexus, police powers, and all other arguments on the project, she cannot understand some conditions that she believes are not within the Planning Commission's purview: Condition H.9 which makes Chevron do a semi-annual report to a non-legislative body; Condition J.4 which requires Chevron to spend \$400,000 annually on Richmond Builds; did not agree with the inclusion or fairness for Conditions J.5 and J.6; Condition H.5 which requires an urban forest and questioned how this could be watered; and the City's requests to make the State Lands Commission make conditions about Bay Trail improvements.

She also voiced concern that when the community package is negotiated between the Council and Chevron called exaction, in a desire to do things for Richmond, that money not be taken away to provide benefits from the actual issue at hand which is to spend as much money as we can at the plant to resolve environmental issues and actually be a community benefit.

Vice Chair Rao acknowledged Chair Finlay's statements, but said there are projects that come before the Commission like a development of 500 homes and we ask for a park or development impact fees, which he felt was no different. Chair Finlay described benefits from recent developments, and asked what other Commissioners thought.

Commissioner Duncan agreed and said he has written a community benefits condition that reads: "A community benefits package apart from project mitigation, Chevron shall fund a package of community benefits available to public interest institutions and organizations operating within the City of Richmond. The package shall have an aggregate value determined by the Richmond City Council and shall be administered by the City of Richmond." He felt the conditions could stay in, but the City Council would be the decision-maker. Commissioner Lee suggested interjecting a similar condition for the Bay Trail's condition N.2 to ensure it gets the same visibility.

Chair Finlay suggested deleting condition H.5, H.9, J.4, J.5, J.6 and Commissioners agreed.

Mr. Thompson asked that Commissioner Duncan make the motion as detailed as possible regarding the cap, and Attorney Privat suggested the Commission approve a cap and ask staff to develop the language and/or return the language to the Commission. Commissioners then discussed the date the language would return to the Commission.

**ACTION:** It was M/S (Duncan/Rao) to adopt the zoning ordinance findings set forth in proposed Resolution 08-03; adopt the supplemental findings set forth in Exhibit A to propose Resolution 08-03 and approve Design Review Permit 1104423 which is attached as Exhibit B to proposed Resolution 08-03, subject to the conditions of approval stated therein, eliminating Conditions H.5, H.9, J.4, J.5, J.6 and adding Condition C.16 which requests a limit based on the solvent crude passing through the de-asphalter, and in addition, a comprehensive cap on crudes, with the notion of the comprehensiveness to be established and developed by staff, and for the CUP to return for approval by the Planning Commission with the revised comprehensive cap language in one week. Vote: 3-2 (Finlay and Lee voted no).

Commissioner Lee asked to separate the crude condition and discuss further conditions subsequently. Commissioner Duncan asked staff to develop language for a comprehensive cap, and in addressing Vice Chair Rao's question, he said there are other aspects to the refining operation that would make a crude cap more complete and he was struggling with the technical language that codifies that notion.

Commissioner Lee asked to add the expanded wording of the Bay Trail requirement; however, he said this depends upon the majority of the Commission. Chair Finlay said the CUP is not being voted on until next week upon such time the Commission reviews the draft suggested language to be submitted by staff. She confirmed language could be deleted at next week's meeting. Commissioner Lee suggested adding the Bay Trail at this time and Chair Finlay suggested asking staff to craft appropriate language for such a condition. He asked for the language to be incorporated by staff and added into the conditions of the staff report to be heard next week. He read the language of the condition into the record for staff to include:

"a) Prior to issuance of a grading or building permit for any portion of the renewal project, Chevron shall place \$5 million in escrow for use by the City of Richmond to fund preparation of construction design documents, development of cost estimates and building the portion of the Bay Trail described in Condition H.2; b) Once the portion of the Bay Trail described in Condition H.2 has been built, Chevron shall maintain in good condition all facilities requested by Chevron, including but not limited to fencing, surveillance and alarm devices."

He suggested inclusion of an additional bullet item to E.1: "Create a park n' ride lot and community use area on the vacant and unused Chevron land directly across the parkway from Chevron's main entrance next to I-580 exit ramp."

Chair Finlay voiced concern as to the legality of the request, and Commissioner Lee reiterated this was a suggested additional bullet item has to do with trying to use transportation node and reduce vehicle miles traveled, which has a direct impact on greenhouse gases. Attorney Garber said the bullet point is a list of possible measures that would be put into a future plan to achieve greenhouse gas reductions and it is a menu of possible suggestions.

Commissioner Lee also asked to make a technical correction to C.4; The Bay Area Air Quality Management District pointed out that this probably should be “NOx” and not “NO2” in that condition.

**ACTION:** It was M/S (Lee/Williams) to add the Bay Trail wording he read into the record as Condition N.2, to add the additional bullet Item in E.1 and change NO2 to NOx in Condition C.4. Vote: 4-1 (Finlay voted no on the additional language for Condition N.2).

Vice Chair Rao referred to the Resolution 08-03, Exhibit B-1, Item A.6; “The Planning Commission will hold hearings to the frequency of once a year each during the term of this condition to review Chevron’s compliance with conditions of approval of the conditional use permit. On March 31<sup>st</sup> of each year, Chevron shall submit both the compliance report and a fee to cover staff costs associated with the compliance review.” He questioned whether the condition was within the Commission’s purview.

Mr. Thompson agreed this was within the Commission’s purview and staff would assist in this decision-making review of compliance. Chair Finlay confirmed with Mr. Thompson that if additional staff or consultants need to be hired to track compliance, this could be done.

Mr. Thompson said given the changes and timeline, the matter will need to be extended out further into the future in order to coordinate meetings with the school district. City Attorney Privat said the timeline for distributing special meeting materials, noticing and staff reports would need to be issued 24 hours in advance pursuant to the Brown Act. He said if materials were submitted by Wednesday prior to 7:00 p.m. for a Thursday evening meeting, it would be legally compliant. Mr. Thompson said the date proposed would also depend upon Dr. Sahu’s availability however, as well as his ability to arrive at comprehensive cap language. Dr. Sahu asked to allow a little more time instead of rushing the matter. Chair Finlay noted there is already a regular Planning Commission hearing on the 19<sup>th</sup>, and if not next Thursday, staff would need to work on an alternative date with the Commission, and City Attorney Privat asked the Commission to continue the hearing to a date certain.

Commissioner Lee suggested holding the meeting next week and hope for the best, and Dr. Sahu said he could try and do the best he could in crafting the language. Mr. Mitchell suggested holding the item on the 19<sup>th</sup> along with the regular meeting items, but have it occur one hour earlier.

**ACTION:** It was M/S (Rao/Lee) to continue the item to June 19, 2008 in the City Council Chambers, that it be noticed as a continued special meeting at 6:30 p.m. Vote: 5-0.

Chair Finlay confirmed there will be no more applicant or opponent comment.

## **2. Reports of Officers, Board Members, and Staff**

Chair Finlay noted the committee consisted of Commissioners Duncan, Williams and Lee. She asked Mr. Mitchell to thank Ms. Velasco for the grant writing and application for Parchester Village.

**Public Forum - None**

## **Adjournment**

The meeting was adjourned at 12:35 a.m.