

**In The Matter Of:**  
*RICHMOND PLANNING COMMISSION*  
*SPECIAL MEETING*

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*RE: CHEVRON*  
*July 10, 2014*

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**RICHMOND PLANNING COMMISSION DEIR HEARING  
CITY OF RICHMOND PLANNING COMMISSION**

**SPECIAL MEETING**

**Thursday, July 10, 2014**

**JOHN F. KENNEDY HIGH SCHOOL AUDITORIUM  
4300 CUTTING BOULEVARD  
RICHMOND, CA 94804**

**REPORTER'S TRANSCRIPT OF PROCEEDINGS  
BY STACY L. LOZANO, CSR 12831**

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A P P E A R A N C E S:

CITY OF RICHMOND PLANNING COMMISSION:

Sheryl Lane, Chair

Ben Choi, Vice Chair

Marilyn Langlois, Secretary

Andrew Butt

Eduardo Martinez

Roberto Reyes

Melvin Willis

FOR THE CITY ATTORNEY'S OFFICE:

Carlos Privat, Assistant City Attorney

Rachel Sommovilla, Assistant City Attorney

FOR THE PLANNING DEPARTMENT:

Richard Mitchell, Planning Director

FOR THE CITY'S CONSULTANT TEAM:

Jennifer Hernandez

Lina Velasco

Shari Libicki, Ph.D.

FROM THE PUBLIC:

(No Public Comments)

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1 Thursday, July 10, 2014

2 PROCEEDINGS

3 ---oOo---

4 CHAIR LANE: So, today's hearing is the last --  
5 yesterday evening's -- excuse me, if I could have quiet I  
6 was going to say "the chambers." The auditorium.

7 Thank you.

8 So, this evening's meeting is a continuation of  
9 the hearing we're having on PLN11-089, which is the  
10 Chevron refinery modernization project. So, I'll share  
11 with everyone where we're at.

12 So, yesterday we concluded the meeting with  
13 testimony and public comments, so we will not have any  
14 public testimony and comments this evening.

15 We also capped the night with the rebuttal of  
16 both applicant and Chevron, as well as representatives  
17 opposing or wanting certain modifications, which was  
18 represented by the Richmond Environmental Justice  
19 Coalition.

20 So with that, that leaves us with a few things  
21 for tonight. We will begin with Planning Commissioners  
22 having the opportunity to ask questions of staff. They  
23 had shared with us -- with everyone, a presentation last  
24 night, so we can ask them questions of that specifically  
25 or other things, as well as questions of the applicant, as 3

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1 well as those in opposition to the project.

2 So, what I will do as of now is bring it up to  
3 the commissioners, and start with folks and ask if folks  
4 have questions. We don't have to go down the line, just  
5 let me know if you have a question and we can get it  
6 started.

7 Does anyone want to start?

8 Okay. Let's start with Vice Chair Choi.

9 VICE CHAIR CHOI: Okay. First of all, I'd like  
10 to thank everybody for last night. It was actually  
11 wonderful to hear everybody's -- come out -- coming out  
12 and placing themselves on this very important issue for  
13 our community.

14 The question I had, I think it would probably be  
15 addressed to Jennifer, and it has to do pretty much with  
16 the hydrogen plant.

17 By, the way, I'm sorry, I don't know if you folks  
18 can hear this reverb, but it's pretty crazy here.

19 But in any case, Jennifer, as far as the Praxair  
20 part of the greenhouse gas emissions factor, from what I  
21 understand with the Alternative 11, we're keeping  
22 greenhouse gas locally and actually down to baseline  
23 levels or below baseline levels. But it sounds like --  
24 what I wanted to know is, if -- and as was stipulated in  
25 some of the edits to the final EIR, if the exportable

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1 hydrogen were running the unit at say 100 percent or  
2 certainly higher than it would be to remain below JHG  
3 baseline, but if it was running as 100 percent for excess  
4 -- I know that is kind of a tough figure, but on a yearly  
5 basis, I think the example you used was if it was SA 80  
6 running at 80 percent, to keep within the baseline, that  
7 20 percent would be exported -- would be locally  
8 generating greenhouse gas, but would be mitigated, I'm  
9 guessing, probably through cap and trade.

10 Do we have any idea -- I mean, I know that was  
11 just a scenario -- but in real terms, if we were to allow  
12 a hydrogen plant to run at pretty much at full capacity,  
13 on a yearly basis do we have any idea of how much  
14 greenhouse gases we'd be mitigating there through cap and  
15 trade?

16 JENNIFER HERNANDEZ: So, Chair Choi, my  
17 self-avowed last few days of background, requires that I  
18 consult with Dr. Libicki on all matters involving math.  
19 And as I understand it, the hypothetical you posed was,  
20 say the hydrogen plant was running at 80 percent capacity  
21 to service the refinery, and 20 percent or so was  
22 available for export --

23 VICE CHAIR CHOI: Well, actually, that's a  
24 hypothetical that you put --

25 JENNIFER HERNANDEZ: Correct.

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1 VICE CHAIR CHOI: I guess my idea is, is that a  
2 reasonable hypothetical?

3 JENNIFER HERNANDEZ: That's not math, so I can  
4 answer that.

5 So, we have different scenarios -- sir? Okay.  
6 And Dr. Libicki will get the exact number.

7 Depending on the kind of crude oil and gas oil  
8 the refinery is processing, and how full the refinery is,  
9 93 percent or less than 93 percent, or 89 percent or  
10 whatever, the amount of hydrogen needed for the refinery  
11 will vary.

12 And so --

13 VICE CHAIR CHOI: Well, my understanding is that  
14 under 11, the maximum would be somewhere in the realm of  
15 84.9 percent or something?

16 JENNIFER HERNANDEZ: That's correct.

17 Under the Alternative scenario using what we call  
18 the "project crude blend," which is a crude blend that  
19 allows for maximizing capacity for utilization, the  
20 refinery can only run at about, as you say, 95 or  
21 so percent, 94 percent. And you're asking --

22 VICE CHAIR CHOI: 84.9.

23 JENNIFER HERNANDEZ: I'm sorry, 84.7 percent.

24 And you're asking for the greenhouse gas quantity  
25 that's associated with that amount of utilization? Is

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1 that the question?

2 VICE CHAIR CHOI: No. The question would be  
3 because the hydrogen unit is not subject -- in other  
4 words, the excess generation beyond the baseline is for  
5 the hydrogen units running past what the actual baseline  
6 would be.

7 If it was running at 100 percent for, say, the  
8 whole year or whatever would be reasonable level, what  
9 would that mitigate -- about how much mitigation are we  
10 talking? Because basically, the rest of the plant would  
11 not be mitigated, but that would be. So, what would be a  
12 reasonable figure for that mitigation?

13 DR. LIBICKI: So, the excess that would be  
14 mitigated through cap and trade if the hydrogen were going  
15 to be exported under that scenario would be 555,000 tons.

16 VICE CHAIR CHOI: 550,000 tons? And that relates  
17 to baseline -- okay. So that's only about 225,000 tons  
18 less than would have been done under the project?

19 DR. LIBICKI: That's correct.

20 VICE CHAIR CHOI: Okay. So, in actuality, that  
21 represents -- from the EPA statistics, that would  
22 represent about, oh, about 50,000 cars?

23 DR. LIBICKI: That you would have to give me  
24 another...

25 VICE CHAIR CHOI: Okay. Basically, based on the 7

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1 725,579 tons, I used the EPA equivalencies, and that would  
2 be 152,000 cars. So my quick math says about 50,000 cars.

3 So, that's interesting. So, that's -- so just so  
4 everybody else has the benefits of some Internet research  
5 earlier today, that would be approximately a little  
6 between three-quarters and five-sixths of a car per  
7 household. Just less than the car per household in the  
8 City of Richmond.

9 So, just so everybody knows.

10 Okay, thank you. That's a great answer.

11 MARILYN LANGLOIS: Can you hear me?

12 First of all, I also want to thank the audience,  
13 everyone who is here tonight. Everyone who's here tonight  
14 and everyone who was here last night, I really enjoyed  
15 listening to the comments. They were well thought out,  
16 they were heartfelt. It's always good to hear from the  
17 public. They gave me a lot of ideas of things to talk  
18 about tonight, and I very much appreciate that so many of  
19 you here are really wanting to have a refinery that's  
20 modern, clean and safe. And we'll talk more about what  
21 that really means, but I think that's a really important  
22 concept that binds us all.

23 And in terms of the questions, I wanted to just  
24 follow up on Vice Chair Choi's question a little bit, and  
25 ask about the Praxair part of the hydrogen plant.

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1 I do appreciate being provided with the  
2 Alternative 11. I know that it will have -- use crude oil  
3 with less sulfur in it, which is a good thing. And it  
4 will limit the refinery operations to no increase in  
5 greenhouse gases.

6 Now, once Praxair starts operating and producing  
7 hydrogen for export, will there be a CEQA process for  
8 that? A permit process? Will that come back to us again,  
9 where we have to look at what those greenhouse gas  
10 projections are, and specific how it would be mitigated  
11 and how will that process work?

12 JENNIFER HERNANDEZ: Yes, Commissioner Langlois,  
13 so, the Contra Costa County was the lead agency for the  
14 Praxair export project when it was being actively pursued,  
15 because most of the project is physically located in  
16 Contra Costa County, i.e., the pipeline that would be  
17 needed to actually complete the export activity.

18 So, the Contra Costa County process involved  
19 preparation of a full EIR. That process was put on hold,  
20 based on the litigation in this effort. And if Praxair  
21 reinitiates, there would be a full EIR on that process,  
22 where the city would be a responsible agency, rather than  
23 a lead agency, but there would be a full CEQA run at it.

24 The City starts that process having required no  
25 net increase, exclusive of cap and trade, for hydrogen

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1 production within the City of Richmond. So, that  
2 condition of no net increase inclusive of cap and trade  
3 credit, would run with the project and be binding on  
4 Contra Costa County as part of the EIR process that they  
5 would run.

6 But then they would have the full EIR process,  
7 including pipelines on their operational features  
8 considering that EIR.

9 COMMISSIONER LANGLOIS: And just theoretically,  
10 would Praxair have the option of achieving no net increase  
11 through other means, or through partial local mitigations  
12 or other means, or would they have to use cap and trade?

13 JENNIFER HERNANDEZ: They would not have to use  
14 cap and trade. You've held them to no net increase, and  
15 so how they achieve that goal is subject to a later  
16 decision-making process that would include you.

17 COMMISSIONER LANGLOIS: Okay, that's good. But  
18 that's something for the Contra Costa County to  
19 adjudicate. Okay. Thank you for that.

20 The other question I have is, I believe it's  
21 stated somewhere that with that Alternative, even the  
22 project or the Alternative 11 would result in no net  
23 increase in criteria air pollutants; is that correct?

24 Can you -- and this is really important, because  
25 a lot of the speakers last night said they want no

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1 increase in any emissions at all, and possible decreases.

2 So, how will we make sure there are not criteria  
3 air pollutant increases and how will that be monitored?

4 JENNIFER HERNANDEZ: Sure. So, some of the  
5 modernization project components are in and of themselves  
6 less emitting in terms of air pollution and what they're  
7 replacing. And so, we have the permit terms from the Air  
8 District for that kind of equipment to look to and Air  
9 District enforcement.

10 But beyond that, the EIR, it self-imposes numeric  
11 limits on emissions. And those numeric limits then have  
12 to be offset or can't be exceeded, the baseline can't be  
13 exceeded, without offsetting decreases. There's an  
14 annualized mitigation monitoring and reporting program the  
15 City has composed to enlist the assistance of the Air  
16 District in assisting the City technically, in assuring  
17 that that program is not just robust, but accurate.

18 And the issue there as we discussed last night  
19 with respect, for example, this methodology concern about  
20 how to measure FCC particulate matter, is that there are  
21 scientific developments in how emissions are counted. And  
22 what the City is quite focused on is making sure the  
23 emission reductions are real, and not simply a result of  
24 changes of methodology. And to do that, we really thought  
25 that the Air District would be a very good partner in

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1 assisting the City.

2 The results of mitigation monitoring annually  
3 have to be made available in a public report and then can  
4 be reviewed the acted upon as appropriate, but there'll be  
5 an annualized report.

6 COMMISSIONER LANGLOIS: Okay. Thanks,  
7 Ms. Hernandez.

8 Sheryl Lane, I have a couple of questions also  
9 for the applicant, and can I -- should I do those now or  
10 just do staff questions first?

11 CHAIR LANE: We'll just do staff.

12 COMMISSIONER LANGLOIS: Okay. So those are all  
13 my staff questions for now.

14 CHAIR LANE: So, if folks have other staff  
15 questions. Commissioner Butt?

16 COMMISSIONER BUTT: Hi, this question -- and also  
17 I'd like to thank everyone for their participation on both  
18 sides. It's been a very thorough and enlightening  
19 process.

20 And this question is for legal counsel. We got a  
21 letter, I believe it was yesterday, from the BNSF, the  
22 attorneys on behalf of the BNSF Railway, regarding a  
23 condition that -- a staff condition that basically stated  
24 there would be no crude by rail coming into the refinery.

25 And it essentially states that the -- basically 12

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1 the federal law would negate that condition. I'm  
2 wondering if you could speak to that?

3 JENNIFER HERNANDEZ: I'm happy to take that on as  
4 the inclusion of that condition in the use permit, which  
5 means that if there was crude by rail to come, it would  
6 require amendment to the use permit.

7 There are lots of things that the federal  
8 government doesn't allow local government to prohibit.  
9 And a good example, I don't know if you guys remember,  
10 most of you probably do, is remember those backyard  
11 satellite dish things? A lot of communities didn't like  
12 them and tried to ban them. And, in fact, it's not okay  
13 to ban communication equipment, just like it's not okay to  
14 ban railroad.

15 What is okay is to set reasonable conditions that  
16 are responsive to local concerns. And so, in the  
17 conditional use permit term, it says, "No crude by rail  
18 import." What that would really mean is Chevron would  
19 have to come back to this group and the City and do  
20 whatever it needed to do under CEQA to amend its use  
21 permit to allow crude by rail to be imported.

22 If the City attempted to say, "We're not allowing  
23 it," then it would be a conflict that I would assume BNSF  
24 and others would argue to preempt it.

25 If, on the other hand, they were to set

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1 reasonable safety conditions, then I think there would be  
2 a very hard case with respect to preemption to the extent  
3 of what you're doing is really at the refinery.

4 So, that's really a -- I think it's a little bit  
5 of a nuance issue, but I don't see there's a conflict  
6 between what BNSF says, which is, of course, the City  
7 can't ban railroads, and what the use permit says which  
8 is, "If you want to import crude by rail, you need to  
9 amend this use permit."

10 COMMISSIONER BUTT: Thank you. That clears it up  
11 somewhat.

12 I have another question for you. Regarding the  
13 -- there was quite a bit of mention of the measurement of  
14 fine particulate matter or the inability to do so, and I'm  
15 somewhat confused on exactly where that stands right now  
16 and I wonder if you can kind shed a little bit of light on  
17 that?

18 JENNIFER HERNANDEZ: After yesterday, I think I'm  
19 going to let Dr. Libicki try to shed some more light on  
20 it. I'm happy to come back to it.

21 DR. LIBICKI: So, this actually relates to the  
22 FCC, and the measurements that have been done to date.  
23 And there are two types of measurements going on at the  
24 FCC, there's the filterable particulate measurement, which  
25 is what the permit is based on. And so that's a straight 14

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1 filterable particulate measurement. The permit -- PM is  
2 particular in that PM is really defined by the measurement  
3 technique. And so, the permit defines a measurement  
4 technique, and that measurement technique is filterable  
5 particulate measurement for the FCC, is how the permit is  
6 enforced. And that's a well accepted form of measurement.

7 Since the late 1990s, the EPA has been developing  
8 condensable particulate measurement methods. And since  
9 the late 1990s, those methods have undergone a series of  
10 changes trying to make the method better and better.

11 The method still has some issues with it. The  
12 most recent one, which was called out on April 8th by the  
13 EPA, such that there is an EPA method, it is recognized,  
14 it's also recognized that there are some issues with it.

15 And so what was done to the EIR was that  
16 measurement methodology was used by the BAAQMD to set the  
17 emissions inventory number.

18 Our measurement experts looked at that and  
19 thought that some of that measurement was artifact, in  
20 other words, particulate that really wasn't measured, but  
21 was the result of the measurement method. But  
22 nonetheless, we included the entire amount in the EIR for  
23 its analysis.

24 So, even though there appears to be measurement  
25 issues associated with that measurement, in that it

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1 overestimates particulates and overestimated particulate  
2 was what was used for the baseline and then to predict  
3 future particulate emissions from that larger number as  
4 used, even though there appear to be issues with the  
5 measurement.

6 COMMISSIONER BUTT: Okay, thank you. That's all  
7 I have.

8 CHAIR LANE: Okay. Are there questions of staff?  
9 No?

10 So, one of questions I have relates to CEQA,  
11 where it states that public entities should improve  
12 projects if there's a feasible Alternative. And so, I  
13 know in the AG's first letter it related to that, but then  
14 the second letter it basically kind of did away with that,  
15 because there was Alternative 11.

16 So, I'm trying to understand what -- just the  
17 project, not looking at the Alternative. Does that stand  
18 with the current Alternative? Meaning that could the  
19 project be -- the current project be approved given the  
20 AG's assertion about there needing to be -- if there's no  
21 reasonable Alternative? So, does that basically  
22 disqualify that and say that -- I'm just trying to  
23 understand that.

24 JENNIFER HERNANDEZ: Sure. Thank you, Chair  
25 Lane.

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1           So, CEQA requires the adoption of feasible  
2 mitigation measures or feasible Alternatives to the extent  
3 needed to reduce to a less than significant level all  
4 project environmental impacts.

5           So, you must adopt an Alternative if it's  
6 feasible to eliminate a significant adverse impact. Just  
7 like you must adopt a mitigation that's feasible to reduce  
8 the significant adverse impact.

9           The modernization project has achieved no  
10 significant impact through the mitigation measures that  
11 are already included in the EIR. And so, there's not a  
12 new legal requirement under CEQA to say that we must adopt  
13 or you must adopt something that's environmentally  
14 superior to the project. If the CEQA bar has been  
15 reached, the project is less than significant as  
16 mitigated. That doesn't mean it's the best possible  
17 Alternative from an environmental perspective, and, in  
18 fact, there are trade offs between different Alternatives,  
19 but the combination of less sulfur and no physical  
20 increase in greenhouse gas is environmentally superior to  
21 the mitigated modernization project. And that's why it's  
22 presented to you for consideration, but it's not legally  
23 required that you adopt it.

24           CHAIR LANE: And then this is -- and I'm reading  
25 through all the various letters which I'll ask also of

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1 those who wrote the letters, but one of the letters  
2 relates to a violation of CEQA that the final EIR doesn't  
3 set a specific goal of greenhouse reductions for the  
4 community greenhouse reduction program, that it lacks  
5 criteria performance standards.

6 So, I'm not sure -- I'm sure that you probably  
7 saw that, I just wanted to see if you could speak on that.

8 JENNIFER HERNANDEZ: Yes, Chair Lane, we had a  
9 little bit of a printer issue, but we have copies of both  
10 of the letters received yesterday as well as staff  
11 responses to those letters that are just now assembled.

12 So, the short story there is the community  
13 greenhouse grass reduction program is really designed to  
14 achieve a number of goals that are related to and, in  
15 fact, focused on greenhouse gas reduction. And all of  
16 them, for example, have to achieve measurable greenhouse  
17 gas reduction.

18 But because this world is changing so rapidly,  
19 because the technology is changing so rapidly, we didn't  
20 feel that it was particularly advantageous for the City to  
21 set either a minimum or a maximum number for greenhouse  
22 gas reduction through community greenhouse gas reduction  
23 measures.

24 If all we did is look at what's available now, we  
25 probably would have set a number that was too low, because<sub>18</sub>

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1 things are getting more efficient. More greenhouse gas  
2 reduction with more technology.

3 If we set it too high, then we set up  
4 non-compliance with mitigation requirements, and that  
5 would have its own issues.

6 So, instead we said it's prioritized over cap and  
7 trade credits, so that the greenhouse gas reductions as a  
8 community failed, just like the greenhouse gas reductions  
9 within the refinery have to be done first.

10 It's within the City's discretion as to choose  
11 which greenhouse gas reduction measures should be  
12 implemented, and they have to be measurable, and we have  
13 measurements for all of the ones we considered. And the  
14 City Council also directed us to use different and  
15 additional prioritization criteria, like job creation and  
16 other factors, so that the City had a range of information  
17 about which of these measures should be implemented. But  
18 they all have to achieve measurable reductions in  
19 greenhouse gas emissions.

20 With that we have a combination, a package, that  
21 is fully quantified. We have the refinery emission  
22 reductions, we have community greenhouse gas emission  
23 reductions that may be different year to year, but have to  
24 be quantified. And only after you get to that point can  
25 Chevron use cap and trade credits to make up the

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1 difference.

2           Now, under Alternative 11, we're kind of going  
3 past making up the difference, because under Alternative  
4 11, Chevron's required to do greenhouse gas reductions  
5 inside the fence line, just as with the project, and still  
6 required to spend the \$30 million on community greenhouse  
7 gas reduction measures. And then taking into account  
8 that, still can't increase refinery-related greenhouse gas  
9 emissions above the baseline. So, we actually think we'll  
10 be in that decrease in greenhouse gas emissions under  
11 Alternative 11, which is one of the reasons it's  
12 environmentally superior.

13           But there is no deferred mitigation, there is no  
14 postponed mitigation, and no legal deficiency, because all  
15 of these are connected, all of these measures are  
16 connected and totalled, and that total must achieve the  
17 standard -- the performance standard of no net increase.

18           CHAIR LANE: So, I think I'll have more questions  
19 tonight. I need to get them all in order. So, what I'll  
20 do is I will have the commissioners -- if you have  
21 questions of the applicant, which is Chevron. And we can  
22 start with whoever wants to start.

23           Commissioner Langlois?

24           COMMISSIONER LANGLOIS: Yes. Mr. Judd, if I  
25 could ask you a couple of questions, please?

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1 Thank you for your presentation last night.

2 One of the speakers mentioned something about the  
3 jobs that come as a result of the construction would be  
4 union jobs, but they had a question about whether the jobs  
5 that result in the operations of the new improvement would  
6 also be union jobs? And I'm just wondering if you could  
7 share a little bit about that with us, the proposal for --  
8 would the jobs to operate the new hydrogen plant and  
9 sulfur improvements be, as with other operations, run by  
10 the union steel workers?

11 MR. JUDD: So, the jobs that are associated with  
12 the hydrogen plant are Praxair jobs, so I can't speak for  
13 Praxair on that particular issue.

14 As far as sulfur recovery and the systems that we  
15 would use to recover that sulfur, those are jobs that are  
16 within our existing refinery and they'd still be operated  
17 by USW workers.

18 COMMISSIONER LANGLOIS: Okay, thank you.

19 So, and even though some of the hydrogen is for  
20 use within the refinery, do all the hydrogen plant workers  
21 fall under Praxair?

22 MR. JUDD: So, the operation of the hydrogen  
23 plant itself is -- Praxair owns that plant.

24 COMMISSIONER LANGLOIS: Okay.

25 MR. JUDD: So, any operator tasks or duties,

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1 maintenance tasks or duties associated with that plant  
2 would fall to Praxair. They would have to determine under  
3 what -- under what contract or whatever way they'd like to  
4 operate it.

5 As far as the hydrogen use through the refinery,  
6 the hydrogens consumed are different processes. That  
7 would fall under our operator's role, USW representative.

8 COMMISSIONER LANGLOIS: Okay, thank you.

9 So, it sounds like as far as the Chevron refinery  
10 is concerned, you're still committed to using union labor?

11 MR. JUDD: Absolutely.

12 COMMISSIONER LANGLOIS: That's great, thank you.

13 One other question. Just for full transparency,  
14 and I'm interested a little bit more about the  
15 decision-making process on your side.

16 From our side, it's clear that we here on the  
17 Planning Commission collectively have some decisions to  
18 make tonight about this permit. And then those decisions  
19 may be appealed and then it goes to the City Council, and  
20 they would be making decisions, and sort of the buck stops  
21 with them.

22 But I'm just curious to know, because this  
23 project involves a huge amount of money, a lot of  
24 investment, and -- both in the construction and the  
25 preparation, and a lot of the things that are added to it,'22

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1 the community greenhouse gas reduction program, all of  
2 these things, it's -- there's a lot of decisions about  
3 where to spend the money. And I'm just wondering if you  
4 could tell me is this something that is -- a decision made  
5 solely within the refinery alone? Does that decision rest  
6 with you as general manager or is there participation also  
7 from other executives in the headquarters, the corporate  
8 headquarters in San Ramon, or is it the board of directors  
9 in the corporation that participates in some of these  
10 broad decisions about the direction you're going with this  
11 project?

12 MR. JUDD: So, let me make sure I understand your  
13 question clearly. Are you speaking specifically to  
14 benefits or are you talking about an actual project  
15 itself?

16 COMMISSIONER LANGLOIS: Well, kind of both,  
17 because they both involve a large investment of money.  
18 The whole project, of course, is the biggest investment of  
19 money. But the decision about what the scope of the  
20 project, and in -- additional, the benefits, I guess if  
21 you would answer for both of those, I'd appreciate it.

22 MR. JUDD: Well, maybe I'll answer separately for  
23 each of them --

24 COMMISSIONER LANGLOIS: Okay.

25 MR. JUDD: -- even though the answer may sound

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1 the same.

2 COMMISSIONER LANGLOIS: Okay. Thank you.

3 MR. JUDD: So obviously, I'm the refinery general  
4 manager, Mr. Hartwig is the project manager. And so,  
5 within the corporation there are delegations of authority,  
6 where you have kind of a structure in which you can make  
7 decisions.

8 It's a -- much of the decisions related to the  
9 projects as described in the EIR that's been submitted,  
10 those have been thoroughly vetted within our corporate  
11 structure. We have what's called a "Decision Review  
12 Board" that includes decision makers. And as the EIR is  
13 constructed, we have that decision-making authority  
14 amongst ourselves.

15 As it varies from that, then that would  
16 require -- obviously, Chevron's a corporation that has a  
17 delegation of authority. I have bosses and so, then I  
18 would have to make a decision about what I would  
19 recommend, and then I would take those recommendations  
20 with the plusses and minuses, and vet that with my  
21 superiors and then we would collectively come to a  
22 decision.

23 COMMISSIONER LANGLOIS: Okay.

24 MR. JUDD: Now as far as the health wellness  
25 or --

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1           COMMISSIONER LANGLOIS: Right.

2           MR. JUDD: -- that other structure, I would say  
3 it's not extremely different, it's just that the people  
4 involved with that may be slightly different.

5           While we may have some who are technical experts  
6 on processes, on pumps, on systems, it would help with  
7 decisions related to the actual physical construction of  
8 the project, those wouldn't be the same experts that we  
9 would use to help make decisions around a health or  
10 wellness benefit, or benefit that was perhaps something  
11 available to the community. So we'd use different subject  
12 matter experts to advise, and then we'd make decisions  
13 similar to what I described previously.

14           COMMISSIONER LANGLOIS: Okay, thank you. That's  
15 very helpful, because certainly these are very major  
16 decisions. It would be a lot to put on one person to be  
17 the ultimate voice in that. So, it sounds like you have  
18 this Decision Review Board as part of the corporate  
19 headquarters. Are any of the members of that Decision  
20 Review Board here tonight?

21           MR. JUDD: I am. I'm on the Decision Review  
22 Board as well as Mr. Hartwig, who is on that Decision  
23 Review Board as well.

24           COMMISSIONER LANGLOIS: Okay. But none of the  
25 other decision makers are available?

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1 MR. JUDD: No.

2 COMMISSIONER LANGLOIS: Okay, thank you.

3 CHAIR LANE: So, I think there's an additional  
4 question for you.

5 COMMISSIONER MARTINEZ: Yes, Mr. Judd, I'd like  
6 to ask you some questions. I thought I understood what  
7 was going on here until you said some things. You said  
8 that Praxair owns the hydrogen plants?

9 MR. JUDD: That is correct.

10 COMMISSIONER MARTINEZ: So, if Praxair owns the  
11 hydrogen plant, why aren't they applying for it, instead  
12 of you?

13 MR. JUDD: I might ask Mr. Hartwig to speak to  
14 the particulars of the agreement that we have with  
15 Praxair, but part of that agreement specifies that we make  
16 application.

17 COMMISSIONER MARTINEZ: Okay. I would like to  
18 understand how that works.

19 MR. HARTWIG: Commissioner Martinez, I don't  
20 profess to be an expert in the contract, but I do know  
21 that the contract that we entered into with Praxair ten  
22 years ago put that responsibility upon Chevron.

23 COMMISSIONER MARTINEZ: To build a hydrogen plant  
24 on your property?

25 MR. HARTWIG: To secure the permit. We have a

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1 ground lease with Praxair, and they would own the  
2 improvements. So that the actual facility itself and  
3 they're also responsible for not only to fund, to  
4 construct, to operate and to maintain.

5 COMMISSIONER MARTINEZ: Do they currently own the  
6 hydrogen plants that's there?

7 MR. HARTWIG: They do.

8 COMMISSIONER MARTINEZ: And they've owned it  
9 since it's been there?

10 MR. HARTWIG: That's right.

11 COMMISSIONER MARTINEZ: Okay.

12 MR. HARTWIG: Excuse me, just to be clear,  
13 Commissioner Martinez. You're talking about the new one  
14 that's partially built, or are you talking about the one  
15 that's been there for 50 years?

16 COMMISSIONER MARTINEZ: The one that's been  
17 there.

18 MR. HARTWIG: Yeah. Thanks for clarifying. I  
19 understood that incorrectly. The plant that's there today  
20 was built by Chevron, operated and maintained by Chevron.

21 COMMISSIONER MARTINEZ: And will it continue to  
22 be maintained or is it being torn down and rebuilt?

23 MR. HARTWIG: Once the new hydrogen plant is  
24 built, the existing 50-year old hydrogen plant will be  
25 dismantled.

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1           COMMISSIONER MARTINEZ: So, can you explain why  
2 Chevron has given over the responsibility of maintaining  
3 the hydrogen end of your process?

4           MR. JUDD: So we have many suppliers of utilities  
5 and other things for our refinery. Praxair, companies  
6 like Praxair, specialty companies that specialize in the  
7 production of those types of commodities, and we thought  
8 it wise at the time to utilize a resource that they would  
9 have to provide hydrogen to us.

10          COMMISSIONER MARTINEZ: Okay. I have one other  
11 question and it's about jobs.

12          From looking at the plans, I see that much of the  
13 modernization project has already been built. Can you  
14 give me approximately of what percentage has been built  
15 already?

16          MR. JUDD: It's about 50 percent.

17          COMMISSIONER MARTINEZ: About 50 percent. So,  
18 does that mean that there's still 10,000 jobs left?

19          MR. JUDD: Oh, I don't think we have ever said  
20 10,000 jobs.

21          COMMISSIONER MARTINEZ: Or 1,000 jobs, whatever  
22 the amount?

23          MR. JUDD: Absolutely.

24          COMMISSIONER MARTINEZ: So, the jobs that were  
25 posted in all of your literature was above the jobs that's<sub>28</sub>

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1 already been accomplished; is that correct?

2 MR. JUDD: Well, those are the workers that you  
3 have that are constructing. So, if you stop part of the  
4 way through, you'll bring back that same work force to  
5 complete that project.

6 COMMISSIONER MARTINEZ: Okay. All right, thank  
7 you.

8 CHAIR LANE: So, we have another question.  
9 Commissioner Willis?

10 COMMISSIONER WILLIS: Yeah, I was just also  
11 around the jobs element around this, because I know  
12 there's a lot of people here who are very passionate about  
13 this project going forward, and who are looking forward to  
14 the opportunity of obtaining a job, a lot of them being  
15 Richmond residents.

16 Just to be clear on what are some of the outreach  
17 methods and advertising methods that you have to get the  
18 -- some applications in from Richmond, and at the same  
19 time, what is the process or percentage amount of people  
20 you are trying to hire from Richmond?

21 MR. JUDD: So we have a project labor agreement,  
22 and they also -- the City of Richmond have struck an  
23 agreement where for Richmond we'll aggressively try and  
24 advertise, train, and bring into the work process as our  
25 first priority, members of the community of Richmond.

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1           COMMISSIONER WILLIS: Do you have a percentage  
2 that you're -- a percentage of slots that you're trying to  
3 fill that are Richmond residents? I mean, I know it may  
4 sound impractical to say, like, to set a limit or a goal,  
5 but there are a lot of people out there who are looking  
6 for a job, with unemployment being as high as it is. So  
7 just realistically, I think it wouldn't be hard to find  
8 plenty of people in Richmond who want to be working at the  
9 refinery on this project.

10           So, do you have, like, a set percentage or a  
11 goal of Richmond residents that you have that you want to  
12 meet on this project?

13           MR. JUDD: No set percentages. We also have some  
14 skill requirements, and so they'd have to be able to  
15 perform the particular craft that is being asked for. So,  
16 it's hard for us to know until we go out and explore with  
17 the community those that have those skills that can  
18 perform. But I'll tell you it's a high priority for us.  
19 It's something that we've worked hard with the City to try  
20 and establish as many mechanisms as we can to bring in  
21 Richmond residents.

22           If we randomly picked a number, we could pick a  
23 number that's too low and stop there, or we could pick a  
24 number that wouldn't be achievable, because the skills  
25 weren't necessarily available.

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1 COMMISSIONER WILLIS: All right. Thank you.

2 COMMISSIONER REYES: Madam Chair, I have a  
3 question.

4 CHAIR LANE: Okay. There's another question.

5 COMMISSIONER REYES: Okay. This is for you,  
6 Corey, again. I'm sorry, I have a question.

7 I wanted to ask the folks last night who came up  
8 here who were -- talked about the hiring that they. You  
9 may be here tonight, you may call upon them.

10 And my question is along the lines of Eduardo's  
11 and Mr. Willis -- or Commissioner Willis, around the jobs.

12 And I say this because in the room tonight, the  
13 power of the Richmond workers are in this room. And I got  
14 to tell you, whoever lives in Richmond, whoever works in  
15 the refinery, right now you have the power, I can say  
16 this, I know, okay?

17 So, what I'm concerned about right now is the  
18 access to higher-paying jobs, to more skilled jobs, and a  
19 method to rise up in the refinery for Richmond workers.

20 As you know, we're working very hard, as much as  
21 many want to, you know, say it's not the right way to go,  
22 we're working hard to demonstrate that Richmond can retain  
23 its middle class workforce, its middle class status as it  
24 once had. That will only come when our workers in this  
25 city begin to make higher wages and being to move up in

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1 the company.

2 So, is there a method or can there be a method on  
3 this project for this to happen? And I'm going to show  
4 you one thing right now, because right now you really  
5 don't know about how many people work at the refinery. I  
6 can give you an idea, because I do know.

7 During this whole process, these are the letters  
8 I received from the Chevron employees regarding this that  
9 live outside of Richmond.

10 This is the Richmond pile. Only thing is these  
11 are double-sided, so this is twice as much and that is  
12 probably half as much.

13 So, I got to tell you, for me this is the first  
14 anywhere near scientific evidence I've ever seen of how  
15 many folks work at the refinery. I want to see that the  
16 workers here have a way to climb into the system and  
17 really, really help bring Richmond to the forefront of  
18 where we need to be.

19 So, it was sort of a lengthy question, and a  
20 little demonstration here, but we have to get to that.

21 If, in fact, we are all going to be together on  
22 this, we have to know that there is a way to move us  
23 forward.

24 So, if you can answer that in any way, I would  
25 appreciate it.

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1 MR. JUDD: It was a long question, and so I'm  
2 going to try to answer it. If I don't, maybe you can  
3 point me in the right direction.

4 So, I think one of the things you probably also  
5 recognize or appreciate is even if we try to primarily  
6 hire in Richmond, once individuals work in the refinery,  
7 we don't prescribe to where they live. And so we have  
8 employees that we hire that have been long-time Richmond  
9 residents and their lives change, they meet different  
10 people, whatever, they do move from the area and live  
11 other places. So there's, I think in the other stack that  
12 you're looking at, you'll probably find a sizeable number  
13 of people who grew up in Richmond and were able to retain  
14 a job and for whatever personal reasons they chose to move  
15 someplace else.

16 But I share equally your concern that Richmond  
17 residents are a priority in our hiring process. And I  
18 think we put our money where our mouth is. We have the  
19 Regional Occupation Program which Chevron solely funds.  
20 And we aggressively try to bring people into that program  
21 where they receive six months training to either focus on  
22 our operational jobs or our maintenance jobs, and that is  
23 a priority hiring for us at the refinery.

24 We have hiring practices where people who make it  
25 through that ROP program are -- we consider priority

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1 candidates in our hiring process. And particularly those  
2 that are from the City of Richmond, and they get another  
3 star if you're a veteran. We think that's another  
4 important consideration.

5 I think you've heard us talk about "For  
6 Richmond." We've got a pretty strong alliance with the  
7 folks at For Richmond. I've been there and heard numerous  
8 success stories associated with that particular program,  
9 bringing people of skill into the refinery.

10 We have a welding program that we work with some  
11 of the local schools. We provide resources, training,  
12 instructors and materials for people that pick up welding  
13 skills to come and work in the refinery.

14 And then we're developing a  
15 schools-to-training-to-jobs program as we work with trade  
16 unions. So, we are very committed, very interested. I  
17 think we share very common goals that we want to try and  
18 focus on the City of Richmond.

19 COMMISSIONER REYES: Thank you very much. I just  
20 want to say though, we know how things have been in the  
21 past. We know that you rely a lot upon the City and the  
22 city structure to see some of these things through. We  
23 know that you rely a lot on some of the local nonprofits  
24 and some local CBOs.

25 Quite frankly, some of those things have not

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1 worked. This is why we see this type of a discrepancy, I  
2 believe. Now, somebody needs to prove me wrong, okay?

3 I think, again, and I'm not -- this is not in  
4 your hands, I'm talking -- this is -- a lot of it is in  
5 the City's hands. And I'm hoping that even as this is  
6 discussed that at some point you'll be able to say, "Hey,  
7 your own commissioners are telling you that maybe we need  
8 to tweak this a little bit more. Maybe we need to reach  
9 out a little bit more. Maybe we need to do a little bit  
10 more to ensure that the folks in Richmond are hired, they  
11 are promoted."

12 I will say also, that a lot of these folks in  
13 this pile and this pile have moved both places. So, it  
14 works either way, okay? So, you know, what I'm about and  
15 we're talking about here, so we really really want to see  
16 folks move up and move the City forward. So, thank you  
17 for your --

18 MR. JUDD: I think you also heard from some of  
19 our young engineers last night who spoke about their  
20 affinity for the City of Richmond, and how they've moved  
21 into the area and they quite enjoyed that experience. And  
22 that fame grows upon itself.

23 I agree that I think the City and the school  
24 district has some joint ownership with us, that's why  
25 you'll find us in the schools, the STEM initiatives,

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1 science and technology, engineering, math initiatives. We  
2 have mentorship programs. There's nothing more that we  
3 enjoy than to see somebody go through one of the Richmond  
4 high schools, go off to college and return back and enjoy  
5 perhaps a technical or a finance or other career with  
6 Chevron.

7 COMMISSIONER REYES: Thank you very much.

8 CHAIR LANE: Okay. I have a question, since  
9 we're talking about jobs. This question is related to  
10 jobs and the Alternative that's gotten most attention,  
11 because it's endorsed by the attorney general.

12 So, I put -- my presumption is that the number of  
13 construction jobs that are needed won't change, given that  
14 Alternative because something needs to be constructed.  
15 So, that wouldn't impact the number of people that would  
16 need to be hired. I just wanted to having that validated?

17 MR. JUDD: That is correct.

18 CHAIR LANE: Okay. And in terms of permanent  
19 jobs, would that Alternative have any bearing on that?

20 MR. JUDD: Could you define for me what you  
21 consider a permanent job?

22 CHAIR LANE: Yeah. So, a non-construction job.  
23 So those who are coming there just to build the  
24 components, the hydrogen plant, and once that's done,  
25 that's done. But I believe this project -- I forgot, the 36

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1 -- I think it was 12 or a certain number of people post  
2 this project would be hired on to that permanent  
3 non-construction job?

4 MR. JUDD: I don't mean to disagree, but I do  
5 slightly disagree with the construction. When you talk  
6 about construction jobs. Our facility requires constant  
7 maintenance, upkeep, turnaround, and so, our facilities  
8 always have a demand. We are always constructing, always  
9 building. And so as we're able to keep our facility  
10 operating, we utilize those trades and maintain the  
11 facility. So, I think you'll see that sustain itself over  
12 time. It won't be a 1,000. As you have projects, the  
13 numbers in the refinery will rise and drop, but I don't  
14 think it's accurate to say all the construction jobs go  
15 away because there's sustainability issues.

16 CHAIR LANE: Okay.

17 MR. JUDD: And I've talked so much I forgot your  
18 original question.

19 CHAIR LANE: Yeah. So, my original question is,  
20 given the Alternative, my presumption of the construction  
21 jobs that don't still need the same number, and you  
22 validated that, yes.

23 And then I guess my -- the other part of that  
24 question is, I guess what you're trying to define, you're  
25 still -- you can't simply define permanent,

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1 non-construction jobs, because there's construction always  
2 ongoing. So, I guess as you guys have findings, and I  
3 don't have it front of me, those jobs that would continue  
4 -- those people who would be hired opposed to projects who  
5 worked just to build the project and that was it -- would  
6 those number of jobs change? So, I don't know how to  
7 define that.

8 MR. JUDD: So, there would be operator jobs to  
9 operate the hydrogen plant. And again, Praxair would kind  
10 of own those jobs or maintenance jobs to maintain that  
11 plant.

12 And we have other parts of the project that  
13 impact our facility and so, the maintenance and operations  
14 jobs would be sustained technical jobs. Somebody has to  
15 keep the books for the different parts of the plant. So  
16 those are the types of jobs that I think when you're  
17 referring to permanent jobs, I would say may be more  
18 stable in the facility most of time.

19 CHAIR LANE: So, to clear up the question. So as  
20 of those types of jobs as a result of this project, how  
21 many folks would be hired as a result of this project?  
22 You shared with us during the draft EIR, I remember the  
23 number 12. I forgot what the number is -- 10?

24 JENNIFER HERNANDEZ: 29.

25 MR. JUDD: 29.

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1 CHAIR LANE: So, 29 jobs. So, that's question.  
2 So, with those 29 jobs with the Alternative that was  
3 endorsed by the AG, does that Alternative impact any of  
4 those jobs?

5 MR. JUDD: So, the Alternative proposal doesn't  
6 impact substantially the jobs that are talked about --

7 CHAIR LANE: Yeah. I just want to have that  
8 validated, because I'm pretty sure that would be out  
9 there.

10 Thank you.

11 Okay. Commissioner Reyes and then Martinez.

12 COMMISSIONER MARTINEZ: Actually, I wanted to ask  
13 you more questions, possibly. Is there a representative  
14 of Praxair here?

15 MR. JUDD: I can't speak for them, but I don't  
16 believe so.

17 COMMISSIONER MARTINEZ: And why not? I know it  
18 seems like what we have here is you're the architect, the  
19 builder. They're the resident who is going to be moving  
20 in and living there.

21 So, generally, as the Planning Commissioner, the  
22 person who is going to be moving to the house is always  
23 there, because they want to know what's going on. And I  
24 find it disrespectful for them not to be here so they can  
25 answer questions about the jobs that they will be

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1 providing for the workers who are out here wondering,  
2 hoping that this passes.

3 So, since there's no one to speak to the types of  
4 jobs or the quality of jobs that Praxair will be  
5 providing, I guess there's no further questions. But it's  
6 just beyond me that there's no one from Praxair here.

7 And as a Chevron person myself, I would have  
8 asked them. I would have demanded that they be here so  
9 that they can help you push this through. I mean, they're  
10 letting you carry all the water. I don't understand.

11 MR. JUDD: So, I don't believe you asked me a  
12 question; is that correct?

13 COMMISSIONER MARTINEZ: No. Okay. Well, my  
14 question was why aren't they here? But I guess you  
15 can't answer.

16 MR. JUDD: I won't speak for them.

17 CHAIR LANE: Okay. So, Vice Chair Choi has a  
18 question.

19 VICE CHAIR CHOI: I have one more jobs-related  
20 question.

21 I've actually been hearing about your best  
22 efforts for local hire, but I haven't ever heard the  
23 percentage of Richmond residents working at Chevron at any  
24 given time that go above about eight percent.

25 So, I was just curious if you had any internal

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1 benchmarks? It sounds like you've been involved in many  
2 programs to promote local hiring, but generally speaking,  
3 programs have benchmarks. And let's face it, Chevron --  
4 I'm not actually a numbers guy myself, but Chevron  
5 generally is. Chemical engineering and mechanical  
6 engineering they're a numbers-related field.

7 So, I'm wondering, are there any internal  
8 benchmarks, because it's been a while since we've been  
9 hearing this. Are there any timelines that ever have been  
10 dealt with or benchmarks that have been suggested that  
11 you're going for?

12 MR. HARTWIG: Commissioner Chau, what I can  
13 say is that I know --

14 COMMISSIONER CHOI: It's Choi, by the way.

15 MR. HARTWIG: Choi. My apologies, yeah.

16 So, what the project labor agreement does and the  
17 local sourcing agreement does is that we have a  
18 partnership with the City with \*Salvaca to establish  
19 objectives and have metrics and to report those out in a  
20 transparent process, and there would be a full-time person  
21 that's responsible for managing that program.

22 We've worked with the building trades to identify  
23 what we think is reasonably achievable, and it does vary  
24 by trade. There are some trades where there's many more  
25 Richmond residents than there are other trades, but that

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1 would be determined, and it would be in a very transparent  
2 process. It hasn't been -- yet honestly, because we think  
3 we've got a bit of time to go between now and when that  
4 work would actually start.

5 VICE CHAIR CHOI: Well, I would urge you -- I  
6 mean, it sounds very detailed, and it sounds like you guys  
7 are on the right track, and I would urge you to be able to  
8 possibly make public some cumulative benchmarks. Because  
9 certainly if we were -- if you were to say to us, "Within  
10 seven years we want to top out double digits and get up in  
11 to ten percent," I think that would be very well received  
12 by the City. That's a baseline we'd love to go over.

13 MR. HARTWIG: You bet.

14 COMMISSIONER REYES: Madam Chair?

15 CHAIR LANE: I think you're next, Commissioner  
16 Reyes?

17 COMMISSIONER REYES: Oh, yeah. Mr. Hartwig, I  
18 have a question. Have you seen the project's labor  
19 agreement that was written by the trades?

20 MR. HARTWIG: I have.

21 COMMISSIONER REYES: And is it signed by all the  
22 unions, do you know?

23 MR. HARTWIG: My --

24 COMMISSIONER REYES: It's supposed to be, so I'm  
25 just asking to make sure.

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1 MR. HARTWIG: Yeah, it's supposed to be signed by  
2 all the building trades, that's my understanding.

3 COMMISSIONER REYES: So, they're all bound to  
4 whatever conditions may come out, whatever may occur here?

5 MR. HARTWIG: That's correct.

6 COMMISSIONER REYES: Thank you very much.

7 CHAIR LANE: So, any more questions for the  
8 applicant? Noting none, okay.

9 So next is the opportunity for commissioners to  
10 ask questions of the opposition or those seeking specific  
11 mediation, which is represented by coalitions. So, I'll  
12 see -- so, I'll see if the commissioners have questions of  
13 them.

14 Commissioner Langlois is going to start.

15 COMMISSIONER LANGLOIS: Okay. Thank you. Can  
16 you hear me? Okay, great.

17 I have a question of Mr. Kilbreth from the RPA,  
18 please, about the toxic air contaminants.

19 Yeah, in the letter that you sent with some  
20 suggestions for a conditional use permit, you included an  
21 item about toxic air contaminants, which is, of course,  
22 something that we're all very concerned about. We have  
23 several members of the public speak to that, especially  
24 given the fact that there's some potential for health  
25 impacts.

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1           And I know that the staff have told us that  
2 there's no increase in health risks according to their  
3 analysis, but what you're suggesting is that we ask  
4 Chevron to operate with a focus on significantly reducing  
5 TAC emissions over time, and that we ask for annual  
6 emissions projections for the permit Alternative project.  
7 And just to keep looking at ways to reduce the tax, while  
8 bearing in mind still that because of the chemistry, some  
9 trade-offs exist, some reductions may require a little bit  
10 of increases.

11           Could you please explain that a little bit, and  
12 especially why it so significant to look at these toxic  
13 air contaminants and the health risk?

14           MR. KILBRETH: I think that it's -- the important  
15 point is that toxic air contaminants are toxic, that's the  
16 name.

17           And one thing that came out of this wonderful EIR  
18 is, for me, was one of the most important revelations  
19 actually, was that fewer than half of the toxic air  
20 contaminants have health risks associated with them.

21           I think that that says something pretty profound  
22 about how uneven and how weak the science is in this area.  
23 Maybe some of these things have had no health risk or very  
24 low health risk, but I don't believe that something in the  
25 order of 50 toxic health contaminants have no health risk.<sup>44</sup>

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1           So, the first point is to simply say that our  
2 health risk model may be well intended, and it may be  
3 pretty good, but there's a lot of warning signals about  
4 it, which just simply means we need to focus on it, make  
5 sure we're catching the other ones, and make progress over  
6 time. I'm not trying to make this, "Let's go to court,"  
7 you know, I just want to get it better.

8           So, that's point number one, that we don't have a  
9 great health risk model.

10           Second thing is a logical conclusion from that is  
11 that we should be very careful about allowing increases,  
12 and in particular, we should be careful about allowing any  
13 increases on the ones that are already characterized as  
14 having high health risks. Makes common sense, right?  
15 Chevron talks about common sense, it's common sense.

16           So, I think that the point here is to simply want  
17 a program for TAC reduction over time. That's the  
18 important point.

19           Now secondly, we have another issue that's kind  
20 of complicated the discussion, made everybody a little  
21 nervous probably, which is what Jennifer was trying to  
22 explain last night, which is essentially the  
23 apples-to-apples problem.

24           So, we had a measurement in the draft EIR that  
25 actually was flawed. I mean, I hate to say it, because I 45

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1 think the work was really well done, but honestly this is  
2 one place where our consultants made a mistake. They put  
3 out a table of TAC emissions and measured it one way the  
4 baseline and a different way for the project. And then we  
5 said, "Oh, my God, this is a serious problem."

6 Well, in fact, it is a serious problem, but as  
7 they pointed out, maybe it's not as serious as it looked.

8 Okay. Well, it's great if it's not as serious as  
9 it looked. I hope that's true. But what I do know is  
10 that the top 21 TACs, instead of going up 29 percent, when  
11 you adjust for this measurement factor are going up  
12 24 percent. And instead of 46 tons of additional  
13 emissions going into the air from this project, there  
14 would be 37 and a half tons. Well, you know, I still say  
15 we got a problem. It's just common sense.

16 So, I understand enough about Chevron's  
17 operations. I don't understand a lot, but I understand a  
18 little. I even used to be responsible for a product that  
19 -- software product that Chevron uses everyday probably.

20 So, I think that Chevron, you know, can manage  
21 this TAC situation down over time with focus, and a  
22 business concept that is normal in the Fortune 500, called  
23 "continuous improvement."

24 So the question is what is continuous improvement  
25 and how do we build it into our system here, because a 24 46

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1 percent increase in the TACs that has the greatest chronic  
2 health impact and risk is not acceptable. So, we need a  
3 plan.

4 Does it mean that every single one of those TACs  
5 absolutely has to be broken down to baseline? No, of  
6 course not. Anything can be reasonable. But we need a  
7 plan, and we definitely need to invest whatever it takes  
8 to do it.

9 And if I might, I don't have to because it would  
10 be -- you know, but I would like to say a few things about  
11 the Chevron capital spending budget and why this is  
12 perfectly reasonable.

13 COMMISSIONER LANGLOIS: Go ahead, please.

14 MR. KILBRETH: So, and I think this goes to the  
15 fundamental question of trust here, okay? I said last  
16 night, I live in Richmond. I chose to move to Richmond.  
17 There are a lot of things about Richmond I like. I also  
18 work at Richmond High School on a volunteer basis, same as  
19 all those Chevron employees.

20 I think that in the big picture the Richmond  
21 refinery is Chevron's flagship U.S. refinery. It's where  
22 they started, and it's one of three really big ones. It's  
23 now not quite as big as Pascagoula, Mississippi, but it's  
24 a very big operation. It's about ten percent of the  
25 Chevron Corporation.

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1           That's a very big piece of business. We don't  
2 need to get into an argument about whether it's  
3 \$20 billion a year or \$25 billion a year, it's a lot of  
4 money that's created in Chevron Corporation in sales. And  
5 it's a lot of profit. We don't need to argue about  
6 exactly how much.

7           But the important point that people need to focus  
8 on is that Chevron has a \$35-\$40-billion a year capital  
9 budget, and about 95 percent of that, in general,  
10 sometimes 94, sometimes 93, goes to production and  
11 exploration. 94, 95 percent.

12           Well, I say that's wrong priorities. I say  
13 that's not Richmond Proud. So, I want Chevron to spend  
14 more money and be more aggressive about capital spending.  
15 And if they do, the TAC problem will take care of itself.

16           COMMISSIONER LANGLOIS: Thank you very much. I  
17 appreciate that, Mr. Kilbreth.

18           And now I've got couple of questions for CBE,  
19 Mr. Karras.

20           This is about -- I'm referring to your letter  
21 with some suggested conditions. And in terms of the FCC,  
22 the fluid catalytic cracker and the fine particulate  
23 matter, as I understood it, it had been explained to me  
24 earlier on while preparing for tonight, the reason this is  
25 so important -- well, we already know that -- we heard

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1 from Ms. Hernandez about particulate matter being  
2 particularly bad for your health, whether it's diesel  
3 particulate matter is one of the ways it could get into  
4 the air, and there are other ways that particulate matter  
5 can get in the air.

6 My understanding is that with the FCC -- what  
7 happens is there's a, you know, heavier levels of crude or  
8 gas oil go into the FCC, and it is broken down by use of a  
9 catalyst. And then after this catalyst finishes breaking  
10 this down into what can then be turned into gasoline, the  
11 catalyst has all this gunk on it, and it's got coke on it,  
12 and has to be cleaned off, the catalyst has to be cleaned  
13 off so it can be used again for the next batch. And the  
14 process of cleaning it off is what emits a lot of that  
15 fine particulate matter into the air.

16 Is that more or less -- and this is fine  
17 particulate matter that's very hazardous to the health.  
18 Is that...

19 MR. KARRAS: I might have been able to describe  
20 it better. It is a continuous process of burning the coke  
21 build up off the catalyst. Otherwise, I can give you a  
22 longer answer, but it'd be the same.

23 COMMISSIONER LANGLOIS: But the basic idea is  
24 you're burning the coke off the catalyst so that the  
25 catalyst can be reused again and again.

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1           So, what I'd like to know is how does the FCC  
2           itself connect to the project? Because the project we're  
3           hearing is mostly about the hydrogen plant and the sulfur  
4           recovery. So, how does the FCC specifically connect to  
5           the project?

6           MR. KARRAS: Thank you. I think there are three  
7           main ways.

8           First of all, sort of physically or  
9           hydraulically. It's -- the FCC receives oil feed from the  
10          so-called "TKC, telekinetic cracker." The project  
11          documents called this TKC product the "FCC feed hydro  
12          treater," and one of the main components of the project is  
13          to expand the capacity of this hydro -- for this feed  
14          hydro treater, so that then feeds into the FCC, the cat  
15          cracker. So the feed hydro treater and the cat cracker is  
16          really a crack and train of these two units.

17          Expanding the capacity of the one upstream  
18          expands the capacity to get high sulfur, heavy gas oil,  
19          pretreated into the cracker, so its increases the flow of  
20          that stream, which is the main stream and probably one of  
21          the cheapest and most economical ways that Chevron could  
22          get that in.

23          So, and this is sort of familiar to all of us, or  
24          should be, because that expansion of the TKC unit, the  
25          feed hydro treater, the FCC's downstream of it, the

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1 solvent de asphalter is upstream, the SDA. The SDA is to  
2 be bottlenecked by this project, because the upstream unit  
3 can then feed more into the hydro treater.

4 Well, it's sort of the same thing with the FCC.  
5 Right downstream it's de bottlenecked as well. So, while  
6 the project doesn't physically touch the FCC, it does  
7 increase the flow through it, it would be expected to  
8 increase its through put. And while we believe the EIR  
9 underestimates the potential increase in through puts to  
10 the FCC, the EIR does, in fact, project an increase in  
11 through put. So, that's the first one.

12 The second way that it's connected to the project  
13 is very directly that increase in through put of the FCC  
14 would increase its emissions.

15 Again, both the EIR and our analysis say that.  
16 We believe that there's a significant problem with the EIR  
17 in underestimating how much that could be on a daily  
18 basis, because that increase in emissions on a daily basis  
19 is what we breathe. And we may know the reason why the  
20 Bay Area is in violation or not in compliance with the  
21 fine particulate matter standard, is not an annual  
22 average, it's because we are not in compliance with the  
23 24-hour average. So, there's daily measurements we think  
24 are important.

25 That disagreement -- but nevertheless, the

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1 conditions that we proposed would address that. There's a  
2 problem with the EIR, but functionally this condition  
3 would take that impact away if it were adopted.

4 And the third way is another impact where in this  
5 case I don't -- I can't state the EIR agrees with us about  
6 this. It probably doesn't. We think this is one of the  
7 problems with EIR. So, this is CBE's analysis, but we're  
8 -- mathematically we're sure it's right.

9 You recall that Chevron and the EIR have  
10 identified a measure that could reduce the particulate  
11 matter for the FCC. And they've said, "Here's the range,  
12 50 to 217 tons per day of reduction" is told what we can  
13 get out of Chevron's -- will say that, that measure could  
14 do that.

15 Interestingly enough, the high end, about  
16 217 tons per day, 1,730 pounds per day of really dangerous  
17 pollutant is talking about a huge amount. That's about  
18 what it would take to get Chevron from the Bay Area  
19 inventory, what the Air District says it's inventory is  
20 the emissions of the unit down to the permit limit level.

21 So, putting aside the argument of whether you  
22 think the permit's being violated, there is a limit, 92  
23 tons per year. They're at 317. You can get almost there  
24 with this measure that Chevron's identified.

25 Now, that's if you're here now. You can get that<sub>52</sub>

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1 far down. What happens if it goes up further is that it  
2 starts foreclosure of the ability of meeting the limit.  
3 We believe that's the impact of the project that needs to  
4 be mitigated as well.

5 So, those are the ways it's connected to the  
6 project through impact, through hydraulic flow.

7 COMMISSIONER LANGLOIS: Okay. And that measure  
8 Chevron has identified that is proposed to be implemented  
9 in the project?

10 MR. KARRAS: That would be one component of our  
11 proposed emissions. In the EIR, it's imposed to be  
12 mitigation only if triggered. And the EIR does not  
13 trigger it, which is one of the problems.

14 COMMISSIONER LANGLOIS: Okay. So that's one of  
15 the items that you've addressed in your conditions -- or  
16 your proposed conditions.

17 Okay. I'd like to ask about the original permit  
18 limit. And to what extent that -- I believe that came out  
19 in 1995. I'd asked about this earlier, and have a copy of  
20 a document here from the Bay Area Air Quality Management  
21 District from 1995.

22 And I don't see anything on here about  
23 "filterable," but could you please clarify to what extent  
24 your original permit talks about the limit on particulate  
25 matter of 92,000 tons per year being only matter that's

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1 measured through filterable means, or it otherwise?

2 MR. KARRAS: Yes. Commissioner Langlois, I admit  
3 I anticipated this question. It's something that keeps  
4 coming up, and we put this document in our comments. So,  
5 I actually brought copies of what I think is the document  
6 you're referring to. I've got a copy of a permit granted  
7 by the Bay Area Air Quality Management District, December  
8 28th, 1995, that includes Condition 11066. Is that the  
9 document you're referring to?

10 COMMISSIONER LANGLOIS: Yeah. That's what I have  
11 also.

12 MR. KARRAS: So, I have a few copies if it's  
13 convenient to give them to the applicant and to the  
14 commissioners, so they know what we're talking about.

15 COMMISSIONER LANGLOIS: Sure. You can give them  
16 to staff and they'll distribute.

17 Because there's been this question about, I  
18 understand that starting around 2009, the method for  
19 measuring the fine particulate matter is able to pick up  
20 the condensable, which, of course, the condensable is just  
21 as hazardous to your health as the filterable, so, can you  
22 address that?

23 MR. KARRAS: Right. So, just to start off, this  
24 is a -- almost a 20-year-old permit. And it -- it's  
25 probably important for you to recall that this was the

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1 last major project that this refinery, they called it the  
2 "Clean Fuels Project," in most of their descriptions back  
3 then.

4 Councilman Butt was very involved before he was  
5 on the council working with CBE on it. I worked on it  
6 somewhat. And a big part of the project -- actually, it  
7 was a separate project that got merged into it, and it's  
8 separate area of permit, was an expansion and rebuilding  
9 of the FCC unit itself.

10 And so that's why -- that's where this document  
11 came from, Condition 11066, came from.

12 We -- if you look at, I guess, it's the third or  
13 fourth unnumbered page conditions on the FCC plant, you'll  
14 see Condition 1, you'll see the feed rate "80,000 barrels  
15 per day. Annual average 90,000 maximum." Those are what  
16 we've been talking about and the EIR's been talking about.  
17 Those are still in place today.

18 And then Condition 3 under the FCC unit shows the  
19 limits. So those -- you see the 92 tons per year limit on  
20 PM10, and that it's become PM10, not filterable  
21 particulate. And also for POC, which is BOC, essentially  
22 its precursor, organic hydrocarbon. Those are the two  
23 limits that the Air District numbers and the EIR correctly  
24 say, "Look -- the monitoring -- the Air District is over  
25 those limits."

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1           And then in terms of your -- specifically to your  
2 question, part seven of this permit has been changed since  
3 then. But, you can see that the original form -- in its  
4 original form, it did not say anything about measuring  
5 only the coarse part of PM10. It did not say use EPA test  
6 "X," it said it had to be an Air District-approved source  
7 test, if you will.

8           I'm not going to suggest that you should hold  
9 your hearing over. I understand that there's other issues  
10 with that, but to give you a fully honest answer, I have  
11 spoken with the Air District staff who wrote this permit.  
12 They have been told they cannot talk to me anymore by the  
13 management under pressure from Chevron.

14           And I would not be honest if I didn't divulge  
15 that to you. If you wanted to essentially subpoena them,  
16 that would be your right. You may not have time to. But  
17 the fact is this limit was written for all of PM10, not  
18 just parts that they believe is dangerous. So, it did not  
19 leave out the parts of most dangerous.

20           COMMISSIONER LANGLOIS: Okay. Thank you.

21           And then just to follow up on that. So, can the  
22 fine particulate matter and the condensable PM particulate  
23 matter, can they be measured?

24           MR. KARRAS: Yes. The -- in our more recent  
25 comments, I think we actually referenced this in our

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1 letter to you that described the conditions as well and  
2 discussion towards the back.

3           There have been quite a number of measurements of  
4 other refineries' catalytic cracker. The same kind of  
5 units, often with the same kind of conditions with the  
6 electrostatic precipitator, and even ammonia injection  
7 like Chevron uses here.

8           At least 14 others have been reported publicly.  
9 Some of these are quite local. The L.A. refineries were  
10 measuring this a lot before 2003. In fact, by 2003, the  
11 South Coast Air District felt that it had enough  
12 information from those condensable particulate  
13 measurements to use that as a basis for a rule that they  
14 said would reduce the particulate matters emissions from,  
15 in this case, it was five different refineries in Southern  
16 California. Five different cat crackers. Just getting  
17 the ammonia out alone would be -- they said it would be  
18 almost 1.5 million pounds per year reduction. And they  
19 adopted a rule for the whole region for all the refineries  
20 based on those measurements more than ten years ago.

21           So, yes, it can be measured, and yes, it has been  
22 -- those measurements have been used to actually control  
23 emissions, just not here.

24           COMMISSIONER LANGLOIS: Okay. Ms. Libicki said  
25 earlier there were issues with the measurement of the

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1 condensables. Can you address that?

2 MR. KARRAS: Yes. There are. Two kinds.

3 One, the really common kind in any of these  
4 measurements. There is -- it's very difficult to  
5 accurately and reliably quantify all of the emissions from  
6 all of the different parts of the refinery. And this is  
7 an example that I think people should take to heart when  
8 they try to understand why is it we should be doing other  
9 things, just besides looking at the end of the pipe.

10 Here's the big source for the vast -- of we know  
11 of in the City and in this refinery, and look at the kind  
12 of debate we're having.

13 In fact, you know the truth is that the  
14 particulate matter that gets to our lungs from this  
15 source, some of it forms in the machine, some of it forms  
16 in the stack, some of it forms in the plume and some of it  
17 forms downwind. These chemicals keep reacting after they  
18 get into the air. We know that about smog, the same with  
19 particulate matter.

20 Under the Clean Air Act, the way that's set up --  
21 it has -- and the way it's been lately as I understand it,  
22 it has become important for the Clean Air Act regulator to  
23 make the distinction between what they call "primary  
24 particulate matter," which is the stuff that forms in the  
25 machine or right after it's emitted, and secondary, which 58

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1 is what forms further downwind.

2 We breathe all of it. The impact under CEQA is  
3 all of it.

4 The Air District and the EPA Air Division, they  
5 divide them into two different categories. So, the nicest  
6 and kindest way to describe the argument that the CE's  
7 having with the EIR, is the EIR is taking -- is saying,  
8 "Keep dividing into those two categories, and for some of  
9 your analysis only look at one of them, don't look at the  
10 whole thing." We're saying under CEQA and -- should look  
11 at all of it.

12 The reason it's making a big difference here is  
13 that the condensable particulate matter that has been  
14 measured, it's more than 90 percent of it. So, and it's  
15 also the most hazardous portion. So, well over 90 percent  
16 of the impact from the big source would be ignored by the  
17 EIR's approach. This is a big problem that's solved by a  
18 condition that just simply says, "Look, if you're going to  
19 build a new project that's going to affect an increase in  
20 emissions from this source, you got to meet your existing  
21 permanent limit." That solves that problem. And it  
22 solves it for all of those reasons.

23 Does that answer your question?

24 COMMISSIONER LANGLOIS: That does answer my  
25 question.

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1           Just one more thing on the FCC is that you  
2 suggest having a fresh feed -- a limit on the fresh feed  
3 through put rate, the amount of through put barrels it can  
4 process per day. You're suggesting 70,500 which is a  
5 little more than is currently, but I think the project  
6 suggests 80,000 barrels per day.

7           So, I'm wondering if the through put is limited  
8 at 70,500 barrels a day, would that still allow either the  
9 project or the project's Alternative Number 11 to proceed,  
10 and -- or how would it impact that overall big picture?

11           MR. KARRAS: The short answer is, yes.

12           I'd like to clarify if I could, though. The  
13 70,500 barrel per day value, that is taken directly from  
14 the EIR. That is the value that the EIR says is the  
15 current baseline. So, that's what they say it's running  
16 at. We believe the current baseline is a little lower  
17 than that, closer to 69,000 barrels, but we are willing to  
18 go with the EIR's baseline. That would be the baseline.

19           The permitted maximum per day is 90,000. And, of  
20 course, that permit limit could change if Chevron and the  
21 Air District decide to change it, unless you guys take  
22 action.

23           The reason for our proposal to keep it at the  
24 baseline goes back to what I said about this impact of if  
25 the emissions increase and that uses up all of the

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1 available measures to get emissions down to a healthy  
2 level, well, then we should look for an additional measure  
3 besides the one that Chevron has identified.

4 And to make the math really simple, Chevron's  
5 measure that's in the EIR and the EIR talks about it, too,  
6 if it works at its maximum capacity, it will get the unit  
7 down to just about where its permit limit is, and so we  
8 also avoid increasing the emissions, then we can do that.

9 The purpose of saying, "Let's take this part of  
10 the project -- this part of the refinery that's not  
11 touched by the project, it's not physically part of the  
12 project, it would be de bottlenecked by the project just  
13 like the SDA. Let's just treat it the same way we treat  
14 the SDA. Keep it at baseline and that is a reasonable  
15 measure, we think, together with the one that Chevron has  
16 identified to meet the permit limit."

17 Does that answer your question?

18 COMMISSIONER LANGLOIS: Thank you. Yeah, that's  
19 very helpful. Thank you. I appreciate that.

20 I just have another question about -- I'm sure if  
21 it's you, that's the right one to answer it. But this is  
22 about another couple of suggestions you made and the  
23 verification the accountability. And, of course, I  
24 appreciate all the work that's been done on the mitigation  
25 and monitoring program, because we do want to monitor this<sub>61</sub>

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1 project to make sure everything happens the way we're  
2 expecting it to happen, in terms of avoiding increases in  
3 emissions.

4           There is one where -- there's a proposed  
5 condition in two paragraphs, maybe it's really two  
6 conditions, one of them requires Chevron to -- it seems if  
7 there's any other requirements of the CUP, other than the  
8 main project itself to make sure Chevron submits timely  
9 applications for all permits necessary, which includes but  
10 not limited to incorporation of any emission limits. And  
11 this, in particular, affects this condition of the FCC.

12           So, that's -- that -- I can understand where we  
13 want to make sure that -- that happens in a timely  
14 fashion.

15           And there's another one about prior to the  
16 issuance of the building permit that you want to have the  
17 zoning administrator receive -- demonstrate the compliance  
18 with all of conditions of -- that are required by the CUP  
19 to have then before construction begins, and it would seem  
20 to me that that's probably included already in the  
21 requirement. Can you explain why you've added that one on  
22 as well?

23           MR. KARRAS: Yeah, I think you're right, this may  
24 be a question that our attorney, Roger Lin might be better  
25 able to answer. I'm here if you guys want me.

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1           ROGER LIN: Thanks, Commissioner Langlois.

2           It really comes down to a clear need for  
3 enforceability on any of the conditions in the conditional  
4 use permit, and not just by the City, but there has to be  
5 a means for the public to also -- and the community to  
6 also have a route for recourse if necessary.

7           Right now in the staff's proposed conditions,  
8 Condition H5, it's a good start, but I see Condition H5 as  
9 kind of being the parallel to the condition that you're  
10 talking about. It's a good start, but is it not enough.

11           First, it requires -- well, it gives basically  
12 the Planning Commission -- you have annual hearings to  
13 decide whether there is compliance or not, but the first  
14 wouldn't happen until a full year after the project's  
15 construction. So, that's the first problem, you can only  
16 check after the project is built and running, and I'll get  
17 more into that in the second.

18           And the second problem is what would happen at  
19 that hearing? You would hear a report -- this is what's  
20 going to come out of it, you would get supporting  
21 information from other regulatory agencies, and also the  
22 status of compliance. Okay, you get the status of  
23 compliance, and what if it's not in compliance? What  
24 happens then?

25           You know we've been here before. We've seen each<sub>63</sub>

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1 other in the same and different venues, but similar  
2 issues. There are questions about jurisdiction and this  
3 takes up administrative cost and time and resources. We  
4 need this condition now. We can get it now.

5 And to go back to the exact condition that we  
6 have, first there is a need to verify as a lot of public  
7 comments went into last night. We highlighted that  
8 Chevron is under criminal probation right now. They  
9 appealed willful and serious CAL OSHA citations, and  
10 they're under investigation by the Federal EPA. And  
11 remember, let's -- remember that investigation by the  
12 Federal EPA for monitoring, it wasn't like they forgot to  
13 submit a monitoring report.

14 They built a pipe to reroute emissions to go past  
15 the monitor. That is the extent -- that is why there's  
16 definitely a need to verify. Now, why is there also a  
17 need for the public to verify?

18 Well, the public and the community have to be  
19 able to have access to information that guarantees these  
20 conditions, and we can't depend on the City. And two  
21 cases illustrate this very close to us, the first one,  
22 City of Richmond vs. Chevron. You sued Chevron under the  
23 ground of public nuisance. They have continually violated  
24 permits from different agencies to the point where the  
25 City has to resort to the judicial system to fix things.

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1 That's one thing.

2 Second case, we, CBE, recently brought suit  
3 against the Air District. Chevron already has its air  
4 permit for this project, and we're -- we don't even know  
5 what the project's going to be, that's why we're here  
6 yesterday and today to decide what the end probability is  
7 going to look like. But they already have their air  
8 permit, that's why we sue the Air District.

9 But what does that show? They're bullies.

10 CHAIR LANE: Mr. Lin, I'll ask if you just stick  
11 to what the question was asked. I know you're trying to  
12 go to the rationale, but we'll...

13 MR. LIN: The rationale basically is that because  
14 they bully agencies, why leave the responsibility of  
15 enforcement just up to agencies, when the public is here  
16 and willing to verify data?

17 And if you're looking for a nexus, Chevron  
18 brought the need for this condition upon itself. The  
19 first time it proposed this project to the City, it  
20 implicated the City in lying to the public. There's your  
21 nexus. There's a clear need for enforceability of  
22 conditions, not just by the City, but also by the public,  
23 too.

24 Does that answer your question?

25 COMMISSIONER LANGLOIS: Thank you. Just the only<sub>65</sub>

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1 question I would have. I see that this suggests evidence  
2 should be publicly verifiable. Evidence with compliance  
3 with conditions which seems perfectly sensible. Why  
4 should the public have access to that?

5 I'm wondering what does the public having access  
6 to enforcement look like?

7 MR. LIN: Through this route, the two -- well, it  
8 referenced the Richmond Municipal Code Sections in there,  
9 so basically, the zoning administrator, Mr. Mitchell,  
10 would refer this matter to the Planning Commission. The  
11 Planning Commission would then have the hearing, just like  
12 the proposed condition, about whether Chevron is in  
13 compliance with its condition.

14 At the end, it would come out to determination.  
15 Any member of the public that through this mechanism can  
16 petition the zoning administrator for a determination of  
17 whether Chevron is or is not in compliance with the  
18 conditional use permit. Based on that determination,  
19 anyone can also take legal action, if necessary.

20 COMMISSIONER LANGLOIS: Okay, I understand. Just  
21 more eyes on the process.

22 MR. LIN: Exactly.

23 COMMISSIONER LANGLOIS: Thank you. Thank you  
24 very much.

25 CHAIR LANE: So, are there other questions of

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1 those representing the Richmond Environmental Coalition?

2 COMMISSIONER MARTINEZ: Yes. I guess,  
3 Mr. Karras, what other concerns have cumulative health  
4 risks? Are there any models that measure cumulative  
5 health risks? And if so, what are they? If not, what do  
6 we need to do to implement them to protect the health of  
7 the community?

8 MR. KARRAS: Mr. Martinez, thank you for asking  
9 me such an easy question.

10 That's a joke.

11 Let me repeat it to make sure I -- are there any  
12 models for addressing cumulative health risks? I assume  
13 you mean from air pollutants, toxins and others too? What  
14 could be done about that?

15 And was there another part of your question?

16 COMMISSIONER MARTINEZ: If not, what can we do?

17 MR. KARRAS: Yeah, there are multiple models --  
18 let's see, starting from the beginning, something by U.S.  
19 government estimates, something like 80,000 chemicals in  
20 commerce, registered chemicals in commerce, about  
21 14 percent of them have been tested to be to the EPA and  
22 the federal government satisfaction of their potential  
23 toxicity.

24 Most academics and toxicologists and myself  
25 believe that the actual percentage is much smaller,

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1 because a lot of those government standards say, "Well, we  
2 don't really know the cancer risk yet or didn't even look  
3 at humans or reproductive health effects." So, it's an  
4 overestimate to say 14 percent of them.

5 That's individual chemicals.

6 I can't do the math in my head, but the  
7 permutation of 80,000 to how many different potential  
8 interactions there could be between groups of chemicals is  
9 starting to get astronomical.

10 What is known from tests, that mostly with  
11 animals, like essentially to make it totally  
12 understandable, torturing, like, water fleas or fish in a  
13 test tube, is that there are a whole bunch of effects that  
14 are sometimes additive. In other words, half of what's  
15 half the toxins for chemical A, and half the toxins coming  
16 from when you put them together, it's additives.

17 There's some tests that are more than additives,  
18 that are just -- and there have been tests done with  
19 multiple chemicals.

20 And for most people, the obvious example is  
21 Valium and alcohol. Not a good combination, right? So  
22 these interactions are not understood.

23 So what they're -- given all of that uncertainty  
24 about all of these chemicals that we've let out the gate,  
25 there are two general types of models or analysis methods. 68

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1           One is completely observational, "Just give me  
2 the data, measure it, approve it." They call that  
3 epidemiology. Like, for example, with fine particulate  
4 matter, most of the research showing that it's such a  
5 killer was done by epidemiology, 25-, 30-year-long  
6 population studies in large populations, very expensive,  
7 but you get real data.

8           The other way is modeling. Set up a computer  
9 model and make a bunch of assumptions.

10          The health risk assessment method, the HRA that  
11 the EIR uses, that's what is a form of that.

12          And then you've got the computer model. And what  
13 matters more than anything is what's buried in that  
14 computer model. How many cancer deaths are acceptable per  
15 year? Is it a hundred per million? Is it 10,000 per  
16 million? Is it one per million? That range will be in  
17 the model that we've talked about.

18          And, of course, the advantage to this is you can  
19 do it quickly and cheaply, and you can afford to do an EIR  
20 in less than 20 years without doing an epidemiology study  
21 of Richmond. So, it's very imperfect.

22          And I think that I answered two of your  
23 questions, what are the limitations in our current  
24 understanding in the EIR and why? And what are the  
25 different kinds of models?

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1           What can we do about it? CBE's approach, we've  
2 always been clear about this, we understand what you know,  
3 you understand what you don't know. You understand what  
4 the uncertainties are just like you asked about, and then  
5 you take a preventative precautionary approach. And, for  
6 example, if there's a measure you can take, if there's a  
7 dome you can put on a tank, if there's a tugboat or a  
8 tanker you can shore power.

9           You do this because it makes it better, and you  
10 can't -- if you wait to solve all of the study problems,  
11 you'll be counting bodies.

12           Does that answer your question?

13           COMMISSIONER MARTINEZ: Yes, thank you.

14           CHAIR LANE: Are there any other questions?

15           Commissioner Butt?

16           COMMISSIONER BUTT: I'm just wondering if the  
17 City's independent consultant, if there's any issues that  
18 you have with the technical things just discussed,  
19 regarding particularly the FCC? And if you generally  
20 agree with all of that or if there's another perspective?

21           JENNIFER HERNANDEZ: Thank you.

22           So, there were a couple of points that are, I  
23 think, a little bit more in my wheelhouse in terms of what  
24 the EIR did or didn't do legally.

25           There was a suggestion that the EIR did not use 70

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1 data that included condensables for the FCC, and only  
2 relied on the filterable FCC results.

3 That's not accurate. The reason we are even  
4 having this debate, is because the EIR used the best  
5 available information of that total refinery emissions,  
6 which included both condensables and filterable  
7 particulate matter. So, we have an EIR that has the  
8 baseline using the best available for both filterable and  
9 condensable.

10 The second legal point, I think, is Mr. Karras  
11 quoted from a 1995 permit that said "PM10" and had a  
12 limit, a numeric limit.

13 At that time, the only way of measuring PM10 that  
14 was used by regulators was for filterable PM. The efforts  
15 to try to measure condensables really took hold at the end  
16 of that decade. And as Mr. Karras acknowledged, really  
17 gained steam in the South Coast in the early 2000s,  
18 starting with rulemaking.

19 When you have a permit, which at the time has a  
20 number that's only attached to available permit  
21 measurement methodology, it's read based on that  
22 measurement methodology. That's what our experts  
23 concluded, but that's also what the Air District  
24 concluded.

25 The Air District responded in writing to the City<sub>71</sub>

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1 request that we understand clearly from their perspective  
2 whether there was a violation of the air permit. And that  
3 violation does not exist, based on the Air District  
4 assessment of its air permit requirements.

5 So, we keep conflating two different things. The  
6 EIR uses the big number, the number that includes  
7 condensables and holds the facility to no net increase.

8 The EIR separately addressed the question, is  
9 there a violation of the permit? And answering that  
10 question sent us off on this adventure of filterable  
11 versus condensable, a 1995 methodology versus 2000  
12 methodology, that's still not settled down as EPA  
13 confirmed in April of this year.

14 So those are the two quick points on the FCC. I  
15 think there were lots of other technical points, and I  
16 turn it over to Dr. Libicki on some of them.

17 For example, how about the idea that we're hiding  
18 the cancer potency or cancer assumptions in the health  
19 risk assessment, or that it's quick and easy to do a  
20 health risk assessment on a computer?

21 MR. KARRAS: I said neither of those things.  
22 You're putting words in my mouth.

23 DR. LIBICKI: So, we'll go for the acceptable  
24 cancer risk. It's actually not buried in the model, the  
25 acceptable cancer risk isn't actually a part of the model 72

1 at all. The acceptable cancer risk is a threshold that's  
2 listed in the EIR in the table in the chapter very  
3 clearly, and it's actually and not buried at all in the  
4 model.

5 It's also important to note that the health risk  
6 assessment as written by the regulatory agencies does take  
7 a precautionary approach. That is to say, it takes a  
8 conservative estimate of what the health risks might be.

9 Rather than just taking a measurement of what the  
10 health risk is, the toxicities are, actually have factors  
11 of safety built in to them of anywhere between 10 and a  
12 1,000.

13 THE AUDIENCE: We can't hear. We can't hear.  
14 Volume, please?

15 DR. LIBICKI: Okay, sorry. It's also my cold  
16 coming back at me.

17 The health risk assessment does have layers of  
18 conservatism built into it. The toxicities are not simply  
19 the toxicities that are measured, but they are the  
20 toxicities that are measured divided by 10 to up to 1,000.  
21 And that safety factor actually intended to do a number of  
22 things, one, they take into account the uncertainty of the  
23 experimentation, but the other takes into account the  
24 uncertainty of how chemicals might interact with one  
25 another.

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1           So, the health risk assessment has layers of  
2 conservatism that if they overestimate built into the  
3 model itself, and the conservatism associated with the  
4 toxicity is only actually one of them. There's a number  
5 of other conservative assumptions built into it as well.

6           COMMISSIONER BUTT: What about the mention that  
7 there are potential chemicals that can combine that wasn't  
8 evaluated?

9           DR. LIBICKI: Right. So that actually has to do  
10 with the toxicities discussion that I had earlier.

11          MR. KARRAS is correct in that there are some  
12 chemicals that are synergistic, they act together in a  
13 worse way than they act on their own.

14          There are also some chemicals that are  
15 antagonistic, that is to say that they aim for the same  
16 receptor. And if they're together, their effect is no  
17 worse than if they were there singly.

18          But the reason that the health risk assessment  
19 has the conservative toxicities built into it is to  
20 account for what may be some synergistic effects. And so  
21 that factor of 10 to 1,000 that I mentioned before, is  
22 actually intended to account for the potential for those  
23 effects acting together.

24          COMMISSIONER BUTT: Thank you.

25          CHAIR LANE: Do the commissioners have any other 74

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1 questions?

2 I do have one question for CBE, and it's related  
3 to Alternative 11.

4 So, I know most of the comments in your letters  
5 have been focused on the project, and I understand that  
6 was the one that was folks, everyone had the longest time  
7 to analyze, but I know one of your concerns is related to  
8 local mitigation.

9 So, I just want to understand kind of -- given  
10 the Alternative that has been laid out, just kind of how  
11 you guys are looking at local mitigation and need for that  
12 for now, with that Alternative?

13 MR. KARRAS: So, Chair Lane, my understanding is  
14 you're asking maybe two questions: What do we think about  
15 Alternative 11? And what do we think about how  
16 Alternative 11 interacts with our proposed conditions?

17 CHAIR LANE: Yeah. Especially related to the  
18 need for local greenhouse gas mitigation. Because I know  
19 you did provide some in your letter, but I know some parts  
20 you kind of state, "Yeah, we're still trying to basically  
21 figure it all out." I just want to know. It's not a  
22 "gotcha" question, just...

23 MR. KARRAS: I appreciate that. And I do want to  
24 speak to this. I want to make clear that CBE believes  
25 that this project really needs these conditions in any of 75

1 its variant forms.

2 So, the conditions we're proposing, we believe  
3 are needed whether or not the Alternative is adopted.  
4 That said -- and I think that part's clear, but that said,  
5 the -- with our conditions, with the proposed conditions,  
6 the project would be -- would have less impacts with  
7 Alternative 11, so we support Alternative 11 as well, as  
8 long as the conditions are with it.

9 With respect to all of the basic impacts, we  
10 believe the conditions are still needed, and I'll speak to  
11 each one if you want, but you asked about the climate one,  
12 the local, mitigation.

13 My understanding, and I believe that -- well,  
14 first of all, the Alternative is not analyzed or presented  
15 in as much detail as the mitigation in the other sections,  
16 which I think is normal for an EIR, but we should keep in  
17 mind there may be a squishiness about exactly how the  
18 Alternative would -- exactly how the GHD cap would be  
19 implemented, for example, how are you going to measure the  
20 hydrogen?

21 Those things are not detailed with that because  
22 we have issues with that or concerns about that. But  
23 putting all that aside, it seems clear that most of the  
24 potential GHC emissions under the Alternative would be  
25 coming from the hydrogen export production, right?

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1           So, Praxair owns this hydrogen plant. They are  
2     exporting hydrogen, the GHD is emitting there -- here in  
3     Richmond at the refinery from it, and it's being  
4     mitigated.

5           The Alternative makes it pretty clear that  
6     Praxair is allowed to go 100 percent carbon credit trading  
7     to mitigate that increase. And so, the Alternative  
8     doesn't, by itself -- doesn't do anything for local  
9     mitigation, unless we also have conditions in other  
10    mitigations. Now there are some other conditions we  
11    proposed, and we're proposing a condition for that as  
12    well. Does that make it...

13           CHAIR LANE: Thank you. So, were there any other  
14    questions of CBE, others of the coalition at this time?

15           COMMISSIONER MARTINEZ: No.

16           CHAIR LANE: You're not forced to ask --

17           COMMISSIONER MARTINEZ: Actually, I want to go  
18    back to the applicants, because I'm still confused about  
19    how Praxair fits into this.

20           So, what I just heard from Mr. Karras is that  
21    Praxair is not bound by the pollutant regulations that  
22    they will be imposing on the project.

23           So, does Praxair -- is Praxair bound by the  
24    decision that we make tonight or not?

25           CHAIR LANE: That's a question for --

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1 JENNIFER HERNANDEZ: So, yes, Mr. Martinez, as I  
2 attempted to explain also in response to the question from  
3 Commissioner Langlois, the conditions of approval and the  
4 mitigation requirements that are in this permit package,  
5 do apply to the Praxair hydrogen plant in their entirety.

6 What the Alternative 11 does is cap  
7 refinery-related greenhouse gas emissions to baseline  
8 levels, and hold the Praxair plant export component, to  
9 the extent that export project ever happens, to no net  
10 increase over baseline, but does allow Praxair to access  
11 cap and trade credits or cap COLA credits, is another form  
12 for credit mechanism, to mitigate and achieve the no net  
13 increase level.

14 It does not -- this EIR would not allow Praxair  
15 to increase over baseline criteria air pollutants or risk  
16 from toxic air contaminants, even for the export projects.

17 So, in terms of those pollutants that could cause  
18 a local adverse health risk, criteria and toxic air  
19 pollutants, Praxair, even with its export project is held  
20 to no net increase over baseline.

21 COMMISSIONER MARTINEZ: A net increase, but an  
22 increase?

23 JENNIFER HERNANDEZ: No net increase over  
24 baseline.

25 COMMISSIONER MARTINEZ: Right. No net increase, 78

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1 but they could still increase pollution?

2 JENNIFER HERNANDEZ: Not -- sorry, so not at all  
3 for toxic air contaminant risk. There is no standing out.  
4 There is a prohibition on toxic air contaminant risk.  
5 There would be none allowed by the Praxair export  
6 component, for --

7 COMMISSIONER MARTINEZ: All right, but they could  
8 increase greenhouse gases?

9 JENNIFER HERNANDEZ: Yes, they could. That is no  
10 net increase inclusive of the use of cap and trade  
11 credits, that's exactly right.

12 COMMISSIONER MARTINEZ: And do you have any idea  
13 how much increase that would be?

14 JENNIFER HERNANDEZ: Back to math.

15 DR. LIBICKI: If they were to export it  
16 100 percent, that would be the same question that  
17 Commissioner Choi asked, if would be 550,000 tons.

18 COMMISSIONER CHOI: Also, Eduardo, if it would  
19 help, basically compared to the project that would be  
20 about a 23 percent decrease. So, in some ways it appears  
21 like 100 percent decrease, but it's actually a 23 percent  
22 decrease. And it accounts for three cars per every  
23 household in Richmond.

24 COMMISSIONER MARTINEZ: All right. Thank you.

25 COMMISSIONER REYES: I have a question regarding 79

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1 -- just back to follow up on Eduardo's question.

2 So, with Praxair being onsite, who -- if  
3 something was to go wrong, who is ultimately responsible,  
4 and who's liable for all this on the site?

5 Would Chevron get into a litigation with the  
6 Praxair or is there something in place already to comfort  
7 us and let us know that someone's responsible if something  
8 were to go wrong?

9 JENNIFER HERNANDEZ: So, this conditional use  
10 permit is issued exclusively to Chevron, which is wholly  
11 response and liable to the City for compliance with all  
12 terms. To the extent Praxair causes a problem, there  
13 might be a contract dust up between Praxair and Chevron,  
14 but the City gets to hold Chevron responsible for  
15 compliance, including for compliance at the Praxair  
16 facility.

17 COMMISSIONER REYES: And I have a follow-up  
18 question. And I'm not trying to put laundry out there or  
19 anything, but I understand that the refinery is on some  
20 sort of criminal probation. So, if something was to go  
21 wrong, I mean, is this -- on top of that, is it more  
22 serious now?

23 You're already on probation. If I was on  
24 probation and I did something wrong, I think they're going  
25 to lock me up. So I got to know, is there something in 80

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1 place there?

2 JENNIFER HERNANDEZ: You know, I'm going to have  
3 to confess, as I'm not an expert in criminal law. And so,  
4 to the extent Chevron again engages in conduct that is  
5 termed to be criminal or warranting probation, then  
6 obviously another offense is a problem.

7 But to the extent Praxair engages in that  
8 activity, I think that would be also a problem for  
9 Praxair's prosecution, and the extent to which it is also  
10 attributable to Chevron's failure to, say, supervise, is  
11 something that I don't know enough about criminal law to  
12 opine on.

13 COMMISSIONER REYES: I only raise that, because  
14 of the safety concerns that's my --

15 JENNIFER HERNANDEZ: Understood.

16 COMMISSIONER REYES: Thank you.

17 MR. KARRAS: Commissioner, CBE has a little bit  
18 of information about that question, if you would like us  
19 to provide that?

20 COMMISSIONER REYES: Please do, if you have  
21 anything.

22 CHAIR LANE: Hold on. Before we please do, if  
23 you can answer, that's fine, yeah. Short. Thank you.

24 MR. KARRAS: There is a connection between safety  
25 and the split ownership of hydrogen plants. We're seeing 81

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1 it in refineries all over the place. So does the workers'  
2 union. It's a concern here. We don't have enough  
3 information to comment on it yet, but since you asked,  
4 it's related to the question that Commissioner Choi and, I  
5 believe, you had asked about the jobs later.

6 Most of the 29 jobs would be at the hydrogen  
7 plant. They'd be split. They would probably not have  
8 steel worker representation while steel workers operate  
9 the rest of the hydrogen plant.

10 And there are communication problems. We see it  
11 in the flare reports to the Air District with the other  
12 refineries that already have third-party plants. So,  
13 there is a safety question. We haven't had enough  
14 information about it to comment yet, but I think your  
15 concern is correct, and it would be a good question to ask  
16 Praxair if they were here.

17 CHAIR LANE: So with that said, I'll ask  
18 commissioners if there's other questions that they have  
19 for the applicant, the opposition, or those seeking  
20 modification?

21 If not, it is typically the time where we -- or  
22 the audience members even though it's a two-day meeting,  
23 where we typically close the public hearing, but prior to  
24 doing that...

25 VICE CHAIR CHOI: Actually, you know, as far as 82

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1 this Praxair issue, I have one question of the applicant,  
2 and it actually might also be for you, Jennifer.

3 Is there any possibility of mitigating -- I mean,  
4 you did the calculation on the hydrogen plant at 100, is  
5 there any possibility of -- is there any leeway on that in  
6 terms of stipulating about lowered use? Because I have to  
7 say that 555,000 metric tons is still an awful lot  
8 greenhouse gases.

9 So, is there any -- I mean, I know it's  
10 difficult, because there's a separate entity involved, but  
11 is there any ability to possibly rein in that 100 percent  
12 figure down to, say, the 93 percent figure or any other  
13 thing like that?

14 JENNIFER HERNANDEZ: So, that is not proposed in  
15 the condition of approval. We do have an Alternative, and  
16 I'm going to turn to one of my colleagues for help, that  
17 does limit the hydrogen plant operations.

18 If you could indulge me for just one minute, I'll  
19 let you know what that Alternative is.

20 It is called the Hydrogen Capital Alternative.  
21 It is another Alternative that can be selected. It does  
22 not need to be selected to mitigate any greenhouse gas  
23 emissions. It is not an Alternative that meets  
24 projectives. Its Alternative -- one of the Alternatives  
25 considered, it's on page -- it looks like it's considered 83

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1 and addressed under -- on page 111 of the findings that  
2 you have in front of you. And it would limit hydrogen  
3 production to 197 million metric square cubic feet of  
4 hydrogen a day, exclusive of the facility's own ability to  
5 create hydrogen from another process units. So, that's  
6 another Alternative in the suite of Alternatives yet to be  
7 worked out.

8 VICE CHAIR CHOI: But as I remember, that cap  
9 applies only to the hydrogen. So, I mean, in a sense we  
10 would lose many of the benefits of Alternative 11 by going  
11 by it, because Alternative 11 is already a --

12 JENNIFER HERNANDEZ: Correct. That's correct.

13 VICE CHAIR CHOI: Okay. Thank you.

14 CHAIR LANE: Commissioner Martinez?

15 COMMISSIONER MARTINEZ: Yes, one more question.

16 Would Chevron consider the possibility of  
17 maintaining control of the hydrogen plant? Since you're  
18 building it, it's on your property and being in your  
19 control, you would be more in control of the safety  
20 elements of running the plant? And we would be assured  
21 that Chevron workers would be getting Chevron benefits,  
22 and that Chevron workers would also be represented by  
23 unions.

24 MR. JUDD: So, I think that would be like me  
25 liking someone else's house and expecting them to give it 84

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1 to me. It's -- it's -- Praxair owns that facility. I  
2 think that if they found interest in discussing those  
3 things with Chevron, we're always amenable to those types  
4 of discussion, but I can't really speak for Praxair and  
5 their willingness to take property that's theirs and  
6 transfer it to another.

7 COMMISSIONER MARTINEZ: So, you're saying that  
8 Praxair is paying for the building of the facility?

9 MR. JUDD: Yes.

10 COMMISSIONER MARTINEZ: Okay. Of course, you  
11 do -- you have the money to buy it from under them?

12 CHAIR LANE: Okay.

13 MR. JUDD: Is that a question?

14 COMMISSIONER MARTINEZ: No, no. I was just  
15 letting you know that you could if you...

16 CHAIR LANE: Okay, we got it.

17 So, with that said, we can make a motion to close  
18 the public hearing or reopen it again.

19 So, with that, I'll have a -- is there a motion  
20 and a second?

21 VICE CHAIR CHOI: A motion to close the public  
22 hearing.

23 COMMISSIONER BUTT: Second.

24 CHAIR LANE: Okay. We have motion and a second.

25 Let's vote starting with Commissioner Reyes.

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1 COMMISSIONER REYES: Aye.

2 COMMISSIONER MARTINEZ: Aye.

3 COMMISSIONER WILLIS: Aye.

4 CHAIR LANE: Aye.

5 COMMISSIONER BUTT: Aye.

6 COMMISSIONER LANGLOIS: Aye.

7 VICE CHAIR CHOI: Aye.

8 CHAIR LANE: So, the public hearing is now  
9 closed. So, now's the opportunity for the  
10 commissioners -- there's a lot to discuss. There's a lot  
11 of different things on the table, and I will continue to  
12 look to staff to provide guidance as we consider the  
13 various things we need to do tonight.

14 So, I'll just -- one of the first things is the  
15 EIR adopting the finding for that, as well as the  
16 mitigation monitoring reporting for that -- for the  
17 project.

18 If not, I know yesterday we talked briefly about  
19 the Alternative and requesting that staff provide a  
20 finding for that also, which they have with us this  
21 evening.

22 So, is there discussion related to that?

23 COMMISSIONER LANGLOIS: Yes, Chairman Lane, I  
24 have a question. How do you want to proceed in terms of  
25 -- I think there's two things we need -- items of business <sup>86</sup>

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1 we need to take care of. One would be the question  
2 certifying the EIR, and then the other one would be the  
3 conditional use permit.

4 So, do you think we should take them one at a  
5 time or what do you think?

6 CHAIR LANE: We could take them one at a time,  
7 because one could be done without the other. So, for  
8 instance, we could choose to do what wish with the EIR,  
9 choose not to do something with the conditional use  
10 permit.

11 So, we can discuss the EIR now and decide what  
12 we'd like to do with that.

13 So with that, I don't know if you folks have  
14 thoughts on how do you want to proceed?

15 COMMISSIONER LANGLOIS: I'm not shy.

16 Yeah, so for the EIR question, I want to say  
17 this. I think we've come a along way since six years ago  
18 when the EIR had some real glaring defects and the court  
19 substantiated that fact. I think it's much, much better  
20 this time, and I appreciate the work that the consultants  
21 have done on it.

22 There's a few things. A few little problems and  
23 issues here that have been raised, but I think all of that  
24 can be pretty much dealt with with the conditions that we  
25 might choose to put on the project.

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1           So, just for -- to start the discussion, I'd like  
2 to put on the table a motion to -- and I'm not sure what  
3 the exact wording needs to be, but to basically certify  
4 the EIR and to adopt the resolution, certifying the EIR  
5 that's in our packets. So, I'd like to put that motion on  
6 the table.

7           COMMISSIONER REYES: Second.

8           CHAIR LANE: Is that Commissioner Reyes?

9           So, there's a motion and the second to certify  
10 that the Environmental Impact Report, the EIR, which  
11 includes adopting the findings and a mitigation monitoring  
12 reporting program.

13           And I guess I'll ask staff specifically. I think  
14 you need to be specific to the project or maybe  
15 Alternatives that we may consider.

16           COMMISSIONER LANGLOIS: So, this is certifying  
17 the EIR for the project as proposed, or the Alternative?

18           CHAIR LANE: Yes. And I'll ask.

19           So, my understanding is that if we were to do it  
20 for the project as proposed, that's what we would be doing  
21 now --

22           COMMISSIONER LANGLOIS: Okay.

23           CHAIR LANE: -- so your motion and the second by  
24 Commissioner Reyes would be for that.

25           Or, if not, then if we were to approve an

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1 Alternative -- and I'm looking at you guys -- to the EIR,  
2 then we would have to certify the EIR based on that  
3 Alternative, correct?

4 LINA VELASCO: You know, Chair Lane, we've  
5 provided a Resolution 1411 draft that's in your packet as  
6 attachment two, which reflects CEQA findings for adoption  
7 of the project as proposed by Chevron.

8 We've also provided you a handout that would have  
9 substitute findings for that resolution should you choose  
10 to go with Alternative 11.

11 COMMISSIONER LANGLOIS: Okay. Chair Lane, can I  
12 just comment quickly on that?

13 CHAIR LANE: Go ahead.

14 COMMISSIONER LANGLOIS: I appreciate getting  
15 those findings, and if you have extra copies, if there's  
16 anyone in the audience who wants to get a copy of those  
17 findings, it would be great if they could have those.

18 But I would like to make the motion referred to  
19 the Alternative 11, so to adopt the -- to certify the EIR  
20 and adopt the findings and mitigation reporting program  
21 for the Alternative, which is, I guess, the reduced sulfur  
22 processing, no increase in refinery greenhouse gas  
23 emissions.

24 Is that sufficient?

25 Okay. That's clarifying my motion.

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1 COMMISSIONER BUTT: I'll second.

2 CHAIR LANE: All right. Okay. So, we have a  
3 discussion. So, we have a motion, I won't -- you said it  
4 fine, and second by Commissioner Butt.

5 COMMISSIONER WILLIS: Just for clarification,  
6 we're also on the certification voting on the resolution  
7 for Alternative 11 as-is, including the part where we want  
8 to recommend to the City Council about entering into some  
9 legally binding community benefits agreement?

10 COMMISSIONER LANGLOIS: No, that's I think --  
11 that's the.

12 COMMISSIONER WILLIS: That's the second part of  
13 it? Okay.

14 COMMISSIONER LANGLOIS: Yeah, this is certifying  
15 the EIR and the conditions, and then I think we may want  
16 to make a recommendation to the council about the  
17 community health and wellness agreement.

18 So, kind of three different things.

19 LINA VELASCO: Correct. And the community health  
20 and wellness agreement is included in the second  
21 resolution, which is attachment three of your packet.

22 CHAIR LANE: So that we're all on the same page.  
23 So, the motion is -- and I'll just say, Alternative 11 is  
24 to certify the EIR for that adopting finding as was  
25 provided by staff this evening, and the mitigation

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1 monitoring reporting program for that.

2 A motion and a second was -- came by Commissioner  
3 Butt.

4 So we can have discussion, since we have a motion  
5 on the floor, for that? I'm not sure there if there's any  
6 discussion that's warranted or needed, questions, clarify?

7 Okay, so I'm seeing heads are shaking "no." So,  
8 with that, let's vote. I'll start with Vice Chair Choi.

9 VICE CHAIR CHOI: Aye.

10 COMMISSIONER LANGLOIS: Aye.

11 COMMISSIONER BUTT: Aye.

12 CHAIR LANE: Aye.

13 COMMISSIONER WILLIS: Aye.

14 COMMISSIONER MARTINEZ: Aye.

15 COMMISSIONER REYES: Aye.

16 CHAIR LANE: So, the EIR for Alternative 11 --

17 (AUDIENCE APPLAUSE)

18 CHAIR LANE: -- has been approved, along with the  
19 subsequent -- the mitigation monitoring reporting program  
20 and then adopting the findings that are provided for us  
21 today.

22 So, that's one step for us tonight.

23 The second, is what I think what you were  
24 addressing, Commissioner Willis, is approving a  
25 conditional use permit and desired used permit

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1 recommending that the City enter into a community health  
2 and wellness agreement with Chevron to provide funding for  
3 the recommended health and wellness programs for local  
4 residents of Richmond and unincorporated North Richmond to  
5 the Planning Commission, I'd like to approve an  
6 Alternative to the proposed modernization project,  
7 alternate conditions approval would need to be considered,  
8 and those were also provided to us tonight.

9           So, that's what we're in discussion now about the  
10 actual conditional use permit, the desired use permit as  
11 well as various conditions that we may want to include  
12 that are included. So, we can have a discussion about  
13 that and determine what we'd like to do.

14           Commissioner Langlois?

15           COMMISSIONER LANGLOIS: I'm going to start, yeah.

16           This, I think, is the -- kind of the core of our  
17 discussion tonight. It's really -- these are really  
18 important decisions to make about the conditions.

19           And before I make the proposals, I'd like to just  
20 make a few comments. And just say like I did earlier on,  
21 I think it's good to know that pretty much everyone in  
22 this room, I believe, wants the refinery to be modern,  
23 clean and safe. And that's something that Chevron has put  
24 out there for months now in the community with the  
25 literature. It's put in our mailboxes and on the

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1 billboards, and talked to -- as Mr. Judd mentioned,  
2 they've talked to 10,000 Richmond residents who concur.  
3 And certainly, if anyone asked me, I would say, "Yes, I  
4 want the refinery to be modernized. I want it to be clean  
5 and safe."

6 But what I think the challenge is is for us to  
7 really make those terms mean something. Make it as real  
8 as we can. Really think what we mean by "modern," think  
9 what we mean by "clean," think what we mean by "safe," and  
10 really take that seriously.

11 I know that some of this -- sometimes in these  
12 discussions about Chevron, things tend to get polarized.  
13 It's like the pro-Chevron and the anti-Chevron. I don't  
14 really see it like that. I think it's important for us to  
15 look at this holistically, not think about taking sides.  
16 Since we do all agree on what our ultimate desire is, we  
17 do have some differences on how we think is the best way  
18 to get there. And that's something I think we can talk  
19 about. I certainly think there's merits to a lot of the  
20 different points of view.

21 I want to thank the community members, who are --  
22 with various organization that came here to speak and  
23 express how strongly they feel about having our safety  
24 looked after, about having our health looked after, about  
25 having jobs provided.

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1 I want to thank members of the various building  
2 trades, the carpenters and others who have come here to  
3 speak about wanting to get back to work.

4 (AUDIENCE APPLAUSE)

5 COMMISSIONER LANGLOIS: Thank you, carpenters. I  
6 want you to get back to work. I'm very good friends with  
7 a carpenter. I myself can't really hammer a nail, but I'm  
8 very good friends with some carpenters, so I know how  
9 important that is to you.

10 And to the Chevron employees, I want to thank all  
11 of you for being here and really speaking your heart. I  
12 really respect you and your thoughts and your opinions and  
13 the work that you do.

14 I myself know a little bit about where you're  
15 coming from, because my father was a career employee at  
16 the Chevron refinery. He's no longer living, but he was  
17 very active and involved in the refinery and their  
18 research department. And I know that you're wanting the  
19 best. And for not only at your work, you put out the  
20 best, but also it's clear that many of you volunteer in  
21 the community, you want what's good for the community. I  
22 think Chevron is lucky to have you as employees, because  
23 clearly, you're putting out your full energy and all your  
24 skills and your talent into your work everyday. And  
25 that's one of the main reasons that makes the company so

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1 successful. So, I think it's great that you're here, and  
2 that Chevron has you to call on to work for the  
3 company.

4 I also think it's true that just because your  
5 employer or your upper management says, "Yes, this is the  
6 best project we can have," it doesn't mean you can't look  
7 at it, get more information, think about it. And if you  
8 see any way that maybe it could even be better, to mention  
9 that and say, "Hey, if there's something we can easily do  
10 to make things even better, safe or why don't we do it?"

11 So, this isn't a pro or anti anybody. This is  
12 really for trying to do what's good for the whole  
13 community and our planet.

14 I think this is an opportunity to do something  
15 that we may not have this chance again for another maybe  
16 20 years or so. The last time Chevron did a major  
17 retooling was about 20 years ago. So, this is really the  
18 time where we can look at it and use this opportunity to  
19 come up with the best things we can to really have long  
20 term impact.

21 And I believe that if we add a few extra  
22 conditions, I don't think it's going to harm the company  
23 financially at all. On the contrary, we know that Chevron  
24 is a very successful corporation. And this is a chance  
25 for you to really shine and show that they're going a step<sub>95</sub>

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1 beyond to really address the future generations and the  
2 issues of climate change, and the issues that are facing  
3 our community in terms of the need for jobs, health and  
4 clean air and safety, of course.

5 I'd like to invite our staff and Chevron not to  
6 get too bogged down into the details of what we can  
7 legally -- what is the minimum we legally have to do, but  
8 to just think a little more expansively, not about whether  
9 our permit limit for particulate matter was set at such  
10 and such, but since then, the way we measure change and it  
11 turns out it's more, because that's what the only way to  
12 measure it was at that time. It doesn't matter. We can  
13 actually produce more particulate matter and get away with  
14 it.

15 Let's not stick to the letter of the law, let's  
16 look at the spirit of the law. Let's look at the spirit  
17 of where we're all trying to go. Let's think about the  
18 precautionary principles and some way we can -- or we're  
19 not sure there's any ambiguity what might be a better way  
20 to go. Let's take the safest way and the cleanest and the  
21 most healthy way.

22 So, what I'm going to propose here, yes -- thank  
23 you.

24 (AUDIENCE APPLAUSE)

25 COMMISSIONER LANGLOIS: What I'm going to propose<sub>96</sub>

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1 here, I'm saying that what I'm going to propose here is  
2 staff may say that some of this is outside the scope, but  
3 what I want to say is even though it's outside the scope,  
4 Chevron does not have to object to it. And I'm just --  
5 I'm directing this, because I know Mr. Judd is here for  
6 the -- what is it called, the committee that makes those  
7 decisions, the Decision Review Board. And I'd like to  
8 address this also perhaps to carry the message to the  
9 other members of the Decision Review Board, who are other  
10 high-level executives at the corporate headquarters of San  
11 Ramon to realize that we can make some conditions that  
12 make this an even better and safe, and really take those  
13 concepts that I know are near and dear to you, "modern,  
14 clean and safe," really take it -- just move it up, a  
15 little, bump it up a little, and you can accept those.  
16 You don't have to just immediately reject them and make  
17 the appeal to the City Council.

18 So, I think, you know, if you consider not just  
19 what your immediate bottom line is, but if you think about  
20 all of the members of the community, if you think about  
21 all of our future generations, children, grandchildren,  
22 great grandchildren, if you think of our earth, I think  
23 you'll maybe want to go along with what we propose here.

24 The climate change is real. Things are going to  
25 have to change sooner or later anyway. We cannot rely on 97

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1 the fossil fuel forever. While we do have the fossil  
2 fuel, let's make it the best we can, but knowing that  
3 we're going to have to shift away from that.

4 So, what I'd like to do is, just to get the  
5 discussion going again, I'd like to present a motion, and  
6 I've got some copies that I can give to -- I've got copies  
7 for all the commissioner and a couple of extra copies for  
8 staff. But I want to just say a little bit about where  
9 I'm coming from.

10 I like the conditions that staff proposed. I  
11 think they're great. I think we should stick with them.

12 I think also just a few items based on what the  
13 public has told us to make it a little bit better in terms  
14 of reducing the greenhouse gas emissions and really taking  
15 seriously the commitment that we have to get greenhouse  
16 gas down to 80 percent of 1990 levels by 2050. That's the  
17 state mandate. We really need to do that. And the more  
18 we can do that locally, the better for all of us.

19 We need to look at those TAC emissions, toxic air  
20 contaminants, because of the health implications. We need  
21 to take another look at -- I appreciate all the safety  
22 measures that are in the EIR, and want to see those  
23 carried out. That's great, but I think we can take it a  
24 little step further in a way that's easy, can be done and  
25 it's -- you know, the cost, I think, will be -- pay for

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1 itself many times over and reduce risk.

2           And then just bump up a little bit on the  
3 verification of transparency, because of course, we know  
4 it's all well and good to put these agreements down on  
5 paper, but we just want to keep each other accountable as  
6 we move forward.

7           So, the motion -- and I'll just give a few  
8 comments, and then I guess I'll read it into the record,  
9 and then we can have some discussions. Does that sound  
10 okay?

11           It's -- there's a condition about the TAC, as  
12 Mr. Kilbreth mentioned.

13           This is an area where again, when you stick to  
14 the letter of law, okay, as long as you can make it look  
15 like there's no net increase in health risks, that's fine,  
16 but this is an opportunity to make the commitment to  
17 continuous improvement of no increase in any of the  
18 dangerous toxic air contaminants and even moving towards  
19 reducing them.

20           In terms of the greenhouse gases, I know that  
21 technically the Alternative that we're proposing here does  
22 not have any increase in greenhouse gases at the refinery  
23 operations. However, we do know that there will be  
24 increases eventually at Praxair.

25           We also know that we have this state mandate to 99

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1 reduce our greenhouse gases 80 percent of 1990 levels by  
2 2050, and this is -- it's part of a whole package here,  
3 emissions control, emissions reduction.

4 We think that the community greenhouse gas  
5 program that Chevron has proposed is a good one. It could  
6 be better. It could be better. It could really make a  
7 difference in the lives of people living here in a much  
8 more serious way.

9 There's going to be something about the -- so,  
10 that's proposed to have much, much higher numbers attached  
11 to it and really have a green jobs program that will put  
12 even more people to work in ways that will make our lives  
13 better and we'll get those greenhouse gases down locally  
14 to show that we're really serious about it.

15 There's going to be a condition about the FCC and  
16 the permitting about sticking to the permit limits.

17 Again, here it's the precautionary principal. If  
18 the Bay Area Air Quality Management District set the  
19 permit limit back in 1995 at 92,000 tons per year, they  
20 did that for a reason. And the fact that now we can  
21 measure and find out that three or four times that is  
22 being emitted, it's not enough to say, "Oh, well, they  
23 couldn't measure it then."

24 We know that three to four times that is much  
25 more dangerous to our health. So, let's stick with that 100

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1 lower level, the 92,000 per year, and keep that as a limit  
2 and a baseline, and they'll be a few conditions that have  
3 to do with that as suggested by CBE.

4 Then there will be a condition again about  
5 safeguarding our health. These are a few specific  
6 modernization items.

7 Again, Chevron really wants to modernize. The  
8 community wants modernization, and these are things that  
9 can easily be done. One of them would be upgrade to six  
10 tugboats, instead of just one.

11 As one of the speakers said last night, you know,  
12 in terms of things like the LED lights, well, she said, "I  
13 replaced my LED lights years ago, because it's the right  
14 thing to do, not because it means I can now get away with  
15 putting more pollution into my neighbor's air."

16 So, these are things that can be done. And I  
17 think the expansions are justified because it's the right  
18 thing to do. So, six tons instead of one, implementing  
19 shore power for all of the ships that are along the wharf  
20 -- that are docked along the wharf.

21 And then for the tanks, I was -- I noted that one  
22 of the audience members, Naomi Williams mentioned that --  
23 she asked the question, "Would you prefer to live near an  
24 old tank or a modernized tank?"

25 Well, I'd sure rather live near a modernized

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1 tank. And so, in that vein I think we should...

2 CHAIR LANE: Thank you. Just so I can follow  
3 you, I'm sorry.

4 So, I know you provided this sheet. I don't  
5 think you're reading off of it.

6 COMMISSIONER LANGLOIS: No, no.

7 CHAIR LANE: You're not. Okay. So, I'm just  
8 trying to follow.

9 COMMISSIONER LANGLOIS: I'm just giving a  
10 commentary --

11 CHAIR LANE: Okay.

12 COMMISSIONER LANGLOIS: -- to give an overview to  
13 the audience, because the audience won't have this in  
14 front of them. And then I'll just kind of read the whole  
15 thing into the record. I mean, I wouldn't -- I mean, just  
16 because...

17 CHAIR LANE: Yeah. I'm just trying to follow. I  
18 know they don't have this.

19 COMMISSIONER LANGLOIS: Okay. I'm just sort of  
20 giving a preview, so when they read the whole thing, then  
21 they will get all the details.

22 There's also going to be -- in any event, so I'd  
23 rather live near a modernized tank than an old one. So, I  
24 think an easy thing to do would be to dome all of the  
25 tanks and not just three of them.

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1           And then in terms of the safety issues, a couple  
2 of conditions would be just to make sure that the carbon  
3 steel components in the refinery that were in -- so before  
4 1990, and that process products at high, high  
5 temperatures, that they would all be replaced at the  
6 latest by the end of the next turnaround, or no later than  
7 2017.

8           And then a condition to get -- to move beyond the  
9 reliance on the clamps. I know temporary clamps in some  
10 instances are perfectly fine or justified, but we know  
11 that there are clamps that have been on for years and  
12 years and years, and so we want to move those towards all  
13 the clamps being removed by the next turnaround and  
14 replaced with leakproof and the best permanent repairs  
15 with the best technology possible. And any time future  
16 leaks happen, look at them and use the best technology  
17 possible right off the bat.

18           And then finally, a couple of conditions about  
19 the reporting and the accountability, to make sure all the  
20 permits are submitted for any additional components would  
21 have to be built in -- as per the conditional use permit,  
22 and to add that component that states that, "Prior to  
23 construction, that data will be provided to show  
24 compliance with any conditions needed to be completed  
25 before the construction begins and having the public

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1 verifiable data."

2 So those are just -- that's the general spirit of  
3 what I'm going to propose.

4 (AUDIENCE APPLAUSE)

5 COMMISSIONER LANGLOIS: And there will be one  
6 more, which actually you don't have, which has to do with  
7 the health and wellness agreement.

8 So, if I may make a motion?

9 Okay. The motion I'd like to make would be to  
10 issue a conditional use permit for the environmentally  
11 superior Alternative 11 introduced in the final EIR.  
12 Reduce sulfur processing, no increase in refinery  
13 greenhouse gas emissions. With all the emissions  
14 reduction and safety commitments listed in the final EIR  
15 for Chevron's proposed project, including the reliability  
16 program. All projects design features and the mitigation  
17 monitoring the reporting program. And with all of the  
18 conditions listed in Attachment 3, Exhibit A, of  
19 Resolution 1412, the July 9th, 2014, agenda report, with  
20 the following additional conditions and corrections:

21 Condition A-11. This is an addition.

22 To safeguard the public health, Chevron shall  
23 operate with a focus on significantly reducing toxic air  
24 contaminant emissions over time and without significantly  
25 increasing any individual toxic air contaminant emissions<sub>104</sub>

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1 and especially none that carry cancer or chronic health  
2 risks.

3 It is understood that given the chemistry of the  
4 various processes in the refinery, trade-offs may exist.  
5 That some major reductions may require some minor  
6 increases, and that processing very high sulfur oil may  
7 cause some toxic air contaminant emissions go up  
8 significantly, unless technology is applied to reduce or  
9 capture the increased emissions.

10 Annual toxic air contaminant emissions  
11 projections for the permitted Alternative project, shall  
12 be provided to the Planning Commission within three months  
13 of project approval.

14 This is because that was not included in the  
15 Alternative analysis.

16 The Planning Commission may accept some toxic air  
17 contaminant increases and not others. The Planning  
18 Commission may also accept some toxic air contaminant air  
19 increases for limited periods of time, giving Chevron time  
20 to schedule the necessary investments in emission  
21 reduction.

22 Actual annual toxic air contaminant emissions and  
23 emissions and performance against agreed limits must be  
24 reported annually starting in January 2016.

25 Toxic air contaminant limits must be reviewed and

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1 certified annually allowing emission reduction goals and  
2 actual performance be integrated into the process.

3 Condition B-8 would be a correction. And that is  
4 -- it should be for, this is regarding sulfur. 750 long  
5 tons of sulfur per day and not 900.

6 Next, Condition D-3. This is -- this would be a  
7 correction or a modification of the community greenhouse  
8 gas reduction program.

9 In order to demonstrate a commitment to bringing  
10 greenhouse gas emissions to 80 percent of 1990 levels by  
11 2050, Chevron shall provide funding for a community  
12 greenhouse gas reduction program, established by the City  
13 with a community-based decision-making process in the  
14 amount of \$8 million per year, beginning January 2015 and  
15 continuing until 2050.

16 The fund shall be used to implement the Clean  
17 Energy Jobs Program, providing jobs and services in  
18 Richmond, North Richmond and San Pablo in the following  
19 areas, including but not limited to: Energy conservation,  
20 energy efficiency, promotion and infrastructure for  
21 bicycle use, public transit, distributed solar, energy  
22 storage, electric vehicle infrastructure and rebates, and  
23 programs to increase Richmond's tree canopy.

24 Condition B-4 is an addition. Before  
25 implementing any change in the baseline oil feedstock

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1 quality or quantity established by the project EIR,  
2 Chevron shall demonstrate compliance with the following  
3 limits on emissions at its Fluid Catalytic Cracking --  
4 that's is FCC -- plant, which is also known as BAAQMD  
5 Source No. S-4285.

6 And this has several subcomponents. So, D --

7 CHAIR LANE: So, and I know we want to make sure  
8 the public understands, but it's a -- it's a lot. So, I  
9 don't know if there's a way --

10 COMMISSIONER LANGLOIS: It's three pages --  
11 there's two more pages. I mean, I can...

12 CHAIR LANE: Yeah. If there's a way maybe for  
13 each one -- I'm looking at each condition, maybe to -- the  
14 first sentence and maybe not all the explanation, and  
15 maybe if we have questions, we can get to kind of the  
16 discussion of the rationale.

17 It's a lot. I'm just trying to figure out a way  
18 to --

19 COMMISSIONER LANGLOIS: What I can do is I can  
20 say -- I can leave that for later, but the whole second  
21 page is pretty much all the conditions that were outlined  
22 by the CBE about the FCC and making sure we stick with the  
23 Air District's limits of 92,000 tons per year, and  
24 limiting feed to 70,500 barrels per day, and some  
25 additional operating and implementation, which measures. 107

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1 So, I can leave that at that.

2 And the next page, Condition 5, as I mentioned  
3 earlier, this would be to safeguard the public health,  
4 Chevron shall commit to additional modernization and  
5 emissions reduction by submitting to the Planning  
6 Commission within three months of project approval, a  
7 three-year plan for 2015-17 that shall include the  
8 upgrading of six tugs instead of just one, implementing  
9 and utilizing shore power for the ships that are docked at  
10 the long wharf, and doming all 30 tanks instead of three  
11 tanks.

12 And then as I mentioned earlier, G-4, to further  
13 enhance safety for the refinery workers and the general  
14 public, and in the spirit of Chevron's commitment to  
15 modernization, the -- the replacing of the pipes.

16 Well, I've pretty much mentioned that earlier.  
17 We have it in front of us. This is about replacing the  
18 carbon component installed before 1990, and processing  
19 hydrocarbons -- and processing hydrocarbons at  
20 temperatures exceeding 450 degrees, replacing them with  
21 inherently safer technology that is maximally resistant to  
22 corrosion by sulfur and other hazards identified by each  
23 component.

24 And this would happen by the end of the next  
25 refinery turnaround, but no later than December 31st,

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1 2017, so it would give Chevron a few years to do that.

2 And for G-4b. Chevron shall implement a  
3 management policy at the Richmond refinery requiring the  
4 replacement of all temporary leak-failure repairs, use of  
5 these clamps, with permanent repairs, as soon as safely  
6 possible, but certainly no later than the next refinery  
7 turnaround, when refinery operations are shut down for  
8 maintenance purposes.

9 This would be to get all of those clamps finally  
10 replaced with something permanent on a more ongoing basis.

11 And for future losses of containment failures or  
12 leaks, Chevron shall direct refinery management and  
13 workers to implement a causal investigation followed by  
14 installation of inherently safer technology to remedy the  
15 loss of containment as soon as safely possible after the  
16 discovery of any such loss of containment failures or  
17 leaks.

18 That one is so that new leaks would either be --  
19 would be investigated and if appropriate, they would be  
20 replaced immediately with more permanent fixes.

21 And then finally, there's H-12 and H-13, having  
22 to do with the permitting. I won't read all of that right  
23 now. We'll have some discussion, but I can provide it in  
24 writing to the record. This is about making sure the  
25 permits are coming through and compliance information is 109

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1 provided to the public.

2 What I don't have passed out, but I'll mention  
3 it, because I think it would be part of the same motion,  
4 and that is regarding the community health and wellness  
5 agreement.

6 And so, part of the motion is to recommend that  
7 the City Council enter into a community health and  
8 wellness agreement with Chevron as outlined in Attachment  
9 3, Exhibit B of the Resolution 14-12 in our agenda report  
10 for tonight. With item 1-I on that. 1-I has to do with  
11 funding for emergency room services.

12 So, my suggestion is that item 1-I to include  
13 funding, not only for emergency medical services, but also  
14 for urgent care and preventative medical services to  
15 address acute and chronic health impacts --

16 (AUDIENCE APPLAUSE)

17 COMMISSIONER LANGLOIS: -- of refinery emissions  
18 on West Contra Costa County residents.

19 I know several people spoke, both Doctor's  
20 Medical, Lifelong Medical and others in the community want  
21 that broad and beyond just emergency care.

22 So, that is my motion.

23 COMMISSIONER WILLIS: Just -- I'm asking to --  
24 after hearing that, asking my fellow commissioners sort of  
25 indulge me just for a second.

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1 I know we're a part of the health and wellness  
2 element in that we would be recommending to the City  
3 Council for them to hammer that out and deal with it at  
4 their own leisure as this process moves along.

5 But what we're looking at right now is in regards  
6 to Doctors Medical. They have enough funding to get them  
7 by until near the end of September, and there's no  
8 guarantee that any additional funding will be coming by.

9 And just for the fact that this is a  
10 construction-based project, and Doctors Medical being the  
11 only public hospital in the West Contra Costa County area,  
12 and they were part of -- from what I heard from one of the  
13 nurses yesterday, out of the 15,000 people that had to go  
14 to emergency during the fire, they had seen 12,000 of  
15 those people. So, they have an importance as to health  
16 and wellness of this region and to the Richmond community  
17 in itself.

18 So, if my commissioners would indulge me just  
19 aside from funding for health and wellness and emergency  
20 room services and other services that our Commissioner  
21 Langlois have mentioned, if we would be able to add an  
22 additional condition because of the importance of having a  
23 public hospital nearby, and including with a refinery and  
24 construction that is potentially dangerous and anything  
25 could go wrong, if we could ask Chevron to put up

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1 additional funding to offset the deficit that it's  
2 currently in, so it can keep running for longer than past  
3 September.

4 CHAIR LANE: Commissioner Reyes.

5 COMMISSIONER REYES: Thank you, Commissioner  
6 Willis.

7 I was originally going to ask that this piece --  
8 that this part of the -- that this be put off 'til later,  
9 only because as we are going to the conditions, there will  
10 be a lot of discussion -- we don't want to -- has anybody  
11 seconded this motion? I want to second that motion if I  
12 can add to this, please?

13 So, here's -- Commissioner Willis, here's what I  
14 want to say. I want to say that on the day of the fire,  
15 there are a lot of people out there that had to shelter in  
16 place. Homeless people could not shelter in place. Where  
17 are they going to go?

18 So, and as I look at some of the information that  
19 came out of these meetings, some of the workshops that  
20 occurred, and I see nothing in there, zero for the folks  
21 who are the most vulnerable in this community. And I am  
22 talking about the homeless. I am talking about the  
23 elders, the senior citizens. Look in some of those  
24 documents that came out from the community.

25 To me, it's smacks of Bill Lindsay, okay? It

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1 smacks of -- our City Manager getting in there, working  
2 out these agreements ahead of time, okay, with the right  
3 people, like labor, like the building trades, which, you  
4 know, I understand how they play it.

5 We're kind of tired of playing like the Melvin,  
6 we really are. I appreciate your comments. I too would  
7 like to make -- I would like to -- I would hope that  
8 Chevron would contribute a good portion to the hospital.  
9 We are not about an urgent care facility. We are about a  
10 hospital. We're going to work hard for that hospital.  
11 We're going to get it. If a community really wants it,  
12 they can get it, okay?

13 So, what I'm going to ask, in fact, we can  
14 interject something in this language that says that this  
15 should be a real community-driven package. And not  
16 necessarily something put together by our City Manager and  
17 the usual folks, the usual suspects, okay, that come in  
18 here and yank our cord and take everything that we have,  
19 and our residents are left here with pretty much, nothing.

20 So, go back please, and I want folks to think  
21 about that. I'm now very supportive of what you're  
22 saying. I would hope that the folks would get together  
23 and find out what the deficit would be, not for one year.  
24 Forget one year, okay? We're going to have a hospital  
25 here. And we hope -- I hope that not only Chevron, we're<sub>113</sub>

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1 always laying on Chevron, as I tell a lot of folks at  
2 Chevron, I hope that we can get not only Chevron, but  
3 other corporations. We have the lab coming in here,  
4 folks, okay?

5 Everyone has the responsibility, and as long as  
6 -- I think as long as I'm up here, I'll be saying that,  
7 and I hope I'm up here another three years, okay, because  
8 I just submitted my reapp.

9 So having said that, I want to hopefully we'll  
10 either forget about this and tack it onto City Council,  
11 but I want to go on the record loud and clear that we want  
12 a hospital in this community. We believe that our  
13 corporate neighbors can help us get that, okay? So, we  
14 will do it, and I hope that supports you and I will second  
15 that motion one more time.

16 CHAIR LANE: So there's a motion and a second on  
17 the floor. So with that, there's an opportunity for  
18 discussion.

19 There's a lot of various conditions, some quite  
20 detailed, some of what we've heard already in the course  
21 of the past couple of days.

22 I think it's our first opportunity for  
23 commissioners to discuss them individually, ask questions  
24 as a package or to sort of find out what they want to do.

25 Any questions? Commissioner Butt?

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1           COMMISSIONER BUTT: I want to say firstly that I  
2 commend my colleagues here for hammering this out. You  
3 were under a lot of pressure to get this done on time, and  
4 it looks like that's going to happen, and we'll get out of  
5 here early tonight.

6           And I think this is going to be a good project.  
7 It's going to be good for the City of Richmond. I think  
8 it's going to be good for Chevron. I think it's going to  
9 be good for everyone who is looking to get jobs. And it's  
10 because of a lot of hard work and a lot of effort on a lot  
11 of people's part, and the willingness to compromise, I  
12 think, on both sides.

13           I'm a little concerned that this kind of laundry  
14 list of conditions, although I don't disagree with them,  
15 and I think that they really do make a very solid project  
16 that addresses a lot of the concerns that a lot of us have  
17 and I think a lot of people in the community have, that  
18 it's so extensive that it potentially opens up us to be  
19 second guessed by simply, A, appeal, and to really put it  
20 to the council for them to basically dismantle what may be  
21 passed here tonight and come up with their own set of  
22 conditions, which is potentially quite different.

23           But I think having said that, and the likelihood  
24 that that's going to happen is probably pretty high. But  
25 I do -- fundamentally, I think these -- these conditions 115

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1 do make it a truly positive project for Richmond. And I  
2 think they're ones that the corporation can probably live  
3 with, although they probably wouldn't want to.

4 There are a couple that I was going to add in,  
5 but I'm not going to, because I think they really probably  
6 fit into the GHD mitigation component, but I will mention  
7 them at least for council's consideration when they get to  
8 that point.

9 And that is, I've mentioned before a concern  
10 about the amount of diesel byproduct from the trucks and  
11 trains that are going to be coming in and they're going to  
12 be increasing as a component of this project. And I  
13 suggest some kind of consideration of expenditure toward  
14 mitigating that. And one example would be to, say,  
15 mandate that there's dollars that go toward a ten percent  
16 reduction in each year, where each year ten percent of the  
17 trucks coming in and going trains, would be mandated to be  
18 alternative fuel technology, either clean diesel, bio  
19 diesel, hydrogen, electric or natural gas, and those are  
20 options that are currently available.

21 And I'd really like to see -- I just came back  
22 from Chicago and they had several cities that had a really  
23 successful bike share program. That's really wonderful to  
24 use, and I think -- I don't see it happening in Richmond  
25 anytime real soon, unless it's a part of this maybe, but 116

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1 there actually is a bike share program in the Bay Area in  
2 the East Bay and BAA, Bay Area Air Quality Management  
3 District is actually involved in that. So, I'd like to  
4 see some money earmarked for that. That's a really robust  
5 bike share program in Richmond, I think would directly  
6 offset GHD, as well as being an opportunity for people  
7 around here.

8 And I think that's really all I've got. I did  
9 have kind of what I thought was a novel idea earlier when  
10 people were talking about jobs. I thought a lot about  
11 jobs for the Chevron and why there aren't locals that work  
12 there.

13 Certainly when I grew up in Richmond in the 70s,  
14 most of my neighbors, either their parents worked for  
15 Chevron or they did. And, you know, they were all very  
16 actively engaged in the community. And now I still live  
17 in Richmond and very few of my neighbors work for Chevron,  
18 although I do know some wonderful people that do.

19 And I was wondering if it would be worth  
20 considering some kind of a situation where it would be a  
21 real triple benefit, where basically Chevron could have  
22 some kind of a program that would incentivize people that  
23 work at the refinery to live in Richmond, i.e., giving  
24 them some kind of low-interest loans or some kind of a  
25 stipend that allows them to live in Richmond and gives

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1 them incentive to live in Richmond. And then that would  
2 potentially also address the issue of all those houses  
3 that are falling apart that are boarded up and you could  
4 really have a triple win.

5 So, that's my idea there. And I think with that,  
6 I have no more comments.

7 CHAIR LANE: Any other comments based on the  
8 motion? Any comments? Thought?

9 VICE CHAIR CHOI: And I do not mean this out of  
10 any disrespect to Marilyn. I really appreciate what she's  
11 done in giving us the framework.

12 I am a little bit concerned specifically about  
13 the PM10 issues, because it strikes me that the way --

14 AUDIENCE MEMBER: Louder.

15 VICE CHAIR CHOI: -- the way option 11 was set,  
16 it was set up kind of figuring that if things were  
17 operating at a certain tilt.

18 So, I'm a little concerned about that. And I  
19 just want to open up that discussion with everybody else,  
20 because I'm not sure if I might be alone in that, just  
21 because the actual percentages mentioned in the document,  
22 and of course this has to do with that measuring feature.  
23 And I just don't want that to be something that is too  
24 insurmountable a friction point. So, I was hoping to open  
25 that point up for further discussion.

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1 CHAIR LANE: That's fine. Vice Chair, can you  
2 reference the specific condition that you're --

3 VICE CHAIR CHOI: Sure. It's the one in  
4 Marilyn's sheet marked D-4a.

5 CHAIR LANE: I heard -- I don't have it, so maybe  
6 you could read what that paragraph says?

7 VICE CHAIR CHOI: So, D-4a is -- it says, "Total  
8 PM10 emitted from S-4285 after abatement shall not exceed  
9 92 tons in any consecutive 12-month period, as determined  
10 by the most current version of EPA methods, unless  
11 equivalent or more accurate methods for monitoring  
12 filterable and condensable PM10 emissions are approved by  
13 the Zoning Administrator after public notice and  
14 opportunity for comment.

15 The basic issue is that that 92 percent -- I  
16 think the measuring -- basically the friction about what  
17 rationale was used for measuring, that's the reason that  
18 I'm mentioning this particular issue is because I feel  
19 like so much of option 11 or -- is based kind of on a  
20 synergy between all the numbers working. And this would  
21 be a radical enough departure that I don't know that the  
22 rest of option 11 would stand. So I was hoping to open  
23 this up for all the commissioners to discuss openly.

24 CHAIR LANE: Is there an alternative to that or  
25 something that the plans have that will --

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1 COMMISSIONER LANGLOIS: Well, I just wanted to  
2 ask -- if I could ask the m the question.

3 92 tons of fine particulate matter per year is  
4 what the original permit limit is set at. What is  
5 currently being emitted, and what is the new baseline is  
6 something over 200, like, 217 or something like that.

7 So, that's what's currently defacto being allowed  
8 to be emitted, but don't you think that the health -- the  
9 difference in health risks between 92 tons per year and  
10 between 200 and 300 tons per year is pretty significant?

11 VICE CHAIR CHOI: I agree with you entirely.

12 COMMISSIONER LANGLOIS: And it's following  
13 precautionary principal we want to keep it to the lower --  
14 the lower level.

15 VICE CHAIR CHOI: I completely agree with you.  
16 It's more the issue of this being like a large, complex  
17 math problem, so if you radically change one of the  
18 factors of the math problem, the rest of this stuff will  
19 not be able to stay.

20 So, I mean, part of it is we've had it isolated  
21 down to option 11, which has allowed us to find -- which  
22 is wonderful. It's allowed us to an opportunity, which is  
23 certainly less polluted, but to make too radical a change  
24 to these elements within Alternative 11, pretty much -- I  
25 mean, we certified this EIR, and then it would no longer 120

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1 actually be -- it's too far apart from the EIR, and all  
2 the other things that come from Alternative 11 are not  
3 mathematically feasible anymore.

4 COMMISSIONER LANGLOIS: I don't understand.

5 CHAIR LANE: I was just going to do that.

6 So maybe I can ask staff address what Vice Chair  
7 Choi is sharing with -- you can kind of also.

8 JENNIFER HERNANDEZ: Sure. Well, given the  
9 questions about the FCC, we also took the opportunity in  
10 the final EIR to do an Alternative 12, which combines the  
11 two features of Alternative 11, no physical increase in  
12 greenhouse gas and less sulfur, with not expanding the  
13 2.3, the FCC -- FCC-FHD. Thanks, Shari -- and it turns  
14 out that Alternative 12, which would constrain that  
15 FCC-FHD combo is environmentally inferior to Alternative  
16 11.

17 So, if you change the way that FCC-FHD works,  
18 then Alternative 11 as Commissioner Choi mentioned doesn't  
19 hold.

20 Also, the fact is that Alternative 11 assumes  
21 that the Air District is right, and that the permit limit  
22 for filterables is working, and allows the FCC unit to  
23 operate well above a total implied permit limit of  
24 92 tons.

25 And so, if you were to constrain by about a third,

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1 of what is actually happening, the allowable emissions  
2 from the FCC, you have now crunched it way under what is  
3 currently happening. And certainly would not fit  
4 mathematically or otherwise in the analysis that's done in  
5 the EIR for Alternative 11 or otherwise. You've taken one  
6 part of the refinery and squeezed it down in terms of its  
7 actual utilization level, to well below baseline.

8 So that's obviously an option that you have and  
9 can consider. We attempted to respond to these issues  
10 when CBE suggested them as conditions earlier, and there's  
11 a staff report, and I know there's all kinds of paper and  
12 it's all pretty technical and a little tedious, but those  
13 facts were presented in the staff report. If that helps  
14 address these questions by Commissioner Choi.

15 COMMISSIONER LANGLOIS: Could I ask --

16 CHAIR LANE: Sure. I guess my follow-up question  
17 is, so that was relating to -- I'm sorry, I know the  
18 audience doesn't have the piece of paper -- but D-4a, does  
19 -- I guess that incompatibility with Alternative 11 that  
20 as you guys are describing happened there -- that happens  
21 in any of the other places related to D-4 as described  
22 here?

23 JENNIFER HERNANDEZ: Yes. So D-4a is problematic  
24 from the sense of the math problem being created for  
25 Alternative 11, and the inconsistency.

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1 D-4b, I'm not sure that's a VOC issue,  
2 Dr. Libicki.

3 D-4c is problematic because it relates back up to  
4 D-4a.

5 D-4d would cap through put through the FCC at  
6 70,000, which is the current base level of through put.  
7 And the Alternative 12, which kind of did that more or  
8 less, showed that that was environmentally inferior to  
9 Alternative 11. It's also inconsistent mathwise with the  
10 emission limits as in D-4a, and to D4-a, and get up to  
11 70,000 barrels of through put.

12 And then, let's see, I think E is also  
13 implicated. But there's a cluster of conditions that  
14 really get to operation of the FCC, and do create some  
15 challenges, but obviously it's within your discretion to  
16 impose whatever condition you'd like, subject obviously to  
17 appeal.

18 CHAIR LANE: Go ahead.

19 COMMISSIONER LANGLOIS: Yeah, I just would like  
20 to -- if you could just tell us briefly why if they -- if  
21 the through put of the FCC is not increased, why did that  
22 make it environmentally inferior? I mean, it's a little  
23 counter-intuitive.

24 JENNIFER HERNANDEZ: So two quick questions, if  
25 the through put isn't increased, it's still over 92. So, 123

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1 if you want to have 92 as a limit, then you have to  
2 decrease the through put, if you're measuring 92 in a way  
3 that's different from what the Air District measures it  
4 at.

5 And then in terms of why Alternative 12 is  
6 environmentally inferior, that's complicated.

7 DR. LIBICKI: The way that the models work is  
8 that it tries to find -- it tries to maximize the input to  
9 the refinery with the limitations involved.

10 So when we squeeze down the FCC-FHT, other routes  
11 in the FCC wind up getting maximized, and those routes are  
12 slightly higher emissions. That's just the simple  
13 explanation.

14 COMMISSIONER LANGLOIS: And do those other routes  
15 also produce the fine particulate matter -- emit the fine  
16 particulate matter?

17 DR. LIBICKI: So, those routes are designed to  
18 keep the FCC at the same emission, at the same -- rate, so  
19 they have to have the same emission rate.

20 COMMISSIONER MARTINEZ: Madam Chair?

21 CHAIR LANE: Yes?

22 COMMISSIONER MARTINEZ: May I ask the opinion of  
23 CBE on D-4a?

24 CHAIR LANE: So, the public hearing is closed.

25 COMMISSIONER MARTINEZ: Right.

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1 CHAIR LANE: So, we closed -- so when we close  
2 the public hearing, that meant we weren't asking any more  
3 questions of the applicant or CBE or those representing  
4 the coalition.

5 So, in order for you to ask how they feel about  
6 it, we would have to open the public hearing.

7 I mean, I think they probably shared how they  
8 felt about it already, but I'm -- they will probably would  
9 be in opposition of what we just heard.

10 But, you know, yeah, I feel it's outlined why  
11 they wanted -- some want that in. And so, I mean, to me  
12 it's basically a back and forth in the debate between  
13 which side you want to take or who do you want to answer,  
14 but, I mean, I guess the answer to your question is we  
15 would have to open up the public hearing.

16 VICE CHAIR CHOI: You know, actually, I would  
17 actually have a -- I guess in a sense of wanting to open  
18 up the discussion. I'm not actually saying I'm going to  
19 not support or support the motion, I'm just pointing out  
20 there might be an issue where the compatibility of  
21 certifiying the EIR and then putting conditions that  
22 directly blight the EIR might be a problem.

23 I might still do it. I mean, that's a  
24 possibility.

25 So I was wondering if legal counsel had maybe

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1 something to say about what would happen in a case like  
2 this, say it was found that the certified -- there was a  
3 mismatch between the certified EIR and our additions that  
4 we place on them.

5 RACHEL SOMMOVILLA: Commissioner, I think it's  
6 been stated before you have the discretion to put what  
7 conditions you want and you've already certified the EIR,  
8 so it would be subject to appeal, and then the City  
9 Council would consider it.

10 VICE CHAIR CHOI: You know, this was a ways and  
11 means question, not a -- this was a ways and means  
12 discussion more than it is "I go one way or the other on  
13 the topic."

14 I guess what I'm -- let me just be frank. What  
15 I'm hearing is whatever decision we make here, if we -- if  
16 the conditions are too incompatible with the EIR, I'm  
17 concerned that many -- much, much of the gains that we  
18 made might disappear. So, I'm just bringing that into the  
19 discussion, and maybe we can have a discussion about it?

20 CHAIR LANE: Yeah. So, what I'll say Vice Chair  
21 Choi, this is what this part is, is a discussion, right?

22 So, Commissioner Langlois provided a --  
23 basically, the draft motion with conditions. It was  
24 seconded, and so this is an opportunity to discuss it.

25 And so, that's what you're here for.

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1           So, you know, it doesn't have to be, I'm not  
2 going to go for it or not. It's a discussion brought up a  
3 question about be addressed by staff, we are supposed to  
4 have a discussion on it. If you feel, or others may feel  
5 similar to you, so I just want you to feel that that's  
6 what this is for.

7           VICE CHAIR CHOI: Thank you.

8           COMMISSIONER LANGLOIS: Yeah, I'd kind of like to  
9 maybe ask a little indulgence of my colleagues on just  
10 reopening this public hearing for a minute to let CBE  
11 address this. Because I'm just curious, I did notice in  
12 the analysis of the two new Alternatives, one was  
13 determined to be environmentally superior, and the other  
14 one had the added component of no increase on the FCC  
15 through put, which -- and I have to admit, I didn't read  
16 the entire analysis, but it was determined to be less  
17 superior, and I would kind of like to be interested in  
18 hearing CBE's take, because they made such a big point of  
19 raising this point, yet they didn't actually recommend the  
20 other Alternative. They recommended the Alternative 11  
21 with this condition, so I'm just wondering if they see  
22 some difference there.

23           So, if the Commission would indulge me for a few  
24 minutes to make a motion to reopen the public hearing just  
25 to hear CBE's comments on that, I'd appreciate it.

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1           So, I'll make that motion.

2           COMMISSIONER REYES:   Second.

3           CHAIR LANE:   So, there's a motion and a second to  
4 open the public hearing, so that the question could be  
5 addressed specifically to CBE, correct, Community for a  
6 Better Environment relating to the discussions we had.

7           So with that, we can vote.  I'll start with Vice  
8 Chair Choi.

9           VICE CHAIR CHOI:   Aye.

10          COMMISSIONER LANGLOIS:   Aye.

11          COMMISSIONER BUTT:   Aye.

12          CHAIR LANE:   Aye.  I'll abstain.

13          COMMISSIONER WILLIS:   Aye.

14          COMMISSIONER MARTINEZ:   Aye.

15          COMMISSIONER REYES:   Aye.

16          CHAIR LANE:   So, the public hearing is open and  
17 if those from CBE would come up here?

18          Do you want to ask a specific question or you  
19 guys have been hearing the discussion, so however you want  
20 it done.

21          COMMISSIONER LANGLOIS:   Did you get what I was  
22 asking before I did this motion?

23          Mr. Karras:   I think I remember.

24          COMMISSIONER LANGLOIS:   Basically why you made  
25 such an issue of this, of all these conditions about the 128

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1 FCC, along without recommending Alternative 12, which also  
2 limits the FCC?

3 Mr. Karras: Oh, well, yes, I think -- I don't  
4 think that Alternative 12 has -- is anything like what my  
5 understanding of -- and I heard you reading the  
6 conditions, and it sounds like -- it sounds like the  
7 conditions that CBE had proposed with some substantial  
8 changes, but in terms of the extent of the emissions  
9 reduction that would be required and the means to do that,  
10 I think it's identical.

11 So, let me just be clear. It does three things:  
12 It says apply the measure that is in the EIR that is said  
13 to be able to reduce the emissions by as much as 217 tons  
14 per year, which would get you almost right to the 92 tons  
15 without changing the through put at all.

16 Then limit the through put to the baseline to  
17 make sure that there isn't an increase so you can stay at  
18 the permanent limit. And then take that permanent limit  
19 and attach monitoring so you can monitor the emissions and  
20 make sure they stay there. That's really what it says.

21 Now, on the question of whether that would create  
22 any change that, as your consultant suggested, might --  
23 and as I think Commissioner Choi suggested. If there was  
24 a change in through put that was unexpected, that might  
25 change the analysis of Alternative 11.

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1           That baseline, where they're at now,  
2   17,500 barrels per day at the FCC, that's about  
3   88 percent. That's about 88 percent of the FCC's limit.

4           Now recall that the consultants' analysis of  
5   Alternative 11 is that the refinery runs at 87.9 percent  
6   or something like that. So, it's essentially, within the  
7   measurement error, exactly the same as the Alternative.  
8   No difference whatsoever. I don't see any mathematical  
9   problem.

10           And I could go further but I think -- I don't  
11   think you reopened the hearing to hear argument, but just  
12   clarification.

13           COMMISSIONER LANGLOIS: Okay. So you don't see  
14   any mathematical issue that --

15           MR. KARRAS: They are apples and oranges, and the  
16   only way you can connect them is through the through put  
17   limit, but the percentage works out the same as what the  
18   consultants say to it be in Alternative 11.

19           COMMISSIONER LANGLOIS: What is the measure --  
20   these are the conditions, do you have them in front of  
21   you, because they're taken from what CBE recommended?

22           Which is the one -- these are all having to do  
23   with D-4, which is the one that has to do with the measure  
24   that Chevron stated it could implement in the EIR, if  
25   necessary?

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1 MR. KARRAS: Okay. I believe these are in front  
2 of me, they may be numbered differently.

3 JENNIFER HERNANDEZ: D-4h.

4 COMMISSIONER LANGLOIS: D-4 -- there's D-4a, b,  
5 c, d, e and f and g, instead of D-4 1, 2, 3, 4, 5 and 6.

6 JENNIFER HERNANDEZ: The ESP is E-4e.

7 MR. KARRAS: So, is this D-4e the one about  
8 install, implement and operate mitigation measure 5ei?

9 COMMISSIONER LANGLOIS: It could be. That's one  
10 of the conditions listed, so...

11 MR. KARRAS: Yeah, that's the one that you're  
12 asking about, install --

13 COMMISSIONER LANGLOIS: I'm asking you is that  
14 the -- you referred to Chevron has something --

15 MR. KARRAS: I identified the measure. I'm  
16 talking about that measure, yeah.

17 So, when I say Chevron has identified a measure,  
18 I'm talking about the measure that the EIR identifies as  
19 measure 5bi. And that measure is to expand the capacity  
20 of the electrostatic precipitator, the ESP, on the FCC  
21 unit to put a third pass through it so that the emissions  
22 pass through a third time before going out for better  
23 treatment and to remove the ammonia injections it's  
24 currently using.

25 That's what I'm referring to when I'm talking

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1 about the measures that Chevron had identified, and given  
2 an effectiveness range. And the 217 tons per year is the  
3 good end of that effectiveness range. It's not the  
4 maximum they put out is possible.

5 COMMISSIONER LANGLOIS: Okay, thank you.

6 COMMISSIONER MARTINEZ: Madam Chair?

7 With the question -- and I suppose you answered  
8 it, but clarify for me again, was the D-4a, which said  
9 that after abatement shall not exceed 92.0 tons in any  
10 consecutive 12 months. That's the total PM10 emissions?

11 MR. KARRAS: Yes.

12 COMMISSIONER MARTINEZ: So, you see no math  
13 problems with that?

14 MR. KARRAS: No, no. That's where you get to if  
15 you implement those measures at the through put that would  
16 be in the Alternative.

17 COMMISSIONER MARTINEZ: Okay.

18 MR. KARRAS: And the reason for the limit, of  
19 course, is the reason why you always have a measurable  
20 limit so that you can ensure and enforce the health  
21 protection.

22 CHAIR LANE: Any other questions for Mr. KARRAS?

23 Thank you.

24 MR. KARRAS: Thank you.

25 CHAIR LANE: Sir, I'm sorry, we're not taking any  
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1 public comment. So, we have to make a motion. The public  
2 hearing -- I mean, we opened it just so that we could get  
3 a specific question asked of Community of Better  
4 Environment, that was it. We are not supposed to take any  
5 other public testimony.

6 UNIDENTIFIED SPEAKER: It's not testimony, it's a  
7 question.

8 CHAIR LANE: I'm sorry, sir. We're not taking  
9 any questions. So we can have a motion and a second to  
10 close the public hearing if you guys feel your questions  
11 were addressed.

12 COMMISSIONER LANGLOIS: Move to close the public  
13 hearing.

14 COMMISSIONER MARTINEZ: Second.

15 CHAIR LANE: So, we have a motion and second.  
16 Let's vote. Let's start with Vice Chair Choi.

17 VICE CHAIR CHOI: Aye.

18 COMMISSIONER LANGLOIS: Aye.

19 COMMISSIONER BUTT: Aye.

20 CHAIR LANE: Aye.

21 COMMISSIONER WILLIS: Aye.

22 COMMISSIONER MARTINEZ: Aye.

23 COMMISSIONER REYES: Aye.

24 CHAIR LANE: Okay. So, with that explanation,  
25 instead, I'm not sure the folks feel the same way, you

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1 want to make any changes relating to that specific  
2 condition?

3 Okay. So, we still have a motion and a second on  
4 the floor. I guess I'm -- then again, I'm still trying to  
5 wrap all this around my head.

6 I guess for me the initial question is if it is  
7 incongruent and compatible with the Alternative 11, which  
8 we've indicated in the EIR certification that we're moving  
9 forward with. I'm not sure why we would want to move  
10 forward with these, but that's kind of my thoughts on how  
11 I --

12 COMMISSIONER REYES: Come up with a question?

13 CHAIR LANE: Sure.

14 COMMISSIONER BUTT: Can I just suggest a friendly  
15 amendment that we add just one very brief three-word  
16 sentence subject for -- subject to compatibility with  
17 Alternative 11, just so we at least have some protection  
18 there?

19 CHAIR LANE: Like --

20 I suggest that we add on D-4a, one final sentence  
21 there that says, "Subject to compatibility with  
22 Alternative 11," so that at least we kind of cover our  
23 butts if this thing gets to the lawyers?

24 COMMISSIONER LANGLOIS: Sure, that would be fine  
25 with me.

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1 VICE CHAIR CHOI: Well, I just want to point out  
2 just to confuse everybody completely. I'm perfectly  
3 willing to vote for it as is, but I'm just pointing out  
4 that that is something to have a discussion about.

5 COMMISSIONER LANGLOIS: Well, I mean, I think  
6 that adding that is to give an extra safeguard, because we  
7 do want Alternative 11, but adding to D-4a subject to  
8 compatibility with Alternative 11 will be fine with me.

9 VICE CHAIR CHOI: Okay.

10 CHAIR LANE: Okay. So, there was a call for the  
11 question, which means to vote. I'm not hearing anymore  
12 discussion on that. What Commissioner Butt added is  
13 subject to --

14 COMMISSIONER BUTT: "Subject to compatibility  
15 with Alternative 11."

16 CHAIR LANE: Subject to the compatibility and  
17 this was added to D -- excuse me -- added to D-4a, subject  
18 to -- okay. I'm sorry.

19 COMMISSIONER BUTT: Do we have that on the  
20 record?

21 CHAIR LANE: Okay. So, we have it on the record.  
22 So, with that --

23 COMMISSIONER WILLIS: Just for a point of  
24 clarity, along with Commissioner Langlois' motions -- is  
25 he all right -- with Commissioner Langlois's motion that 135

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1 the added conditions that I had around Doctors Medical,  
2 and the added conditions that Commissioner Butt had around  
3 the jobs and hiring, will that be added in the motion or  
4 -- all right, never mind. Will that be added?

5 COMMISSIONER LANGLOIS: You want to add another  
6 friendly amendment?

7 COMMISSIONER WILLIS: Another friendly amendment  
8 for all the reasons that I made about Doctors Medical, if  
9 Chevron could provide funding for right now to offset the  
10 Doctors Medical deficit, and separating that from the  
11 community benefits -- community benefits package that we  
12 want to address to City Council.

13 COMMISSIONER LANGLOIS: So, would that be a  
14 condition of approval, providing funding for Doctors  
15 Medical, or would that be added to --

16 COMMISSIONER WILLIS: Yeah, because if Doctors  
17 Medical closes by September, and it's going to be taking  
18 two years to do this project, there's no public hospital  
19 in the vicinity, I think it would behoove Chevron to have  
20 a public hospital as close as possible with the  
21 construction taking place at the refinery.

22 JENNIFER HERNANDEZ: Excuse me, if I could,  
23 just --

24 COMMISSIONER WILLIS: Yes.

25 JENNIFER HERNANDEZ: -- ask a technical question<sub>136</sub>

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1 for us to make sure we get this down.

2 I believe when you introduced that concept, it  
3 was in connection with a recommendation to the City  
4 Council regarding a community health and wellness  
5 agreement.

6 And so, if that's where it goes, then it would be  
7 added to the list of recommendations regarding that  
8 agreement, as opposed to adding to a condition of approval  
9 of the project. And I just want to make sure we got it in  
10 the right bucket as you intended.

11 COMMISSIONER WILLIS: Yeah, I was going to ask if  
12 it's all right with my fellow commissioners to add that  
13 part as a condition of approval, and on top of still  
14 working on the recommendations to City Council for funding  
15 towards public health around different healthcare  
16 facilities in the area?

17 VICE CHAIR CHOI: New bucket, right?

18 COMMISSIONER WILLIS: Yes.

19 JENNIFER HERNANDEZ: It's a condition of approval  
20 bucket?

21 COMMISSIONER WILLIS: Yes.

22 CHAIR LANE: Okay. So, you're saying this is in  
23 the condition of the approval bucket?

24 COMMISSIONER MARTINEZ: I second.

25 COMMISSIONER BUTT: I support Doctors Medical

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1 Center, and I think we need to do what we can to keep it  
2 open, but I think it's kind of ambiguous. I mean, we need  
3 to know the dollar amount, that could be -- I don't know  
4 what the deficit is, but I know it's a pretty high number,  
5 and it's probably a moving target. And I'm concerned that  
6 that may be the tipping point of kind of getting this  
7 thing a little top heavy.

8 COMMISSIONER LANGLOIS: Yeah, I'd like to  
9 actually -- I'm thinking about it, I know that everybody  
10 wants Doctors Medical Center to stay open and so do I.

11 The thing that's a little vague, there's no  
12 actual dollar amount. It's kind of an open door. I think  
13 it's better if we can identify a certain amount to it.  
14 And that's one of reasons why I added -- and I guess maybe  
15 staff can address this.

16 I know that during the community workshops, a lot  
17 of people said for the community benefits agreement, "We  
18 want to have Doctors Medical Center be funded." And there  
19 was some rationale about if you name a specific medical  
20 facility, it's complicated whereas -- and that's why in  
21 the resolution about the community health and wellness  
22 agreement, it mentions -- it makes it more generic,  
23 providing funding for emergency medical care, which is  
24 kind of code for Doctors Medical Center, in the same --  
25 and I just wanted to expand that based on input from the 138

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1 public --

2 COMMISSIONER WILLIS: I'll yield to the motion.

3 CHAIR LANE: So, Commissioner Willis has said  
4 he'll yield to the motion.

5 COMMISSIONER LANGLOIS: Okay. Okay. Because I  
6 think that covers it. It's not only emergency, but I know  
7 a lot of people wanted it beyond emergency. It's an  
8 emergency urgent care and other medical services.

9 CHAIR LANE: I think we're good.

10 COMMISSIONER LANE: Okay. So...

11 CHAIR LANE: Okay. So we're -- I'm sorry, guys.  
12 So, we're at the point of voting, which would be  
13 to adopt resolution 14-12, approving conditional use  
14 permit and desire to permit recommending that the City  
15 enter into a community health and wellness agreement.

16 We had various conditions proposed. There were  
17 many, but I won't go over all of them.

18 COMMISSIONER LANGLOIS: Could I just say one  
19 thing? I just wanted to offer if staff would like to have  
20 -- I can email you the draft I sent to all of you, so that  
21 you've got that language in electronic format. It just  
22 doesn't have the few words that Commissioner Butt added.  
23 So, I can send that to you right now even.

24 CHAIR LANE: Okay. So, with that, let's vote.  
25 And I'll start with Commissioner Reyes?

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1 COMMISSIONER REYES: Aye.

2 COMMISSIONER MARTINEZ: Aye.

3 COMMISSIONER WILLIS: Aye.

4 CHAIR LANE: Aye. But -- and I'll just mention a  
5 few things and then we'll go.

6 First, I just want to just state again, I think  
7 all those who have been involved in this long, arduous  
8 process including City staff consultants, the applicant,  
9 those representing the Environment For Justice Coalition,  
10 I think the various conditions that we imposed provide for  
11 it to be a good project.

12 Also, and no -- not naive enough to know that  
13 there will be folks that won't be totally pleased with  
14 them, but I do feel that they do address many of the needs  
15 of the community as well as what this project can do. I  
16 think, you know, if there's more tinkering that needs to  
17 be done, so do it, but I think ultimately we'll have a  
18 project that's better for the City.

19 I do -- I am voting, and we did put the addition  
20 in there. You know, we did vote and certify the EIR based  
21 on Alternative -- yeah, I'm sorry, Alternative 11, and so,  
22 I just hope it's not incongruent to that, that would be  
23 figured out. I think that the addition that we put in  
24 there will hopefully suffice that.

25 I just want to make sure that folks understand 140

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1 why I'm voting. I think it will provide protection for  
2 the community in terms of public health, as well as  
3 additional jobs.

4 This doesn't stop that at all. And I think  
5 Alternative 11 provides the best things for the  
6 environment.

7 So, with that said, I just wanted to provide the  
8 rationale for my yes vote, okay?

9 COMMISSIONER BUTT: Aye.

10 COMMISSIONER LANGLOIS: Aye.

11 VICE CHAIR CHOI: You know, if I could just say a  
12 couple of sentences?

13 You know, I've never been much of a list maker,  
14 and it's been a real failure of mine. My wife's a big  
15 believer in making lists.

16 And I just wanted to point out these conditions  
17 here are very good conditions. And I believe we have to  
18 put down what our values and our ideals are in a list,  
19 just as I was kind of contentiously saying before, "Well,  
20 if you want to hire more local, you've got to put that on  
21 your list, you've got to make it a benchmark of yours."

22 So, I just want to say theme-wise, make a list.

23 Aye.

24 CHAIR LANE: Okay. So, hold on. There's some  
25 stuff I've got to read, because I know every -- there's

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1 going to be sides who want to know it.

2 So with that, we've just approved the conditional  
3 use permit, the desired permit, as well as conditions of  
4 approval recommending the City Attorney agreement for the  
5 community health and wellness agreement, subject to the  
6 conditions that we discussed tonight.

7 There's appeals procedures, so let me read that  
8 out, because I know folks want to know.

9 So, any appeals from tonight's decision must be  
10 made within ten days, pursuant to the Richmond Municipal  
11 Code, 15-05980, under the City Council's Ordinance  
12 Amendment and Resolution adopted on June 17th, 2014.

13 Regarding this project, the City Council will  
14 hear all public comments on the project on July 22nd in  
15 the Richmond Auditorium, located at the Civic Center.  
16 This will include any comments on appeals. So, that's the  
17 forum for that.

18 On July 29th, the City Council will conduct its  
19 own independent review of this project, and will also  
20 consider any appeals that have been filed.

21 The City Council is scheduled to take action on  
22 that date. Any public comment, however, is to be made on  
23 July 22nd. So, I think we're good on that.

24 Okay. So with that, that takes us to commission  
25 business. I felt we already done a lot of business. So, 142

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1 if there's no other things to say - nothing?

2 This meeting's adjourned.

3 (THE MEETING ADJOURNS AT 9:08 P.M.)

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