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WHATCOM COUNTY COUNCIL
Special Committee of the Whole

July 30, 2019

CALL TO ORDER

Council Chair Rud Browne called the meeting to order at 1:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Rud Browne, Barry Buchanan, Todd Donovan, Carol Frazey, and Satpal Sidhu.

Absent: Tyler Byrd.

COMMITTEE DISCUSSION

1. AB2019-387 DISCUSSION OF CASCADIA LAW GROUP'S RECOMMENDATIONS FOR PROPOSED CHERRY POINT URBAN GROWTH AREA (UGA) COMPREHENSIVE PLAN AND ZONING CODE AMENDMENTS

The following staff answered questions:

- Mark Personius, Planning and Development Services Department Director, submitted a staff report (*on file*) and gave a staff report
- Nick Smith, Planning and Development Services
- Karen Frakes, Prosecutor's Office

Councilmembers and staff discussed working from the July 29, 2019 version of the ordinance the following motions:

Browne moved to amend Whatcom County Code (WCC) Sections 20.68.802:

.802 Non-Capacity, Maintenance, and Safety Improvements

(1) Expansions of existing legal fossil-fuel refineries, fossil-fuel transshipment facilities, renewable fuel refineries, or renewable fuel transshipment facilities for non-capacity purposes are outright permitted uses. Examples of non-capacity improvements include, but are not limited to:

- (a) accessory buildings,
- (b) office space,
- (c) parking lots,
- (d) radio communications facilities,
- (e) regular equipment maintenance and replacement,
- (f) safety or environmental upgrades, whose primary purpose is to reduce pollution, energy consumption, or greenhouse gas emissions.
- (g) security buildings,
- (h) storage buildings, and

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1 (i) other similar structures or activities.

2 (2) ~~Regular equipment maintenance and replacement and safety~~
3 ~~upgrades are outright permitted uses, but shall mitigate greenhouse gas~~
4 ~~emission if required by WCC xx.~~ This allowance does not include
5 improvements that would expand the capacity of the refinery **to process**
6 **unrefined fossil fuels** or the transshipment facility which requires a conditional
7 use permit per 20.68.153 or non-capacity improvements that would cause a
8 net increase in or greenhouse gas emissions above subsection .801.

9
10 The motion was seconded.

11
12 Councilmembers and staff discussed the possibility of safety upgrades that would
13 increase greenhouse gas emissions.

14
15 **Browne withdrew his motion and moved** to amend to approve the Planning
16 Department recommended motion.

17
18 **.802 Non-Capacity, Maintenance, Safety, and Environmental**
19 **Improvements**

20 (1) Expansions of existing legal fossil-fuel refineries, fossil-fuel
21 transshipment facilities, renewable fuel refineries, or renewable fuel
22 transshipment facilities for non-capacity purposes are outright permitted
23 uses. Examples of non-capacity improvements include, but are not limited to:

- 24 (a) accessory buildings,
25 (b) office space,
26 (c) parking lots,
27 (d) radio communications facilities,
28 ~~(e) regular equipment maintenance and replacement,~~
29 ~~(f) safety upgrades~~
30 (g) security buildings,
31 (h) storage buildings, and
32 (i) other similar structures or activities.

33
34 (2) Regular equipment maintenance, replacement, safety upgrades,
35 **and environmental improvements** are outright permitted uses, but shall
36 mitigate greenhouse gas emission if required by WCC 20.68.801. ~~This~~
37 ~~allowance does not include improvements that would expand the capacity of~~
38 ~~the refinery or the transshipment facility which requires a conditional use~~
39 ~~permit per 20.68.153 or non-capacity improvements that would cause a net~~
40 ~~increase in or greenhouse gas emissions above subsection .801.~~

41
42 The motion was seconded.

43
44 The motion carried by the following vote:

45 **Ayes:** Brenner, Browne, Buchanan, Donovan, Frazey, and Sidhu (6)

46 **Nays:** None (0)

47 **Absent:** Byrd (1)

48

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1 **Donovan moved** to approve item two in the staff memo dated July 30, and ask
2 Cascadia to create definitions, to amend WCC 16.08.090(2), "Life cycle greenhouse gas
3 emissions **and facility emissions** above existing levels."

4
5 The motion was seconded.

6
7 The motion carried by the following vote:

8 **Ayes:** Brenner, Browne, Buchanan, Donovan, Frazey, and Sidhu (6)

9 **Nays:** None (0)

10 **Absent:** Byrd (1)

11
12 **Browne moved** to amend WCC 22.05.125:

13
14 **22.05.125 Proof of insurance for hazards created in the County**

15 At the time of Type I, II, III, or IV applications addressing production
16 capacity or storage tank increases at fossil fuel refineries, fossil fuel
17 transshipment facilities, renewable fuel refineries, or renewable fuel
18 transshipment facilities, the applicant shall **1)** provide proof of insurance or
19 other financial security acceptable to the prosecuting attorney, **and 2) a**
20 **parent company corporate guarantee** to cover loss or damages to the County
21 and to County residents from any fire, explosion, spill or other incident from
22 operations of the refinery or from transport of raw materials or finished
23 products within the boundaries of Whatcom County. This requirement shall
24 also be met for Type I changes in use from fossil fuel refineries or
25 transshipment facilities to renewable fuel refineries or transshipment facilities.
26 The required policies **and parent company corporate guarantee** shall contain
27 the following Coverage Terms:

28
29 The motion was seconded.

30
31 The motion carried by the following vote:

32 **Ayes:** Browne, Buchanan, Donovan, Frazey, and Sidhu (5)

33 **Nays:** Brenner (1)

34 **Absent:** Byrd (1)

35
36 Councilmembers and staff discussed insurance requirements and whether or not to
37 include pipelines in transshipment activities.

38
39 **Browne moved** to amend WCC 22.05.125(9), "e) Transportation shall include
40 movement by any vehicle or mode of transit including **but not limited to** automobile, **truck,**
41 **railway** or watercraft, **including pump and compressor stations and related facilities,**
42 including loading, temporary placement during transit prior to final delivery, or unloading, of
43 materials or waste, either:"

44
45 The motion was seconded.

46
47 The motion carried by the following vote:

48 **Ayes:** Browne, Buchanan, Donovan, Frazey, and Sidhu (5)

49 **Nays:** Brenner (1)

50 **Absent:** Byrd (1)

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1
2 **Donovan moved** to amend WCC 20.97.425.1, .160.3, .160.4, and .350.3:
3

4 **20.97.425.1 Small Fossil or Renewable Fuel ~~Oil~~ Storage and**
5 **Distribution Facilities**
6

7 "Small Fossil or Renewable Fuel ~~Oil~~ Storage and Distribution Facilities"
8 means:
9

10 The motion was seconded.
11

12 **Sidhu moved** to amend WCC 20.97.425.1 "(1), Equipment used for purposes of
13 direct retail sale or distribution to consumers of fossil fuels or renewable fuels, or."
14

15 The motion was seconded.
16

17 **Sidhu withdrew** the motion.
18

19 Browne's motion to amend carried by the following vote:

20 **Ayes:** Brenner, Browne, Buchanan, Donovan, Frazey, and Sidhu (6)

21 **Nays:** None (0)

22 **Absent:** Byrd (1)
23

24 Brenner moved to delete WCC 16.08.160.F.1.b.iii. The motion was not seconded.
25

26 **Browne moved** to amend WCC 16.08.160.F.1.b.iii "Greenhouse Gas Emissions –
27 Other Uses Within the Heavy Industrial District:"
28

29 The motion was seconded.
30

31 The motion carried by the following vote:

32 **Ayes:** Browne, Buchanan, Donovan, Frazey, and Sidhu (5)

33 **Nays:** Brenner (1)

34 **Absent:** Byrd (1)
35

36 **Donovan moved** to get clarification from Cascadia on item six from the staff memo
37 dated July 30 regarding State Environmental Policy Act (SEPA) rules.
38

39 The motion was seconded.
40

41 The motion carried by the following vote:

42 **Ayes:** Browne, Buchanan, Donovan, Frazey, and Sidhu (5)

43 **Nays:** Brenner (1)

44 **Absent:** Byrd (1)
45

46 **Buchanan moved** to accept staff's recommendation for Standard Industrial
47 Classification (SIC) in the July 30 staff memo, to amend WCC 20.68.050, "Unless
48 otherwise...and implementing regulations. ~~The purpose of the SIC numbers...and any~~
49 ~~applicable subarea plan."~~
50

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1 The motion was seconded.
2

3 The motion carried by the following vote:

4 **Ayes:** Brenner, Browne, Buchanan, Donovan, Frazey, and Sidhu (6)

5 **Nays:** None (0)

6 **Absent:** Byrd (1)
7

8 **Browne moved** for staff to scrub the entire document to make sure there are no
9 undefined abbreviations in the document.
10

11 The motion was seconded.
12

13 Browne's motion to amend carried by the following vote:

14 **Ayes:** Browne, Buchanan, Donovan, Frazey, and Sidhu (5)

15 **Nays:** None (0)

16 **Absent:** Byrd (1)

17 **Abstains:** Brenner (1)
18

19 **Browne moved** to amend WCC 20.74.055, "(2) Conversion of Renewable Fuels
20 Facilities and Transshipment Facilities to fossil fuel facilities unless a new permit is issued
21 under the conditions applicable for increases in capacity for fossil fuel facilities in Chapter
22 20.68"
23

24 The motion was seconded.
25

26 The motion carried by the following vote:

27 **Ayes:** Browne, Buchanan, Donovan, Frazey, and Sidhu (5)

28 **Nays:** Brenner (1)

29 **Absent:** Byrd (1)
30

31 **Browne moved** to add a section, "20.74.115 Change of Use of Renewable Fuels
32 Facilities. A change of use of a Renewable Fuels Facilities or Transshipment Facilities to a
33 fossil fuel facility is prohibited unless a new permit is issued under the conditions applicable
34 for increases in capacity for fossil fuel facilities in Chapter 20.68"
35

36 The motion was seconded.
37

38 **Buchanan requested a friendly amendment** that the any change in use from a
39 renewable fossil fuel to another transshipment facility requires a change of use permit per
40 those provisions.
41

42 **Browne accepted** the friendly amendment.
43

44 Browne's motion to amend carried by the following vote:

45 **Ayes:** Browne, Buchanan, Donovan, Frazey, and Sidhu (5)

46 **Nays:** None (0)

47 **Absent:** Byrd (1)

48 **Abstains:** Brenner (1)
49

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1 **Browne moved** to amend to add a new section to WCC 20.68.200, ".207 Coal-fired
2 **power plants."**
3

4 The motion was seconded.
5

6 Browne's motion to amend carried by the following vote:

7 **Ayes:** Browne, Buchanan, Donovan, Frazey, and Sidhu (5)

8 **Nays:** None (0)

9 **Absent:** Byrd (1)

10 **Abstains:** Brenner (1)
11

12 Councilmembers and staff discussed next steps. Council will schedule this item on
13 August 7 to finalize and forward to Planning Commission.
14

15
16 **OTHER BUSINESS**
17

18 There was no other business.
19

20
21 **ADJOURN**
22

23 The meeting adjourned at 2:56 p.m.
24

25 The Council approved these minutes on _____, 2019.
26

27 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

28
29
30
31
32 _____
33 Dana Brown-Davis, Council Clerk

Rud Browne, Council Chair

34
35
36
37 _____
38 Jill Nixon, Minutes Transcription
39
40
41
42