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WHATCOM COUNTY COUNCIL
Special Committee of the Whole

July 23, 2019

CALL TO ORDER

Council Chair Rud Browne called the meeting to order at 2:50 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

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

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
- Nick Smith, Planning and Development Services
- Karen Frakes, Prosecutor's Office

Councilmembers and staff discussed the process for moving forward and working from the July 16, 2019 version of the proposal and the following motions:

Donovan moved to amend to remove thresholds for permitted uses, per his submitted amendment 1 (*on file*) to Whatcom County Code section 20.68.054:

20.68.054. The following are permitted uses except as otherwise prohibited:

(3) Refining and storage of fossil fuels, limited as follows:

(a) fossil fuel refineries, existing legally as of [XXX effective date], ~~together with allowed expansions below the thresholds in WCC 20.68.800.~~

(b) fossil fuel transshipment facilities existing legally as of [XXX effective date], ~~together with allowed expansions below the thresholds in WCC 20.68.800.~~

(9) The refining, storage, blending, and manufacture of renewable fuels, existing legally as of [XXX effective date], ~~together with allowed expansions below the thresholds in WCC 20.68.800.~~

The motion to amend was seconded.

1
2 The motion to amend carried by the following vote:

3 **Ayes:** Browne, Buchanan, Donovan, and Frazey (4)

4 **Nays:** Brenner and Byrd (2)

5 **Absent:** Sidhu (1)

6
7 **Donovan moved** to amend to remove thresholds for permitted uses, per his
8 submitted amendment 1 (*on file*) to Whatcom County Code section 20.68.153:

9
10 **20.68.150. Conditional uses.**

11
12 .153 Expansion of existing legal fossil fuel refinery operations and the primary
13 manufacturing of products thereof or expansion of existing legal fossil fuels
14 transshipment facilities ~~when proposed in excess of expansion thresholds~~
15 ~~determined consistent with WCC 20.68.800 and~~ are subject to the conditional
16 use permit criteria below and approval of a major project permit:
17

18 The motion to amend was seconded.

19
20 The motion to amend carried by the following vote:

21 **Ayes:** Browne, Buchanan, Donovan, and Frazey (4)

22 **Nays:** Brenner and Byrd (2)

23 **Absent:** Sidhu (1)

24
25 **Donovan moved** to amend to remove thresholds for permitted uses, per his
26 submitted amendment 1 (*on file*) to Whatcom County Code section 20.68.801:

27
28 **20.68.800. Expansion Thresholds for Existing Fossil Fuel Refineries or Fossil**
29 **Fuel Transshipment**

30
31 .801. Limits on Refinery or Transshipment Facility Capacity Expansions:

32
33 Delete entire section 20.68.801; delete options 1, 2 & 3.

34
35 The motion to amend was seconded.

36
37 The motion to amend carried by the following vote:

38 **Ayes:** Browne, Buchanan, Donovan, and Frazey (4)

39 **Nays:** Brenner and Byrd (2)

40 **Absent:** Sidhu (1)

41
42 **Donovan moved** to amend to remove thresholds for permitted uses, per his
43 submitted amendment 1 (*on file*) to Whatcom County Code section 20.68.802(3):

44
45 .802 [renumber]. Environmental Review and Greenhouse Gas Mitigation.

46
47 (3) Local mitigation of greenhouse gas emissions shall be required, whenever
48 increases of greenhouse gas increase ~~equal or exceed 1% cumulatively~~ above
49 the baseline for a 3-year average (per section .802(2)(a)), after the effective
50 date of this section [XXX].

51
52 The motion to amend was seconded.
53

1 The motion to amend carried by the following vote:

2 **Ayes:** Browne, Buchanan, Donovan, and Frazey (4)

3 **Nays:** None (0)

4 **Absent:** Sidhu (1)

5 **Abstains:** Brenner and Byrd (2)

6
7 **Donovan moved** to amend to remove thresholds for permitted uses, per his
8 submitted amendment 1 (*on file*) to Whatcom County Code section 23.100.170(B)(1)(b)(i):

9
10 **23.100.170 Cherry Point management area**

11
12 B. 1. b. Fuel uses

13
14 i. Fossil Fuel Refineries – Shoreline Permits and Requirements: Fossil
15 fuel refineries existing legal as of [XXX effective date] are permitted
16 shoreline uses. Expansions of existing legal fossil fuel refineries ~~below~~
17 ~~thresholds of the zoning code at WCC 20.68.800~~ are subject to review as
18 shoreline substantial development permits. Expansions of existing legal fossil
19 fuel refineries ~~above thresholds at WCC 20.68.800~~ require a shoreline
20 conditional use permit.

21 The motion was seconded.

22
23 The motion to amend carried by the following vote:

24 **Ayes:** Browne, Buchanan, Donovan, and Frazey (4)

25 **Nays:** Brenner and Byrd (2)

26 **Absent:** Sidhu (1)

27
28 Councilmembers and staff discussed conditional use permits versus major project
29 permits, the State Environmental Policy Act (SEPA), and the following motions:

30
31 **Donovan moved** to amend the SEPA environmental checklist, per his submitted
32 amendment 4 (*on file*) with amendments, Whatcom County Code section 16.08.090:

33
34 **16.08.090. Environmental checklist**

35
36 E. For any proposed change of use or expansion of facilities that manufacture,
37 process, ship by sea transport any fossil fuel, renewable fuel, or hydrocarbon
38 feedstock or fossil fuel product, the proponent will fill out the County's SEPA
39 "Worksheet for Fossil Fuel Facilities." This Worksheet provides detailed
40 information required to evaluate impacts to air, land and water during review
41 of a SEPA environmental checklist. The form of worksheet shall be prepared
42 and updated once per year by the SEPA Responsible Official in consultation
43 with and taking into account the comments of the Climate Impacts Advisory
44 Group and its members. The Worksheet shall analyze the "significance" of
45 direct, indirect, and cumulative impacts including but not limited to those
46 arising from:

47
48 Windborne transport of burned fossil fuel emissions into Whatcom County;

49
50 Life cycle greenhouse gas emissions above existing levels;

1 Transits of tankers or barges and their support vessels that have the potential
2 to interfere with commercial and treaty tribe fishing areas; and

3
4 Releases of stormwater and wastewater to groundwater, marine waters,
5 intertidal wetlands, streams within the shorelines, and to their headwaters;

6
7 In determining whether possible impacts are "significant" and "probable," the
8 Responsible Official shall determine whether the answers on the Worksheet
9 for Fossil Fuel Facilities accurately analyze the severity of potential harm,
10 independently from analysis of probability of occurrence, in compliance with
11 WAC 197-11-330, -794

12
13 The county may modify the environmental checklist form as provided in
14 WAC 197-11-315. If a modified form is prepared, it must be sent to the
15 Department of Ecology to allow at least a 30-day review prior to use. (Ord.
16 98-048 Exh. A; Ord. 84-122 Part 3 (part)).

17
18 The motion was seconded.

19
20 The motion to amend carried by the following vote:

21 **Ayes:** Browne, Buchanan, Byrd, Donovan, and Frazey (5)

22 **Nays:** Brenner (1)

23 **Absent:** Sidhu (1)

24
25 Councilmembers and staff referenced and discussed the staff memo from Mark
26 Personius on July 22, 2019 regarding Cherry Point Amendments (*on file*) regarding types of
27 permits and the following motion:

28
29 **Donovan moved** to amend WCC 20.68.153, "Expansion of existing legal fossil fuel
30 refinery operations and the primary manufacturing of products thereof or expansion of
31 existing legal fossil fuels transshipment facilities ~~when proposed in excess of expansion~~
32 ~~thresholds determined consistent with WCC 20.68.800 and subject to the conditional use~~
33 ~~permit criteria below and approval of a major project permit."~~

34
35 The motion was seconded.

36
37 The motion to amend carried by the following vote:

38 **Ayes:** Browne, Buchanan, Donovan, and Frazey (4)

39 **Nays:** Brenner (1)

40 **Absent:** Byrd (out of the room) and Sidhu (2)

41
42 Councilmembers and staff referenced and discussed the staff memo from Mark
43 Personius on July 22, 2019 regarding Cherry Point Amendments (*on file*) regarding
44 renewable fuel operations, permitting of renewable fuel operations, and the following
45 motion:

46
47 **Donovan moved** to approve option two for item three regarding renewable fuel
48 operations as shown in the staff memo from Mark Personius on July 22, 2019 regarding
49 Cherry Point Amendments (*on file*) and the following motion:

- 50
51 1. Renewable Fuel Operations - Cascadia Law Group's July 16 draft includes two options
52 for the types of permits required for renewable fuel projects (see proposed WCC
53 20.68.054(9) and 20.68.159):

1
2 Option 2 – Require a conditional use permit or major project permit for
3 expansions over the thresholds in WCC 20.68.800.
4

5 The motion was seconded.
6

7 The motion to amend carried by the following vote:

8 **Ayes:** Browne, Buchanan, Donovan, and Frazey (4)

9 **Nays:** Brenner (1)

10 **Absent:** Byrd (out of the room) and Sidhu (2)
11

12 Councilmembers discussed next steps. The Council will schedule a work session at a
13 special meeting on July 30 to continue discussing proposed amendments.
14

15
16 **OTHER BUSINESS**

17 There was no other business.
18
19

20
21 **ADJOURN**

22 The meeting adjourned at 5:06 p.m.
23
24

25 The County Council approved these minutes on September 10, 2019.
26

27
28 ATTEST:

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33
34 Dana Brown-Davis, Council Clerk
35

36
37
38
39 Jill Nixon, Minutes Transcription

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON



Rud Browne, Council Chair


TODD DONOVAN