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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.~~

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

4
5 The motion to amend was seconded.

6
7 The motion to amend carried by the following vote:

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

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

10 **Absent:** Sidhu (1)

11
12 **Donovan moved** to amend to remove thresholds for permitted uses, per his
13 submitted amendment 1 (*on file*) to Whatcom County Code section 20.68.153:

14
15 **20.68.150. Conditional uses.**

16
17 .153 Expansion of existing legal fossil fuel refinery operations and the primary
18 manufacturing of products thereof or expansion of existing legal fossil fuels
19 transshipment facilities ~~when proposed in excess of expansion thresholds~~
20 ~~determined consistent with WCC 20.68.800 and are~~ subject to the conditional
21 use permit criteria below and approval of a major project permit:
22

23 The motion to amend was seconded.

24
25 The motion to amend carried by the following vote:

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

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

28 **Absent:** Sidhu (1)

29
30 **Donovan moved** to amend to remove thresholds for permitted uses, per his
31 submitted amendment 1 (*on file*) to Whatcom County Code section 20.68.801:

32
33 **20.68.800. Expansion Thresholds for Existing Fossil Fuel Refineries or Fossil**
34 **Fuel Transshipment**

35
36 .801. Limits on Refinery or Transshipment Facility Capacity Expansions:

37
38 Delete entire section 20.68.801; delete options 1, 2 & 3.

39
40 The motion to amend was seconded.

41
42 The motion to amend carried by the following vote:

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

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

45 **Absent:** Sidhu (1)

46
47 **Donovan moved** to amend to remove thresholds for permitted uses, per his
48 submitted amendment 1 (*on file*) to Whatcom County Code section 20.68.802(3):

49
50 .802 [renumber]. Environmental Review and Greenhouse Gas Mitigation.

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2 (3) Local mitigation of greenhouse gas emissions shall be required, whenever
3 ~~increases of greenhouse gas increase equal or exceed 1% cumulatively~~ above
4 the baseline for a 3-year average (per section .802(2)(a)), after the effective
5 date of this section [XXX].
6

7 The motion to amend was seconded.
8

9 The motion to amend carried by the following vote:

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

11 **Nays:** None (0)

12 **Absent:** Sidhu (1)

13 **Abstains:** Brenner and Byrd (2)
14

15 **Donovan moved** to amend to remove thresholds for permitted uses, per his
16 submitted amendment 1 (*on file*) to Whatcom County Code section 23.100.170(B)(1)(b)(i):
17

18 **23.100.170 Cherry Point management area**

19 B. 1. b. Fuel uses
20

21
22 i. Fossil Fuel Refineries – Shoreline Permits and Requirements: Fossil
23 fuel refineries existing legal as of [XXX effective date] are permitted
24 shoreline uses. Expansions of existing legal fossil fuel refineries ~~below~~
25 ~~thresholds of the zoning code at WCC 20.68.800~~ are subject to review as
26 shoreline substantial development permits. Expansions of existing legal fossil
27 fuel refineries ~~above thresholds at WCC 20.68.800~~ require a shoreline
28 conditional use permit.
29

30 The motion was seconded.
31

32 The motion to amend carried by the following vote:

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

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

35 **Absent:** Sidhu (1)
36

37 Councilmembers and staff discussed conditional use permits versus major project
38 permits, the State Environmental Policy Act (SEPA), and the following motions:
39

40 **Donovan moved** to amend the SEPA environmental checklist, per his submitted
41 amendment 4 (*on file*) with amendments, Whatcom County Code section 16.08.090:
42

43 **16.08.090. Environmental checklist**

44
45 E. For any proposed change of use or expansion of facilities that manufacture,
46 process, ship by sea transport any fossil fuel, renewable fuel, or hydrocarbon
47 feedstock or fossil fuel product, the proponent will fill out the County's SEPA
48 "Worksheet for Fossil Fuel Facilities." This Worksheet provides detailed
49 information required to evaluate impacts to air, land and water during review
50 of a SEPA environmental checklist. The form of worksheet shall be prepared

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1 and updated once per year by the SEPA Responsible Official in consultation
2 with and taking into account the comments of the Climate Impacts Advisory
3 Group and its members. The Worksheet shall analyze the "significance" of
4 direct, indirect, and cumulative impacts including but not limited to those
5 arising from:

6
7 Windborne transport of ~~burned~~ fossil fuel emissions into Whatcom County;

8
9 Life cycle greenhouse gas emissions above existing levels;

10
11 Transits of tankers or barges and their support vessels that have the potential
12 to interfere with commercial and treaty tribe fishing areas; and

13
14 Releases of stormwater and wastewater to groundwater, marine waters,
15 intertidal wetlands, streams within the shorelines, and to their headwaters;

16
17 In determining whether possible impacts are "significant" and "probable," the
18 Responsible Official shall determine whether the answers on the Worksheet
19 for Fossil Fuel Facilities accurately analyze the severity of potential harm,
20 independently from analysis of probability of occurrence, in compliance with
21 WAC 197-11-330, -794

22
23 The county may modify the environmental checklist form as provided in
24 WAC 197-11-315. If a modified form is prepared, it must be sent to the
25 Department of Ecology to allow at least a 30-day review prior to use. (Ord.
26 98-048 Exh. A; Ord. 84-122 Part 3 (part)).

27
28 The motion was seconded.

29
30 The motion to amend carried by the following vote:

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

32 **Nays:** Brenner (1)

33 **Absent:** Sidhu (1)

34
35 Councilmembers and staff referenced and discussed the staff memo from Mark
36 Personius on July 22, 2019 regarding Cherry Point Amendments (*on file*) regarding types of
37 permits and the following motion:

38
39 **Donovan moved** to amend WCC 20.68.153, "Expansion of existing legal fossil fuel
40 refinery operations and the primary manufacturing of products thereof or expansion of
41 existing legal fossil fuels transshipment facilities ~~when proposed in excess of expansion~~
42 ~~thresholds determined consistent with WCC 20.68.800 and subject to the conditional use~~
43 ~~permit criteria below and approval of a major project permit."~~

44
45 The motion was seconded.

46
47 The motion to amend carried by the following vote:

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

49 **Nays:** Brenner (1)

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

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1
2 Councilmembers and staff referenced and discussed the staff memo from Mark
3 Personius on July 22, 2019 regarding Cherry Point Amendments (*on file*) regarding
4 renewable fuel operations, permitting of renewable fuel operations, and the following
5 motion:
6

7 **Donovan moved** to approve option two for item three regarding renewable fuel
8 operations as shown in the staff memo from Mark Personius on July 22, 2019 regarding
9 Cherry Point Amendments (*on file*) and the following motion:
10

- 11 1. Renewable Fuel Operations - Cascadia Law Group's July 16 draft includes two options
12 for the types of permits required for renewable fuel projects (see proposed WCC
13 20.68.054(9) and 20.68.159):
14

15 *Option 2* – Require a conditional use permit or major project permit for
16 expansions over the thresholds in WCC 20.68.800.
17

18 The motion was seconded.
19

20 The motion to amend carried by the following vote:

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

22 **Nays:** Brenner (1)

23 **Absent:** Byrd (out of the room) and Sidhu (2)
24

25 Councilmembers discussed next steps. The Council will schedule a work session at a
26 special meeting on July 30 to continue discussing proposed amendments.
27

28
29 **OTHER BUSINESS**

30 There was no other business.
31
32

33
34 **ADJOURN**

35
36 The meeting adjourned at 5:06 p.m.
37

38 The County Council approved these minutes on _____, 2019.
39

40
41 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

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46 _____
47 Dana Brown-Davis, Council Clerk

Rud Browne, Council Chair

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- 1 _____
- 2 Jill Nixon, Minutes Transcription