

**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
November 14, 2019**

Work Session

1

1 **Call to Order**

2 The meeting was called to order by Whatcom County Planning Commission Chair,
3 Kelvin Barton, in the Whatcom County Council Chambers at 6:15 p.m.

4 **Roll Call**

5 **Present:** Kelvin Barton, Robert Bartel, Atul Deshmane, Gary Honcoop, Kimberley
6 Lund, Jon Maberry, Natalie McClendon, Dominic Mocerri

7 **Absent:** Stephen Jackson

8 **Staff Present:** Mark Personius, Matt Aamot, Royce Buckingham, Amy Keenan, Ashley
9 Ubil

10 **Commissioner Comments**

11 Commissioner Bartel disclosed that he met with three people from BP and discussed
12 the topic at hand tonight.

13 Commissioner Mocerri and Commissioner Maberry reported that they went out to the
14 tour of Phillips 66.

15 Commissioner Barton stated that he went to Whatcom County's Emergency
16 Management Training regarding BP oil spill response.

17 Commissioner Deshmane had conversations with Royce Buckingham; met with the
18 County Council Chair, Rud Browne; and talked to Planning Commission members.

19 **Commissioner Barton** provided an overview of the agenda for the work session, and
20 referenced commission rule 10-H, which states that during work sessions input from
21 the public shall only be allowed in response to direct questions from commission
22 members, he indicated the Commission would not be taking public comment or new
23 testimony.

24 **Timestamp: 19:21**

25 **Department Update**

26 PDS Director, Mark Personius provided a quick review of the packet and issues still
27 requiring guidance from commissioners, including some proposed changes staff made
28 to the code in response to public comments to date. The Department of Ecology was
29 invited to attend tonight to talk about oil spill planning and response, and insurance.
30 Since they could not be here, that invitation is extended to the next meeting.
31 Burlington Northern Santa Fe Railroad was also invited to talk about insurance with
32 regards to the railroad and transportation of fossil fuel products. They submitted a
33 comment letter because they could not attend. Staff would like to gauge process and
34 timeline to help determine when the Commission may be ready for Public hearing on
35 this issue.

36 **Public Comment**

37 The Commission does not take public comment during a work session.

**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
November 14, 2019**

Work Session

2

1 **Work Session**

2 **File #PLN2018-00009: Whatcom County Comprehensive Plan and County**
3 **Code proposed amendments primarily relating to fossil fuel and renewable**
4 **fuel refineries, storage, transshipment facilities, piers, and other related**
5 **facilities in industrial zones, including but not limited to industrial zones**
6 **within the Cherry Point Urban Growth Area.**

7 **Timestamp: 22:11**

8 **Scott Irwin** from Philips 66 Company in Houston, provided a slide presentation of
9 insurance aspects from the refinery perspective. He discussed liability insurance;
10 pollution legal liability, also known as environmental impairment liability; proof of
11 insurance; policy limitations; insurance for lifetime of permit pollution liability; and
12 insurance requirements for transporters. Mr. Irwin talked about what the insurance can
13 and cannot cover, then answered commissioner questions.

14 **Timestamp: 1:09:11**

15 Planning and Development (PDS) Senior Planner, Matt Aamot described the research
16 PDS staff completed with regards to insurance requirements for Burlington Northern
17 Santa Fe. Financial liability requirements on railroads transporting crude oil are
18 embedded in the State rule requirements in Washington Administrative Code 480-62-
19 300.

20 **Timestamp: 1:14:19**

21 Mr. Aamot provided an overview of the updates contained in the meeting packet.

22 **Timestamp: 1:26:05**

23 **Commissioner McClendon moved** to adopt the proposed meeting agenda amended
24 as the Commission chooses and setting a time for adjournment.

25 **Commissioner Deshmane seconded the motion.**

26 **Commissioner Honcoop moved** to amend the agenda to adjourn at 9:30 and move
27 item #8 to #3.

28 **McClendon seconded the motion to amend.**

29 **The motion carried. (Aye-8; Nay-0; Abstain-0)**

30 Commissioners did a quick check in on the business rules and then continued to talk
31 about insurance.

32 **Timestamp: 1:47:00**

33 **Commissioner Honcoop moved** to keep the title for 22.05.125, insert "Permit
34 applicant to provide proof of insurance naming Whatcom County as additional insured,"
35 as the new language, and remove the rest of the language in that section.

36 **Commissioner McClendon seconded the motion.**

37 **The motion carried. (Aye-7; Nay-1; Abstain-0)**

38 **Timestamp: 1:52:48**

**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
November 14, 2019**

Work Session

3

1 **Commissioner McClendon moved** to adopt staff changes as highlighted in yellow in
2 Exhibit B, pages 3 through 6.

3 **Commissioner Deshmane seconded the motion.**

4 Commissioners discussed the motion.

5 **Timestamp: 2:12:44 and 2:17:28**

6 **Secretary Ubil restated the motion:** To adopt staff changes on Exhibit B, pages 3
7 through 6 of the yellow highlighted information.

8 **Timestamp: 2:17:41**

9 **The motion failed. (Aye-4; Nay-4; Abstain-0)**

10 **Timestamp: 2:18:44**

11 **Commissioner Maberry moved** to remove language relating to improvements, bring
12 back the expansion language, and limit Conditional Use Permit (CUP) requirements to
13 expansions with the definition of expansions being the projects resulting in a net
14 facility greenhouse gas emission increase above 75,000 tons.

15 **Commissioner Honcoop seconded the motion.**

16 **Timestamp: 2:21:13**

17 **Commissioner Maberry restated the motion** to limit conditional use permit
18 requirements to expansions, to remove language around improvements, and then
19 define expansion as projects resulting in net facility greenhouse gas emission increases
20 above 75,000 tons per year.

21 When asked for clarification, Commissioner Maberry confirmed that his motion related
22 to Page 14 of Exhibit B, starting at line 533. Commissioners engaged in discussion.

23 **Timestamp: 2:38:34**

24 At the Commission's request for someone from the industry to speak to the matter,
25 Brad Brown, project manager for Phillips 66 explained where using the term
26 "improvement" vs. "expansion" would be problematic. He then answered commissioner
27 questions.

28 **Timestamp: 2:46:02**

29 **Commissioner Maberry amended the motion** to remove the 75,000 ton figure and
30 replace that with "the greenhouse gas project threshold," which the Commission will
31 define later.

32 **Commissioner Honcoop seconded the motion.**

33 **The motion carried. (Aye-5; Nay-3; Abstain-0)**

34 **Timestamp: 3:09:58**

35 **Commissioner Honcoop moved to amend the motion** to keep the expansion and
36 delete the improvements and then address the following items in the original motion
37 as different motions in the future.

38 **Commissioner Maberry seconded the motion to amend.**

**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
November 14, 2019**

Work Session

4

1 **Timestamp: 3:13:46**

2 **Commissioners voted to have the motion amended.**

3 **The motion carried. (Aye-8; Nay-0; Abstain-0)**

4 ***The amendment to keep "expansion" and delete "improvements" was taken to***
5 ***motion.***

6 **The motion carried. (Aye-7; Nay-0; Abstain-1)**

7 **Timestamp: 3:18:52**

8 ***Commissioner Maberry moved to limit conditional use permits to fossil fuel refinery***
9 ***and transshipment expansions, which are defined as projects that create a net facility***
10 ***GHG emission increase above the GHG project threshold, which is a number that will***
11 ***later be defined.***

12 **Commissioner Honcoop seconded the motion.**

13 Commissioners held discussion.

14 **Timestamp: 3:24:34**

15 ***Commissioner Maberry amended his motion to include limiting change of use***
16 ***requirements to transshipment facilities and define change of use as a change in***
17 ***export volume, as unrefined fossil fuels in place of refined fuels, or fossil fuels in place***
18 ***of renewable fuels.***

19 **Commissioner Honcoop seconded the motion to amend.**

20 **Timestamp: 3:32:36**

21 Eddy Ury, Program Manager of RE Sources provided an explanation for the email and
22 printed memo he submitted to the Planning Commission via Planning staff with regards
23 to change of use.

24 **Timestamp: 3:38:21**

25 **Commissioner Moceri** proposed to hold the item over to the next meeting, adjourn,
26 and have staff work on some of the language and propose a couple of options for
27 discussion at the next meeting.

28 There was consensus to adjourn.

29 **Adjournment**

30 The meeting was adjourned at 9:39 p.m.

31 Minutes prepared by Tammy Axlund.

32 WHATCOM COUNTY PLANNING COMMISSION ATTEST:

33

34

35

36

37

Kelvin Barton, Chair

Tammy Axlund, Secretary