

**RECORD OF PROCEEDINGS OF THE  
WHATCOM COUNTY PLANNING COMMISSION  
June 25, 2020**

Work Session

1

1 **Call to Order**

2 The virtual meeting was called to order by Whatcom County Planning Commission  
3 Chair, Kelvin Barton at 6:32 p.m.

4 **Roll Call**

5 **Present:** Robert Bartel, Kelvin Barton, Atul Deshmane, Jim Hansen, Stephen Jackson,  
6 Kimberley Lund, Jon Maberry, Natalie McClendon, Dominic Mocerì

7 **Staff Present:** Matt Aamot, Royce Buckingham, Mark Personius, Ashley Ubil, and  
8 Jeremy Rische and Rick Anderson (Information Technology)

9 **Department Update**

10 Mark Personius, Director of Planning and Development Services (PDS) provided a quick  
11 overview of the effects of the pandemic on department operations. He announced that  
12 County Council held a hearing and approved the moratorium on Cherry Point. They are  
13 ready for the Planning Commission's recommendations on the proposed Cherry Point  
14 amendments. Mr. Personius reported that the inability to hold Planning Commission  
15 meetings due to State restrictions has exacerbated the need to get the backlog of  
16 items from the Planning Department on the Commission agenda.

17 **Commissioner Comments**

18 Commissioner McClendon encouraged everyone to keep wearing their masks.

19 Commissioner Barton reported that over the past couple of weeks he met with Eddy  
20 Ury of RE Sources, Tim Johnson of Phillips 66, and Pam Brady of BP. He announced  
21 that Eddy Ury, and representatives from each of the refineries were invited to be at the  
22 meeting to answer Commissioners' questions. He also stated that Dirk Vermeeren  
23 would discuss risk management items.

24 Commissioner Hansen reported that he spoke with Jeff Chalfant, of BP Cherry Point,  
25 about these matters since the last meeting.

26 **Approval of minutes of September 26, 2019**

27 **Timestamp: 8:10**

28 **Commissioner Lund moved** to approve the minutes of the September 26<sup>th</sup> Planning  
29 Commission Meeting.

30 **Commissioner Maberry seconded.**

31 Commissioner McClendon noted the need for the following corrections:

- 32 • Page 1, Line 30 – Change "dual" to "fuel"
- 33 • Page 3, Line 29 – Change "commerce class" to "commerce clause"
- 34 • Page 7, Line 16 – Correct the spelling of Commissioner Deshmane's name
- 35 • Page 18, Line 19 – Correct the spelling of Commissioner McClendon's name

36 **The motion to approve the minutes with the noted corrections carried by**  
37 **verbal majority vote.**<sup>1</sup>

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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: 14:03**

8 Dirk Vermeeren described his background and experience in international oil business.  
9 He then gave a presentation regarding risk management and the need for pollution  
10 spill remediation insurance/environmental impairment liability insurance. The  
11 Commission Chair opened the floor for questions from the commissioners.

12 Commissioner Deshmane stated that he would address his risk management concerns  
13 in a minority report to the County Council.

14 **Timestamp: 25:06**

15 **Commissioner McClendon moved** to accept for recommendation, Exhibit D, as  
16 amended by the Commission and any recommended amendments from the staff.

17 **Commissioner Jackson seconded.**

18 **Commissioner Maberry moved** to amend Exhibit D to take out "but not limited to"  
19 on line 1348 in item (6) of 22.05.120.

20 **Commissioner Mocerri seconded.**

21 **Commissioner Hansen moved** to table Commissioner Maberry's amendment to the  
22 motion and call the question on Commissioner McClendon's motion.

23 **Commissioner McClendon seconded.**

24 **Roll Call Vote: Ayes-Deshmane, Hansen, McClendon; Nays-Bartel, Barton,**  
25 **Jackson, Lund, Maberry, Mocerri; (Ayes-3; Nays-6; Abstain-0). The motion to**  
26 **table the amendment failed.**

27 Commissioner Barton restated the motion to amend Exhibit D to take out "but not  
28 limited to" on line 1348 in item (6) of 22.05.120.

29 **Roll Call Vote: Ayes-Bartel, Barton, Jackson, Maberry, Mocerri; Nays-**  
30 **Deshmane, Hansen, Lund, McClendon; (Ayes-5; Nays-4; Abstain-0). The**  
31 **motion carried.**

32 **Timestamp: 32:17**

33 Commissioner Barton called the question on the motion to approve Exhibit D.

34 **Roll Call Vote: Ayes-Bartel, Barton, Deshmane, Hansen, Jackson, Lund,**  
35 **Maberry, McClendon, Mocerri; (Ayes-9; Nays-0; Abstain-0). The motion carried.**

36 **Timestamp: 35:15**

37 **Commissioner McClendon moved** to accept for recommendation, Exhibit A, as  
38 amended by the Planning Commission and any recommendations from the staff.

39 **Commissioner Lund seconded.**

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1 Commissioners entered into discussion.

2 **Timestamp: 36:27**

3 **Commissioner Maberry moved** to remove the following language starting on line 22,  
4 "to fulfill the Shoreline Management Act's, shorelines of statewide significance policy to  
5 preserve natural character, result in long-term over short-term benefit, and protect the  
6 resources and ecology of the shoreline."

7 **Commissioner Barton seconded.**

8 The Chair invited input from legal counsel.

9 **Roll Call Vote: Ayes-Maberry, Mocerri; Nays-Bartel, Barton, Deshmane, Hansen**  
10 **Jackson, Lund, McClendon (Ayes-2; Nays-7; Abstain-0). The motion failed.**

11 **Timestamp: 42:24**

12 Commissioner Barton called the question on the motion to approve Exhibit A.

13 **Roll Call Vote: Ayes-Bartel, Barton, Deshmane, Hansen, Jackson, Lund,**  
14 **McClendon, Mocerri; Nays-Maberry; (Ayes-8; Nays-1; Abstain-0). The motion**  
15 **carried.**

16 **Timestamp: 44:25**

17 **Commissioner McClendon moved** to accept for recommendation, Exhibit C, as  
18 amended by the Planning Commission and any amendments proposed by staff.

19 **Commissioner Deshmane seconded.**

20 Commissioners entered into discussion.

21 **Timestamp: 44:58**

22 **Commissioner Maberry moved** to add the following language under Purpose in  
23 20.68.010: "Nothing in this chapter is intended to unnecessarily interfere with the  
24 ongoing operation, maintenance, and repair of existing facilities, modifications  
25 designed to comply with adoption and implementation of new product standards and  
26 fuel standards, operational and site safety improvements, environmental  
27 improvements, and regulatory compliance projects."

28 **Commissioner Barton seconded.**

29 Commissioners discussed the motion and invited input from staff and legal.

30 Commissioner Deshmane called for the question on the amendment.

31 **Roll Call Vote: Ayes- Bartel, Barton, Maberry; Nays-Deshmane, Hansen,**  
32 **Jackson, Lund, McClendon, Mocerri; (Ayes-3; Nays-6; Abstain-0). The motion**  
33 **failed. Timestamp: 58:42**

34 **Commissioner Mocerri moved** to remove "excluding storage tanks" from line 483 on  
35 page 13.

36 **Commissioner Jackson seconded. Roll Call Vote: Ayes-Bartel, Barton,**  
37 **Deshmane, Hansen, Jackson, Lund, Maberry, McClendon, Mocerri; (Ayes-**  
38 **9; Nays-0; Abstain-0). The motion carried.**

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1 **Timestamp: 1:00.33**

2 **Commissioner Maberry moved** to add the language "Except for the criteria on uses  
3 (Provision 1-4)" at the top of page 16.

4 **Commissioner Barton seconded.**

5 Commissioners discussed the motion and invited input from industry.

6 **Timestamp: 1:24:37**

7 **Commissioner Bartel moved** to amend the motion and drop number (1) from the  
8 motion made by Commissioner Maberry.

9 **Commissioner Barton seconded.**

10 **Roll Call Vote: Ayes-Bartel, Barton, Hansen, Maberry; Nays-Deshmane,**  
11 **Jackson, McClendon, Mocer; Abstain-Lund (Ayes-4; Nays-4; Abstain-1). The**  
12 **motion to amend failed.**

13 Commissioner Barton called the question on Commissioner Maberry's original motion  
14 to add the language "Except for the criteria on uses (Provision 1-4)" at the top of page  
15 16.

16 **Roll Call Vote: Ayes-Bartel, Maberry; Nays-Barton, Deshmane, Hansen,**  
17 **Jackson, Lund, McClendon, Mocer; (Ayes-2; Nays-7; Abstain-0). The motion**  
18 **failed.**

19 **Timestamp: 1:31:05**

20 **Commissioner Mocer moved** to remove the "except" portions of the two sentences  
21 at .059 and .060 on page 12.

22 **The motion failed for lack of a second.**

23 **Timestamp: 1:35:06**

24 **Commissioner Maberry moved** to remove "to the satisfaction of the County decision  
25 maker" from line 577.

26 **The motion failed for lack of a second.**

27 **Timestamp: 1:37:45**

28 **Commissioner Maberry moved** to remove the language for .153 (9) from line 596  
29 through 598, and replace it with "Prior to commencement of any site preparation or  
30 construction activities, all necessary state leases shall be acquired for any piers or  
31 aquatic land improvements. To the extent practicable the County shall support  
32 enforcement of any federal or state permit requirements addressing tribal treaty rights  
33 or the provisions of the Magnuson Amendment.

34 **Commissioner Bartel seconded.**

35 Commissioners discussed the motion and invited input from legal counsel and the PDS  
36 Director.

37 **Roll Call Vote: Nays -Bartel, Barton, Deshmane, Hansen, Jackson, Lund,**  
38 **Maberry, McClendon, Mocer; (Ayes-0; Nays-9; Abstain-0). The motion failed.**

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1 **Timestamp: 1:51:55**

2 **Commissioner Maberry moved** to remove the language on the screen formatted  
3 with strike out.

4 **Commissioner Bartel seconded.**

5 **Roll Call Vote: Ayes-Maberry; Nays-Bartel, Barton, Deshmane, Hansen,**  
6 **Jackson, Lund, McClendon, Mocer; (Ayes-1; Nays-8; Abstain-0). The motion**  
7 **failed.**

8 **Timestamp: 1:56:34**

9 **Commissioner Deshmane moved** to remove "properly addressing" from line 597 of  
10 .153 (9).

11 **Commissioner Jackson seconded.**

12 Industry representatives and staff provided input.

13 **Roll Call Vote: Ayes-Bartel, Barton, Deshmane, Hansen, Jackson, Lund,**  
14 **Maberry, McClendon, Mocer; (Ayes-9; Nays-0; Abstain-0). The motion carried.**

15 **Timestamp: 2:09:44**

16 **Commissioner Maberry moved** to remove the word "or" from the phrase "state  
17 permit or consultation requirements," on line 597.

18 **Commissioner Bartel seconded.**

19 **Roll Call Vote: Ayes-Bartel, Barton, Jackson, Maberry, McClendon; Nays-**  
20 **Deshmane, Hansen, Lund, Mocer; (Ayes-5; Nays-4; Abstain-0). The motion**  
21 **carried.**

22 **Timestamp: 2:12:46**

23 **Commissioner Maberry moved** to strike the new language starting on line 1025  
24 under .130 on page 28 and go back to the original wording for (3) "Will be consistent  
25 with applicable laws and regulations."

26 **Commissioner Bartel seconded.**

27 Commissioners discussed the motion and requested input from staff, legal counsel, and  
28 industry representatives.

29 **Roll Call Vote: Ayes-Barton, Jackson, Maberry, Mocer; Nays-Bartel,**  
30 **Deshmane, Lund, McClendon; Abstain-Hansen; (Ayes-4; Nays-4; Abstain-1).**  
31 **The motion failed.**

32 **Timestamp: 2:31:24**

33 **Commissioner Lund moved** to change the wording in line 1025 to "will seek, if  
34 required" instead of "will obtain, if required"

35 **Commissioner Barton seconded.**

36 **Roll Call Vote: Ayes-Bartel, Barton, Deshmane, Hansen, Jackson, Lund,**  
37 **Maberry, McClendon, Mocer; (Ayes-9; Nays-0; Abstain-0). The motion carried.**

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1 **Timestamp: 2:36:02**

2 **Commissioner Maberry moved** to revise the definition for 20.97.160.3 by adding "or  
3 renewable" after the first word and, removing "liquid fossil" in front of "fuels."

4 **Commissioner Barton seconded.**

5 Commissioners discussed the motion and requested input from PDS staff, RE Sources  
6 staff, and industry representatives.

7 **Roll Call Vote: Ayes-Maberry; Nays-Bartel, Barton, Deshmane, Hansen,  
8 Jackson, Lund, McClendon, Mocer; (Ayes-1; Nays-8; Abstain-0). The motion  
9 failed.**

10 **Timestamp: 2:54:57**

11 **Commissioner Maberry moved** to add "co-processes" after the word "fuels on line  
12 1236 of 20.97.350.3.

13 **Commissioner Bartel seconded.**

14 Commissioners discussed the motion and requested input from industry and RE  
15 Sources staff.

16 **Roll Call Vote: Ayes-Bartel, Maberry; Nays- Barton, Deshmane, Hansen,  
17 Jackson, Lund, McClendon, Mocer; (Ayes-2; Nays-7; Abstain-0). The motion  
18 failed.**

19 **Timestamp: 3:12:19**

20 **Commissioner Maberry moved** to adopt the value added processing definition  
21 supplied to the Planning Commission by Western States Petroleum Association.

22 **Commissioner Bartel seconded.**

23 Commissioners discussed the motion

24 **Roll Call Vote: Ayes- Bartel, Maberry; Nays- Barton, Deshmane, Hansen,  
25 Jackson, Lund, McClendon, Mocer; (Ayes-2; Nays-7; Abstain-0). The motion  
26 failed.**

27 **Timestamp: 3:21:27**

28 Commissioner Barton called the question on the motion to approve Exhibit C.

29 **Roll Call Vote: Ayes-Bartel, Barton, Deshmane, Hansen, Jackson, Lund,  
30 Maberry, McClendon, Mocer; (Ayes-9; Nays-0; Abstain-0). The motion carried.**

31 **Timestamp: 3:29:03**

32 **Commissioner McClendon moved** to adopt for recommendation to the Council,  
33 Exhibit B with Planning Commission amendments and any staff recommended  
34 amendments.

35 **Commissioner Mocer seconded.**

36 **Commissioner Maberry moved** to delete 16.08.090 Section E.

37 **The motion failed for lack of a second.**



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1 **Timestamp: 3:32:00**

2 **Commissioner Maberry moved** to delete 16.08.090 Section F.

3 **Commissioner Bartel seconded.**

4 **Roll Call Vote: Ayes-Bartel, Jackson, Maberry; Nays-Barton, Deshmane,**  
5 **Hansen, Lund, McClendon, Mocerri; (Ayes-3; Nays-6; Abstain-0). The motion**  
6 **failed.**

7 **Timestamp: 3:41:37**

8 **Commissioner Maberry moved** to remove from 16.08.160.E, the words  
9 "adequately" and "may expressly," and the last sentence "The County shall not so  
10 defer if such regulations did not anticipate or are otherwise inadequate to address a  
11 particular impact of a project."

12 **Commissioner Jackson seconded.**

13 Commissioners requested input from legal counsel and PDS staff.

14 **Timestamp: 3:52:18**

15 **Commissioner Maberry withdrew** his request to remove the words "adequately"  
16 and "may expressly."

17 **Commissioner Jackson agreed.**

18 The chair stated the revised motion: *To remove from 16.08.160.E , the last sentence*  
19 *"The County shall not so defer if such regulations did not anticipate or are otherwise*  
20 *inadequate to address a particular impact of a project."*

21 **Timestamp: 3:56:23**

22 **Roll Call Vote: Ayes-Barton, Jackson, Maberry, Mocerri; Nays-Bartel,**  
23 **Deshmane, Hansen, Lund, McClendon; (Ayes-4; Nays-5; Abstain-0). The**  
24 **motion failed.**

25 **Timestamp: 3:57:08**

26 **Commissioner Maberry moved** to change "shall" to "may" in the last sentence.

27 **The motion failed for lack of a second.**

28 **Timestamp: 4:00:27**

29 **Commissioner Deshmane moved** to change "shall" to "need" in the last sentence.

30 **Commissioner Lund seconded.**

31 **Roll Call Vote: Ayes-Bartel, Barton, Deshmane, Hansen, Jackson, Lund,**  
32 **Maberry, McClendon, Mocerri; (Ayes-9; Nays-0; Abstain-0). The motion carried.**

33 **Timestamp 4:01:41**

34 **Commissioner Maberry moved** to remove line 309 through line 310, as well as line  
35 312 through line 313 from the definition of facility emissions.

36 **Commissioner Jackson seconded.**

37 Commissioners discussed the motion and received input from industry and PDS staff.

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1 **Roll Call Vote: Ayes-Bartel, Barton, Deshmane, Jackson, Maberry, Moceri;**  
2 **Nays-McClendon; Abstain- Hansen, Lund; (Ayes-6; Nays-1; Abstain-2). The**  
3 **motion carried.**

4 *Timestamp 4:12:21*

5 Commissioner Barton called the question on the motion to approve Exhibit B.

6 **Roll Call Vote: Ayes-Bartel, Barton, Deshmane, Hansen, Jackson, Lund,**  
7 **Maberry, McClendon, Moceri; (Ayes-9; Nays-0; Abstain-0). The motion carried.**

8 **Adjournment**

9 *Timestamp: 4:13:07*

10 The meeting was adjourned at 10:45 p.m.

11 Minutes prepared by Tammy Axlund.

12 WHATCOM COUNTY PLANNING COMMISSION ATTEST:

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17 \_\_\_\_\_  
Kelvin Barton, Chair

\_\_\_\_\_   
Tammy Axlund, Secretary

18

19 <sup>1</sup>A roll call vote was not taken unless indicated by roll call results.