

7/20/2020

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION making findings of fact in support of the adoption of Ordinance No. M-4295 declaring an emergency and adopting a six-month temporary moratorium prohibiting the establishment of new, or expansion of existing, large-scale fossil fuel facilities.

WHEREAS, on June 8, 2020, the Vancouver City Council adopted Ordinance No. M-4295 without holding a public hearing; and

WHEREAS, RCW 35.63.200 and 35.63.200 require that the City hold a public hearing within 60 days of adopting the moratorium, and adopt findings of fact justifying its action either prior to or immediately after the public hearing; and

WHEREAS, the City Council held a public hearing on July 20, 2020, and sets forth in this resolution its findings as follows.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY OF VANCOUVER:

Section 1. “Goal 1” of the City of Vancouver’s 2016-2021 Strategic Plan is to “[e]nsure our built urban environment is one of the safest, most environmentally responsible and well maintained in the Pacific Northwest.”

Section 2. Local governments have a core responsibility for upholding the public health, safety and welfare; mitigating and preparing for disasters; protecting and preserving natural systems; and supporting economic development.

Section 3. The City of Vancouver and the greater Pacific Northwest are vulnerable to powerful subduction zone earthquakes that occur with periodic frequency along the Juan de Fuca and North American plates. Geologic research has shown that subduction zone earthquakes have occurred in the Pacific Northwest with relative regularity over the last 10,000 years, and if averages from past events are predictive, the region could be overdue for another powerful subduction zone earthquake. However, many of the buildings and critical infrastructure in Vancouver were built before this seismic exposure was widely understood.

Section 4. The Clark Regional Emergency Services Agency has identified Critical Facilities and Infrastructure (including Hazardous Materials, Energy Facilities, Transportation Systems, and Water and Sanitation Systems) to be collocated within areas of the City with a “Moderate to High” liquefaction susceptibility.

Section 5. The City’s drinking water (almost 26 million gallons per day) is supplied entirely from groundwater resources. The vast majority of this drinking water (approximately 90%) is supplied from the Troutdale, Upper Orchards, and Lower Orchards Aquifers, the boundaries of which are often blurred (the Orchards Aquifer is likely an alluviated portion of the Troutdale with little or no silica cementing), and historical water monitoring indicates that water moves vertically through the hydrogeologic layers of these aquifers.

Section 6. Facilities that store or process hazardous materials have been recognized to present an increased risk of spills or leaks, and a greater concentration of such facilities renders the City’s water supply at an increased susceptibility to contamination, particularly in the event of a powerful earthquake.

Section 7. Prior Vancouver city councils have tried to protect City water resources by establishing development regulations and minimum standards to reduce the risks of contaminants

entering water resources by enacting local ground and surface water regulations, now codified in Chapter 14.26 VMC, the Water Resources Protection Ordinance. In addition, recognizing the risks posed by the transportation of petroleum, prior Vancouver city councils have also encouraged agencies to deny permits for facilities that increase the transportation of Bakken crude oil through Clark County (June 2014, Resolution M-3821), restricted the expansion of crude petroleum facilities by way of a moratorium (Sept. 2014, Resolution M-4090), and made corresponding revisions to the City land use code in Chapter 20.150 VMC.

Section 8. The storage, transfer, processing and handling of other fossil fuels within the City pose risks to safety, health and livability, including mobility of people, other freight, and other commercial vehicles, which are potentially catastrophic in magnitude.

Section 9. It is appropriate to conduct review and analysis of the City's current vulnerabilities to determine if the purposes of Title 20 and Chapter 14.26 VMC may continue to be fulfilled while accommodating the establishment of new, or expansion of existing, large-scale fossil fuel facilities.

Section 10. The siting of large-scale fossil fuel facilities raises issues of social equity, as these types of facilities have historically been disproportionately located in close proximity to low-income communities and communities of color.

Section 11. On January 17, 2020, the Ninth Circuit Court of Appeals found that, "copious expert evidence" establishes that an unprecedented rise in the Earth's carbon concentration levels stems from fossil fuel combustion, and if left unchecked, such levels will wreak havoc on the Earth's climate, stating further: "The problem is approaching 'the point of no return.' Absent some action, the destabilizing climate will bury cities, spawn life-threatening natural disasters, and jeopardize critical food and water supplies." (Hon. Andrew D. Hurwitz, Circuit Judge

authoring the majority opinion of Juliana v. United States, No. 18-36082, p.13 (9th Cir., Jan. 17, 2020).

Section 12. The University of Washington found that Washington State has experienced long-term warming, a lengthening of the frost-free season, more frequent nighttime heat waves, rising sea levels along most of Washington's coast, increased coastal ocean acidity, declining glacial area and spring snowpack, and changes in the peak streamflows in many rivers to earlier in the year; such that three key areas of risk, specifically changes in the natural timing of water availability, sea level rise and ocean acidity, and increased forest mortality, will likely bring significant consequences for the economy, infrastructure, natural systems, and human health of the region. Studies conducted by the University of Oregon have further found that the effects of climate change on water supplies, public health, coastal and storm damage, wildfires, and other impacts, will cost Washington almost \$10 billion per year after 2020, unless additional actions are taken to mitigate these effects.

Section 13. The scientifically projected increase of forest mortality poses a unique, and heightened threat to the quality of life enjoyed by residents of the City of Vancouver, which has been annually recognized as "Tree City USA" since 1989. The scientifically projected changes to streamflows pose a unique, and heightened threat to the life, health, safety, and economic vitality of Vancouver residents, as it has been long-recognized that "one of the greatest assets of Vancouver is its shoreline along the Columbia River" (August 1991, Resolution M-2739). The City has also made significant financial investments to complete capital improvements such as the Waterfront Development Project and Columbia River Renaissance Trail, in order to "draw walkers and bikers to the water's edge" and "reinforce recognition of the [Columbia River] waterfront as a place of community-wide enjoyment" (June 1993, Resolution M-2836).

Section 14. Large-scale fossil fuel facilities create significant public health risks, including air pollution resulting in impaired respiratory functions from fine particulates, noise pollution affecting hearing loss and psychological health, and exposure to heavy metals and contaminated drinking sources resulting in cancers, premature death and lung and heart diseases. Fossil fuels, including petroleum, coal and natural gas, are a major source of carbon dioxide, heavy metals, nitrogen oxide and sulfur dioxide, and each has a demonstrated nexus to climate change and environmental pollution. The Vancouver City Council has grave concerns regarding the safety of Vancouver residents and the environment, and the strain on public services and existing infrastructure resulting from the siting and operation of new, or expansion of existing, large-scale fossil fuel facilities.

Section 15. The City of Vancouver is preparing to update the City Strategic Plan, the Vancouver City Center Vision (“VCCV”), and make annual updates to Title 20 VMC. It is appropriate at this time to facilitate citizen engagement, and undertake appropriate review of large-scale fossil fuel zoning and siting considerations in order to mitigate avoidable risks of catastrophic harm, ensure that the resiliency goals adopted as part of the City Strategic Plan are capable of being fully realized, focus more economic development on safe and renewable energy sources and “green” businesses, and account for the social and environmental impacts on traditionally marginalized communities. In order to preserve the ability to develop the Strategic Plan, VCCV, and Title 20 updates, taking these factors into account, and with the widest range of choices and alternatives for future development, it is necessary to temporarily restrict the establishment of new, or expansion of existing, large-scale fossil fuel facilities until the strategy and corresponding code updates are completed. Without a temporary moratorium, the City could receive development applications related to large-scale fossil fuel facilities that would conflict

with these goals, and the City would be required to process the applications under such regulations as currently exist.

Section 17. A temporary moratorium will enable the City to conduct public outreach and engagement and maximize public input in the siting of new, or expansion of existing, large-scale fossil fuel facilities without jeopardizing any possible land use options that may be precluded by unrestricted development. This moratorium will also allow City staff additional time to research and develop appropriate strategies to mitigate risks associated with the establishment of new, or expansion of existing, large-scale fossil fuel facilities in the future, through amendments to existing zoning ordinances if necessary. This temporary moratorium promotes the public health, safety, and general welfare of the people of Vancouver, and will encourage the most desirable and productive use of land and community resources, while also protecting the economic and social well-being of City residents.

Section 18. Definitions. For the purposes of this resolution:

A. “Fossil fuels” means petroleum and petroleum products, coal, and natural gasses, including without limitation methane, propane and butane, derived from prehistoric organic matter and used to generate energy. Fossil fuels do not include by-products such as asphalt, plastics, fertilizers, paints, or denatured ethanol.

B.1. “Large-scale fossil fuel facilities” means:

a. Facilities engaged in the wholesale distribution, extraction, refinement or processing of fossil fuels.

b. Terminals engaged in the bulk movement of fossil fuels (excluding railyards, fuel storage for airports, and fuel storage for marine servicing facilities).

c. Bulk coal storage: any structure, group of structures, equipment, or device that stores or transfers coal for use in the production of electricity or power.

d. Coal power plant: a thermal power station which burns coal to generate electricity or other usable power.

e. Natural gas processing: any facility which (i) separates natural gas components to recover usable natural gas liquids (*i.e.*, liquefied petroleum or natural gas), or (ii) produces natural gas suitable for transport (*i.e.*, pipeline quality dry natural gas), or (iii) processes natural gas to create methanol or other chemical products.

f. Natural gas storage and handling: any structure, group of structures, equipment, or devices that stores or transfers natural gas for use in the production of electricity or power, or for further processing (excluding facilities that create energy from landfill gas).

g. Bulk storage of one type of fossil fuel, or a combination of multiple types of fossil fuels, in excess of two million gallons.

2. “Large-scale fossil fuel facilities” does not include facilities that solely provide direct sales or distribution to consumers (*e.g.*, gas stations are not large-scale fossil fuel facilities).

ADOPTED at a Regular Meeting of the Vancouver City Council this 20<sup>th</sup> day of July,  
2020.

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Anne McEnery-Ogle, Mayor

Attest:

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Natasha Ramras, City Clerk

Approved as to form:

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Jonathan Young, City Attorney