

Special meeting

Business and Commerce Committee

October 4, 2019

Voting members in attendance: Andrew Gamble, Paul Burrill, Doug Thomas, Ryan Allsop, Clark Campbell, Sarah Rothenbuhler

Calling in: Brad Rader, Casey Diggs

(Quorum requirements met: 8/14 voting members)

Non-voting members: Jeff Callender, Don Goldberg

Public present: Jennifer Noveck, Gina Stark, Tony Larsen, Councilor Rud Browne, Councilor Tyler Bird, Brian Heinrich COB Deputy Administrator, Port Director Rob Fix, John Huntley

Andrew gave a brief description of the drafted letter.

The first portion we already voted on. The bullets were trying to get everyone's thoughts.

The amendment, everyone has had a chance to read it over. Andrew finds some of the information and statements disingenuous / false.

Andrew asked voting members if they agreed upon the first paragraph.

As we go through the bullet points, let's mark any that are disagreed with, identify bullets that need more information or detail.

This is a work session, this is a consensus meeting, we got to go at 9am. We would like to see it completed so that it can be passed

Councilor Bird said that neither he nor Rud were here to represent the Council. This is their meeting and they are just here to listen.

Andrew: the Council has asked us to advise them. This is our advice. It is our mandate to advise the group.

Rud: He is here to give feedback to the group about the letter and if it is not going to be a discussion then he is not sure how much validity the letter will hold with the group since they are giving them the opportunity to talk through some of these points.

Clark: my comments were procedural not ideological. I believe as a policy group, we have to think about the actual policy and what is the role of the committee. Are we going to state an intent? Or are we going to inform and make changes to the policy? What's our objective? What's our chance of success given where they are entering the process today? How does that impact future actions of the group? Clark's intent is that our communication is factual and partisan opinions are taken out. Clark thinks that the overall intent is to slow the process down to ensure that we

Ryan: It is always hard to take emotion out. It drives what we do, but it can also create problems on the other side. We can be passionate but we need to take out emotion. What is the timeframe for the vote for the Council?

Rud: The Planning Commission will bring it back to them, it depends on how many meetings they feel that they have. It is not on the agenda yet and end of November (absolute earliest is on November 5) seems to be the soonest.

Andrew: Industry has been invited to those meetings, which is good.

Ryan: What's the notice?

Tony: Two weeks.

Ryan: If we have time, having a discussion is great in order to increase agreement.

Don: Jill sent notice on how to do this legally. They can communicate directly to Don, but voting members cannot reply all to continue the work. Andrew is working on the letter and Don will send edits and comments to him.

Andrew: As I see it, the first paragraph is good. The first paragraph is part of the vote that we took at the last meeting. I think the rest of the document needs to be tweaked. He took some from his industry, Debbie Ahl, Clark Campbell. I don't just work for Petrogas in this committee, he also is working with PSE, P66, BP. We all talked about some of the things that could be on this and some of the problems they have identified about the amendment.

Clark: Assuming it goes through, does this replace the moratorium?

Rud: Yes.

Ryan: If it passes, it goes through? Or intermediate step?

Andrew: The planning commission has to approve it.

Tyler: They will send us their recommendations and findings. We can either vote on it or have more meetings.

Clark: If the intent is to influence the policy rather than just oppose it, he would reword the first paragraph to say that "to delay the vote" in order to give us to get into detail and come back with suggestions?

Andrew: Ok, but the first paragraph we voted on. I am not supportive of weakening the letter or softening. We should give advice that we believe, including myself as an industry professional. This is part and parcel to a resource that upends / stands up our way of life. Fossil fuel resources are so important, movement, transportation, and availability, is so important that the state and federal govt gives every man and woman the right to access. It is regulated at the federal level. If we do not advise the council to not regulate over the top of the federal government. That's a bad idea. Maybe at the end of the letter we can say do this instead.

Doug: I understand Clark's comments. My level of confidence that the Council will listen to us even if we put the letter in, there is going to be little impact. I'd rather put this in, have it on the record as being opposed. If we go on the record and don't say anything then the Council can say, hey they had a chance to make a comment and they didn't so we proceeded. I don't think it is responsible nor will I put my fingerprints on something that will eventually kill industry.

Clark: The permanent version of the document is that you are going to take the Moratorium and make it policy, so if we want to change that outcome, the wholesale change outcome likelihood seems very slow. I have read the Cascadia Law's recommendations in 2018, watched the Board meeting in January where Tyler made a valid point that the amendment was pushed through without a lot of input. It seems like it will go

through, we have the opportunity to change that. If our goal is to have our voice heard, this is good. If our goal is to change the policy, we need to do something else.

Ryan: But we are outcome driven as a group, Andrew's goal is outcome. The industry doesn't want it to go through.

Andrew: This isn't the only effort going on.

Clark: If it passes, there will be litigation, just like in Portland and other places.

Tony: Has the Port put any effort as the ADO to evaluate the impact of the document on other industries? Has a meeting with someone who wants to buy at Cherry Point. Is that even feasible? There is a timeline based on the Council's interests, but has this group taken the time to look at other industries or future potential development?

Don: This was brought up by Andrew last week ago. I am heavily involved with Cherry Point and are trying to get additional users. I had some misunderstandings whether renewables would be allowed for P66. All of those have come back and said those would be allowed under the ordinance.

Clark: I dug down and the ordinance does state that.

Don: There was some confusion, how would CUP be put on all of CP, if they were a regular manufacturer but they need fossil fuel or chemicals. Many said it wouldn't be allowed, from what I understand now that is not the case. This is why I asked for clarification from Council. It has to do with additional production and storage. How that effects the market? Of course it restricts it. There are two sides to this community: non-restrictive and others want to deal with the

Tony: Some industry folks are worried about the impact on Cherry Point and future use. I think that we need ask non-partisan groups for their evaluation.

Rud: This letter is not responsive to the ordinance proposed. There are points about values and opinions and you are reducing your impact to the Council by not responding directly. On the insurance provisions – what happens if it derails? What happens with rail transportation, the transfer then the responsibility doesn't transfer to the responsibility to the fossil fuel company until it arrives to the fence of the facility.

Andrew:

Rud: The intent of the insurance language is to make sure if there is an accident, you've only got to work at Deep Water. \$15 billion accident has happened by the business in CP. The community needs compensated if something happens. Everyone tries to deflect responsibility. Insurance: can get a policy or they can provide a parent corporate company guarantee. Write a letter and say if there is a derailment.

Doug: What if Twisp, Yakima, and everyone asked for separate policies?

Rud: What's wrong with asking that?

Doug: You are putting regulatory burdens on local business and they have to compete with refineries and those refineries will not be impacted by.

Rud: But who does the burden go to if the refinery is not responsible? It falls on the community.

Andrew: The FRA takes care of the railroad. You are asking one industry to cover another industries obligation. So when BNSF brings oil to us, they are responsible for it. The wording is problematic, they are asking for insurance coverage for a reasonable worst case scenario. Then he read the insurance provision in the amendment. Insurance companies will not insure this level of extreme.

Doug: Why aren't you asking the railroad?

Andrew: It is outside their jurisdiction. This is just one piece of the document. There are a lot of issues with this document. It was produced by a law group that is open about its position on fossil fuel and clearly leans in the opposite direction.

Ryan: Let's just assume it goes through. But if we want it to go through in a way that is at least a little more fair. So we can say no, or we can propose changes that would make it manageable. Go through the whole document and make a suggestion for every point. This is what would make it more equitable.

Andrew: The railroad is governed by the federal government. It will go through the County and the County cannot do anything about it. The County is trying to take care of things inside our fence line and the industry celebrated 18 years since any contractors or employees have had any missed days due to injury.

Don: Our major discussion point is: how and if do you want to move a letter forward? Do we do it today? Or is it a point of discussion?

Sarah: I am uncomfortable about thinking this just affects fossil fuel industry, it isn't just their responsibility.

Andrew: We are going to work on the Planning Commission.

Sarah: It's affecting some business in general. But also, this is not just a two-sided issue.

Don: Just saying there are multiple view points in the community.

Clark: Current state looks like moratorium. Future state – what would we like it replaced with? My sense from reading everything and looking through all the materials, we have to be careful about being an advocacy group. The outcome we want is for the existing businesses to continue to operate in a legal, safe, and compliant way. We probably are not going to be able to roll the clock back. The moratorium will not be lifted unless the new amendment puts a plan in place. What is in the amendment that puts the huge burden on existing businesses? Nevermind the new businesses. What's the reality and how can we be effective? How can we support the three employers so they can stay that way? Tactics versus ideological here. If our goal and intent is to make an advocacy business – this is bad for business statement. Then the letter is fine. If our intent is to shape what comes out of the Council, we need to reframe.

Doug: I just don't think we are going to have a big impact on the Council. This is more about a stand against about putting layers of regulation on a perfectly responsible business in this County. If you put regulations on a dry cleaning company and layer these rules on then we'd be driving to Burlington to get our shirts cleaned. I am not in favor of that. I am not trying to salvage some segment. I want to say, we are not in favor of this behavior and we do not condone it. Maybe you'd like us to be silent because the silence indicates that they can do whatever they want.

Rud: I am hoping to get something out of this group that makes me say: oh, okay I get why that specific thing may need to be altered. Putting the onus on the community to pay for these things and accept the risk is unacceptable.

Doug: It's unfair because they have to compete with refineries not subject to the rules.

Rud: They just need to write the letter saying they accept the risk.

Doug: Well, they aren't writing those letters in Texas.

Rud: Then the rest of the community is their insurer.

Paul: The rest of the community is the beneficiary of this. We assume some level of risk. I am confused if it is about risk management or environmental?

Rud: If there is a derailment, look at Loch McGanick (?), 125 business relocated, 5 people they never even found the bodies. The rail company that did the transport had a \$25 million policy. Completely gone.

Doug: Why isn't it on the railroad? If I load a truck with berries and it crashes in Alabama, would I be responsible for that accident?

Clark: There is a motion on the floor to take the letter as is and submit it to Council.

Doug: I move for that to be the motion.

Andrew: I second that to open a bit of discussion.

Clark: If we are going to have a vote on submitting letter?

Tony: Amendments can be added in the discussion.

Clark: Motion has been seconded. Discussion open.

Andrew: accept first paragraph as written. Friendly changes to bullet points welcome. I suggest at our next meeting we discuss those. I like this paragraph, I think the bullet points could use some work.

Clark: My suggestion was to alter it to "delay without further consultation to industry" and that's still my position.

Andrew: Maybe this should be a two part. Let's not do this, here's an invitation to what we think you should do.

Doug accepts that motion given those changes. Ryan seconds the motion.

Clark: So the motion to the floor for a vote, we are submitting the 1st paragraph without change and the remaining items will be discussed and voted on at the next meeting. The mechanism for giving feedback is to submit comments to Don.

Casey: Are we sending the 1st paragraph to open the dialogue? So that we have thrown in some information. I would like to send that to open up a dialogue with Council. That would go back to Doug's point so that we do not wash our hands and stop. I would like to send the first paragraph as soon as possible.

Tyler: They gave us 2 weeks, 2 weeks' notice is required, November 5 is the earliest they could vote on it.

Rud: We vote on resolutions and ordinances. Ordinances are law and they are required to have a two week notice.

Ryan: I think we are on the same track. November 5 is absolute earliest. Meeting on 21st gives us a week to tweak the letter.

Andrew: Are you okay to wait a week?

Clark: We have a vote on the floor to retain the content the 1st paragraph and give feedback to Don for a follow up session. We are not voting on submitting to send the 1st paragraph? Motion wasn't seconded.

Clark called the vote. Those in favor: all present (8) minus Clark (1).

Andrew motion to adjourn. Doug motion seconded.