06/02/14

RESOLUTION NO. M- 3821

A RESOLUTION expressing the deep concern of the Vancouver City Council about the threat to life, safety and the environment due to accidents, potential spills and explosions posed by the oil terminal proposed to be located adjacent to downtown Vancouver; requesting the Port of Vancouver to terminate its lease with Tesoro Savage; urging EFSEC to recommend against the siting of the oil terminal; urging the Governor to not approve a site certification agreement; and urging Congress, the Legislature, and regulators to adopt laws and regulations to increase the safety of the transportation of crude oil.

1. WHEREAS, the City values its ongoing relationship with the Port of Vancouver, Washington, and is committed to maintaining this partnership that is essential to the vitality and growth of our community and the region. The City recognizes that the views expressed in this resolution are specific to the proposed terminal project and are not intended to impact the broad and long-term working relationship between the City of Vancouver and the Port of Vancouver; and

2. WHEREAS, the Port of Vancouver approved a lease with Tesoro Corp. and Savage Companies, who propose to construct a terminal on Port property to handle the transport of Bakken crude oil by rail, and this proposal is currently undergoing review by the Washington State Energy Facility Site Evaluation Council (EFSEC); and

3. WHEREAS, human error, acts of nature and unforeseen disasters are beyond the control of measures proposed for the Vancouver oil terminal project and could have devastating effects on the entire community; and

4. WHEREAS, the rail lines that will carry this volatile crude oil run through and by the City of Vancouver neighborhoods, parks, the I-5 corridor, commercial and industrial areas, the waterfront, the Columbia River, creeks and other natural areas; and

5. WHEREAS, according to the Association of American Railroads ("AAR") the volume of crude oil shipped by rail has increased from 9,500 carloads in 2008 to 400,000 carloads in 2013; and

6. WHEREAS, the volume of petroleum transported by rail through Vancouver is expected to increase in the future, and the planned oil terminal in the Port of Vancouver will increase that volume by more than 360,000 barrels per day, with the potential for future expansion; and

7. WHEREAS, possible derailments, spills, explosions and fallout pose a serious threat to this community; and

8. WHEREAS, the primary source of the petroleum anticipated to be transported by rail through Vancouver is from the Bakken formation, which the U.S. Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration ("PHMSA") has determined may be more flammable than traditional heavy crude oil; and

9. WHEREAS, the PHMSA's 2013 investigation into the transportation of Bakken oil, known as Operation Classification, showed that crude oil taken from cargo tanks en route to rail loading facilities was not properly classified on numerous occasions leading DOT to issue an

emergency order requiring shippers to test Bakken oil and classify it as a packing group I or II commodity; and

10. WHEREAS, the fatal incident in Lac-Megantic, Quebec, resulted in loss of forty-seven lives and buildings and required the evacuation of 1,000 resident; and

11. WHEREAS, in November 2013, a derailment of a unit train in Aliceville, Alabama, caused a crude oil spill when tank cars ruptured and caught fire; and

12. WHEREAS, Galveston Bay, Texas, recently experienced a maritime collision that emptied more than 150,000 gallons of crude oil into the bay, and the Columbia River would be used as the major shipping channel for the proposed oil terminal in Vancouver; and

13. WHEREAS, in December 2013, a derailment of a BNSF unit train carrying crude oil caused a spill and explosion causing the evacuation of most of Casselton, North Dakota; and

14. WHEREAS, in January 2014 a freight train carrying crude oil in New Brunswick, Canada, derailed causing a spill and fire resulting in the evacuation of 45 homes in a 1.25-mile radius surrounding the crash; and

15. WHEREAS, in April 2014, a freight train transporting crude oil in Lynchburg, Virginia, derailed causing a spill and fire and resulted in the evacuation of a portion of the downtown area and spill into the James River; and

16. WHEREAS, on May 9, 2014, a train carrying crude oil derailed near LaSalle, Colorado, resulting in a spill; and

17. WHEREAS, according to the PHMSA more than 1.15 million gallons of crude oil was spilled in U.S. rail incidents in 2013; and

18. WHEREAS, the increase in the production of Bakken crude oil has placed such a demand on tank cars that older DOT 111 cars are being used to transport Bakken crude oil; and

19. WHEREAS, according to the AAR, approximately 92,000 DOT-111 tank cars are used to move flammable liquids, such as crude oil and ethanol, with only approximately 14,000 (15%) of those tank cars being built to the latest industry safety standards; and

20. WHEREAS, in light of the incident in Lac-Megantic, Quebec, the Canadian government has ordered the phase out of the use of older DOT 111 tank cars that do not provide necessary protections against punctures, failures and explosions for the transportation of crude oil within three years; and

21. WHEREAS, while, PHMSA has not ordered the phase out of older DOT 111 tank cars; and

22. WHEREAS, oil tank cars built since 2011 are designed to the CPC 1232 standard and Tesoro Savage has indicated that it would only accept CPC 1232 cars. However, in comments to the PHMSA the AAR "now supports even more [than CPC 1232] stringent standards…retrofits of existing cars…and an aggressive phase-out of cars that cannot meet retrofit requirements"; and

23. WHEREAS, one of the tank cars that ruptured in Lynchburg, Virginia, was a CPC 1232 tank car and was travelling 24 mph, well below the recently agreed upon 40 mph speed limit for urban areas; and

24. WHEREAS, it will be at least five to seven years before new model tank cars ordered by BNSF could be delivered and, even after they are delivered, BNSF will have to accept older cars from shippers transporting crude oil so long as those cars meet minimum safety requirements; and

25. WHEREAS, even today, the design of those new cars is unsettled and does not have a proven record of safe utilization; and

26. WHEREAS, the oil terminal project will result in eight to twelve unit trains per day traveling through the city each being a mile and a half long which could cause delay in responding to emergencies at any of the four public and twenty-one private rail crossings; and

27. WHEREAS, in January 2014 the National Transportation Safety Board stated "Because there is no mandate for railroads to develop comprehensive plans or ensure the availability of necessary response resources, carriers have effectively placed the burden of remediating the environmental consequences of an accident on local communities along their routes"; and

28. WHEREAS, the City of Vancouver is just beginning the process to study the demands placed upon its emergency responders by crude oil unit trains traveling through the City and has not yet identified the risk posed nor training, manpower and equipment needed to respond to that risk; and

29. WHEREAS, in 2007, the City adopted the Vancouver City Center Vision and Subarea Plan and the City is concerned about the potential negative impacts the oil terminal project could have on the vision, principles and policies expressed in that plan; and

30. WHEREAS, in October 2009, the City unanimously approved the master plan for the Columbia Waterfront Development project, which calls for the development of 3,300 residential units and 1 million square feet of commercial space on 32 acres of riverfront property; and

31. WHEREAS, On November 4, 2013, the Vancouver City Council unanimously approved the Waterfront Park Plan that calls for a 7.3-acre park and trail within the Waterfront Development project; and

32. WHEREAS, the City has invested approximately $45 million in transportation infrastructure to serve the Waterfront Development Project; and

33. WHEREAS, the Port of Vancouver has been a key partner in assisting the City to make the transportation improvements for the Waterfront Development project. The Port interrupted their construction schedule for the West Freight Access Project to facilitate the City's construction; the Port also allowed the City to use Port property temporarily for detouring rail traffic while the City constructed the new rail line; and the Port also engaged in land exchanges with the City for the new right-of-way within the site; and

34. WHEREAS, the Waterfront Development Project site is bordered by the BNSF railroad tracks that will be used to transport the oil to the terminal and could be impacted by the Project; and

35. WHEREAS, the City has concerns regarding the potential impacts of the oil terminal upon the residents of the adjacent Fruit Valley Neighborhood; and

36. WHEREAS, the National Transportation Safety Board in January 2014 recommended that unit trains transporting Bakken crude oil be rerouted to avoid populated areas where technically feasible; and

37. WHEREAS, the City has a paramount interest in the health, safety and welfare of its citizens and believes that the development of the proposed Tesoro Savage crude by rail oil terminal is contrary to the health, safety and welfare of its citizens and business community;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VANCOUVER:

Section 1. The City of Vancouver asks the Port of Vancouver Commissioners to terminate the property lease to Tesoro Savage which will result in Bakken oil being shipped through urban centers.

Section 2. The City of Vancouver strongly requests that the Governor of Washington, the Washington Department of Ecology, the Washington State Energy Facility Site Evaluation Council (EFSEC), and any other relevant state agencies decline to permit crude by rail oil terminal projects, and specifically the proposed Tesoro-Savage project.

Section 3. The City of Vancouver calls on municipalities, agencies and officials to deny all permits for new facilities that will result in an increase in the transportation of Bakken crude oil through Clark County until such time as there is a consensus among the industry and regulators as to the appropriate method of safely transporting Bakken crude oil and a proven track record that demonstrates the safety of the methodology.

Section 4. The City of Vancouver strongly urges Congress, the State Legislature and agencies with jurisdiction to adopt legislation and regulations related to rail transport requiring disclosure of the volumes, types of petroleum, petroleum products, and petroleum derivatives; transport routes; and the frequency and duration of transfers of petroleum, so the state and local communities can be fully informed of and plan for the risks posed by the transport of petroleum by rail.

Section 5. The City of Vancouver strongly urges the U.S. Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration to promptly adopt regulations to increase safety standards for tank car design and operations regulations for petroleum product shipments and aggressively phase out older-model tank cars used to move flammable liquids that are not retrofitted to meet new federal requirements.

Section 6. The City of Vancouver urges the federal government to follow through on rules jointly proposed by the U.S. National Transportation Safety Board and the Transportation Safety Board of Canada under which trains from the Bakken fields would be required to avoid populated areas and oil transported by rail would be regulated in the same way as other toxic or

explosive materials.

Section 7. The City of Vancouver wants transportation of crude oil by rail to meet all state, federal and local transportation rules and regulations and to exhibit a sufficient accident-free record for a sustained period of time. The City of Vancouver does not believe that there are sufficient answers to the important questions regarding environment and physical safety to proceed with any type of development at this time.

ADOPTED at a regular session of the Vancouver City Council this 3rd day of June, 2014.

Timothy D. Leavitt, Mayor

Attest:

R. Lloyd Tyler, City Clerk
By: Carrie Lewellen, Deputy City Clerk

Approved as to form:

Ted H. Gathe, City Attorney