02/23/15
03/02/15

ORDINANCE NO. M-4118

AN ORDINANCE declaring an emergency and continuing a moratorium for six months on applications for permits for the establishment or expansion of all crude petroleum facilities that will accept crude oil except those vested or contingently vested as of the effective date of prior ordinance M-4090, and providing for an immediate effective date.

WHEREAS, on September 11, 2014, the Vancouver City Council adopted M-4090 to establish a moratorium on applications for additional crude oil facilities or expansion of existing crude oil facilities; and

WHEREAS, on October 20, 2014, pursuant to the requirements of RCW 36.70A.390 and RCW 35.63.200, the City Council held a public hearing and adopted findings in support thereof; and

WHEREAS, the City Council adopted the moratorium, in part, because human error, acts of nature, and unforeseen disasters are beyond the control of measures proposed for the transportation of crude oil, especially Bakken crude and could have devastating effects on the entire community; and

WHEREAS, City staff has adopted a work plan for review of City zoning and other ordinances concerning the establishment of crude petroleum product facilities; and

WHEREAS, establishment or intensification of petroleum uses in Vancouver will increase the risk of possible derailments, spills, explosions and fallout and will pose a serious

threat to the community; and

WHEREAS, since the adoption of Ordinance M-4090, additional incidents have occurred that cause the Council concern such as the train explosion in Fayette County, West Virginia on February 16, 2015; and

WHEREAS, the City has a paramount interest in the health, safety, and welfare of its citizens, and the City Council believes that the development of new crude petroleum facilities or expansion of existing crude petroleum facilities without thorough review and study is contrary to the health, safety, and welfare of its citizens and business community; and

WHEREAS, additional studies are being prepared by the Energy Facilities Site Evaluation Council (EFSEC) that will influence the regulations the City Council may adopt concerning the facilities subject to this moratorium; and

WHEREAS, this thorough review and study requires additional time for staff to prepare recommendations to the Council for changes to the Vancouver Municipal Code that establish the circumstances, if any, under which a crude oil petroleum facility will lawfully be established or allowed in the City of Vancouver; and

WHEREAS, pursuant to RCW 36.70A.390 and RCW 35.63.200, a public hearing was held on March 2, 2015, for the continuance of the moratorium established under Ordinance M-4090.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Findings. The City Council of the City of Vancouver makes the following

findings: (a) those findings contained in the recitals to this Ordinance; (b) those findings contained in the recitals to Ordinance M-4090 are reaffirmed; (c) those findings made on October 20, 2014, in support of Ordinance M-4090 are reaffirmed; and (d) the work plan specified in the Staff Report Number 527-15 is necessary and reasonable in light of the comprehensive review of potential establishment or expansion of all crude petroleum product facilities in Vancouver. The documents containing such findings are incorporated herein by reference.

Section 2. Moratorium Imposed. Pursuant to the provisions of RCW 36.70A.390 and RCW 35.63.200, a moratorium is hereby enacted prohibiting until September 2, 2015, within the City of Vancouver any applications for permits for the establishment or expansion of all Crude Petroleum Product Facilities that will accept crude oil except those facilities that are vested or contingently vested as of the effective date of this ordinance. For purposes of this Ordinance, "Crude Petroleum" means "any petroleum product that requires further refinement before its intended use by consumers." The term "Crude Petroleum Product Facilities" includes but is not limited to terminals, tanks, pipelines, refineries, or any other facility or activity that involves handling crude oil.

Section 3. Public Hearing. Pursuant to RCW 36.70A.390 and RCW 35.63.200, the City Council sets the regular meeting of March 2, 2015, at 7:00 p.m. as the date and time for hearing on the continuation of the moratorium initially established under M-4090. The City Clerk is directed to cause appropriate notice of such hearing to be given.

Section 4. Severability – Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Vancouver Municipal Code, this ordinance is deemed to control.

Section 5. Effective Date and Notice. The City Council hereby finds and declares that an emergency exists which necessitates that this ordinance become effective immediately in order to preserve the public health, safety and welfare. This ordinance shall become effective immediately upon passage. The City Clerk is directed to publish a summary hereof including the title at the earliest possible publication date.

Read first time: February 23, 2015

Ayes: Councilmembers Tapper, McEnerny-Ogle, Turkay, Hansen, Burkman, Smith, Mayor Leavitt

Nays: Councilmembers None

Absent: Councilmembers None

Read second time: March 2, 2015

PASSED by the following vote: 7-0

Ayes: Councilmembers Tapper, McEnerny-Ogle, Turkay, Hansen, Burkman, Smith, Mayor Leavitt

Nays: Councilmembers None

Absent: Councilmembers None

SIGNED this 2nd day of March, ~~2015~~.

Tim~~othy D.~~ Leavitt, Mayor

Attest:

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

Approved as to form:

E. Bronson Potter, City Attorney

SUMMARY

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The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).