

August 8, 2013

Molly Butler Bailey, Chair
Planning Board
City of South Portland
25 Cottage Road
South Portland, ME 04106

Tex Haeuser
Planning and Development Director
City of South Portland
25 Cottage Road
South Portland, ME 04106

RE: Proposed Citizen Initiated Waterfront Protection Ordinance

Dear Chair Bailey and Mr. Haeuser:

On behalf of Portland Pipe Line Corporation ("PPLC"), I write in response to Natalie West's July 31, 2013 letter to Mr. Haeuser, which purports to correct an error in Tex's July 23 presentation on the Waterfront Protection Ordinance ("WPO"). Ms. West's letter underscores that the WPO is not only about banning tar sands oil in South Portland, but about preventing any growth of oil terminal facilities, including specifically PPLC's, anywhere on or near the waterfront. This is inconsistent with the City's Comprehensive Plan.

Ms. West's letter contains at least two significant errors. First, she is incorrect in suggesting that the Comprehensive Plan does not allow oil facilities to expand at PPLC's Terminals 1 and 2 and at the Gulf-Cumberland Terminal. On the contrary, the Comprehensive Plan is filled with provisions that stress that existing South Portland businesses, including those in the proposed Marine Industrial District, should be maintained and encouraged to grow. Such provisions include the following:

- *Section 5(B), page 5-2, local economy, local objectives:* "To maintain an ongoing economic development program that works to retain and grow existing South Portland businesses while attracting new businesses to locate in the City." (Emphasis added.)
- *Section 5(B), page 5-2, local economy, local objectives:* "To establish South Portland's image as the first choice for business expansion or relocation based on the City's development-minded atmosphere."

- *Section 5(D), page 5-7, marine resources, local objectives:* "To assure that portions of the waterfront that have deep water access or are otherwise appropriate for marine use remain available for marine uses."
- *Section 5(D), page 5-8, marine resources, policies:* "In those areas of the City's waterfront that are currently used for marine industrial purposes including the oil terminals, the City should support maintaining these areas as a working waterfront devoted primarily to marine business uses while creating opportunities for increased public access and a mix of uses (see Chapter 6 Land Use Goals and Policies for more details)." (Emphasis added.)
- *Section 6(A)(4), page 6-2, land use objectives:* "**Promote the redevelopment of the "eastern waterfront" as a mixed-use area while maintaining the potential for marine use** – The portion of the City's waterfront running from the yacht club in Ferry Village around Spring Point to Southern Maine Community College represents a significant opportunity to enhance the City's image as a desirable community that is a destination for both residents and visitors while at the same time expanding the City's tax base. The redevelopment of vacant and underutilized areas in a way that expands public access and the diversity of uses while maintaining marine activities is a fundamental land use objective." (Emphasis added.)
- *Section 6(A)(6), page 6-2, land use objectives:* "**Maintain the working waterfront while creating limited opportunities for increased public access and a mix of uses** – South Portland plays a major role as an oil port because of its all-season deep-water access. While the City should provide opportunities for additional mixed-use development, including expanded public access, in selected areas of the waterfront, the ability of marine-related businesses and activities to be located on the waterfront must be maintained." (Emphasis added.)
- *Section 6(B)(4), page 6-20, key land use policy areas, eastern waterfront, broad vision:* "The Eastern Waterfront continues to evolve to become a marine, mixed-use area that capitalizes on the access to the waterfront and spectacular views of the harbor and inner Casco Bay... The traditional marine uses including the oil terminals, repair facilities, and marinas remain key elements of the waterfront. At the same time, the area along Front Street in Ferry Village and the underutilized former industrial properties are redeveloped into mixed-use areas that attract people to live and work in the area and to enjoy the waterfront." (Emphasis added.)
- *Section 6(B)(4), page 6-20, key land use policy areas, eastern waterfront, land use:* "**Marine Industrial Areas** – This includes the Gulf-Cumberland terminal and Portland Pipe Line terminals 1 and 2 including the developed tanks. In the short term, the City's marine terminals and related marine industrial areas are maintained and improved while minimizing their impact on adjacent residential neighborhoods. A variety of marine and marine-related uses are allowed. In the longer term, if demand for these facilities declines or the type of activity needs to change and the owners of these facilities desire to explore other uses for these facilities, the City, in conjunction with the owners, should reevaluate the best use of these waterfront sites (see additional discussion in the

Working Waterfront section).” (Emphasis added.)

- *Section 6(B)(6)(A), page 6-33, The Working Waterfront, Broad Vision: “The City’s deep-water access is a unique and very valuable asset. Those areas that are currently used for marine purposes should generally be reserved for future uses that require a waterfront location.”* The exceptions to this broad vision are along Front Street in Ferry Village where limited mixed-use development may be appropriate as long as the waterfront continues to be used primarily for low/moderate-intensity, marine-related and water-enhanced uses that are reasonably small in scale, and the redevelopment of the so-called Cacoulidis property in the shipyard area (see discussion under the Eastern Waterfront section above). *In the long term, if the need for oil transport diminishes, the City will need to re-evaluate the best use of these areas.”* (Emphasis added; note that this language does not distinguish between oil importing and exporting.)
- *Section 6(B)(6)(B), page 6-34, The Working Waterfront, Land Use: “To assure the continued availability of these areas for future marine uses, the City land use regulations should designate the working waterfront areas that are currently zoned Commercial as **Marine Industrial** areas in which a variety of marine and marine-related uses are allowed but residential uses and nonresidential uses that do not need a waterfront location are not permitted (see Figure 6.8). This should include the Portland Pipe Line tank farm off Hill Street. In the longer term, if demand for these facilities declines or the type of activity needs to change and the owners of these facilities desire to explore other uses for these facilities, the City, in conjunction with the owners, should reevaluate the best use of these waterfront sites.”*
- *Section 6(D)(2)(C), page 6-51, FLUP, Land Use Designations, includes Marine Industrial Areas as Growth Areas.*
- *Section 6(D)(6), page 6-53, Figure 6.10, FLUP, depicts Portland Pipe Line terminals 1 and 2 as part Marine Industrial Areas designated as a Growth Area.*

Although the Comprehensive Plan unequivocally allows for the maintenance of oil terminal facilities and growth in those facilities as needed, the WPO (in Section 4) would prohibit any growth in these facilities and, thus, is inconsistent with the Comprehensive Plan.

Second, the last paragraph on page 1 of Ms. West’s letter (which ends on page 2) is also inaccurate. This paragraph concerns the vacant land owned by PPLC at the corner of Preble and Broadway immediately adjacent to PPLC’s Tanks 27 & 28. Contrary to the assertions in Ms. West’s letter, the Comprehensive Plan’s Shipyard Development District explicitly allows for the upgrade or expansion of marine and oil facilities on parcels like this:

Section 6(B)(4), page 6-21. Shipyard Development District – “Within this area, the City’s development regulations should continue to allow existing marine and oil facilities to upgrade or expand on parcels that are already used for this purpose. The regulations also should encourage creative development/redevelopment of the vacant or underutilized land within this district by establishing flexible, performance-based standards that allow a wide range of potential uses.” (Emphasis added.)

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This provision is consistent with other provisions of the Comprehensive Plan, including the vision and land use sections. Moreover, it is consistent with the City's existing Zoning Ordinance, which specifically allows storing and handling of petroleum on such property, where, as here, PPLC's owns oil storage tanks on the same parcel. Zoning Ordinance, Section 27-922(g),(n) and Section 27-1517.

The WPO, of course, in Section 4 would prohibit any expansion of PPLC facilities on this parcel, contrary to the express provisions of the Comprehensive Plan for the Shipyard Development District.

PPLC has been an outstanding employer, an exemplary corporate citizen, and an excellent steward of the environment for over 70 years in South Portland. PPLC finds it incredibly disheartening that the WPO, if enacted, would significantly impair its existing business and prohibit any expansion thereof.

In summary, Ms. West's July 31 letter is inaccurate. The Comprehensive Plan allows PPLC to maintain and grow its facilities, as needed, and the WPO would only serve to extinguish these rights. For these reasons and for the reasons articulated in my July 18 and August 2 letters, we urge the Planning Board to (1) recommend that the Council not adopt the WPO and (2) adopt a resolution urging the voters of South Portland to vote against the WPO.

Very truly yours,



Matthew D. Manahan

cc: City Council members
James Gailey
Patricia Doucette
Sally Daggett, Esq.
Larry Wilson, PPLC