

NEW HAVEN CITY PLAN COMMISSION ADVISORY REPORT

RE: **ORDINANCE AMENDMENT** Prohibiting waste associated with natural gas and oil extraction. (New Haven Environmental Advisory Council)

REPORT: 1538-04

ADVICE: Approve with conditions

BACKGROUND

The proposed Ordinance would include the following prohibitions:

- 1) The application of natural gas waste or oil waste, whether or not such waste has received Beneficial Use Determination or other approval for use by the Department of Energy & Environmental Protection ("DEEP") or any other regulatory body, on any road or real property located within the City of New Haven for any purpose is prohibited.
- 2) The introduction of natural gas waste or oil waste into any wastewater treatment facility within or operated by the City of New Haven is prohibited.
- 3) The introduction of natural gas waste or oil waste into any solid waste management facility within or operated by the City of New Haven is prohibited.
- 4) The storage, disposal, sale, acquisition, transfer, handling, treatment and/or processing of natural gas waste or oil waste is prohibited within the City of New Haven.

According to the New Haven Environmental Advisory Council, over 900 different toxins, some radioactive, have been found in fracking waste. Liquid fracking waste is eight times saltier than seawater. 27 Connecticut municipalities have passed fracking waste bans.

PLANNING CONSIDERATIONS

PA 14-200, which took effect July 1, 2014 established a moratorium on certain activities associated with fracking waste in Connecticut. The moratorium lasts until the Department of Energy and Environmental Protection (DEEP) adopts regulations to, among other things, control fracking waste as a hazardous waste. DEEP may, under certain conditions, choose not to adopt the regulations, in which case the moratorium would remain in force.

Under the act, the moratorium applies to any person accepting, receiving, collecting, storing, treating, disposing of, or transferring between vehicles or modes of transportation any fracking waste. The wastes covered by the act include wastewater, wastewater solids, brine, sludge, drill cuttings, or any other substance used or generated in the process of fracking.

The act requires DEEP to submit regulations to the legislature's Regulations Review Committee between July 1, 2017 and July 1, 2018. It also (1) requires DEEP to collect fracking waste product information, (2) requires anyone transporting fracking waste in Connecticut after the regulations are adopted to obtain a DEEP permit, and (3) exempts certain research on small amounts of fracking waste from the moratorium.

The expectation is for DEEP to develop regulations that subject fracking waste to the state's hazardous waste management regulations; 2. ensure that radioactive components of fracking waste do not pollute the air, land, or waters or otherwise threaten human health or the environment; and 3. require disclosure of the waste's composition.

Although Section 22a-124 of the Connecticut General Statutes allow municipal regulation of hazardous waste facilities DEEP likely has better capacity to develop and enforce regulations regarding fracking.

ADVICE

While this the Commission finds the Order well-intentioned and should be approved, the more exact potential impacts to New Haven remain unknown. Staff will continue to research the matter and attend the Board committee meeting when scheduled.

ADOPTED: November 15, 2017
Edward Mattison
Chair

ATTEST: MPL
Michael Piscitelli, AICP
Deputy Economic Development Administrator