



DATE: November 9, 2020

TO: Council Sustainability Committee

FROM: Director of Public Works

SUBJECT: Service Stations Selling Fossil Fuel: Consider a Moratorium and/or Zoning Ordinance Amendment Regarding Service Stations Selling Fossil Fuels

RECOMMENDATION

That the Council Sustainability Committee (CSC) reviews and comments on this report and provides a recommendation to Council regarding a possible moratorium and/or Zoning Ordinance amendments regarding service stations selling fossil fuels.

SUMMARY

Staff seeks the Committee's recommendation regarding the establishment of new and expansion of existing service stations selling fossil fuels. This report provides a summary of policies and goals related to the reduction of transportation emissions as well as a possible approach to limiting the development of new fossil fuel infrastructure. A near term solution may be for Council to adopt a moratorium on new service stations, but, in the long term, amendments to the Zoning Ordinance would be necessary to prohibit new service stations that sell fossil fuels and/or to prevent the expansion of existing stations. The process of amending the Zoning Ordinance would involve significant staff time and may warrant being identified as a priority project in the City's Strategic Roadmap before it is initiated.

BACKGROUND

According to Hayward's 2018 greenhouse gas (GHG) inventory¹, the transportation sector is the largest emission sector with approximately 60% of total emissions coming from passenger and commercial vehicles. Gasoline passenger vehicles alone accounted for roughly 56% of the total transportation sector emissions. On June 23, 2020², Council adopted updated emission reduction targets including a goal to reduce greenhouse gas

¹ <https://hayward.legistar.com/MeetingDetail.aspx?ID=803395&GUID=CD12F88F-E56D-4F35-88C0-2A6E26C5D8BC&Options=&Search=>

² <https://hayward.legistar.com/MeetingDetail.aspx?ID=792008&GUID=3ACC441B-C5B9-4E56-B668-0CE843091311&Options=&Search=>

(GHG) emissions 55% below 2005 levels by 2030 and an intention to achieve carbon neutrality by 2045. At the Committee's meeting on July 13, 2020, the Committee asked staff to prepare a report addressing service stations selling fossil fuels in light of Hayward's goals to reduce GHG emissions.

On July 21, 2020³, Council considered a proposal to add a fuel facility at the Costco Business Center on Hathaway Avenue. Costco's request for a 12-dispenser (24 fueling positions) gas station was not approved due to a tie vote. During Council's discussion, it was mentioned that a new gas station may be contrary to the goals of Hayward's Climate Action Plan and there was a suggestion that the City might consider a moratorium on new gas stations. Council members also indicated a desire to support existing Hayward businesses and noted that denying the proposal could cost the City in terms of potential sales tax revenue. The Costco application is scheduled to be reconsidered by Council on November 10, 2020.

The State of California has a goal of 5 million zero emission vehicles statewide by 2030 and 250,000 electric vehicle charging stations by 2025. While current sales of EVs make up 8 to 9 percent of all vehicle sales in California, by 2025, EVs are expected to make up 30% of all vehicle sales⁴. On September 23, 2020⁵, Governor Gavin Newsom signed an executive order requiring all new vehicles sold in the State be zero-emission vehicles by 2035 to combat climate change and reduce statewide emissions. However, whether this vision becomes reality may depend on the future of the federal government and their acceptance of this mandate. Several countries around the world have adopted policies⁶ similar to California's.

Other Cities – Among cities addressing climate change, there is widespread acceptance of the need to reduce transportation-related emissions, but staff is not aware of any cities in the United States with permanent restrictions on the establishment of new gas stations. Some cities have, however, pursued moratoriums and zoning regulations specific to the establishment of new gas stations. The City of Menlo Park adopted a Climate Action Plan⁷ in July 2020, which calls for the following action: "Announce and promote goals of 1) making all new vehicles be electric by 2025 and 2) reducing gasoline sales each year by 10%, based on the total reported in 2018." The Plan also mentions the possibility of an ordinance that would require that all underground fuel tanks be removed by 2030. In May 2019⁸, the City of Petaluma adopted a 45-day emergency moratorium on the approval of applications for new gas station uses. Concerns centered around the possible health impacts of locating a new gas station in close proximity to a school. The moratorium was extended through the spring of 2020, but Petaluma has yet to adopt new regulations and the case remains in litigation. In July

³ <https://hayward.legistar.com/MeetingDetail.aspx?ID=793413&GUID=5BF48901-43A7-4AA0-9181-11C18CA64A37&Options=info&Search=>

⁴ <https://evadoption.com/ev-sales/ev-sales-forecasts/>

⁵ <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-text.pdf>

⁶ <https://www.coltura.org/world-gasoline-phaseouts>

⁷ <https://www.menlopark.org/ArchiveCenter/ViewFile/Item/11486>

⁸ <https://cccclimateleaders.org/wp-content/uploads/2020/05/Petaluma-CA-May-6-2019-Ordinance-2681-N.C.S.-05062019.pdf>

2020⁹, the City of Baltimore, Maryland proposed a zoning ordinance amendment to prohibit the construction, creation, or establishment of any new gas station in any zoning district. The policy is aimed at reducing and discouraging the City's reliance on fossil fuels. The amendment is under review by their Planning Commission and no formal decision has been made.

In September 2020, Joint Venture Silicon Valley partnered with non-profit Coltura to launch the Beyond Gasoline Initiative¹⁰, which has a goal of reducing gasoline consumption in Silicon Valley 50% by 2030. One way they intend to achieve the goal is to form partnerships with cities to adopt gasoline reduction measures such as public fleet electrification, vendor clean delivery requirements, and citywide gasoline sales reduction goals.

Hayward's General Plan and Climate Action Plan include the following policies related to reducing GHG emissions from the transportation sector.

- NR-2.4 The City shall work with the community to reduce community-based GHG emissions by 20 percent below 2005 baseline levels by 2020, 30 percent below 2005 levels by 2025, and 55 percent below 2005 levels by 2030. In addition, the City shall work with the community to develop a plan that may result in the reduction of community based GHG emissions to achieve carbon neutrality by 2045.
- NR-2.6 The City shall reduce potential greenhouse gas emissions by discouraging new development that is primarily dependent on the private automobile.
- HQL-9.6 The City shall continue to encourage residents and businesses to use less gasoline for transportation and improve energy efficiency in and renewable energy generation from buildings and industry processes to reduce impacts from rising oil and energy prices.

DISCUSSION

There are 46 gas stations in Hayward. Attachment II shows the locations of all 46 stations with 35 stations being located along six major corridors: Hesperian Boulevard, A Street, Foothill Boulevard, Jackson Street, Mission Boulevard, and Tennyson Road. One of Hayward's existing stations, the Costco on Hesperian Boulevard, has submitted an application for an amendment to the original Planned Development approval to add ten more dispensers (20 pumping stations). This application has been deemed complete and is nearing the end of the review process.

Hayward's Zoning Ordinance (Chapter 10, Article 1 of the Hayward Municipal Code) allows service stations with a Conditional Use Permit in some commercial and mixed-use districts. Service stations are also allowed in various industrial districts with an Administrative Use Permit and in some planned development districts as a permitted use. Service stations are

⁹ <https://baltimore.legistar.com/LegislationDetail.aspx?ID=4586133&GUID=8092D81D-B070-481C-8D6A-0269EE4EF92F&Options=ID%7CText%7C&Search=parking>

¹⁰ <https://jointventure.org/initiatives/climate-change/beyond-gasoline>

also permitted with a Conditional Use Permit in the area covered by the Mission Boulevard Code (Chapter 10, Article 24 of the Hayward Municipal Code). Any restrictions on the development of new gas stations and/or the expansion of existing stations would require amendments to the Zoning Ordinance and the Mission Boulevard Code. Additionally, the amendments would require Planning Commission and City Council hearings and may require environmental review pursuant to the California Environmental Quality Act (CEQA).

Preparation of such amendments could take a significant amount of staff time and is not included in the Council-adopted Strategic Roadmap. If the CSC is interested in recommending Zoning Ordinance and Mission Boulevard Code amendments, staff would recommend presenting this project to the full Council when revisions to the Strategic Roadmap are considered in early 2021.

If Code amendments are pursued, Council could also adopt a moratorium to temporarily prohibit the submission of new applications for new gas stations and/or expansions of existing gas stations while the ordinance amendments are developed. However, moratoriums are typically used when a new type of undesirable business or land use emerges over a short period of time. Hayward has had very few new gas stations or applications for new gas stations in the past 10 years and this trend is not likely to change in the foreseeable future.

ECONOMIC IMPACT

The business model for automobile fueling is already evolving to support alternative fuels and electric vehicle infrastructure. However, if so directed by Council, staff will prepare and present the economic impacts of any ordinance amendments prior to their adoption.

FISCAL IMPACT

Hayward receives approximately \$6.7 million in state funding each year for the purposes of improving streets, sidewalks, and bike lanes, and supporting public transportation. Roughly two thirds of this funding comes from taxes on gasoline and diesel sales. A ban on new service stations would limit growth of sales tax and transportation funding for the City. Also, as electric vehicles gain popularity, there will eventually be a decrease in these revenue streams. To help make up for the decrease in fuel tax revenue, the State of California, beginning July 1, 2020, started collecting an extra vehicle registration fee of \$100 to \$175 on electric vehicles, depending on the vehicle's value.

Implementing a moratorium and/or a Zoning Ordinance amendment will require staff time and resources. Most work can likely be absorbed by existing budgeted staff, but if CEQA analysis is necessary, an outside consultant may be needed. Staff could provide a more detailed scope of work and cost estimate for the CEQA analysis if this project is identified as a priority.

STRATEGIC ROADMAP

In January 2020, Council adopted six Strategic Priorities as part of its three-year Strategic Roadmap. This agenda item is not specifically called for in the Roadmap, but it does support the priority of Combat Climate Change and the implementation of the following project:

Project # 1: Reduce dependency on fossil fuels

Due to the COVID-19 pandemic and resulting budgetary challenges and changes in priorities, Council is scheduled to consider revisions to the Strategic Roadmap in early 2021. If recommended by the CSC, staff will present this project to Council as a possible priority in the updated Strategic Roadmap.

SUSTAINABILITY FEATURES

Limiting increases in gasoline consumption would contribute to reductions transportation-related emissions and may help Hayward meet its long term GHG reduction goals. On the other hand, market forces and state regulation are expected to increase the use of electric vehicles, which will also lead to reductions in gasoline consumption.

PUBLIC CONTACT

Staff provided notice of this agenda item to the Chamber of Commerce and owners of existing service stations in Hayward. Any amendments to the Zoning Ordinance and the Mission Boulevard Code would include public hearings and additional public noticing.

NEXT STEPS

Upon direction from Committee, staff can present this project to Council for consideration in the revised Strategic Roadmap to be adopted by Council 2021.

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