SUBJECT:
Ordinance continuing a moratorium on CUP applications for gas & petro, pipelines

ATTACHMENTS
Proposed ordinance

SUMMARY STATEMENT:
The attached ordinance continues the emergency ordinance (Ordinance #2001-017) which was adopted on May 1, 2001, and which disallows the acceptance of applications for conditional use permits for the purpose of siting and constructing regional transmission pipelines which convey petroleum, petroleum products, and natural gas. The proposed ordinance continues the moratorium for an additional 180 days.

RECOMMENDED MOTION (for final action):

COUNCIL ACTION TAKEN:
10/23/2001: Adopted 6-0, Imhof abstained, Ord. #2001-050

Related File Numbers:
Ordinance or Resolution Number (this item only):
ORD. #2001-050
CONTINUING A MORATORIUM ON THE ACCEPTANCE OF CONDITIONAL USE PERMIT APPLICATIONS FOR REGIONAL TRANSMISSION PIPELINES OF PETROLEUM, PETROLEUM PRODUCTS, AND NATURAL GAS; AND DECLARING AN EMERGENCY

WHEREAS, the County Council previously adopted Title 20-Zoning of Whatcom County Code which regulates land use within unincorporated areas of Whatcom County; and

WHEREAS, the County Council adopted the Whatcom County Comprehensive Plan on May 20, 1997, which contains goals, objectives and policies regarding land use compatibility and environmental considerations; and

WHEREAS, two recent major pipeline explosions in Whatcom County, one of which resulted in fatalities, have demonstrated the need for local standards to provide improved protection of public health and safety; and

WHEREAS, Whatcom County Code Title 20.82.030(2) defines regional transmission lines. Specifically it is the intent of this Ordinance to address regional transmission pipelines which are of the general pipe size and pressure commonly used for the bulk regional transmission of petroleum, petroleum products, and natural gas; and

WHEREAS, there have been recent proposals and presentations made by private parties for the construction of new natural gas and petroleum products transmission pipelines in areas where none currently exist; and

WHEREAS, the land use regulations currently in effect in the County do not provide sufficient definitive criteria with which the County can address the concerns of County residents and properly evaluate and condition the siting of transmission pipelines carrying petroleum and petroleum products and the bulk conveyance of gas; and

WHEREAS, the County Council by Ordinance #2000-027 has established a Utilities Advisory Committee to address utility issues including natural gas and petroleum transmission pipelines; and

WHEREAS, the Utility Advisory Committee has established a regular meeting schedule and is focusing its initial activities on the development of Comprehensive Plan Policies, Development Regulations and Standards to
address permitting transmission lines intended for the transmission of petroleum, petroleum products and natural gas, and

WHEREAS, Whatcom County Council previously enacted an emergency moratorium (Ordinance #2000-026) as an emergency and continued that moratorium through the adoption of Ordinance 2000-030 and 2000-050. All ordinances prohibited the filing and processing of conditional use permit applications for regional transmission pipelines of petroleum, petroleum products, and natural gas for all new applications received after the effective date of Ordinance #2000-026 (May 30, 2000) pursuant to Whatcom County Charter, Article 2.40; and

WHEREAS, RCW 36.70.795 requires the County Council to hold a public hearing and establish findings of fact prior to each renewal of a moratorium; and

WHEREAS, a public hearing was held on October 23, 2001 at which County Council received testimony and conducted deliberation on the merits of continuing the moratorium initiated by Ordinance #2000-026 and continued by Ordinance 2000-030, Ordinance 2000-050, and 2001-017; and

WHEREAS, RCW 36.70.795 requires the adoption of findings of fact which justify Council action, the Council makes the following findings of fact:

1. Whatcom County Code currently provides no siting guidance with which to condition the placement of transmission pipelines of petroleum, petroleum products, and natural gas.
2. Transmission pipelines of petroleum, petroleum products, and natural gas are currently allowed in all zoning designations.
3. Future transmission pipelines of petroleum, petroleum products, and natural gas may be incompatible with surrounding uses and may pose a threat to public health and safety.
4. Whatcom County is in the process of developing amendments to Title 20, which will include criteria to regulate these facilities, in response to increasing public health and safety concerns about petroleum, petroleum products, and natural gas transmission pipelines.
5. A Utility Committee has been established and has begun the process of developing Comprehensive Plan Policies, Development Regulations and Standards for the siting of fuel and natural gas transmission lines. The committee will require additional time beyond the initial Development Moratorium to accomplish this task.
6. Without the imposition of a moratorium additional project proposals could be submitted under current regulations thus precluding the added community safe guards which will be included in the new public utilities ordinance.
7. A determination of non-significance was issued by the Whatcom County SEPA Official on May 26, 2000 for the initial Emergency Moratorium (Ord
#2000-026) and a further review of the continuation of the moratorium by the SEPA Official has reaffirmed the determination of non-significance. 
8. Public notice was published in the Bellingham Herald, on October 13, 2001.

WHEREAS, the County Council finds that the moratorium imposed by this ordinance is necessary for the protection of the public health, safety, property or peace;

NOW, THEREFORE BE IT ORDAINED by the Whatcom County Council the following section:

Section 1.
A. A continuation of a moratorium imposed on filing and processing of applications for land use permits for transmission pipelines of petroleum, petroleum products, and natural gas unless the applications were complete, as provided in Whatcom County Code, prior to May 30, 2000, the effective date of this ordinance.
B. As used in this ordinance "Land use permit" means any permit required from the County for the construction or siting of any transmission pipelines of petroleum, petroleum products, and natural gas.

BE IT FINALLY ORDAINED that the Whatcom County Council finds as a fact and declares that this ordinance is necessary for the protection of the public health, public safety, public property, or the public peace and shall take effect immediately and shall continue for a period not to exceed 180 days unless further extensions are merited, and shall be superceded by amendments to Whatcom County Code which address the siting and placement of transmission pipelines carrying petroleum and petroleum products and the bulk conveyance of gas.

ADOPTED this 23 day of October, 2001

ATTEST:

[Signature]
Dana Brown-Davis, Council Clerk

[Signature]
Ward Nelson, Chairperson

APPROVED as to form:

[Signature]
Civil Deputy Prosecutor

( ) Approved ( ) Denied

[Signature]
Pete Kremen, Executive

Date: