

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: c:\f1\6\12-90ZT.AB(jrg)	JG	-	RECEIVED AUG 5 1992 WHATCOM COUNTY COUNCIL	DATE to be on agenda~	Committee/Council assignment~
Division Head:				8/11/92	Council/Intro
Dept. Head: Dan Taylor	DJD	8/5/92		9/1/92	Council
Prosecutor:					
Purchasing/Budget:					
Executive:					

SUBJECT:

File Ref: 12-90:ZT An Extension of the Moratorium on New Surface Mining Permits

ATTACHMENTS:

- Agency Report
- Proposed Ordinance

SUMMARY STATEMENT: *Please complete sections of box as appropriate & explain the item below.*

Related County contract #: For CONTRACTS or related expenditures~	Should Clerk schedule a hearing? PLEASE fill in Y/N, date~ NO /XX/ YES /_/
Amount budgeted for this item/project: \$~	Is it (or will it be) within budget? ~ YES / / NO / / (Please explain below)
Budget line item number(s): First line item #~ , Second line item #~	

Summary: The sixty day emergency extension recently adopted by the Council expires on September 8. This will not allow enough time for adoption of a permanent ordinance with new regulations for surface mining and mineral processing. An extension of the moratorium will be required to allow more time for the Planning Commission and subsequent Council review of the proposed regulations. The surface mining community is becoming concerned about the extension of the moratorium which was initiated on April 23, 1991. Therefore a short extension of the moratorium for a period only covering the time it takes to review and adopt the proposal was considered preferable. A short time frame also keeps the pressure on to get on with the task. In all probability, permanent regulations will be in place before the end of October.

ORIGINATOR'S RECOMMENDED ACTION: Staff supports the Planning Commission recommendation that the existing surface mining moratorium adopted in Ordinance 91-069 be extended until November 11, 1992, or until new surface mining and mineral processing regulations are adopted, whichever is first.

A reasonable alternative would be to extend the moratorium until after the last meeting in November, i.e. November 25.

COMMITTEE ACTION TAKEN:

COUNCIL ACTION TAKEN: 8/11/92: Introduced
 9/1/92: Council adopted the ordinance. 4-2 with Vander Yacht & Imhof against, Laidlaw absent.

Related File Numbers: *Ordinance or Resolution Number (this item only):*

ORDINANCE NO. 92-062

**AN EXTENSION OF THE INTERIM ZONING ORDINANCE CONTINUING A
MORATORIUM ON NEW SURFACE MINING PERMITS IN WHATCOM COUNTY**

WHEREAS, the Official Zoning Ordinance, Title 20, and the Interim Zoning Ordinance, WCC Chapter 2.24A, have regulations related to surface mining; and

WHEREAS, based on a number of concerns regarding the existing regulations, the Whatcom County Council directed the Planning staff and the Planning Commission to review and propose revisions to these regulations; and

WHEREAS, subsequent to the Planning Commission's final action, it came to the County's attention that State legislation may preempt local regulations regarding surface mining; and

WHEREAS, the Deputy Prosecutor has determined that the legislature has preempted local regulations and that the County's proposed regulations probably would not stand up to legal challenge; and

WHEREAS, SHB 2929, the Growth Management Act, reestablished a regulatory role for local government in forestry, mineral resources, agricultural lands, and critical areas; and

WHEREAS, in Whatcom County there is the potential for major conflict between these valuable resources, particularly agricultural and mineral resource lands as a surface mine could preclude the re-use of land for agricultural production; and

WHEREAS, surface mining activity in some locations may also be inconsistent with the mandate to protect aquifer recharge areas; and

WHEREAS, based on the above and other considerations, the Whatcom County Council passed interim regulations placing a moratorium on surface mining on April 23, 1991, by Ordinance 91-034; and

WHEREAS, this moratorium was extended and modified to combine surface mining applications that came under DNR jurisdiction, as well as those activities that are the sole authority of the County by Ordinance 91-069, passed on September 24, 1991; and

WHEREAS, work has not yet been completed, but is substantially underway on proposed surface mining regulations; and

WHEREAS, on June 23, 1992, an emergency ordinance was passed which became effective July 10, 1992 (Ordinance 92-035), extending the moratorium for 60 days; and

WHEREAS, several more months are needed to complete the proposed regulations.

NOW THEREFORE BE IT ORDAINED BY THE WHATCOM COUNTY COUNCIL:

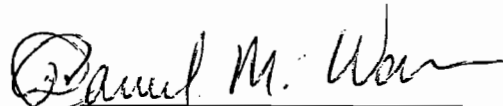
Section 1. To preserve the integrity of the process and directives mandated by the Growth Management Act and pursuant to RCW 36.70.790, it is hereby ordained that the existing surface mining moratorium adopted in ordinance number 91-069 be extended until November 11, 1992, or until new surface mining and mineral processing regulations are adopted, whichever is first.

Section 2. All findings addressed in Ordinances 91-034, 91-069, and 92-035 are incorporated herein in their entirety.

Section 3. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

PASSED this 1st day of September, 1992.

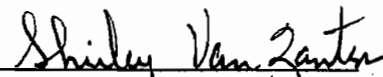
WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


Daniel M. Warner, Chairperson

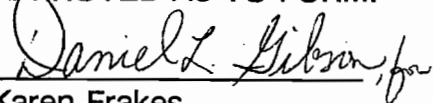
APPROVED VETOED

ATTEST:


Clerk of the Council


Shirley Van Zanten, County Executive

APPROVED AS TO FORM:


Karen Frakes
Civil Deputy Prosecuting Attorney

Date 9-2-92