CITY COUNCIL AGENDA BILL 20-21

AGENDA BILL NO.: 20-21

TOTAL PAGES: 25

EXHIBITS:
1. Proposed ordinance
2. Draft franchise agreement

TITLE: Ordinance extending franchise with Olympic Pipeline Company, to June 30, 2020. Consider draft franchise.

ORIGINATING DEPT.: City Attorney

ACTION PROPOSED: Adopt an ordinance extending the Olympic Pipeline Company franchise to June 30, 2020, and consider draft franchise.

SUMMARY
The proposed ordinance (Ex. 1) extends the franchise with Olympic Pipeline Company (Olympic) to June 30, 2020. The Council will have its first opportunity to review the draft franchise agreement (Ex. 2) at the March 17, 2020 meeting.

FISCAL IMPACT
No fiscal impact is anticipated, as the extension allows the City Council the time to consider the new franchise agreement at two meetings, as required by state law.

BACKGROUND
In 2008, the City Council adopted Ordinance No. 2008-0388, which approved and granted a franchise agreement with Olympic Pipeline Company (Olympic), for the placement and operation of its existing pipeline system facilities within the City’s rights-of-way.

The City Council has extended the franchise with the adoption of Ordinances 2018-570, 2018-572, 2019-586 and 2019-600, and the franchise will expire on March 31, 2020. The parties have nearly completed the new franchise agreement, but state law requires a franchise to be considered at two meetings, and the franchise will expire prior to completing this two-meeting requirement. Accordingly, an extension of the franchise term to June 30, 2020 is requested.

The Council has its first opportunity to review the draft franchise agreement (Ex. 2), which includes provisions relating to:

- Section 1 – Definitions
- Section 2 – Purpose
- Section 4 – Term (10 years with opportunity to renew)
DISCUSSION
The power to grant a franchise is a sovereign power of the state which has been delegated to counties, cities and towns. The power to grant franchises is specifically delegated to code cities by RCW 35A.47.040, which authorizes cities to grant non-exclusive franchises to electric and natural gas utilities (among others utilities) for the use of city rights-of-way. RCW 80.32.010 also grants cities and towns the authority to grant a franchise for use and operation of electronic transmission and distribution systems in rights-of-way. These statutes authorize the City to regulate a utility’s use of its streets.

Because the existing franchise agreement will expire prior to meeting the state law to consider a franchise at two separate meetings, the proposed ordinance extends the franchise until June 30, 2020, to give sufficient time to finalize and allow the council to consider the new franchise at a second meeting.

ACTION RECOMMENDED
I move to adopt the ordinance extending the franchise with Olympic Pipeline Company, as presented.

(No recommendation on draft franchise (Ex. 2) as it must be reviewed at a second meeting).

OTHER ACTION ALTERNATIVES
Do not adopt the proposed ordinance and provide staff with alternate direction.