

City of South Bend
Council Meeting
Monday, November 25, 2019 @ 5:30 pm
Council Chambers
1102 W. First Street, South Bend, WA

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda and Consent Agenda
Approval of Minutes: *November 13, 2019 Regular Meeting*
4. Correspondence
5. *Ordinance #1545 – Adopting the 2020 Budget (Second Reading) (Action)*
6. *Ordinance #1546 – Closeout of the Garbage Fund (Second Reading) (Action)*
7. *Ordinance #1548 – Amending and Adding to Chapter 3.13 Administrative Provisions for Certain Taxes (First Reading) (Action)*
8. *Ordinance #1549 – Amending, Repealing and Adding to Chapter 3.13 Business and Occupation Tax (First Reading) (Action)*
9. *December 23, 2019 Council Meeting (Action)*
10. Items from the Public **3 Minute Limit**
11. Department Head Reports:
 - i) Police Chief Eastham
 - ii) City Supervisor Houk
 - iii) Clerk/Treasurer Roberts
 - iv) Fire Department
12. Mayor's Report
13. Council Comments
14. Adjournment

The City of South Bend strives to provide access and services to all members of the public. Please notify the City at least 48 hours prior to an event if reasonable accommodations are needed.

NOTICE – All proceedings of this meeting are sound recorded
Except Executive Sessions.

Next Regular Meeting: Monday, December 9, 2019 @ 5:30 PM

South Bend Council Meeting

Monday, November 25, 2019, 2019

CONSENT AGENDA

1. Approval of Vendor Checks

Vendors – Check #45445 thru Check #45473 - \$147,104.20 Including EFT Payments

11/25/19

VENDOR	AMOUNT	
45445 AWC	\$ 25.00	City Hall
45446 ALS Group USA Corp	\$ 270.00	Water Samples
45447 Ark Plumbing Services, Inc.	\$ 55.13	Professional Services - Parks
45448 Bank of the Pacific	\$ 177.04	Monthly Interest on Interim Financing - Water Treatment Plant
45449 City of Raymond	\$ 63,081.21	RWWTP October M & O \$21,941.89 and Annual USDA RD Bond Reserves \$41,139.32
45450 Crystal Springs	\$ 115.77	Water Service - Public Works
45451 Dept of Ecology	\$ 25,246.27	Loan Payment - I & I Repairs (Next Payment 6/2020 - Payoff 2024)
45452 Dept of Licensing	\$ 18.00	CWP - Police Dept
45453 Dept of Natural Resources	\$ 2,118.46	Annual Dock Fees
45454 Dept of Transportation	\$ 2,072.99	Fuel - Public Works \$665.16 and Police \$1,407.83
45455 Dilk Tire Factory	\$ 982.90	Repair/Maintenance - Police \$25.94, Streets \$340.61 and Water/Sewer \$616.35
45456 DMCMA	\$ 300.00	Annual Membership - D Roberts & L Carlson
45457 Galls, LLC	\$ 350.49	Operating Supplies - Police Dept
45458 Gray & Osborne, Inc.	\$ 42,013.80	Professional Services - WTP Upgrades
45459 Grays Harbor County Dept of Public Services	\$ 108.00	Water Samples
45460 H.D. Fowler Company	\$ 2,379.43	Operating Supplies - Water Fund
45461 Hagen & Bates P.S.	\$ 250.00	Professional Services - Municipal Court 10/25/19
45462 HB Portables	\$ 100.00	Portable Toilet at Dock
45463 International Institute of Municipal Clerks	\$ 340.00	Annual Membership - D Roberts & Z Sowa
45464 Jonathan Quittner	\$ 775.00	Municipal Court Public Defender - November 2019
45465 LeMay Mobile Shredding	\$ 50.05	Document Shredding
45466 Pioneer Grocery	\$ 75.07	Miscellaneous - City Hall \$57.77, Police \$7.40 and Water \$9.90
45467 Quill, LLC	\$ 39.73	Operating Supplies - City Hall
45468 South Bend Utilities	\$ 121.53	Utility Deposit Refund
45469 State Auditor's Office	\$ 2,149.47	Auditor Costs - October 2019
45470 Verizon	\$ 1,535.96	One Talk - Three Months Service - City Hall, Police, Municipal Court, Water and Sewer
45471 Vision Forms, LLC	\$ 1,391.05	Statement Automation
45472 William Penoyar	\$ 830.00	Municipal Court Prosecutor - November 2019
45473 Zee Medical Service Company	\$ 131.85	Materials and Supplies - Water Fund

TOTAL \$ 147,104.20

Mayor Julie K Struck

 Mayor Struck

L. D. Houk

 City Supervisor Houk

Chief D. Eastham

 Police Chief Eastham

**CITY OF SOUTH BEND
COUNCIL MEETING – 11/13/19**

1-2. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The council meeting was called to order by Mayor Struck at 5:30 pm followed by the Pledge of Allegiance. Members present: Councilor Williams, Councilor Neve, Councilor Davis, Councilor Little, City Supervisor Houk, Police Chief Eastham and Clerk/Treasurer Roberts. Councilor Buchanan was absent. (Excused)

3. APPROVAL OF AGENDA, CONSENT AGENDA AND APPROVAL OF MINUTES

A motion was made by Councilor Neve to approve the Agenda, Consent Agenda and the minutes of the October 28, 2019 regular meeting. The motion was seconded by Councilor Davis. **Vote: Ayes-4, Noes-0, Absent-1**

Vendors – Check #45416 thru Check #45444 - \$56,920.47 Including EFT Payments

Payroll – Check #24704 thru Check #24719 - \$105,202.82 Including Direct Deposit

4. CORRESPONDENCE – NONE

5. PUBLIC HEARING @ 5:30 PM – 2020 FINAL BUDGET

Mayor Struck opened the public hearing at 5:30 pm. There were no public comment and the public hearing was closed at 5:31 pm.

6. ORDINANCE #1543 – PROPERTY TAX LEVY (SECOND READING)

Councilor Williams made a motion to approve Ordinance #1543 – Property Tax Levy as presented. The motion was seconded by Councilor Neve. **Vote: Ayes-4, Noes-0, Absent-1**

7. ORDINANCE #1545 – ADOPTING THE 2020 BUDGET (FIRST READING)

Councilor Neve made a motion to move Ordinance #1545 – Adopting the 2020 Budget to a second reading. The motion was seconded by Councilor Williams. **Vote: Ayes-4, Noes-0, Absent-1**

8. ORDINANCE #1546 – CLOSEOUT OF THE GARBAGE FUND (FIRST READING)

Councilor Neve made a motion to move Ordinance #1546 – Closeout of the Garbage Fund to a second reading. The motion was seconded by Councilor Davis. **Vote: Ayes-4, Noes-0, Absent-1**

9. ORDINANCE #1547 – 2019 BUDGET AMENDMENTS (SECOND READING)

Councilor Neve made a motion to accept Ordinance #1547 – 2019 Budget Amendments as presented. The motion was seconded by Councilor Williams. **Vote: Ayes-4, Noes-0, Absent-1**

10. RESOLUTION #2019-06 – SPONSORING MEMBERSHIP INTO AWC RMSA

Councilor Neve made a motion accepting Resolution #2019-06 as presented. The motion was seconded by Councilor Williams. **Vote: Ayes-4, Noes-0, Absent-1**

11. ITEMS FROM THE PUBLIC – NONE

12. DEPARTMENT HEAD REPORTS

- Police Chief Eastham announced that Officer Dockter has been accepted into the November 20th police academy.
- Police Chief Eastham reminded everyone that the holiday season is upon us and to keep your cars locked! These are crimes of opportunity!
- City Supervisor Houk noted that the City of Warrenton, OR was swapping out filters on their water treatment plant and we were able to get 96 of the better ones to use to replace ones at our plant that had surpassed their life span. The city worked with the Department of Health, an employee from Warrenton and Evoqua to replace the filters. The plant was down for three days during which time the city purchased water from Raymond. Mayor Struck asked that City Supervisor Houk send an official thank you to the City of Warrenton.

13. MAYOR'S REPORT

Mayor Struck noted that there will be two council seat changes for 2020. She thanked everyone who took the time to run and welcomed those that appear to have won.

14. COUNCIL COMMENTS

- ❖ Councilor Little asked City Supervisor Houk about the status of the Yellow Deli. City Supervisor Houk explained that there is not much to report as of yet.
- ❖ Councilor Neve asked if there would be a tree lighting in South Bend this year as she hadn't heard anything. Mayor Struck advised she would check and see, because she wasn't sure either.

15. ADJOURNMENT

The meeting was adjourned at 5:42 PM to meet again on Monday, November 25, 2019 for the next regularly scheduled meeting at South Bend City Hall.

Julie K. Struck
Mayor

ATTEST: _____

Dee Roberts
Clerk/Treasurer

ORDINANCE #1545

**AN ORDINANCE ADOPTING THE BUDGET FOR THE CITY OF SOUTH BEND,
WASHINGTON, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2020**

WHEREAS, the Mayor of the City of South Bend, Washington completed and placed on file with the City clerk a proposed budget and estimate of the amount of the moneys required to meet the public expenses, bond redemption and interest, reserve funds and expenses of government of said City for the fiscal year ending December 31, 2020, and a notice was published that the Council of said City would meet on the 13th of November, 2019 at the hour of 5:40 PM, at the Council Room in the City Hall of said City for the purpose of making and adopting a budget for said fiscal year and giving taxpayers within the limits of said City an opportunity to be heard upon said budget; and

WHEREAS, the said City Council did meet at said time and place and did then consider the matter of said proposed budget; and

WHEREAS, the said proposed budget does not exceed the lawful limit of taxation allowed by law to be levied on the property within the City of South Bend for the purposes set forth in said budget, and the estimated expenditures set forth in said budget being all necessary to carry on the government of said City during said period.

NOW THEREFORE, the City Council of the City of South Bend, Washington do ordain as follows:

The budget for the City of South Bend, Washington for the year 2020 is hereby adopted per the attached document entitled *City of South Bend, 2020 Budget*. Estimated resources, including fund balances or working capital for each separate fund of the City of South Bend, Washington and estimated expenditures for all funds combined, for the year 2020 are set forth in the attached summary and are appropriated for expenditure during the year 2020.

The Clerk/Treasurer is directed to transmit a certified copy of the budget hereby adopted to the Division of Municipal Corporations in the Office of State Auditor and to the Association of Washington Cities.

INTRODUCED this 13th day of November, 2019 **AND PASSED** on the 25th day of November, 2019 by the following vote:

Ayes –

Noes –

Absent –

Julie K. Struck, Mayor

AUTHENTICATED BY: _____

Dee Roberts, Clerk/Treasurer

Publish: 12/04/19

ORDINANCE #1546

**AN ORDINANCE FOR THE CITY OF SOUTH BEND, WASHINGTON
AUTHORIZING THE TRANSFER OF \$143,064.67 FROM THE GARBAGE
FUND (411) TO CURRENT EXPENSE.**

WHEREAS, The City Council of the City of South Bend, Washington has met and has agreed to the transfer of funds from the Garbage Fund to Current Expense; and

WHEREAS, this fund no longer has a revenue source due to the fact that the City has outsourced their garbage service to a third-party vendor.

BE IT RESOLVED by the City Council of the City of South Bend that \$143,064.67 be transferred from the 2019 Garbage Fund into 2019 Current Expense Fund.

This ordinance shall become effective five days after publication.

This Ordinance was **INTRODUCED** on the 13th day of November 2019 and **PASSED** on this 25th day of November 2019 by the City Council of the City of South Bend, Washington by the following vote:

Ayes –

Noes –

Absent –

Julie K. Struck, Mayor

AUTHENTICATED BY: _____
Dee Roberts, Clerk/Treasurer

Publish 12/04/19

ORDINANCE #1549

**AN ORDINANCE OF THE CITY OF SOUTH BEND, WASHINGTON
AMENDING, REPEALING AND ADDING TO CHAPTER 3.12 BUSINESS AND
OCCUPATION TAX – SEPARATE FROM UTILITY TAX**

WHEREAS, the City of South Bend established a new business and occupation tax code as South Bend Municipal Code Chapter 3.12 in 2014; and

WHEREAS, the business and occupation taxes implemented by other Washington cities can be inconsistent from jurisdiction to jurisdiction; and

WHEREAS, the City desires to administer its business and occupation tax code in a fair and consistent manner in relation to other Washington jurisdictions; and

WHEREAS, the Association of Washington Cities, in conjunction with a city workgroup, developed a revised model ordinance to include changes to RCW 35.102 and to reflect other changes made to state law since 2013; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH BEND DO ORDAIN AS FOLLOWS:

Section 3.12.030 Definitions – the following shall be *repealed*

17. Accepting or executing a contract with the city, irrespective of whether goods or services are delivered within or without the city, or whether the person's office or place of business is within or without the city.

Section 3.12.030 Definitions – the following shall be *added*

Manufacturing. "Manufacturing means the activity conducted by a manufacturer and is reported under the manufacturing classification.

Section 3.12.030 Definitions – the following shall be *added*

"Retail Service." "Retail service" shall include the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

A Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquet ball, handball, squash, tennis, batting cages, day trips for sightseeing purposes, and others, when provided to consumers. "Amusement and recreation services" also include the provision of related facilities such as basketball courts, tennis courts, handball courts, swimming pools, and charges made for providing the opportunity to dance. The term "amusement and recreation services" does not include instructional lessons to learn a particular activity such as tennis lessons, swimming lessons, or archery lessons.

B. Abstract, title insurance, and escrow services;

C. Credit bureau services;

D. Automobile parking and storage garage services;

E. Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

F. Service charges associated with tickets to professional sporting events; and

G. The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, Turkish bath services, escort services, and dating services.

H. The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

Section 3.12.077 Allocation and apportionment of income when activities take place in more than one jurisdiction – the following shall be

Added:

E. For purposes of subsections 3.12.077(3)(a) through .077(3)(e), the following definitions apply:

1. Digital automated services, “digital codes” and digital goods have the same meaning as in RCW 82.04.192;
2. “Digital products” means digital goods, digital codes, digital automated services and the services described in RCW 82.04.050 (2) (g) and (6) (c); and
3. “Receive” has the same meaning as in RCW 82.32.730

Amended:

F. Effective January 1, 2020 gross income derived from activities taxed as services and other activities taxed under 3.12 .050(1)(g)] shall be apportioned to the city by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service income factor and the denominator of which is two.

Repealed:

- F. a.
- F. b.
- F. c.

Added:

3. Gross income of the business from engaging in an apportionable activity must be excluded from the denominator of the service income factor if, in the respect to such activity, at least some of the activity is performed in the city, and the gross income is attributable under (b) of this subsection (6) to a city or unincorporated area of a county within the United States or to a foreign country in which the taxpayer is not taxable. For purposes of this subsection (6) (c), “not taxable” means that the taxpayer is not subject to a business activities tax by that city or county within the United States or by that foreign country, except that a taxpayer is taxable in a city or county within the United States or in a foreign country in which it would be deemed to have a substantial nexus with the city or county within the United States or with the foreign country under the standards in RCW 35.102.050 regardless of whether that city or county within the United States or that foreign country imposes such a tax.

Amended:

4. If the allocation and apportionment provisions of this subsection (6) do not fairly represent the extent of the taxpayer's business activity in the city the taxpayer may petition for or the tax administrators may require, in respect to all or any part of the taxpayer's business activity, if reasonable:
- (i) Separate accounting;
 - (ii) The exclusion of any one or more of the factors;

- (iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in the city; or
- (iv) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Added:

5. The party petitioning for, or the tax administrator requiring, the use of any method to effectuate an equitable allocation and apportionment of the taxpayer's income pursuant to subsection (d) of this subsection (6) must prove by a preponderance of the evidence:

- a. That the allocation and apportionment provisions of this subsection (6) do not fairly represent the extent of the taxpayer's business activity in the city; and
- b. That the alternative to such provisions is reasonable. The same burden of proof shall apply whether the taxpayer is petitioning for, or the tax administrator is requiring, the use of an alternative, reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income.

6. If the tax administrator requires any method to effectuate an equitable allocation and apportionment of the taxpayer's income, the tax administrator cannot impose any civil or criminal penalty with reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the allocation and apportionment provisions of this subsection (6).

7. A taxpayer that has received written permission from the tax administrator to use a reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income shall not have that permission revoked with respect to transactions and activities that have already occurred unless there has been a material change in, or a material misrepresentation of, the facts provided by the taxpayer upon which the tax administrator reasonably relied in approving a reasonable alternative method.

Added:

2. **"Business activities tax"** means a tax measured by the amount of, or economic results of, business activity conducted in a city or county within the United States or within a foreign country. The term includes taxes measured in whole or in part on net income or gross income or receipts. "Business activities tax" does not include a sales tax, use tax, or a similar transaction tax, imposed on the sale or acquisition of goods or services, whether or not denominated a gross receipts tax or a tax imposed on the privilege of doing business.

4. **"Customer"** means a person or entity to whom the taxpayer makes a sale or renders services or from whom the taxpayer otherwise receives gross income of the business.

Amended:

5. **"Customer location"** means the following:

- a. For a customer not engaged in business, if the service requires the customer to be physically present, where the service is performed.
- b. For a customer not engaged in business, if the service does not require the customer to be physically present: (A) The customer's residence; or (B) If the customer's residence is not known, the customer's billing/mailling address.
- c. For a customer engaged in business: (A) Where the services are ordered from; (B) At the customer's billing/mailling address if the location from which the services are ordered is not known; or (C) At the customer's commercial domicile if none of the above are known.

Repealed:

"Taxable in the customer location"

Added:

Effective January 1, 2020

Amended:

G. Amounts derived from manufacturing, selling or distributing motor vehicle fuel. This chapter shall not apply to the manufacturing, selling, or distributing motor vehicle fuel, as the term "motor vehicle fuel" is defined in RCW 82.38.020 and exempt under RCW 82.38.280, provided that any fuel not subjected to the state fuel excise tax, or any other applicable deduction or exemption, will be taxable under this chapter.

Effective Date This ordinance shall take effect immediately upon its passage, signing, and publication.

This Ordinance was **INTRODUCED** on the 25th day of November, 2019 and **PASSED** on this 9th day of December, 2019 by the City Council of the City of South Bend, Washington by the following vote:

Ayes –

Noes –

Absent –

Julie K. Struck, Mayor

Authenticated By:

Dee Roberts, Clerk/Treasurer

Publish: 12/18/19