

City of South Bend
Council Meeting
Monday, December 9, 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 25, 2019 Regular Meeting*
4. Correspondence
5. *Ordinance #1548 – Amending and Adding to Chapter 3.13 Administrative Provisions for Certain Taxes (Second Reading) (Action)*
6. *Ordinance #1549 – Amending, Repealing and Adding to Chapter 3.13 Business and Occupation Tax (Second Reading) (Action)*
7. Items from the Public **3 Minute Limit**
8. Department Head Reports:
 - i) Police Chief Eastham
 - ii) City Supervisor Houk
 - iii) Clerk/Treasurer Roberts
 - iv) Fire Department
9. Mayor's Report
10. Council Comments
11. *Swearing in of new councilors*
12. 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, January 13, 2020 @ 5:30 PM

South Bend Council Meeting

Monday, December 9, 2019

CONSENT AGENDA

1. Approval of Vendor Checks

Vendors – Check #45474 thru Check #45507 - \$198,494.37 Including EFT Payments

2. Approval of Payroll Checks

Payroll – Check #24720 thru Check #24735 - \$98,906.11 Including Direct Deposit

12/09/19

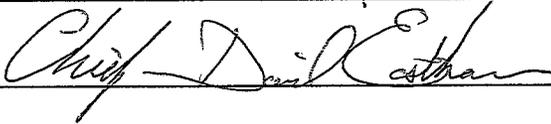
	VENDOR	AMOUNT	
45474	Aberdeen Office Equipment, Inc.	\$ 669.08	Office Supplies - City Hall \$236.69, Water \$216.20 and Sewer \$216.19
45475	ALS Group USA Corp	\$ 40.00	Water Samples
45476	Borden's Auto Parts, Inc.	\$ 678.26	Repair/Maintenance - Police \$537.82, Water \$70.22 and Sewer \$70.22
45477	Bud's Lumber & Electric	\$ 360.58	Operating Supplies - Streets \$42.94, Parks \$73.49 and Water \$244.15
45478	City of Raymond	\$ 117,363.98	Loan - RWWTP \$116,823.98 (Next Payment 6/2020-Payoff 2052) and Operating Supplies \$540.00
45479	Coast Controls & Automation, Inc	\$ 652.38	Repair/Maintenance - Water Fund
45480	Columbia Electric Supply	\$ 379.43	Operating Supplies - City Hall
EFT Pay	Comcast - EFT Pay	\$ 881.27	All Depts
45481	Dennis Company	\$ 258.49	Operating Supplies - Water \$242.29 and Sewer \$16.20
EFT Pay	Dept of Revenue - EFT Pay	\$ 7,054.06	November 2019 Excise Tax on Water/Sewer
45482	Dept of Transportation	\$ 1,820.57	Fuel - Police \$1,288.52 and Public Works \$532.05
45483	Emergency Reporting	\$ 1,535.02	Yearly Reporting System - Fire Dept
45484	Evoqua Water Technologies	\$ 15,274.29	Professional Services - Water Fund
45485	Hach	\$ 637.70	Operating Supplies - Water Fund
45486	Harbor Saw & Supply, Inc.	\$ 563.70	Repair/Maintenance - Parks \$70.85 and Mosquitos \$492.85
EFT Pay	Invoice Cloud-E Pay	\$ 111.20	November 2019 Portal Access Fee
45487	Jonathan Quittner	\$ 775.00	Municipal Court Public Defender - December 2019
45488	Masco Petroleum	\$ 741.33	Fuel - Fire Dept \$257.09 and Public Works \$484.24
45489	North Central Laboratories	\$ 44.26	Operating Supplies - Water Fund
45490	Office of Financial Management	\$ 2,115.93	November 2019 Fines & Forfeitures
45491	One Call Concepts, Inc.	\$ 5.28	Locates - Water Fund
EFT Pay	ONLINE Information Services - EFT Pay	\$ 22.70	Credit Reporting Services - November 2019
45492	Pacific County Dept of Public Works	\$ 1,670.83	Eklund Park - December 2019
45493	Pacific County Emergency Management	\$ 5,902.50	2nd, 3rd and 4th Quarter Local Support
45494	Pacific County Prosecutor	\$ 29.08	November 2019 Crime Victims
45495	PUD #2	\$ 9,115.50	All Depts
45496	Rognlin's, Inc.	\$ 3,631.62	Professional Services - Water Fund
45497	Royal Heights Transfer Station, Inc.	\$ 206.47	Professional Services - Water Fund
45498	SeaWestern Fire Fighting Equipment	\$ 17,076.64	Operating Supplies - Fire Dept

45499	South Bend Pharmacy	\$	54.51	UPS Fees - Water Fund
45500	Staples	\$	56.13	Office Supplies - City Hall \$27.03, Water \$13.51 and Sewer \$15.59
45501	Steve's Front End & Brake, Inc.	\$	528.97	Repair/Maintenance - Streets \$141.00, Water \$193.99 and Sewer \$193.98
45502	Thrivent Financial	\$	2,316.60	LEOFF 1 Benefits
EFT Pay	Verizon - EFT Pay	\$	120.64	Police Laptops
EFT Pay	VISA - EFT Pay	\$	1,674.59	City Hall \$16.20, Police \$948.03, Streets \$265.46, Parks \$104.88 and Water \$340.02
45503	Vision Municipal Solutions, LLC	\$	2,300.00	Professional Services - City Hall
45504	Wilcox & Flegel	\$	413.14	Operating Supplies - Sewer Fund
45505	Willapa Harbor Herald	\$	517.64	Legal Notices
45506	Willapa Harbor Lions	\$	65.00	Operating Supplies - City Hall
45507	William Penoyar	\$	830.00	Municipal Court Prosecutor - December 2019
TOTAL		\$	198,494.37	

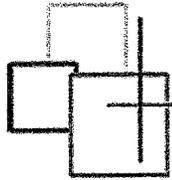
Mayor Struck



City Supervisor Houk



Police Chief Eastham



Register

<u>Number</u>	<u>Name</u>	<u>Fiscal Description</u>	<u>Cleared</u>	<u>Amount</u>
<u>24720</u>	Houk, Lloyd D	2019 - November - Second Council Meeting - November		\$1,650.00
<u>24721</u>	Ashley, Alan	2019 - November - Second Council Meeting - November		\$92.35
<u>24722</u>	Houk, Lloyd D	2019 - November - Second Council Meeting - November		\$2,674.37
<u>24723</u>	AFLAC	2019 - November - Second Council Meeting - November		\$820.74
<u>24724</u>	Association of WA Cities	2019 - November - Second Council Meeting - November		\$3,872.47
<u>24725</u>	Dee Roberts-Coffee Fund	2019 - November - Second Council Meeting - November		\$55.00
<u>24726</u>	Dept of Labor & Industry	2019 - November - Second Council Meeting - November		\$1,698.53
<u>24727</u>	Dept of Retirement Systems	2019 - November - Second Council Meeting - November		\$12,394.15
<u>24728</u>	Employment Security Department	2019 - November - Second Council Meeting - November		\$184.88
<u>24729</u>	Nationwide Retirement Solutions	2019 - November - Second Council Meeting - November		\$405.00
<u>24730</u>	Teamster's Local #252	2019 - November - Second Council Meeting - November		\$510.00
<u>24731</u>	The Bank of the Pacific	2019 - November - Second Council Meeting - November		\$18,276.41
<u>24732</u>	Thorbeckes	2019 - November - Second Council Meeting - November		\$58.34
<u>24733</u>	Washington Counties Insurance Fund	2019 - November - Second Council Meeting - November		\$416.00
<u>24734</u>	Washington State Support Registry	2019 - November - Second Council Meeting - November		\$297.73
<u>24735</u>	Washington Teamsters Welfare Trust	2019 - November - Second Council Meeting - November		\$10,263.70
<u>November 2019 Draws</u>	Payroll Vendor	2019 - November - Second Council Meeting - November		\$13,025.00
<u>November 2019 Payroll</u>	Payroll Vendor	2019 - November - Second Council Meeting - November		\$32,211.44
				\$98,906.11

**CITY OF SOUTH BEND
COUNCIL MEETING – 11/25/19**

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 Buchanan, Councilor Williams, Councilor Neve, Councilor Davis, Councilor Little, Police Chief Eastham and Clerk/Treasurer Roberts. City Supervisor Houk was absent.

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 November 13, 2019 regular meeting. The motion was seconded by Councilor Williams. **Vote: Ayes-5, Noes-0, Absent-0**

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

4. CORRESPONDENCE – NONE

5. ORDINANCE #1545 – ADOPTING THE 2020 BUDGET (SECOND READING)

Councilor Neve made a motion to accept Ordinance #1545 – Adopting the 2020 Budget as presented. The motion was seconded by Councilor Davis. **Vote: Ayes-5, Noes-0, Absent-0**

6. ORDINANCE #1548 – AMENDING AND ADDING TO CHAPTER 3.13 ADMINISTRATIVE PROVISIONS FOR CERTAIN TAXES (FIRST READING)

Councilor Neve made a motion to move Ordinance #1548 – Amending and Adding to Chapter 3.13 Administrative Provisions for Certain Taxes to a second reading. The motion was seconded by Councilor Davis. **Vote: Ayes-5, Noes-0, Absent-0**

7. ORDINANCE #1549 – AMENDING, REPEALING AND ADDING TO CHAPTER 3.13 BUSINESS AND OCCUPATION TAX (FIRST READING)

Councilor Neve made a motion to move Ordinance #1549 – Amending, Repealing and Adding to Chapter 3.13 Business and Occupation Tax to a second reading. The motion was seconded by Councilor Williams. **Vote: Ayes-5, Noes-0, Absent-0**

8. ORDINANCE #1550 – CLOSEOUT OF THE GARBAGE FUND (SECOND READING)

Councilor Williams made a motion to accept Ordinance #1550 – Closeout of the Garbage Fund as presented. The motion was seconded by Councilor Neve. **Vote: Ayes-5, Noes-0, Absent-0**

9. DECEMBER 23, 2019 COUNCIL MEETING

Councilor Williams made a motion to cancel the December 23, 2019 council meeting. The motion was seconded by Councilor Neve. **Vote: Ayes-4, Noes-1, Absent-0** (Ayes – Councilor Buchanan, Councilor Williams, Councilor Neve, Councilor Davis. Noes – Councilor Little)

10. ITEMS FROM THE PUBLIC – NONE

11. DEPARTMENT HEAD REPORTS

- Mayor Struck provided the Department Head Report for City Supervisor Houk. The City was notified by the Transportation Improvement Board that the application for Adams Street Reconstruction was approved. This also includes sidewalks on one side of Adams Street.
- The Harbor Rock property which is leased by Thorbecks and the State of Washington has been approved for re-occupancy. The Certificate was issued on November 18th. The work was performed by the contractor per the submitted engineered details in the building permit documents. The permit will remain open until the building is fully re-roofed.
- The Yellow Deli continues to work on gathering more soils analysis data for an upcoming submittal. Their engineers have been communicating with Siew Tan from Pan Geo, the city's geotechnical engineers, in hopes that the upcoming submittal will be the last and once approved they can commence work on the retaining wall.
- The water treatment plant is up and running extremely well since the replacement of the filters. This was a huge undertaking and everyone involved did an outstanding job. They literally completed the job in half the time as the last go around with no hiccups.
- Clerk/Treasurer Roberts reminded the council that two council members might be absent at the December 9th council meeting so it is crucial that the other three are in attendance so there is a quorum. She also reminded everyone about the Christmas Potluck which is Tuesday, December 3rd at City Hall starting at 11am. Lastly, Happy Thanksgiving!

12. MAYOR'S REPORT – NONE

13. COUNCIL COMMENTS

- ❖ Councilor Williams wished everyone a Happy Thanksgiving!
- ❖ Councilor Neve also wished everyone a Happy Thanksgiving and also noted that the Regional Wastewater Coordinating Committee (RWCC) is back up and running! They have set their meeting dates for 2020 with the understanding that these meetings need to be a priority!

14. ADJOURNMENT

The meeting was adjourned at 5:55 PM to meet again on Monday, December 9, 2019 for the next regularly scheduled meeting at South Bend City Hall

Julie K. Struck
Mayor

ATTEST: _____
Dee Roberts
Clerk/Treasurer

Ordinance #1548

**AN ORDINANCE OF THE CITY OF SOUTH BEND, WASHINGTON
AMENDING AND ADDING TO CHAPTER 3.13 ADMINISTRATIVE
PROVISIONS FOR CERTAIN TAXES**

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 3.12.021 Definitions – References to Chapter 82.32 RCW – Shall be *Added* as follows:

Where provisions of Chapter 82.32 RCW are incorporated in Chapter 3.13 of this Title, “Department” as used in the RCW shall refer to the Clerk/Treasurer as defined in Chapter 3.13 and “warrant” as used in the RCW shall mean “citation or criminal complaint.”

Section 3.13.040 When due and payable - Reporting periods - Monthly, quarterly, and annual returns - Threshold provisions or Relief from filing requirements - Computing time periods - Failure to file returns – Shall be *amended* as follows:

1. Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by this chapter shall be due and payable in quarterly installments. At the Clerk/Treasurer's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Until December 31, 2020 tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return. Effective January 1, 2021, tax payments are due on or before the time as provided in RCW 82.32.045 (1), (2) and (3)

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

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/ mailing address.
- c. For a customer engaged in business: (A) Where the services are ordered from; (B) At the customer's billing/ mailing 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