

CITY OF RUSTON
REGULAR COUNCIL MEETING
Tuesday, November 5, 2019

MEETING CALLED TO ORDER

At 7:07PM Mayor Hopkins called the regular Council Meeting to order. Councilmembers present were Councilmember Hedrick, Councilmember Hardin, Councilmember Kristovich, Councilmember Syler and Councilmember Huson. Following the flag salute, Mayor Hopkins called for approval of the agenda. Councilmember Hedrick moved approve the agenda, with a second from Councilmember Hardin, passed 5-0.

MINUTES

Councilmember Hedrick moved to approve the minutes for the Regular Council meeting of October 15, 2019, with a second from Councilmember Hardin, passed 5-0.

STAFF REPORT – Nothing at this time.

GENERAL PUBLIC COMMENTS – Nothing at this time.

BUSINESS –

ORD 1522-A – Electric Rate Increases (2nd reading) - Following the First Reading of Ordinance #1522, a member of the Council requested an alternative ordinance which has 6 percent increases in the KWh for both December 2019 and December 2020. The attached Ordinance #1522-A incorporates those revisions. The purpose for the higher rates is to provide a more robust fiscal approach to reserves for this utility.

These rate increases are proposed to take place on December 1, 2019 is an increase from \$0.092 per Kilowatt hour to \$0.098 per Kilowatt hour. On December 1, 2020 that rate would increase again to \$0.104 per KWh. Additionally, under Ordinance #1522-A an increase in the low-income senior rate would also occur. Currently, the rate of \$0.0662 per Kilowatt hour is charged. Under the new rates, \$0.070 per Kilowatt hour would be charged starting on December 1, 2019 and \$0.0742 starting on December 1, 2020.

Customer Class	Current KWh	Effective Dec. 1, 2019	Effective Dec. 1, 2020
Regular Rates	\$0.092	\$0.098	\$0.104
Low Income/Disabled	\$0.066	\$0.070	\$0.0742

Both regular and low-income customers will have a 6% increase in the KWh charges in 2019 and a 6% increase in 2020.

The alternate ordinance maintains the changes to the minimum charge that were contained in Ordinance #1522. This increase will ensure that the City recovers the increased cost of purchasing electrical power from Tacoma Power as well as recovering the costs of operating this utility system. The new rates will help ensure that the City's electrical utility will continue to be

fiscally sound and have the resources needed to replace and refurbish the capital infrastructure and maintain high quality operations. Councilmember Hedrick moved approve Ordinance 1522-A, with a second from Councilmember Hardin, passed 5-0.

ORD 1523 – B&O Tax Chapter 5.01 RMC Revisions (1st reading) – Under the Washington State Constitution, the City of Ruston has the authority to assess and collect taxes for municipal purposes. The State Legislature has authorized cities and towns to license businesses for the purposes of regulation and revenue. Currently, forty Washington cities have adopted a business and occupation tax (hereinafter “B&O tax”). The B&O tax on business is measured by a percentage of the firm's gross receipts.

History of Model B&O Ordinances

The State has been requiring cities to adopt model B&O ordinances since 2003. There were model codes created by the State (typically a task force) and adopted by Ruston in 2003, 2008 and 2012. The last major revisions to the B&O tax model ordinance took effect January 1, 2013.

2019 Revisions

This year, the State has again updated the model ordinance and required B&O cities to adopt these provisions. A city workgroup met over the summer of 2019 to review changes needed to the B&O model ordinance. Workgroup members included: Bellevue, Burien, Kent, Seattle, Shoreline, Snoqualmie, and Tacoma. In the 2019 session, two bills passed that impact city B&O tax administration: **HB 1403** related to service income apportionment and **HB 1059** related to annual tax filing deadlines. The workgroup revised the model ordinance to include changes to RCW 35.102 and to reflect other changes made to state law since 2013. Cities must adopt mandatory changes to model ordinance with same effective date: January 1, 2020.

The model ordinance changes are as follows:

1. Definition of engaging in business

The model ordinance requires changes to RMC 5.01.030 (Section 1 of Ordinance No. 1523): Definition of “engaging in business” removes the section for contracting with the city to align with the model business license definition adopted by cities last year.

2. Service apportionment definition of customer location hierarchy.

The model ordinance requires changes to RMC 5.01.077(5) to (7) (Section 6 of Ordinance No. 1523): adopts changes to service apportionment tests, definition of business activity tax, customer, and customer location, and alternative apportionment process effective January 1, 2020, as provided in **HB 1403**. The former language is moved to the legislative intent section to provide a reference.

The previous version defined “customer location” as where the majority of the “contacts” occurred between the business and the customer. The new definition establishes a hierarchy of factors, depending on whether the customer is residential or business:

For a customer not engaged in business and if the service requires the customer:

- a. to be physically present, where the service is performed;
- b. not to be physically present:
 - i. the customer's residence; or
 - ii. if the customer's residence is not known, the customer's billing/mailing address.

For a customer engaged in business:

- a. where the services are ordered from;
- b. if the location from which the services are ordered is not known, the customer’s billing/mailing address; or
- c. at the customer's commercial domicile if none of the above is known.

3. Technical changes

- The model ordinance requires changes to RMC 5.01.060: Removes a reference to language repealed in 2008.
- The model ordinance requires changes to RMC 5.01.090(7): makes technical changes to update the RCW reference to the tax exemption for motor vehicle fuel.
- The model ordinance requires changes to RMC 5.01.030: Makes technical corrections to titles and individual words.

ORD 1524 – Chapter 5.01A – B&O Administration Code (1st reading) - Under the Washington State Constitution, the City of Ruston has the authority to assess and collect taxes for municipal purposes. The State Legislature has authorized cities and towns to license businesses for the purposes of regulation and revenue. Currently, forty Washington cities have adopted a business and occupation tax (hereinafter “B&O tax”). The B&O tax on business is measured by a percentage of the firm's gross receipts.

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2019 Revisions

This year, the State has again updated the model ordinance and required B&O cities to adopt these provisions. There are also some required changes to the B&O Administrative provisions code.

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The changes to the administrative provisions for the model code are as follows:

1. Annual tax filing deadline.

Administrative provisions in RMC 5.01A.040: Includes language linking the change to April 15 for annual tax return filing by referencing RCW 82.32.045 effective January 1, 2021, as provided in **HB 1059**. This is found in Section 1 of Ordinance No. 1524.

2. Apportionment Rule.

In addition, as part of the implementation of the change, a work group of city tax managers has drafted a proposed city B&O apportionment model rule to assist in uniformity of implementation. The City Clerk (as the Director to administer B&O taxes in Ruston) will be adopting this as permitted under RMC 5.01A.160 which provides.

5.01A.160 - Director to make rules.

The Director shall have the power, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter or with law for the purpose of carrying out the provisions of this chapter and it shall be unlawful to violate or fail to comply with, any such rule or regulation.

3. Conversion of Hearing Examiner System.

In addition to adopting the State-mandated revisions, Ordinance No. 1524 also updates Chapter 5.01A to allow a Hearing Examiner, rather than the City Council, to hear tax appeals under RMC 5.01A.140 as well as appeals of suspensions or revocations of business licenses under RMC 5.01A.230. This required revisions to the following section: RMC 5.01A.140, 5.01A.150, and 5.01A.230. This change also necessitated revisions to the City's code on Hearing Examiners, Chapter 1.20 RMC. Those changes are contained in Ordinance No. 1525.

ORD 1525 – Amendment to Ch. 1.20 RMC – Hearing Examiner Appeals (1st reading) –

During the course of updating Chapters 5.01 and 5.01A of the Ruston Municipal Code to adopt the State-mandated revisions for B&O tax, the City Attorney and Mayor recommend that the City Council also consider changing the body that hears appeals that may occur under these chapters from the City Council to the City Hearing Examiner. These changes are contained in Ordinance No. 1524.

That ordinance updates Chapter 5.01A to allow a Hearing Examiner, rather than the City Council, to hear tax appeals under RMC 5.01A.140 as well as appeals of suspensions or revocations of business licenses under RMC 5.01A.230.

This change also necessitated revisions to the City's code on Hearing Examiners, Chapter 1.20 RMC as contained in this attached Ordinance No. 1525. As previously written, the Hearing Examiner was limited to hearing land use matters. By revising sections 1.20.010, 1.20.020 and 1.20.050, the Hearing Examiner can be used to hear non-land use cases as established by the City Council. The Hearing Examiner will only be empowered to hear matters that the Council has assigned via adoption of ordinances. By making these changes, the Hearing Examiner can hear tax and business license matters, rather than the Council. The new ordinance also permits the City to appoint different Hearing Examiners as it deems fit. This is necessary in case our current Hearing Examiner does not have the expertise to hear tax and license matters.

CLAIMS/PAYROLL – Councilmember Hedrick moved to approve Claims and Payroll, with a second from Councilmember Hardin, passed 5-0

MAYOR'S TIME – Mayor Hopkins shared the City received the first quarterly Business and Occupation Tax payment from Republic Parking in the amount of \$7,198.68. The good news is that we are seeing revenue. The permit for Building 9/11 has been submitted to the City of Tacoma and will include 219 condominium units and significant retail space in the City of Ruston. Mayor Hopkins noted Silver Cloud Hotel's Public Relations/Communication Officer has reached out to the City and would like to meet with Council. Silver Cloud expects to open the hotel in the summer (June- August) 2020. Mayor Hopkins also noted the Public Market was coming along nicely. At a staff meeting, Mayor Hopkins and Public Works Ray Johnson discussed yard waste pick up and control cost. The recommendation was for the City move yard waste pick up to every other week between the months of January-April. Mayor Hopkins thanked Councilmember Huson for moving his business back into the City of Ruston.

COUNCIL TIME –

Councilmember Hedrick - Encouraged everyone turn in their ballots and vote.

Councilmember Hardin – Asked Mayor Hopkins if there was a response from Pierce County Assessor's Office. Mayor Hopkins noted there had been no response to date. Councilmember Hardin attended the Annual Ruston-Point Defiance Wine Walk. The weather cooperated and the Wine Walk was a successful and sold out event. There was also a great turn out for Halloween Trick or Treaters this year. Councilmember Hardin gave out 230 candy bars and turned the lights out at 8PM.

Councilmember Kristovich – Nothing at this time.

CITY OF RUSTON
Regular Council Minutes
November 5, 2019

Councilmember Syler – Nothing at this time.

Councilmember Huson – Nothing at this time

MEETING AJOURNED -

At 7:36PM Councilmember Hedrick moved to adjourn, with a second from Councilmember Hardin, passed 5-0.

Mayor Bruce Hopkins

ATTEST:

Judy Grams