

**CITY OF RUSTON  
REGULAR COUNCIL MEETING  
Tuesday, November 19, 2019**

**MEETING CALLED TO ORDER**

At 7:02PM Mayor Hopkins called the regular Council Meeting to order. Councilmembers present were Councilmember Hedrick, Councilmember Hardin, Councilmember Holland, Councilmember Syler and Councilmember Huson. Following the flag salute, Mayor Hopkins called for approval of the agenda. Councilmember Hedrick moved to amend the agenda to add Item 6 – Community Development Update by City Planner Rob White and add Executive Session after Council Time to adjourn directly after. With a second from Councilmember Hardin the agenda, as amended, passed 5-0.

**MINUTES**

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

**STAFF REPORT –**

Ruston Police - Chief Bautista – Nothing at this time.

Ruston Fire – Chief Allen – See attached.

**GENERAL PUBLIC COMMENTS –**

**Jennifer Jensen** – Noted the City of Tacoma mailed notification to residents regarding a proposal submitted by Point Ruston LLC for an Environmental Review (SEPA Checklist) to incorporate an additional 683 residential units, 171,000 square feet of commercial space, 1,720 parking spaces and update the previous plans to include a new building and associated parking area, modifying the Final Supplemental Environmental Impact Statement (FSEIS) for the development. The Environmental Review also included an updated Traffic Report that reassesses the project’s potential transportation impacts and indicates that changes to the traffic mitigation required under the FSEIS should be made. Ms. Jensen encouraged residents to make public comment from now until November 22, 2019 and provided contact information.

**Pat Cummings** – Mr. Cummings had general questions related to the Point Ruston Development and the tax deferment, delinquent taxes, growth, traffic impacts, affordable housing and parking. Mr. Cummings was concerned about the impacts Point Ruston’s submission for an Environmental Review would have to the City of Ruston. City Planner, Rob White, would address Mr. Cummings concerns during Mr. White’s Community Development Update under Business item #6.

**BUSINESS** –

**ORD 1523 – B&O Tax Chapter 5.01 RMC Revisions (2nd 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**

- o The model ordinance requires changes to RMC 5.01.060: Removes a reference to language repealed in 2008.
- o 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.
- o The model ordinance requires changes to RMC 5.01.030: Makes technical corrections to titles and individual words.

Councilmember Hedrick moved to pass Ordinance 1523, with a second from Councilmember Hardin, passed 5-0.

**ORD 1524 – Chapter 5.01A – B&O Administration Code (2nd 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. There are also some required changes to the B&O Administrative provisions code. 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 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.

Councilmember Hedrick moved to approve Ordinance 1524, with a second from Councilmember Hardin, passed 5-0.

**ORD 1525 – Amendment to Ch. 1.20 RMC – Hearing Examiner Appeals (2nd 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. Councilmember Hedrick moved to approve Ordinance 1525, with a second from Councilmember Hardin, passed 5-0.

**ORD 1527 – Tax Levy FY 2020 (1<sup>st</sup> reading)** - As part of the budget process, Ruston will consider a budget and the revenue sources for City operations and capital expenses. As part of that process, the City is required to hold a public hearing on this topic. The public hearing on revenue sources is currently scheduled to coincide with Second Reading of Ordinance No. 1527 on November 26, 2019. Ruston is required to adopt its property tax levy in November of each year by ordinance and transmit a certified copy of the ordinance to Pierce County Assessor-Treasurer and to the Pierce County Council no later than November 30<sup>th</sup>. A Levy Certification must also be transmitted with the Ordinance. Adoption of this Ordinance should be scheduled on the agenda for after the public hearing on the revenue during the meeting on **November 26, 2019**. This levy ordinance increases the property taxes levied by Ruston by the maximum amount allowed by law (one percent plus new construction, etc.). The total estimated 2020 levy amount is **\$593,076.53**, which includes additional property tax estimated from new construction (**\$42,895.19**, based on a new construction value of \$24,779,200.00) and the estimated additional revenue from the increase in administrative refunds (**\$50,076.54**). In 2019, the City collected \$496,033.07.

**Community Development Update – City Planning Director Rob White** – See attached.

**PAYROLL** – Councilmember Hedrick moved to approve Payroll, with a second from Councilmember Hardin, passed 5-0

**MAYOR'S TIME** – Mayor Hopkins shared the City was battling with garbage service and City of Tacoma has back billed Ruston over \$44,000 for yard waste disposal that was never previously charged. The City of Ruston is required to pay this bill which is funded by the solid waste funds and the City is running in a deficit. Mayor Hopkins acknowledged City Planner, Rob White, for all of his great work on behalf of the City of Ruston.

**COUNCIL TIME** –

**Councilmember Hedrick** - Nothing at this time.

**Councilmember Hardin** – Read a letter, written by Mike Lonergan, Pierce County Assessor, which addressed City of Ruston and Pierce County Assessor’s Office discussions and decision related to the reduction of property taxes at the Point Ruston development. Councilmember Hardin felt the letter was confusing and self-serving.

**Councilmember Holland** – Nothing at this time.

**Councilmember Syler** – Nothing at this time.

**Councilmember Huson** – Nothing at this time

**EXECUTIVE SESSION** – **Potential Litigation RCW 42.30.110 (1)(I)** – **Estimated 15 Minutes**

**MEETING AJOURNED DIRECTLY AFTER EXECUTIVE SESSION** -

Councilmember Hedrick moved to adjourn, with a second from Councilmember Hardin, passed 5-0.

\_\_\_\_\_  
Mayor Bruce Hopkins

ATTEST:

\_\_\_\_\_  
Judy Grams



Ruston Fire Department | 5117 North Winnifred | Ruston, WA 98407

## **Ruston Fire Department Monthly Review for October 2019**

Tuesday, November 19<sup>th</sup>, 2019

Presented by Chief Bruce Allen

**Total Incidents: 6 (2 Fire/ Service, 4 Medical Aid)**

**Total Volunteer Hours: Total 7444 Hours October 1124 Hours**

**Membership Roster 24 (out of 25): (20 FF, 4 Officers)**

**Recent Membership Changes: Two left, one added**

### **State of the Business:**

- We have 5 members at the Browns Point Academy and 4 attending EMT school, both classes finish mid, December
- Captain Anderson just completed a class in High Rise firefighting
- We welcomed 1 new member, Natalie Snow, an EMT with 9 years of experience
- Engine 33 is back together and is starting the Pump Testing later this week
- All fire tools are fully operational
- We so many people interested in becoming firefighters for our community now, we have started a hiring list of potential applicants.
- We looking forward to the Christmas Tree lighting on December 7<sup>th</sup> at 6:00 PM

### **Ruston Fire Department's Master Business Objectives for October 2019**

<b>OBJECTIVE</b>	<b>START DATE</b>	<b>TARGET COMPLETION</b>	<b>COMPLETE</b>	<b>ACTION OWNERS</b>
Recruitment	10/2019	<i>ongoing</i>	24 of 25	B. Allen
CPR Training	10/2019	<i>ongoing</i>	100%	S. Anderson
Fire Training	10/2019	<i>ongoing</i>	100%	M. Anderson

# Community Development Update

November 19, 2019


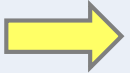






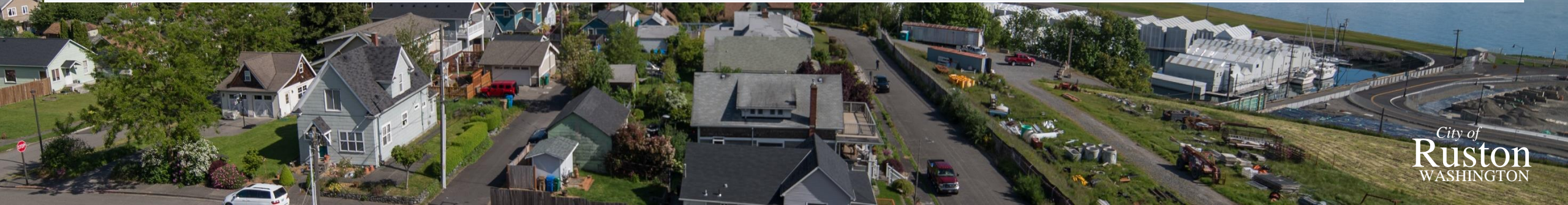
# Grant Pipeline Update

Grant	Prep	Submit	Award	Design	Bid	Construction	Complete
<b>TIB:</b> Complete Streets 51 <sup>st</sup> /Winnifred (\$250K)							
<b>Ecology:</b> Pearl Street Storm Water Project (\$835K)							
<b>Commerce:</b> Long-Range Planning Grant (\$50K)							
<b>TIB:</b> Highland Street Pedestrian Improvements (\$750K)							
<b>TIB:</b> 52 <sup>nd</sup> Street Repaving Project (\$600K)							
<b>TIB:</b> Chip Seal Maintenance Program (\$200K)							
<b>EPA/Ecology:</b> Rust Park Remediation Project							
<b>RCO:</b> Rust Park Improvement Grants							



# Long-Range Planning Update

Project	Grant?	Draft Prep	Planning Commission & Public Process	SEPA GMA	Council	Adopted
<b>Zoning Code Update:</b> Map/Graphic Revisions, Integrate Form-Based Code and all MDPs	<input checked="" type="radio"/>					
<b>Comprehensive Plan:</b> Parks, Recreation, Open Space and Tourism Plan (PROS Plan)	<input checked="" type="radio"/>					
<b>Comprehensive Plan:</b> Capital Facilities Plan	<input type="radio"/>					
<b>Comprehensive Plan:</b> On-Street Parking and Pedestrian Improvement Plan	<input checked="" type="radio"/>					
<b>Six Year TIP:</b> Sidewalk/Roadway Maintenance Program	<input type="radio"/>					
<b>Impact Fees:</b> Parks, Transportation, Sewer, etc.	<input type="radio"/>					



# Current Development Highlights

Project	SEPA	SPR	Permits	Construction	Occupancy
<b>Carriage House Mixed Use</b> 5121 N Pearl Street	→				
<b>North End on Pearl Pub</b> 5037 N Pearl Street	→				
<b>Silver Cloud Hotel</b> 5125 Grand Loop	→				
<b>Ruston Market</b> 5101 Ruston Way	→				
<b>Building 11/9 Mixed Use</b> 5101 Ruston Way	→				



# Point Ruston FEIS Addendum

Comparison Element	Current FEIS	Proposed FEIS Addendum	Proposed Change
<b>Residential Density</b>	800 - 1000 Units	1528 Units	+528 Units
<b>Commercial/Office Sq/Ft</b>	130,000 - 228,000 sq/ft	456,000 sq/ft	+228,000sq/ft and Building 10C
<b>Open Space</b>	50 Acres	57 Acres	+7 Acres
<b>Traffic</b>	TIA with Specific Mitigation	Measured Approach	Varies by Location
<b>Parking</b>	3,700 Stalls	4,639 Stalls	+939 Stalls

# Point Ruston FEIS Addendum

Concern Area	Comments/Questions on Proposed Change
<b>Traffic</b>	<ul style="list-style-type: none"><li>- Baltimore Street Improvements should remain</li><li>- Ruston Way Measured Approach vs Existing TIA</li></ul>
<b>Emergency Services</b>	<ul style="list-style-type: none"><li>- Police and Fire Services Mitigation Needed</li></ul>
<b>Open Space</b>	<ul style="list-style-type: none"><li>- Revised analysis detailing sq/ft by type of open space</li><li>- Promontory Hill Park design/construction schedule</li><li>- 52<sup>nd</sup> Street pedestrian and alley access</li><li>- Central Ave pedestrian access, Building 10A/B to Baltimore</li></ul>
<b>Zoning/PRMDP</b> (Building 10C/Plazas)	<ul style="list-style-type: none"><li>- PRMDP Amendment Required or Adopt underlying Form-Based Code updates.</li></ul>



# Community Development Update

