

JUN 24 2019

RESOLUTION NO. 2019-27

MARK CHURCH, Chief Elections Officer

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BRISBANE, CALIFORNIA CALLING A SPECIAL MUNICIPAL
ELECTION TO BE CONSOLIDATED WITH THE GENERAL
ELECTION ON NOVEMBER 5, 2019, FOR SUBMISSION TO THE
VOTERS OF A PROPOSED ORDINANCE TO AMEND AND
POTENTIALLY INCREASE THE BUSINESS LICENSE TAX FOR
LIQUID STORAGE FACILITIES



WHEREAS, the City has established a business license tax, as set forth in Chapter 5.20 of the Brisbane Municipal Code, and Section 5.20.011 of the Brisbane Municipal Code imposes a tax on any person engaged in the business of operating, leasing, supplying or providing liquid storage facilities as an alternative to the gross receipts business license tax; and

WHEREAS, the City Council desires to place a ballot measure before the voters at the November 5, 2019 election to revise the tax, and thereby to potentially increase the tax, on liquid storage facilities, in order to provide additional revenue for general municipal expenses; and

WHEREAS, the City's business license tax is a general tax and any increase thereof is subject to approve of a majority of the voters voting upon the proposed increase at a regularly-scheduled election at which members of the Brisbane City Council will be elected; and

WHEREAS, November 5, 2019 is the next regularly scheduled election at which members of the Brisbane City Council will be elected and it is desirable to consolidate this special election with that general election.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRISBANE, CALIFORNIA, AS FOLLOWS:

SECTION 1. ELECTION CALLED

The City Council of the City of Brisbane hereby calls a special municipal election, to be consolidated with the general election on Tuesday, November 5, 2019, at which there shall be submitted for approval by the voters of the City of Brisbane a proposed ordinance amending Chapter 5.20 of the Brisbane Municipal Code by amending Section 5.20.011 to revise, and potentially increase, the business license tax on liquid storage facilities.

SECTION 2. FULL TEXT OF PROPOSED ORDINANCE

The complete text of the propose ordinance shall read as follows:

Full text starts



"AN ORDINANCE OF THE CITY OF BRISBANE TO AMEND SECTION 5.20.011 OF THE BRISBANE MUNICIPAL CODE TO REVISE AND POTENTIALLY INCREASE THE BUSINESS LICENSE TAX ON LIQUID STORAGE FACILITIES"

The People of the City of Brisbane hereby ordain as follows:

Section 1. Section 5.20.011 of the Brisbane Municipal Code is amended to read as follows:

"Section 5.20.11 Liquid Storage Facilities

- A. Any person engaged in the business of operating, leasing, supplying or providing a liquid storage facility shall pay an annual business license tax of up to six cents per barrel delivered over the rack in the preceding calendar year, with the exact rate to be

determined each year by the Brisbane City Council; provided, however, that the tax imposed on SFPP, L.P. (or its successor) for the liquid storage facility at the Brisbane Terminal, located at 950 Tunnel Avenue, Brisbane, CA shall in no event be more than \$400,000 annually.

- B. The annual amount of liquid storage facilities business license tax payable by any person shall be reduced by the amount of sales or use tax received by the City attributable to such person, or sales tax attributable to other persons, based on sales of liquid storage facilities as the point of sale, during the same calendar year (the "sales tax credit").

Full Text Ends

SECTION 3. TEXT OF BALLOT MEASURE

The proposed ordinance to revise/increase the business license tax charged to liquid storage facilities shall be presented for approval by the voters as the following ballot measure:

Ballot Question

To pay for general municipal expenses, shall the City revise/increase ¹¹ the annual business license tax on a liquid storage facility of up to six ¹⁴ cents per barrel delivered over the rack to such facility in the ¹² preceding calendar year? ³

(42)

The ballot measure shall be designated on the ballot by a letter printed on the left margin of the square containing the description of the measure, as provided in California Election Code Section 13116.

SECTION 4. REQUEST TO CONSOLIDATE, CONDUCT ELECTION AND CANVASS RETURNS

The Board of Supervisors of the County of San Mateo is hereby requested to authorize the County Clerk;/Registrar of Voters to render all services necessary and proper for the conduct of the special municipal election called by the Resolution. Pursuant to California Elections Code Section 10403, the City Council hereby requests that the San Mateo County Board of Supervisors consolidate that election with the election to be held on November 5, 2019, and order the special municipal election to be conducted by the Registrar of Voters. The San Mateo County Elections Department is authorized to canvass the returns of the special election.

The City Clerk's Office is authorized, instructed and directed to work with the County Elections Division as needed in order to properly and lawfully conduct the election. The ballots to be used in the election shall be in the form and content as required by law. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 5: PUBLICATION OF MEASURE

The City Clerk's Office is directed to cause notice of the measure to be published once in accordance with Section 12111 of the State Elections Code.

SECTION 6: REQUIRED VOTER APPROVAL AND EFFECTIVE DATE

If a majority of the voters voting upon the ballot measure vote in its favor, the proposed ordinance shall become a valid and binding ordinance of the City of Brisbane. The ordinance shall be considered as adopted on the date that the vote is declared by the City Council and shall go into effect on that date or such other date as may be specified by the City Council.

SECTION 7: PROCEDURE FOR ARGUMENTS AND REBUTTALS

As provided in Elections Code, section 9285, the City Council authorizes, on behalf of the City Council, a committee of the City Council to file a written Argument For the measure, and a committee of the City Council to file a Rebuttal argument (should an Argument Against the measure be filed) and other Council members may sign such Argument/Rebuttal. Any individual voter who is eligible to vote on the measure or bona fide association of citizens or combination of voters and associations may also submit a written argument for or against the measure. Such argument, whether For or Against, shall not exceed 300 words and be accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, in accordance with Article 4, Chapter 3, Division 9 of the Election Code of the State of California. Primary arguments For or Against the measure must be submitted to the City Clerk by August 15, 2019. The Rebuttal arguments must be submitted to the City Clerk by August 25, 2019 and shall not exceed 250 words.

SECTION 8: IMPARTIAL ANALYSIS

Pursuant to Elections Code Section 9280, the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, and directs the City Attorney to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure. The analysis shall be printed preceding the arguments For and Against the measure. The analysis shall not exceed 500 words in length. The impartial analysis shall be filed by the date set by this resolution for the filing of primary arguments.

SECTION 9: FULL TEXT OF ORDINANCE

✓ The full text of the Ordinance shall be printed in the Voter Information Pamphlet.

SECTION 10: CONDUCT OF ELECTION

The election on said ballot measure shall be consolidated with the general municipal election to be held on November 5, 2019.

SECTION 11. CEQA

The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code Sections 21000 et seq., "CEQA," and 14 Cal Code Reg. Sections 15000 et seq., "CEQA Guidelines"). The tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action or actions. As such, under CEQA Guidelines Section 15378(b)(4) the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant impact on the environment. If revenue from the tax were used for a purpose that would have such effect, the City would undertake the required CEQA review for that particular project. Therefore, Guidelines Section 15060 review under CEQA is not required.

SECTION 12: PASSAGE OF THIS RESOLUTION

This business license tax is a general tax requiring the approval of a majority of qualified electors casting votes. This Resolution must be approved by a two-thirds vote of the Council.


Madison Davis, Mayor

I hereby certify that the foregoing Resolution No. 2019-27 was duly and regularly adopted at the meeting of the Brisbane City Council on June 6, 2019 by the following vote:

AYES: Councilmembers Cunningham, Lentz, O'Connell and Mayor Davis

NOES: None

ABSENT: Councilmember Conway



Ingrid Padilla, City Clerk

CERTIFIED TO BE A TRUE COPY



CITY OF BRISBANE
CITY CLERK