

RESOLUTION NO. 2011-35

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE CALLING A SPECIAL MUNICIPAL ELECTION TO BE CONSOLIDATED WITH THE GENERAL ELECTION ON NOVEMBER 8, 2011, FOR SUBMISSION TO THE VOTERS OF A PROPOSED ORDINANCE TO INCREASE THE BUSINESS LICENSE TAX ON CERTAIN RECYCLING ESTABLISHMENTS

WHEREAS, the City has established a business license tax, as set forth in Chapter 5.20 of the Brisbane Municipal Code; and

WHEREAS, Section 5.20.100 of the Brisbane Municipal Code imposes a tax upon persons carrying on the business of operating a refuse transfer station; and

WHEREAS, the City Council desires to increase the tax on certain recycling establishments in order to provide additional revenue for general municipal expenses; and

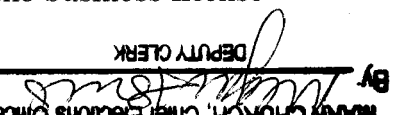
WHEREAS, the City's business license tax is a general tax and any increase thereof is subject to approval a majority of the voters voting upon the proposed increase at a regularly-scheduled election at which members of the Brisbane City Council are being elected; and

WHEREAS, November 8, 2011, is the next regularly-scheduled election at which members of the Brisbane City Council will be elected,

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 8, 2011, at which there shall be submitted for approval by the voters of the City of Brisbane a proposed ordinance amending Section 5.20.100 of the Brisbane Municipal Code to increase the business license tax charged to certain recycling establishments.

FILED
IN THE OFFICE OF THE
CHIEF ELECTIONS OFFICER
OF SAN MATEO COUNTY, CALIF.
JUL 25 2011
By 
MARK CHURCH, CHIEF ELECTIONS OFFICER
DEPUTY CLERK

SECTION 2: FULL TEXT OF PROPOSED ORDINANCE

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

"AN ORDINANCE OF THE CITY OF BRISBANE AMENDING SECTION 5.20.100 OF THE BRISBANE MUNICIPAL CODE TO INCREASE THE BUSINESS LICENSE TAX CHARGED TO CERTAIN RECYCLING ESTABLISHMENTS

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

§1: Section 5.20.100 in Chapter 5.20 of the Brisbane Municipal Code is amended in its entirety to read as follows:

5.20.100 Recycling establishments

(a) **Definition of recycling establishment.** As used in this Section 5.20.100, the term "recycling establishment" means an establishment engaged in the business of collecting, sorting, cleansing, treating, processing, or reconstituting waste or other discarded materials for the purpose of reuse in altered form. Notwithstanding the foregoing, for the purposes of this Section 5.20.100 the term "recycling establishment" shall not include any of the following:

- (1) A "scavenger," as defined in Section 8.24.010.F of this Code, having a contract with the City to collect garbage, rubbish and waste matter pursuant to Chapter 8.24 of this Code.
- (2) An "authorized recycling agent," as defined in Section 8.32.020.A of this Code, having a contract with the City to collect recyclable materials pursuant to Chapter 8.32 of this Code.
- (3) An "applicant," as defined in Section 15.75.010 of this Code, engaged in the performance of a "covered project," as defined and governed by Chapter 15.75 of this Code pertaining to construction and demolition debris.
- (4) An establishment primarily engaged in the recycling of soil, including the incidental recycling of rock, stone, concrete or rebar.

(b) **Business license fee.** Every recycling establishment in the City, as defined in Paragraph (a) of this Section, that recycles 100,000 tons or more of material during any single calendar year shall pay a business license fee of up to three million dollars (\$3,000,000) per year, subject to adjustment in accordance with Paragraph (c) of this Section. The business license fee imposed by this Section shall become effective in an amount to be selected by the City Council up to the authorized ceiling amount on such date as may be established by resolution of the City Council. From and after such effective date, the business license fee shall be

paid in two equal installments, due not later than January 1st and July 1st of each year.

(c) **Annual adjustment.** For the calendar year beginning on January 1, 2013 and on January 1st of each calendar year thereafter (the "Adjustment Date"), the business license fee payable under Paragraph (b) of this Section may be increased to any amount within the authorized ceiling of three million dollars (\$3,000,000) per year. On any Adjustment Date after the business license fee has been set at the authorized ceiling of three million dollars (\$3,000,000) per year, the business license fee payable under Paragraph (b) of this Section shall be whichever of the following amounts is the greater: (i) the fee charged for the immediately preceding year plus three percent (3%) of such fee; or (ii) \$3,000,000 plus an amount obtained by multiplying \$3,000,000 by a fraction, the numerator of which shall be the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, for Urban Wage Earners and Clerical Workers, All Items, for the San Francisco-Oakland Statistical Area ("CPI") published nearest to the Adjustment Date, the and denominator of which shall be the CPI published nearest to the date the business license fee was set at \$3,000,000 per year. The City Council may, by resolution, adopt a business license fee for any calendar year in an amount below the maximum fee that could be charged under the 3% or CPI adjustment provided herein.

§2: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3: TEXT OF BALLOT MEASURE

The proposed ordinance for increase to the business license tax charged to certain recycling establishments shall be presented for approval by the voters as the following ballot measure:

Shall the business license tax for certain recycling establishments that recycle 100,000 tons or more of material during any single calendar year be increased to up to \$3,000,000 per year, subject to annual increase of either 3% or the percentage increase in the Consumer Price Index, whichever is greater, after the amount reaches \$3,000,000 per year?

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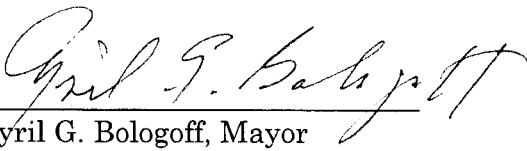
SECTION 4: REQUIRED VOTER APPROVAL AND EFFECTIVE DATE

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 5: CONDUCT OF ELECTION

The election on said ballot measure shall be consolidated with the general municipal election to be held on November 8, 2011, and shall be conducted in accordance with the provisions of Resolution No. 2011-16 adopted by the City Council on June 20, 2011.


Cyril G. Bologoff, Mayor

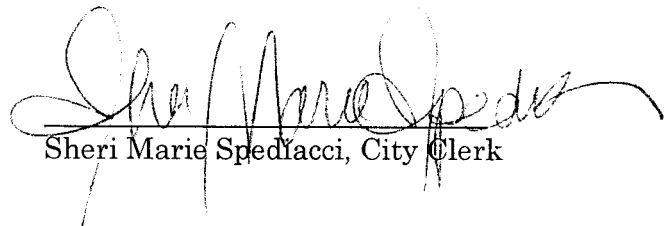
I hereby certify that the foregoing Resolution No. 2011-32 was duly and regularly adopted at the regular meeting of the Brisbane City Council on July 5, 2011 by the following vote:

AYES: Councilmembers Conway, Lentz, Richardson, and Mayor Bologoff

NOES: None

ABSTAIN: None

ABSENT: Councilmember Waldo


Sheri Marie Spedacci, City Clerk