

City of Brisbane

Agenda Report

TO: Mayor and City Council

FROM: Hal Toppel, City Attorney

SUBJECT: Amendment to Garbage Collection Ordinance

DATE: For Council Meeting on May 20, 2013.

City Council Goals:

To provide for effective and efficient delivery of City services. (Goal #1).

To promote economic development that stabilizes and diversifies the tax base. (Goal #4).

Purpose:

The purpose of Ordinance No. 581 is to amend Chapter 8.24 of the Municipal Code, concerning the award of contracts for garbage collection service, to allow the establishment of multiple garbage collection zones within the City and the award of a separate franchise agreement for each zone.

Recommendation:

Introduce Ordinance No. 581, with adoption at the next regular meeting of the City Council. A proposed resolution will be presented to the City Council at the next meeting, for adoption immediately following adoption of the ordinance, to establish separate garbage collection zones having the boundaries shown by a Zone Map that will be attached to the resolution.

Background and Discussion:

The existing provisions of Chapter 8.24 of the Municipal Code contemplate that a single franchise agreement will be awarded to one party for collection of garbage, rubbish and other solid waste matter throughout the entire City. However, the award of an exclusive right to provide this service, while having been the usual practice in the past, is not mandated by state law. The City Council may determine that it is in the best interest of the City to award multiple franchises to different scavenger companies, with each agreement giving the scavenger the right to provide service only within a specified geographical area of the City.

The proposed amendment will allow the City Council to establish, by resolution, separate garbage collection zones. A definition of the term "zone" would be added to Section 8.24.010 and a new Section 8.24.055 would be added to provide for the establishment of multiple solid waste collection zones and the award of a separate contract for each zone. Amendments to Section 8.24.050 would also be made to reflect the award of multiple contracts instead of a single City-wide franchise.

Section 8.24.140 of the existing Code is unrelated to zones but is being amended because it states that all refuse collected by the scavenger must be disposed of at a dump. The amended language will include recycling and further state that the scavenger must comply with all applicable laws and regulations that promote recycling and minimize the quantity of material disposed of in a land fill.

The proposed ordinance will delete the requirement for a bond (which can be included in the franchise agreement if the Council deems such requirement to be appropriate) and will also update the list of persons having authority to enforce Chapter 8.24 to include all of the officials designated in BMC §1.14.010 (the general code enforcement section).

Fiscal Impact:

None. The ordinance, in itself, will not establish any zones or change the existing solid waste collection service. It merely sets the stage for these changes to be made in the future.

Measure of Success:

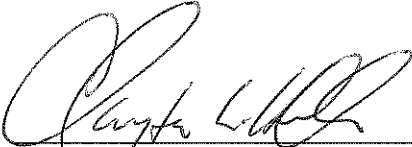
Establishment of collection zones after adoption of the ordinance and award of separate contracts for each zone.

Attachments:

Proposed Ordinance No. 581.



City Attorney



Clay Holstine, City Manager

ORDINANCE NO. 581

**AN ORDINANCE OF THE CITY OF BRISBANE AMENDING
CHAPTER 8.24 OF THE MUNICIPAL CODE TO PROVIDE FOR THE
ESTABLISHMENT OF MULTIPLE SOLID WASTE COLLECTION
ZONES**

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: The City Council hereby finds and determines as follows:

A. Chapter 8.24 of the Municipal Code establishes a process for the award of contracts or franchise agreements for the collection and disposal of refuse, which is defined to include garbage, rubbish and waste matter.

B. Since the original adoption of Chapter 8.24, the City has awarded a single franchise agreement to one scavenger, authorizing that person to collect refuse throughout the entire City.

C. The existing provisions of Chapter 8.24 contemplate that a single franchise agreement covering the entire City will continue to be awarded in the future.

D. The City Council has determined that it may be in the best interest of the City to award multiple franchise agreements for the collection of refuse, with each agreement covering a separate geographic area, or zone, of the City. In order to consider this alternative, it is necessary to amend Chapter 8.24 to provide for the establishment of multiple solid waste collection zones.

SECTION 2: A new Paragraph H is added to Section 8.24.010 in Chapter 8.24 of the Municipal Code, to read as follows:

H. "Zone" means a specific geographic area of the City designated in a franchise agreement with a scavenger as the territory for which solid waste collection services shall be provided by that scavenger.

SECTION 3: Section 8.24.050 in Chapter 8.24 of the Municipal Code is amended to read as follows:

§8.24.050 Award of contract for collection and disposal of refuse.

The City Council may award one or more contracts or franchises for the collection and disposal of refuse to one or more persons which the Council believes best qualified and equipped to perform the work of a scavenger. The contract shall require the scavenger to collect, remove and dispose of refuse within the geographic area of the City designated in the contract, in accordance with the provisions of this Chapter and in conformance with such regulations as may be prescribed by the health officer, or such other officer as may be hereafter designated by City, and shall fix the compensation to be paid the scavenger therefor. It shall require the scavenger to carry workmen's compensation insurance and property damage and general liability insurance in amounts to be determined by the Council. Such contract may be subject to renewal if, in the discretion of the City Council, time, circumstances and conditions warrant such renewal.

SECTION 4: A new Section 8.24.055 is added to Chapter 8.24 of the Municipal Code, to read as follows:

§8.24.055 Establishment of solid waste collection zones

The City Council may, by resolution, establish two or more solid waste collection zones within the City and may award a separate franchise agreement for each zone to a different scavenger.

SECTION 5: Section 8.24.140 in Chapter 8.24 of the Municipal Code is amended to read as follows:

§8.24.140 Disposal of garbage

All refuse collected by the scavenger shall be recycled or disposed of at a dump. The scavenger shall comply with all applicable state laws and regulations, City ordinances, and provisions of the franchise agreement designed to promote recycling and minimize the quantity of material disposed of in a land fill.

SECTION 6: Section 8.24.150 in Chapter 8.24 of the Municipal Code is amended to read as follows:

§8.24.150 Enforcement officers.

In addition to all of the public officials designated in Section 1.14.010 as having authority to enforce the provisions of the Municipal Code, the City health

officer and his or her authorized representatives, and the Chief or acting Chief of any fire protection agency within the City, shall be the enforcement officers under this Chapter, and they shall have the right to enter upon any and all premises for the purposes of determining the sanitary conditions thereof and ascertaining whether any provisions of this Chapter have been violated.

SECTION 7: 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. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 8: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, 2013, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Raymond C. Miller, Mayor

ATTEST:

Sheri Marie Spediacci, City Clerk

APPROVED AS TO FORM:

Harold S. Toppel, City Attorney