

City of Brisbane
Agenda Report

TO: Honorable Mayor and Council

FROM: David Kahn, City Attorney, through City Manager

SUBJECT: Adoption of Resolution Implementing The Business License Tax for Liquid Storage Facilities Under Section 5.20.011 of the Brisbane Municipal Code

DATE: June 19, 2014

City Council Goals

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

To develop management and fiscal systems to maximize effectiveness of city services and accountability to Brisbane taxpayers and citizens (11)

Purpose

The purpose of this resolution is to establish for the 2014 calendar year the amount for implementation of the business license tax charged to liquid storage facilities pursuant to Section 5.20.011 of the Brisbane Municipal Code.

Recommendation

Adopt Resolution No. 2014-20.

Background and Discussion

At the general election in November, 2013, the Brisbane voters approved an annual business license tax on persons engaged in the business of operating, leasing, supplying or providing a liquid storage facility in the City of Brisbane. The ballot measure added Section 5.20.011 to the Brisbane Municipal Code, allowing the City to impose up to a maximum business license tax of \$115.28 per year for each 1,000 cubic feet of liquid storage capacity.

Immediately after voter approval of the ballot measure providing for the liquid storage facility license fee, the City initiated discussions and negotiations with Kinder-Morgan, owner of the largest liquid storage facility in Brisbane, about the timetable for implementation of the liquid storage business license tax. These discussions have been continuing for several months, and have been complicated by the recent departure of one of Kinder-Morgan's users of its liquid storage facilities without a replacement user at this time.

The first liquid storage business license tax payment under the voter-approved ordinance is for calendar year 2014, and the City needs to adopt an implementing resolution for the 2014 calendar year prior to June 30, 2014. Due to the continuing discussions with Kinder-Morgan about an equitable schedule for full implementation of the business license tax, it was not possible to agree on an implementation schedule past the 2014 fiscal year prior to June 30, 2014. As a compromise, the City proposed and Kinder-Morgan agreed that the implementing resolution prior to June 30, 2014, would be for the 2014 calendar year with the expectation that continuing discussions will result in a subsequent implementing resolution with the full implementation schedule for the 2015 calendar year and future years.

Fiscal Impact

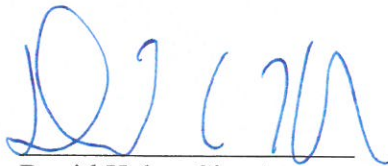
The approval of this resolution will result in a business license tax of \$135,000 for the 2014 calendar year from Kinder-Morgan, and potentially other license tax payments from other liquid storage facilities in the City.

Measure of Success

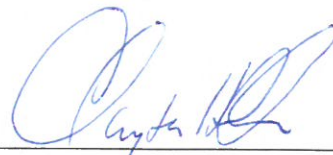
Receipt of the higher liquid storage facility business license tax at the time and in the amount established by Resolution 2014-20.

Attachment:

Resolution No. 2014-20.



David Kahn, City Attorney



Clay Holstine, City Manager

RESOLUTION NO. 2014-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE ESTABLISHING THE BUSINESS LICENSE TAX CHARGED TO LIQUID STORAGE FACILITIES PURSUANT TO SECTION 5.20.011 OF THE BRISBANE MUNICIPAL CODE

WHEREAS, Section 5.20.011 of the Brisbane Municipal Code imposes an annual business license tax on persons engaged in the business of operating, leasing, supplying or providing a liquid storage facility in the City; and

WHEREAS, the business license tax for liquid storage facilities, as set forth in Section 5.20.011.A, is up to a maximum \$115.28 (one hundred fifteen dollars and twenty-eight cents) per year for each 1,000 (one thousand) cubic feet of liquid storage capacity; and

WHEREAS, since enactment of Section 5.20.011 by the voters at the consolidated election of November 5, 2013, the City has been engaged in discussions with Kinder-Morgan, the current owner of the Tank Farm on Tunnel Avenue, over various issues relating to implementation of the measure, and these discussions are continuing; and

WHEREAS, notwithstanding the continuing discussions regarding implementation, the City Council desires at this time to fix the business license tax charged to liquid storage facilities for the calendar year 2014.

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

1. The annual business license tax charged to liquid storage facilities for the calendar year 2014 shall be \$38.91 for each 1,000 (one-thousand) cubic feet of liquid storage capacity.
2. Notwithstanding any amount that would otherwise be payable pursuant to Paragraph 1, the business license tax for liquid storage facilities exceeding 1,000,000 cubic feet of capacity in the 2014 calendar shall be \$135,000 per facility, reduced by any offsets have been deducted as provided in Section 5.20.011.B;
3. Payment of the business license tax for liquid storage facilities is due in full on or before June 30, 2014;
4. The City shall continue to discuss with Kinder-Morgan the implementation of the annual business license tax for liquid storage facilities provided, however, that the City retains discretion as to all aspects of such implementation, including but not limited to the amount and timing of adjustments to the annual business license tax amount.

W. Clarke Conway, Mayor

I hereby certify that the foregoing Resolution No. 2014-20 was duly and regularly adopted at the regular meeting of the Brisbane City Council on June 19, 2014, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sheri Marie Spediacci, City Clerk