



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** March 17, 2022

**From:** Abby Partin, Human Resources Administrator

**Subject:** Resolution Amending Resolution No. 96-44 Respecting Delegation of Authority to the City Manager to Make Determinations Under Government Code Section 21025 Pertaining to Disability Retirements

### **Community Goal/Result**

Fiscally Prudent

### **Purpose**

Ensure the City is able to efficiently process paperwork related to disability retirements in alignment with Government Code (GC), Section 40601 titles.

### **Recommendation**

Adopt the resolution to amend Resolution 96-44 with the current Mayor or Mayor Pro Tempore signature.

### **Background**

On August 26, 1996, the City Council signed Resolution No. 96-44, delegating the authority to the City Manager to make determinations under Government Code, Section 21025 pertaining to disability retirements.

### **Discussion**

On February 14, 2022, staff received a letter from California Public Employees' Retirement System (CalPERS) stating that an employee has filed an application for industrial disability retirement. Staff provided CalPERS with necessary documentation to finalize the process, but after receipt and further review of the Delegation of Authority Resolution, CalPERS was unable to accept the documentation submitted due to signature and title approving the Resolution. The resolution was signed by then Acting Mayor, Lee J. Panza, in absence of then current Mayor Waldo. The title Acting Mayor does not align with GC, section 40601 language stating that a Mayor Pro Tempore has all powers of the Mayor in their absence. While both Acting Mayor and Mayor Pro Tempore titles may allow to exercise powers of the Mayor, CalPERS will not make those assumptions and therefore is requiring the City to submit a new Delegation of Authority Resolution with proper signature(s) and title(s).

### **Fiscal Impact**

There is no fiscal impact associated with this Resolution amendment.

**Measure of Success**

The City is able to efficiently process retirement determinations and employer-generated disability retirement applications.

**Attachments**

Resolution No. 2022-\_\_  
Government Code, Section 40601  
Resolution No. 96-44



---

Abby Partin, Human Resources  
Administrator

*Clayton L. Holstine*  
Clay Holstine, City Manager

**RESOLUTION NO 2022- \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE  
AMENDING RESOLUTION NO. 96-44 RESPECTING DELEGATION OF AUTHORITY  
TO THE CITY MANAGER TO MAKE DETERMINATIONS UNDER GOVERNMENT  
CODE SECTION 21025 PERTAINING TO DISABILITY RETIREMENTS**

**WHEREAS**, the City of Brisbane is a contracting agency of the California Public Employees' Retirement System; and

**WHEREAS**, the Public Employees Retirement Law requires that a contracting agency determine whether an employee of such agency classified as a local safety member is disabled for the purposes of the Public Employees Retirement Law and whether such disability is "industrial" within the meaning of such law; and

**WHEREAS**, the City Council has determined upon legal advice that it may delegate authority to make such determinations to the City Manager; and

**WHEREAS**, in 1996, the City Council adopted Resolution 96-44 delegating the authority to make such determinations to the City Manager; and

**WHEREAS**, in the absence of the Mayor, the resolution was signed by the Mayor Pro-Temp at the time but the resolution reflected the title of the Mayor Pro-Temp as the "Acting Mayor"; and

**WHEREAS**, the City Council wants to resolve any uncertainties whether the City Council properly delegated the authority to the City Manager by reason of the resolution having been signed by the "Acting Mayor".

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Brisbane hereby amends Resolution No. 96-44 and ratifies its prior delegation to the City Manager the authority to make determinations of disability under Section 21025 of the Government Code on behalf of the agency, and to determine whether such disability is industrial, and to certify such determinations and all other necessary information to the California Public Employees' Retirement System.

**BE IT FURTHER RESOLVED**, that the City Manager is authorized to make applications on behalf of the agency for disability retirement of employees who are local safety members and to initiate for reinstatements of such employees who are retired for disability.

---

Coleen Mackin, Mayor

I hereby certify that the foregoing Resolution No. 2022-\_\_ was duly and regularly adopted at a regular meeting of the Brisbane City Council on March 17, 2022, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

---

Ingrid Padilla, City Clerk

Approved as to form:

Thomas R. McMorrow,  
City Attorney



**State of California**

**GOVERNMENT CODE**

**Section 40601**

---

40601. In the absence of the mayor, the mayor pro tempore shall exercise the powers granted in this chapter.

(Amended by Stats. 1955, Ch. 624.)

**RESOLUTION NO. 96-44**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE  
RESPECTING DELEGATION OF AUTHORITY TO THE CITY MANAGER TO MAKE  
DETERMINATIONS UNDER GOVERNMENT CODE SECTION 21025  
PERTAINING TO DISABILITY RETIREMENTS**

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

WHEREAS, the City of Brisbane (hereinafter referred to as agency) is a contracting agency of the Public Employees' Retirement System; and

WHEREAS, the Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency classified as a local safety member is disabled for the purposes of the Public Employees Retirement Law and whether such disability is "industrial" within the meaning of such law; and

WHEREAS, the City Council has determined upon legal advice that it may delegate authority to make such determinations to the City Manager.


NOW, THEREFORE, BE IT RESOLVED, that the City Council does hereby delegate to the City Manager authority to make determinations of disability under Section 21025 of the Government Code on behalf of the agency, and whether such disability is industrial, and to certify such determinations and all other necessary information to the Public Employees' Retirement System; and,

BE IT FURTHER RESOLVED, that the City Manager is authorized to make applications on behalf of the agency for disability retirement of employees who are local safety members and to initiate requests for reinstatements of such employees who are retired for disability.

  
\_\_\_\_\_  
LEE J PANZA  
Acting Mayor

I hereby certify that the foregoing Resolution No. 96-44 was duly and regularly adopted at a regular meeting of the Brisbane City Council on August 26, 1996, by the following vote:

AYES: Councilmembers Bologoff, Richardson and Acting Mayor Panza  
NOES: None  
ABSENT: Councilmember Conway and Mayor Waldo

  
\_\_\_\_\_  
SHERI MARIE SCHROEDER  
Deputy City Clerk