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City of Bradbury Agenda Memo

TO: Honorable Mayor and Members of the City Council

FROM: Michelle Keith, City Manager
Cary Reisman, City Attorney

DATE: December 18, 2012

SUBJECT: **CONSIDERATION OF ADOPTION OF ELECTION RESOLUTIONS (Resolutions No. 12-30 & 12-31) CALLING THE MAY 7, 2013 ALL MAIL-IN SPECIAL MUNICIPAL ELECTION AND SUBMITTING TO THE VOTERS A MEASURE CREATING A UTILITY USERS TAX AND CONSIDERATION OF ARGUMENTS REGARDING THE MEASURE BY THE CITY COUNCIL**

INTRODUCTION

The City of Bradbury has insufficient funds to maintain day to day operations without an additional revenue stream. This shortfall is largely due to unfunded mandates by the State and Federal levels of government, increasing costs, and the global recession. Bradbury, like other cities, is faced with difficult decisions, which may require cuts to vital city services.

Following almost two years of discussions on this issue to "close the fiscal gap" and achieve long term financial sustainability, on October 18, 2011 the City Council unanimously approved the placement of Measure A – Bradbury Utility User Tax (UUT) on the April 10, 2012 ballot. As a UUT dedicated to general government services and stated in the text of the measure, Measure A required a 50% +1 majority to pass. If approved, Measure A would have provided approximately \$359,000 in protected revenue to maintain basic City services.

When deciding to place Measure A on the ballot, the City Council considered the fact that it would be using approximately \$118,678 from City reserves to fund all the budgeted expenditures for fiscal year 2011-2012. Due to the continued economic conditions, the State's budget deficit, and other recessionary indicators, this "structural budget deficit" is expected to grow unless new funding sources are located.

FOR CITY COUNCIL AGENDA _____

AGENDA ITEM # _____

The City's overall revenue stream is flat and cannot keep pace with existing or future expenses. The City is faced with determining a strategy to increase the local revenue stream or drastically reduce the cost of services to match available expenses.

The City Council determined to place a UUT measure on the April 2012 ballot as the preferred means of obtaining that needed revenue. Measure A did not garner the necessary votes needed to pass. As a result, the City of Bradbury must now look at alternative ways to resolve the fiscal difficulty.

In May 2012 the City Council decided to appoint a Finance Committee to review the City's budget, including revenues and expenditures and provide policy advice to the City Council on the City's fiscal sustainability.

The Committee presented its report to the City Council at the October 16, 2012 meeting. The Committee reviewed a variety of items including incorporation versus disincorporation and a different methodology for calculating the percentage of a UUT and still garner the necessary revenue. At the conclusion of that meeting, the City Council directed the City Attorney and staff to prepare an Ordinance to send a revised Utility Users Tax measure to the voters of Bradbury.

The elections resolutions calling the election and placing the measure on the ballot were prepared by the City Clerk (and reviewed by the City Attorney) and presented for the Council's consideration.

BACKGROUND

Need for Additional Revenue

As thoroughly and carefully as possible, the City Council since the adoption of the Fiscal Year 2010-2011 Budget has been reviewing and analyzing the City's fiscal challenges. The City of Bradbury is faced with escalating expenses and consistently decreasing revenues. This has resulted from the current economic downturn, decreased home sales, decreased construction activity and overall rising costs of providing service to residents, as well as the increase in State and Federal mandates the City must comply with. The City Council has reviewed the current status of the City's short and long-term budget prospects and reviewed various ways of addressing on-going fiscal needs.

Each year the City of Bradbury adopts a budget. The process utilizes the work plan developed by the City Council which establishes the priorities for the City based on existing resources. These priorities could be viewed by four categories:

Mandatory: Programs or services the City is required by law to maintain. These include NPDES/Stormwater management, proper fiscal management and land use planning.

Essential: Programs or services necessary to operate the City or that are essential to health and safety. These include the City's contract with the LA County Sheriff's Department for police services, Building & Safety inspections, and Emergency Planning.

Support: Services or programs that support all City programs such as information technology, telephone and utility services.

Discretionary: Programs that benefit the public but that are not required to operate a City. Examples of this include the support for community organizations that provide services to the residents of Bradbury, such as Friends of the Duarte Library, Habitat for Humanity San Gabriel Valley and AYSO.

It should be noted that during the City's budget process three years ago, it eliminated all discretionary funding and focuses on essential and mandatory services/programs.

Significant one-time reductions were made during fiscal year 2010-2011 totaling \$120,000 to balance the budget, but these reductions cannot be repeated year after year in order for the City to continue operations. The on going discussions by the City Council regarding the long-term financial sustainability of the City have been based on an evaluation of the Bradbury economy, including strengths, weaknesses and key areas in which to improve the City's revenue stream and to operate as efficiently as possible.

It is important to note the FY 2012-13 General Fund financial forecast represents the City's continuing efforts to live within its means while providing an adequate level of service for the community.

Revenue Shortfalls/Expenses	Anticipated 13 -14
Structural Deficit	\$160,610
Reduced items/Elimination of COPS*	\$100,000
MS4/NPDES items*	\$180,000
Total	\$440,610

* Currently the COPS program continues to be funded by the State of California reducing the deficit to \$340,610.

When deciding to place Measure BB on the ballot, the City Council considered the fact that it would be using approximately \$160,610 from City reserves to fund all the budgeted expenditures for fiscal year 2012-2013. Due to current economic conditions,

the State's budget deficit, and other recessionary indicators, this "structural budget deficit" is expected to grow unless new funding sources are located.

The City's overall revenue stream is flat and cannot keep pace with existing or future expenses. The City was faced with determining a strategy to increase the local revenue stream or drastically reduce the cost of services to match available expenses. The City Council determined to place a UUT measure and call for a Special All-Mail in Ballot Election as the preferred means of obtaining that needed revenue.

Proposed Ordinance

Submitting an ordinance for voter approval will allow the public to confirm that it wishes to generate revenue to maintain important city services and broaden the tax base in order to ensure the future of the City of Bradbury.

The attached proposed measure for review by the City Council for a Special All-Mail in Ballot Election on May 7, 2013 will ask the voters of the City of Bradbury to decide whether to establish a Utility Users Tax of up to 7.5% (the first year being 5.5%) on gas, electric, cable, trash and telecommunications services and 3.75% on water (2.75% the first year), establishing exemptions for low and very low income households headed by a senior citizen or a disabled person on Social Security Disability or SSI, and automatically terminating in five (5) years unless re-adopted by another vote of the people. This measure has been designated Measure BB. A Utility Users Tax or UUT is a tax levied on each user of a utility (e.g. telephone, electricity, gas, solid waste disposal, cable or video service) within the City's boundaries.

Additionally, the measure includes a provision that doesn't allow the non-water utilities to be raised more than 1.25% in any given year. Water will be taxed at 50% of the other utilities but not more than 3.75%. It specifically exempts solar power from the tax and provides for an oversight committee to review the expenditures of revenue collected.

The proposed UUT is included in Attachment 1 as Ordinance No. 327 to the resolution calling the election. Some highlights of the proposed UUT ordinance include:

- ✓ All money raised from Measure BB would be directed to the City's General Fund. This fund is used to provide a wide range of basic City services and programs for residents. The General Fund in Bradbury funds everything from law enforcement services provided by the Los Angeles County Sheriff's Department, Animal Control, Planning, Engineering, street and sidewalk repair, maintenance of public parks and trails, graffiti removal, and all City Hall services.
- ✓ The tax rate will be set from 1% to 7.5% over the five year life of the Ordinance, per the City Council's annual determination. At 5.5% for the first year for electric, natural gas utilities, trash, telephone and video services and water at a rate of 2.75%, the UUT is estimated to raise approximately \$359,000.00. The Measure,

as currently written, calls for an oversight committee consisting of the City Treasurer and five Bradbury residents appointed by the City Council, to review and make recommendations concerning the audit and collection of the funds collected and/or remitted under the UUT. The City Council will be required to review the UUT prior to April of each year. The Council may then, by ordinance or resolution, adjust the rate or temporarily suspend a portion of the tax, as appropriate to the financial condition of the City. The Council may increase the rate from the initial rate to a maximum of 7.75% but no more than 1.25% in any given year or may decrease it to as low as 1% of utilities.

- ✓ Measure BB includes a "sunset" provision in five (5) years. This would result in the automatic termination of the Utility Users Tax (UUT) on May 7, 2018.
- ✓ The Measure has a clause exempting households headed by low and very low income senior citizens (based on the U.S. Department of Housing and Urban Development's most recent annual survey of income limits for the Public Housing and Section 8 Programs) and households headed by disabled persons where the head of household is receiving Social Security Disability or Supplemental Security Income benefits.

Finally, the City Council must approve the ballot question, not to exceed 75 words in length, for inclusion on the ballot itself. The following has been prepared as the suggested ballot question:

MEASURE BB – City of Bradbury Utility Users Tax In order to preserve Bradbury's essential city services, maintain a safe and quality community and meet the obligations of State and Federal Mandates, shall an ordinance be adopted to establish a Utility Users Tax on gas, electric, cable, trash, and telecommunications services at a rate not to exceed 7.5% (5.5% the first year) and 3.75% on water (2.75% the first year) for a period of 5 years, with exemptions for solar and certain low income households.	Yes
	No

Procedure

For your consideration, staff has attached some documents relating to Measure BB including: Resolution No. 12-30 (with attached Ordinance No. 327) and Resolution No. 12-31.

Once the City Council adopts the aforementioned Resolutions and calls for the election this triggers the clock for the impartial analyses and arguments to be filed within 14 days. In accordance with California Election law the City Council can adopt the Resolutions at the December 18, 2012 meeting.

Measure BB will require a majority voter approval (50% + 1) under Proposition 218.

No City funds shall be spent to advocate for or against the passage of Measure BB, but the City will provide a neutral informational outreach to the community to explain the UUT, the need for the UUT, its impact on the City's general fund, and the consequences of Measure BB, so that voters can make an informed decision on this ballot measure.

Timing of the Election

As previously discussed, the City Council has two options for holding the election; an all mail-ballot election on May 7, 2013 or a Special Election on June 4, 2013. The City Council had selected May 7, 2013 but staff was recently made aware of some additional information which may alter the decision to have the election in May.

Option 1: May 7, 2013

The City Council can call a special election to take place by mail-ballot only. This is the date set and required by the elections code. However, since first discussed by the City Council staff has been made aware that the Bradbury Community Services District will also be hosting it's regular election for three Board of Director seats. The two elections can not be combined or consolidated, as the CSD election is based on one vote per parcel owner and the city-wide election is based on registered voters. Further, the City's election requires verification by signature of the voter, the CSD election does not have this requirement.

The Bradbury CSD is not the only conflict. It is currently anticipated that the County of Los Angeles Water Quality Initiative or Clean Water, Clean Beaches Measure will also be occurring around this time with mail-in ballots due to the County.

Having just one of these other mail-in measures/elections at the same time as the City's is potentially confusing enough, but two increases the risk for much greater confusion, ballots potentially ending up in the incorrect envelope, ballots without signatures and other voter errors.

Option 2: June 4, 2013

The City Council can call the Special Election to take place on June 4, 2013 which is the date set by the election code for General Municipal Elections. Since the date is still several months away there are no items known at this time for the election cycle. However, according to the Los Angeles County Registrar-Recorder website the June date has historically been for presidential and other federal primary elections or special school board bond measures.

Should the City Council decide to go with the June date staff should be directed to revise the Resolutions and bring back the item prior to the March 8th deadline (June elections calendar attached).

Given the various competing elections being held in May, staff would recommend the City Council consider calling the election for the June 4, 2013.

City Council Argument

There was consensus from the City Council at the last meeting that Councilmember Lewis would draft an argument in favor of Measure BB and that it would be signed by all members of the City Council. The draft argument is attached and needs to be reviewed by the City Council during this evenings meeting.

The City Clerk has established that if the City Council calls for the election at the December 18, 2012 meeting arguments for the ballot will be due January 2, 2013 and then ten days will be given to rebut the arguments or by January 14, 2013. However, if the City Council determines to move the election to June 4, 2013 these dates will change.

It is recommended that the City Council provide direction regarding the argument and authorize submittal to the City Clerk.

FINANCIAL REVIEW

As has been previously established and determined by the City Council, failure to obtain additional revenue would have a negative impact of the City's ability to provide essential services, including policing services.

LEGAL

The City Attorney has reviewed this item and approved it as to form.

PUBLIC NOTICE PROCESS

This item has been noticed through the regular agenda notification process. Copies of this report are available at City Hall.

ALTERNATIVES

The City Council has a number of alternatives. Including:

1. Taking no action at this time.
2. Recommend revisions to the proposed ordinance.
3. Direct staff to bring back the proposed Resolution and Ordinance for first reading at the next meeting.

STAFF RECOMMENDATION

It is recommended that the City Council provide comments and directions identified above regarding the adoption of Resolution No. 12-30 (including Ordinance No. 327) and Resolution No. 12-31.

Attachment (4):

- A. Resolution No. 12-30 – including draft Ordinance NO. 327
- B. Resolution No. 12-31
- C. June 4, 2013 Elections Calendar
- D. Argument in Favor of Measure BB