

**MINUTES OF A REGULAR MEETING OF THE  
CITY COUNCIL OF THE CITY OF BRADBURY  
TUESDAY, JULY 19, 2011**

- CALL TO ORDER:** The meeting was called to order by Mayor Lewis at 7:05 PM.
- ROLL CALL**
- PRESENT: Mayor Lewis, Mayor Pro-Tem Lathrop, Councilmembers Pycz, Barakat and Hale
- STAFF: City Manager Keith, City Attorney Reisman, and Management Analyst Petsas
- APPROVAL OF THE AGENDA** Councilmember Hale made a motion to approve the agenda, Councilmember Barakat seconded the motion which was carried by the following roll call vote:
- AYES: Mayor Lewis, Mayor Pro-Tem Lathrop, Councilmembers Pycz, Barakat and Hale  
NOES: None  
ABSENT: None
- DISCLOSURE OF ITEMS REQUIRED BY GOV. CODE SECTION 1090 & 81000 ET SEQ.** In compliance with the California Political Reform Act, each City Council Member has the responsibility to disclose direct or indirect potential for a personal financial impact as a result of participation in the decision making process concerning agenda items.
- City Attorney Reisman reported that he was not aware of any conflicts of interest with any of the items on the agenda.
- PUBLIC COMMENT** None
- CONSENT CALENDAR** All items on the Consent Calendar are considered by the City Council to be routine and will be enacted by one motion unless a Council Member request otherwise, in which case the item will be removed and considered by separate action. All Resolutions and Ordinances for Second Reading on the Consent Calendar are deemed to be "to waive further reading and adopt."
- A. Minutes - Regular City Council Meeting of June 21, 2011
  - B. Resolution No. 11-29: Demands & Warrants for July 2011
  - C. Approval of County of Los Angeles 2011-2012 Fiscal Year Pest Control Agreement
  - D. Second Reading and Approval of Ordinance No. 320 Zone Code Amendment No. ZCA 10-17 Regulation of the Storage of Equipment and Vehicles in Yards
- DISCUSSION** Mayor Pro-Tem Lathrop stated that on page 4 of the minutes, the 2<sup>nd</sup> to the last paragraph the statement that was attributed to Mayor Lewis should be attributed to him.
- Mayor Lewis noted that in Item D, there was the word 'not' left out of one of the sentences in discussion of the Front Yard setbacks and the time limit allowed and he inquired if the item should be pulled from the

calendar. City Attorney Reisman stated that as long as the substance of the measure does not change, the Ordinance can be approved.

## **MOTION TO APPROVE CONSENT CALENDAR**

Councilmember Barakat moved to approve the Consent Calendar as amended. Mayor Pro-Tem Lathrop seconded the motion, which was carried by the following roll call vote:

AYES: Mayor Lewis, Mayor Pro-Tem Lathrop, Councilmembers Pycz, Barakat and Hale

NOES: None

ABSENT: None

## **ITEM #2: DISCUSSION-2011 REDISTRICTING COUNCILMANIC DISTRICT BOUNDARIES POPULATION DATA REVIEW**

As required by law the City has begun the process to redraw/balance the Councilmanic District lines to reflect necessary population changes as required by Federal and State law following the 2010 US Census. The City last undertook this very complex challenge in 2003/2004 and adopted the District Boundaries as they are today. The City Council in this meeting will review the Bradbury Counts data and make a determination whether redistricting is required and provide direction to staff on mapping options. It is recommended that the City Council:

- A. Determine a methodology as outlined in the staff report for extrapolated population. Staff recommends that the City Council selects Options C or D.
- B. Authorize the City Manager to enter into an agreement with RKA Consulting Group in an amount not to exceed \$9,556 to prepare the legal descriptions of the new district map.
- C. Schedule a City Council work session on redistricting to revise district boundaries to a population with a deviation of +/- 1%.

## **DISCUSSION**

Councilmember Pycz asked why City Staff is paying RKA to do something that can be done in house, especially since we are paying Colantuono and Levin nearly \$20,000 to do work that staff can do just as well. City Manager Keith stated that RKA is being hired and paid approximately \$9,000 to redo the legal descriptions of the new Councilmanic district boundaries.

Councilmember Hale asked if anyone else can do it cheaper. Councilmember Barakat said probably not because the last redistricting costs \$25,000 for Willdan to redraw the boundaries.

Mayor Lewis wanted confirmation on the formula being presented tonight. The US Census states that the City has 1,048 people and after the Bradbury Counts! surveys all but 257 are accounted for. We have 334 properties in the City. We received 267 surveys and 67 surveys are missing. If we divide the 257 people unaccounted for by the 67 missing surveys we get the 3.84 number mentioned in the staff report. City Manager Keith stated that is correct.

City Manager Keith introduced special counsel Sandra Levin, who added that the difference in household numbers in the Bradbury Counts survey and the US Census is how each defines a household.

Councilmember Barakat asked why we must do an average for the nonresponsive parcels. Mayor Lewis added that we have to have a

common methodology. Mayor Pro-Tem Lathrop responded that we must do our due diligence and then assign numbers.

Councilmember Barakat said he doesn't understand why we assign the number to the homes where we know there are less people in them. In his district there are some homes where we will assign the unresponsive number of 3 to homes where there are one or two people. Because of this it doesn't add up.

Councilmember Barakat continued by saying the nonresponsive number is higher than the average per district and shouldn't be that way. Councilmember Hale said the unresponsive number plus actual population must add up to the Census total of 1,048 people. By using Councilmember Barakat's district methodology the total population would not equal the US census numbers.

Special Counsel Levin stated that the assigning of numbers to nonresponsive parcels is to fill in the gaps due to there not being any requirements in State law regarding this issue. The Election Code requires cities to create equal districts as much as possible. This is pertinent to Bradbury because of the vast discrepancies in populations and return rates for each district.

Special Counsel Levin continued by stating that there are several reasons for discrepancies. First, some districts are denser than others and the rate of return has skewed that data. Second, data has shown that the households with large populations are more likely not to return the forms. The City can never fully know what the causes of the discrepancies were. The Election code is lenient towards cities that make their decision in a rational way and without showing a bias towards any one people group or area.

Special Counsel Levin stated that options C and D as laid out in the staff report are legally defensible options for assigning to nonresponsive parcels because they use the Census data as their base. The Election Code gives leeway when using the Census data

Mayor Lewis stated that we know there are 257 people missing out of 67 households and dividing those two numbers seems very rational.

Mayor Pro-Tem Lathrop stated that Options C and D are the same but at the same time they have different numbers. Mayor Lewis said that with one you are creating an average without adding in the missing households and with the other you are including in the average the missing households.

Councilmember Barakat stated that we should look at how many homes are in each district and then divide those by 212, the home count from 2006, to get the number to assign to each unresponsive home. Mayor Lewis responded that using that calculation would not get us to the 1,048 people we need. City Manager Keith added that this would not be based on current numbers and in fact based on a special census whose legitimacy is in question.

Mayor Pro-Tem Lathrop stated that he thought that Option D was more defensible than Option C because it had two data points. Special

Counsel Levin stated that while it has two data points, the second data point is not as comparable to the Census data as to the one in Option C. The 354 is the occupied units the Census identified and the 334 is the units the City identified. The City's count includes vacant units in the count and the US Census doesn't count those numbers.

Mayor Lewis said with Option D there are 989 people as a total, but the Census has 1,048 people and therefore your data is already off and is fundamentally flawed. The mathematical option is to go with the one where all the numbers add up to 1,048.

Mayor Pro-Tem Lathrop said that putting mathematics aside, Option D makes more sense. Mayor Lewis said you can't put mathematics aside and must in the end make the numbers add up to 1,048.

Councilmember Barakat stated that the numbers may be defensible, but they are not accurate.

Mayor Pro-Tem Lathrop said since staff has recommended using either C or D he would lean towards Option D. Mayor Lewis said by using Option D we are saying that the US Census numbers are wrong.

Councilmember Barakat said that with Option D you are assuming population averages that you know very well are not true. He continued by saying that just because it is legal doesn't make it right.

Special Counsel Levin stated that case law has shown that a City can use Census numbers for their calculations even if between the times the census was taken and the present, the population has gone down.

Special Counsel Levin continued by saying that the City Council has to do something and something that mimics the census' methodology and no matter what option was selected there still will need to be estimation for the population counts.

**PUBLIC COMMENT OPENED**

Mayor Lewis opened up the Public Hearing and invited those wishing to speak to come forward and be heard.

**PUBLIC COMMENT**

Ann Absey, 44 Woodlyn Lane, stated that options C and D seem so similar and the City Council can argue their merits all day and never come to a decision. The City Council must listen to staff and go with the option that is most defensible. As their discussions are going the City Council is wasting time and should be focusing on saving the City from bankruptcy.

Karen Dunst, 1527 Lemon Avenue, stated that the second the City Council selects something that doesn't add up to 1,048 people, the count is going to be challenged.

**PUBLIC COMMENT CLOSED**

There being no more public comment, Mayor Lewis declared the public hearing closed.

**DISCUSSION**

Special Counsel Levin stated that there is no case law on the issue that the City is facing except for the fact that the City is allowed to use Census data. The arguments for Option D are rational but Option C

would be a bit easier to defend in court.

**MOTION TO SELECT OPTION D**

Councilmember Barakat made a motion to use option D for the counting of unreturned surveys. Mayor Pro-Tem Lathrop seconded the motion which passed by the following roll-call vote:

AYES: Mayor Pro-Tem Lathrop, Councilmembers Pycz and Barakat

NOES: Mayor Lewis and Councilmember Hale

ABSENT: None

ABSTAIN: None.

Motion passed 3-2

**MOTION FOR AWARD OF BID**

Councilmember Barakat made a motion to direct staff to solicit more bids for the preparation of legal descriptions for the new councilmanic districts. Mayor Pro-Tem Lathrop seconded the motion which passed by the following roll-call vote:

AYES: Mayor Lewis, Mayor Pro-Tem Lathrop, Councilmembers Pycz Barakat and Hale

NOES: None

ABSENT: None

ABSTAIN: None.

Motion passed 5-0

**DIRECTION TO STAFF  
REGARDING SCHEDULING A  
CITY COUNCIL WORK SESSION  
TO DISCUSS THE MAPS**

Following discussion among the City Councilmembers Mayor Lewis directed staff to schedule a Special Meeting of the City Council on July 26, 2011 at 6:00 pm to discuss the Councilmanic maps and begin to make adjustments to the boundaries as deemed necessary.

**ITEM #3: DISCUSSION-FISCAL  
CHALLENGES PART FIVE-  
DISCUSSION ON THE  
CONSIDERATION OF A UTILITY  
USERS TAX OR PARCEL TAX**

At the March 15, 2011 meeting the City Council reviewed the current status of the City's short and long-term budget prospects and reviewed some alternative ways of addressing on-going fiscal needs. At the April 19<sup>th</sup> meeting, the City Council reviewed estimates for the upcoming FY 2011-2012 budget and forecast projections for 2013-2014. At the May 17<sup>th</sup> meeting the City Council asked to review a sample UUT Ordinance. The City Council at this meeting will review the potential placement of a UUT Ballot Measure on the April 12, 2012 ballot to fund general City operations.

More than 150 cities across California have enacted a Utility Users Tax. A UUT may be passed by a City on the consumption of Utility services of which the City Council has the authority to determine which once the tax will be placed on. UUTs range from 2% to 12%. A UUT that is intended to be used for General City operations only requires a 50 plus one majority of those voting during the next regularly scheduled election for approval. As part of the process to put the UUT on the ballot, the City Council with a 4/5ths approval must identify both an urgent need for additional revenue and a preferred means of obtaining that revenue.

At the June City Council meeting, the City Council requested information on neighboring cities that have a Parcel Tax or UUT as well as what type of percentage is needed if communications were to be left off of the UUT ballot and what are the definitions of 'Low' and 'very low' income households.

**DISCUSSION**

City Manager Keith presented information on the various cities surrounding Bradbury and that all but one city has a UUT or parcel tax. Monrovia has three parcel taxes to cover the wilderness park, library expansion and pension. Duarte had a UUT previously but let it expire.

City Manager Keith also presented information regarding the UUT percentage needed if communications were left off the ballot. That percentage would be approximately 11% and if Water/Sewer were left off instead the percentage tax needed to eliminate the deficit would be 8.2% as compared to the original 7.1% needed.

Councilmember Hale stated that the UUTs with sunset clauses have failed and should be left out.

Mayor Pro-Tem Lathrop stated that the City has a very sophisticated residency and maybe having clarifying language where if we were to put both a UUT and Parcel tax on the ballot language could be written in so that one could supersede another.

**PUBLIC COMMENT OPENED**

Mayor Lewis opened up the meeting for Public Comment and invited those wishing to speak to come forward and be heard.

**PUBLIC COMMENT**

Ann Absey, 44 Woodlyn Lane, asked what would happen if the ballot measure were to fail. She continued by stating that in the 50 people she talked to so far regarding the measure she hasn't found one person who would vote against it.

**PUBLIC COMMENT CLOSED**

There being no more public comment, Mayor Lewis declared the public hearing closed.

**DISCUSSION**

Mayor Lewis responded to Ms. Absey's question by stating that if the ballot measure were to fail, they would have to take up the issue again.

Mayor Lewis continued by stating that after the community meetings he started to think about the Parcel Tax versus UUT and that the Parcel Tax is a very straightforward method of taxation. In addition, as was mentioned in the community workshop, with a Parcel tax it is easy to calculate and budget what the tax will be for the upcoming year.

Councilmember Pycz stated that he agrees with Mayor Lewis' reasoning, but that the same argument can be said for a UUT.

Councilmember Barakat stated that no matter what, this tax would be penalizing the residents, but the UUT would be penalizing equally based on size. He continued by stating that with a Parcel tax you will have long time homeowners that have the benefit of lower property taxes and those new owners get penalized. With a UUT one can reduce their tax burden by reducing their consumption.

Mayor Lewis stated that one argument for a Parcel tax is that it may be tax deductible. Councilmember Pycz stated that the downside is that the approval level is moved from a simple majority to a 2/3rds approval.

Mayor Pro-Tem Lathrop stated that he likes a parcel tax, but he likes the fact that a UUT only requires 50% approval. He stated that he would like to consider putting both tax measures on the ballot with the residents to determine which one they like best.

Mayor Lewis stated that if the City Council can't agree on a single measure, how the residents can agree on an issue and in turn they might vote down the measure. Councilmember Barakat agreed that it is a dangerous option to take.

Councilmember Hale stated that he likes the idea of a flat tax on every parcel, especially since it is tax deductible. Mayor Lewis said while he disagrees with a flat tax, he supports a parcel tax because it is easy to figure out.

Mayor Pro-Tem Lathrop stated that he is more inclined to support a Parcel tax knowing that the City Council can declare a fiscal emergency and then put the UUT on the ballot if the Parcel tax were to fail.

City Manager Keith inquired what the City Council wants to see at the August meeting. Mayor Lewis said that the Council needs to figure out with an UUT what the average cost per district home would be, also what are the steps in drafting an ordinance and how much will each cost. Also, based on the revenue target, minus the COPS funds, what the assessed valuation will need to be.

#### **MOTION TO DIRECT STAFF**

Mayor Pro-Tem Lathrop stated that he would like to have staff to pursue the idea of a valuation based Parcel tax, while still researching a UUT option. Councilmember Hale seconded the motion which passed by the following roll-call vote:

AYES: Mayor Lewis, Mayor Pro-Tem Lathrop and Councilmember Hale

NOES: Councilmembers Pycz and Barakat

ABSENT: None

ABSTAIN: None

Motion passed 3-2

#### **ITEM #4: DISCUSSION- CONSIDERATION OF ADOPTION OF RESOLUTION NO. 11-30 ESTABLISHING A REVENUE ENHANCEMENT COMMITTEE**

The City Council has been reviewing the City's financial challenges and overall strategies for ensuring the long-term financial health of the City. During this review and subsequently slow recovery of the economy the City has determined that it cannot be reliant on residential development as a main focus of generating increased tax base for the built-out community.

As part of the discussions the City Council is exploring revenue generating strategies, including a Utility User Tax and/or a Parcel Tax. The City Council has held several community workshops on this topic engaging the Bradbury community in a dialogue about solutions for this important issue.

Several ideas regarding alternative ways to raise revenue have been raised during the community workshops and the City Council has expressed an interest in exploring all ideas for feasibility and revenue generating potential. The purpose of the committee would be to collect all revenue generation ideas for the City, evaluate them and

recommend to the Bradbury City Council potential strategies for enhancing or creating new revenue sources to the General Fund for city operations.

## **DISCUSSION**

Mayor Pro-Tem Lathrop stated that with a panel you may not represent all of the ideas out there and then it will take forever to form an idea to share with the City Council. He continued by stating that with a committee the members would be isolated and their motive would not be known. He suggested that the City Council should just hold meetings to find out from residents where the City should make money.

Councilmember Hale stated that the City Council shouldn't dilute the issue with an additional committee; rather the City Council should focus on the issue them.

Mayor Pro-Tem Lathrop stated that the Council should have an agenized item with revenue as the discussion. Mayor Lewis agreed and stated that the item should state "revenue generation" and invite those people who have proposed ideas in the past and see what they have to suggest. Mayor Lewis continued by stating that with this method the City Council could weed out the bad ideas.

## **PUBLIC COMMENT OPENED**

Mayor Lewis opened the discussion for public comment and invited those wishing to speak to come forward.

## **PUBLIC COMMENT**

Anne Absey, 44 Woodlyn Lane, suggested that the City should consider talking to Dan Lien and his partner since they seemed to have good ideas and stated that they would be willing to work with City.

## **PUBLIC COMMENT CLOSED**

There being no more public testimony, Mayor Lewis declared the public comment period closed.

## **ITEM DROPPED DUE TO LACK OF A MOTION**

Mayor Lewis declared the resolution dead due to a lack of a motion and instead directed staff to invite those people with ideas to address the City Council at a meeting with an agenized item strictly focusing on revenue enhancement.

## **ITEM #5: PUBLIC HEARING- CONFORMANCE WITH CONGESTION MANAGEMENT PROGRAM (CMP) AND ADOPTION OF THE CMP LOCAL DEVELOPMENT REPORT (LDR) BY RESOLUTION NO. 11-22**

It is recommended that the City Council adopt Resolution No. 11-22 approving the City of Bradbury's Congestion Management Program (CMP) and adopt the CMP Local Development Report.

The Congestion Management Program (CMP) is based on California's Proposition 111, which enacted Assembly Bill 471. The Los Angeles County Congestion Management Program (CMP) was created to meet the State of California requirements for a Congestion Management System (CMS), pursuant to the provisions of the Intermodal Surface Transportation Efficiency Act (ISTEA). This is a federally funded program (based on State gas tax), that evaluates local transportation, land use and air quality decisions and their potential impact on regional transportation congestion.

Also, the CMP and subsequent Local Development Report (LDR) allows the County of Los Angeles to track new building activity throughout the County and promote local strategies and programs that benefit the regional transportation system and offset the impact of new development.

The Metropolitan Transportation Authority (MTA) has adopted a Congestion Management Program (CMP) that places a number of transportation related requirements on Los Angeles County cities. CMP conformance is required for the City to receive state gas tax funds and to preserve the City's eligibility for other state and federal transportation dollars. It is recommended the City Council adopt Resolution No. 11-22 finding that the City of Bradbury is in conformance with the CMP and adopt the 2011 CMP Local Development Report.

There is no financial impact to this action; However, if the City Council does not submit the CMP to LACMTA, we would be at risk of losing gas tax funds.

**DISCUSSION**

Councilmember Hale asked what were to happen if the City were not to adopt the CMP. Management Analyst Petsas stated that the City would be found to not be in compliance with the County wide Congestion Mitigation program and would be subject to the State not allocating the City's gas tax funds.

Councilmember Hale asked if staff had any more information regarding the work on finalizing the new Congestion Mitigation Fee for each city. City Manager Keith stated that they would be in place by this time next year.

All of the Councilmembers expressed frustration with being forced to adopt items by the State and not having discretion over the items.

**PUBLIC HEARING OPENED**

Mayor Lewis opened the public hearing and invited those wishing to speak to come forward.

**PUBLIC COMMENT**

None.

**PUBLIC HEARING CLOSED**

There being no public testimony, Mayor Lewis declared the public hearing closed.

**MOTION TO PROVIDE  
DIRECTION TO STAFF**

Councilmember Barakat made a motion to adopt Resolution No. 11-22 finding that the City of Bradbury is in conformance with the Congestion Mitigation Program and adopt the CMP Local Development Report. Mayor Pro-Tem Lathrop seconded the motion which passed by the following roll-call vote:

AYES: Mayor Lewis, Mayor Pro-Tem Lathrop Councilmembers Pycz and Barakat

NOES: Councilmember Hale

ABSENT: None

ABSTAIN: None

Motion passed 4-1

**MATTERS FROM THE  
CITY MANAGER**

City Manager Keith stated that the phone situation for City Hall has been resolved and callers can now reach City Hall with a Verizon Land Line.

**MATTERS FROM THE CITY  
COUNCIL**

**MAYOR LEWIS**

Nothing to report.

**MAYOR PRO-TEM LATHROP**

The SGVCOG is moving forward hiring a contracts/grants manager for better accountability of funds in light of the recent Cal Trans issues and is also looking at hiring a consultant to look at the structure of the COG and see if changes need to be made moving forward.

**COUNCILMEMBER HALE**

Councilmember Hale stated that he attended the DUSD oversight bond meeting and reported that he has been assigned a two year term with the option for renewal of an additional two years.

**COUNCILMAN PYCZ**

Nothing to report.

**COUNCILMEMBER BARAKAT**

Currently there are no known cases of West Nile Virus the recommendation is for horses to be vaccinated. Also, Baldwin Park is refusing to join the Vector Control district and the remaining cities are trying to find ways to persuade the City to join.

**ITEMS FOR FUTURE AGENDAS**

None

**CLOSED SESSION**

Mayor Lewis adjourned the meeting to a Closed Session regarding conference with legal counsel to discuss Personnel/Evaluation of Performance (Title: City Manager) pursuant to California Government Code Section 54957

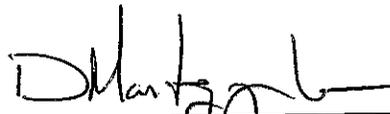
**RECONVENE OPEN SESSION  
AND ANNOUNCE ANY ACTION  
TAKEN**

The open session was reconvened and Mayor Lewis reported that the City Council met in Closed Session to discuss the issues and no reportable action was taken.

The Personnel/Evaluation of Performance (Title: City Manager) was continued to the August 16, 2011 meeting.

**ADJOURNMENT**

At 9:10 pm Mayor Lewis adjourned to the meeting to a Special City Council meeting to be held on July 26, 2011 at 6:00 pm at the Bradbury Civic Center.

  
\_\_\_\_\_  
MAYOR - CITY OF BRADBURY

ATTEST:   
\_\_\_\_\_  
CITY CLERK - CITY OF BRADBURY