

**MINUTES OF A REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF BRADBURY
TUESDAY, MAY 17, 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
- ABSENT: None
- STAFF: City Manager Keith, City Attorney Reisman, City Planner Meyer, City Clerk Saldana and Management Analyst Petsas
- COMMENTS FROM THE MAYOR** Mayor Lewis reminded the audience to fill out their Bradbury Community Counts surveys and gave directions on the public comment period in filling out cards to speak.
- 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.
- Councilmember Barakat stated that he would recuse himself from Item #5, the Civic Center Fence Design, due to the proximity of his home to the Civic Center. City Attorney Reisman reminded Councilmember Barakat that if he wishes to speak on the item, which he is allowed to do, he is not allowed to speak on behalf of the residents of his district, rather he can speak as a property owner. City Attorney Reisman suggested that if he wants to speak on behalf of the District, Councilmember Barakat should enlist a neighbor or family member to do so
- Councilmember Hale stated that he would not be excusing himself from Item #2, 165 Circle Drive Appeal, as he did the last time this item was before the City Council. He excused himself last time because the City Attorney recommended he do so due to the fact that he spoke at the Planning Commission meeting regarding the history of the A-2 zone and the history of the lots around 165 Circle Drive; however he did not make any statements regarding the project itself and therefore will not be excusing himself on the item.
- Mayor Lewis disclosed that while he has no ties to the 165 Circle Drive project, he stated that he has had dog-sitting services provided by the renter, Patty Kopsack, of one of the homes owned by the appellant, that this will not impact his judgment of the project.

City Attorney Reisman reported that he was not aware of any other 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 April 19, 2011
- B. Financial Statement for the month of April 2011
- C. Resolution No. 11-16: Demands & Warrants for May 2011
- D. Resolution No. 11-17: Approving Signatures for the City Bank Accounts
- E. Resolution No. 11-20: Approving the allocation of remaining COPS funds.

DISCUSSION

Management Analyst Petsas provided the Councilmembers with amended minutes for Item 1A amending certain statements and to whom they were attributed regarding the no parking along Mount Olive Drive discussion and adding details to the approval motion for the Civic Center usage policy.

**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: PUBLIC HEARING-
APPEAL OF PLANNING
COMMISSION'S DECISION
REGARDING ARCHITECTURAL
REVIEW APPLICATION NO. AR
10-253, NEIGHBORHOOD
COMPATIBILITY APPLICATION
NO. NC 10-93 AND VARIANCE
APPLICATION NO. V 10-68 (165
CIRCLE DRIVE)**

On October 27, 2010 the Planning Commission, by a 3-2 vote adopted Resolution No. 10-206.PC conditionally approving plans to construct a new three-story 15,971 square foot single-family estate dwelling unit with a subterranean attached garage containing 3,887 square feet, a detached single-story accessory dwelling unit containing 2,267 square feet with an attached 441 square foot garage, a detached cabana, a lighted tennis court and a swimming pool. The subject property is located at 165 Circle Drive in the A-5 zone. The subject property contains 2.04 acres of land area.

On November 4, 2010, the owner of a property located within 500 feet of the subject property filed an appeal of the Planning Commission's decision in accordance with the provisions of Chapter 9.02.050 of the Bradbury Municipal Code.

On January 18, 2011, the City Council conducted a de novo public hearing to hear the appeal of the Planning Commission's decision and to review the proposed development plans. At the conclusion of the public hearing the City Council referred the matter back to the Planning Commission for further review.

On March 23, 2011 and April 27, 2011, the Planning Commission conducted public hearings, received testimony and reviewed the revised development plans. At the conclusion of the deliberation during the April meeting, the Planning Commission adopted its Resolution No. 11-209. PC by a 4-1 vote, recommending that the City Council conditionally approve the revised project development plans.

In between the first hearing and second hearing, the applicant reduced the overall size of the home, eliminated the garage by placing it underground, redesigned the flat area of the roof, eliminated the flat roof on the guest house, eliminated the mechanical equipment planned for the roof and placed it in the basement. The retaining wall proposed for the site was reduced in size to no longer require a variance for its construction and the rear yard setbacks were increased to no longer require a variance.

Additionally, the applicant reduced the impervious material coverage to 11,000 square feet with the use of pervious concrete, a new material that allows for filtration at a rate greater than soil and if placed over a Class A base it will allow for drainage as if the ground was not disturbed. The Planning Commission found that this change would bring the project into compliance with the impervious soil requirements of the Municipal Code and therefore no longer need a variance for this item. From the original variances, the applicant is now requesting three: two for sideyard setbacks and one for the amount of allowable grading.

DISCUSSION

Mayor Lewis recommended opening the public hearing before the Councilmembers make their statements. All agreed.

PUBLIC HEARING OPENED

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

PUBLIC COMMENT

The project applicant's representative, Candida Neal, read a letter by the applicant, Mrs. Tian. The letter addresses the neighbors' opposition on three points: oversized home, view blocking and intrusion of privacy. On the issue of oversized home, the letter stated that this proposed project is the smallest home of the all the ones designed by Mr. Tong, the project architect. The home was designed to fit the lifestyle of the property owner, meets the city requirements and does not injure the interests of the community.

On the issue of blocking views, Ms. Tian stated in the letter that she has moved the home once already to address that issue so that the homeowner to the south can view the mountains. The property owner to the south provided a sketch of a home that they would like built on Mrs. Tian's property, however it is a modern home and there is no city ordinance requiring her to build that type of home.

On the third issue of privacy, the applicant stated that in the plans she has added trees to screen the views from the neighbors. The person complaining about the views is over 700 feet away from the proposed home and there are homes in between the two. When standing on my property, Mrs. Tian wrote she can only see a bit of the neighbor's roof, not their children's room as alleged; so, with the additional trees proposed by the architect, Mrs. Tian wonders how her home can intrude on her neighbor's privacy.

The appellant, Mr. Alan DeVault stated the problem here is how the City deals with development of the pre-existing non-conforming lots in the A-5 Zone. Mr. DeVault's main objection is the placement of the large home on Mrs. Tian's property so close to his property and the blocking of his views of the mountains. The variance eliminated through the changes of the plans does not address the concerns he has. When the City Council objected to the lot coverage of the home, he got the idea that their objection was to the overall size of the home. Mr. DeVault stated that he has an issue regarding the impervious material on the site. The applicant claims to reduce to the size of the home however when you lay them next to each other, they are the same. In fact, the calculation for the impervious material coverage is greater with the revised plans. No one, even those people with five acre lots, Mr. DeVault stated has the right to build such large homes because it doesn't meet the General Plan guidelines for considering lot coverage. In the vicinity of this project the homes are 5,000 square feet or smaller, which is alleged by Mr. DeVault to be three times the similar size. If this project is approved, then every person will expect to build similar sized homes.

Robert Tong, 255 E. Santa Clara Street, Suite 200 Arcadia, CA, the project designer stated that he has completed 15 projects in the City and this is the first time a project has encountered such problems. Mr. Tong stated that most projects in the City require a variance due to the size and layout of the lots. Mr. Tong continued and stated that he worked with the HOA and neighbors and no matter what they do to change the project, the neighbors are never satisfied with the outcome. The only thing that would work for the site according to the neighbors is if they were to build a 5,000 square foot house on Mrs. Tian's property. The lot coverage as compared to his other projects is dramatically less and wonders why this project is still being contested.

Patti DeVault, 244 Barranca Road, stated that Manisionization can happen on two acres parcels and is happening here in Bradbury. To fight this the City should look at Rancho Santa Fe. Two parcels across from her property and one to the north will be bringing projects to the City in due time and she will not be there to protect the City of Bradbury from such trouble. Of all the entities she has dealt with including the Planning staff and HOA board, the City Council is the only one with integrity. She is the only one who has fought for design guidelines and is the only one that ever says no to Dick Hale. Ms. DeVault stated that she knows what it is like to make hard decisions. She stated she is the CEO of a large company.

Mrs. DeVault continued by saying that the Planning Commission and some of the Councilmembers are controlled by City Planner David Meyer, he is the 'puppetmaster' and they can't think on their own. The City Council according to Ms. DeVault can think independently and make the hard decisions and do the right thing and not approve this project. The Planning Commission's reason for approving the project isn't valid; they approved the project because they felt sorry for the project architect having to come back to them over and over again. She ended by saying that if she were one of the Councilmembers she wouldn't want on her conscience that she approved such a project.

Maria Mak, 215 Barranca Road, stated that this project is a big box on a hillside. When other cities are adopting ordinances to curb such projects, she is at a loss for why we are allowing it to move forward. The most important thing according to Ms. Mak is to preserve open space. By approving this project, the City Council will be destroying open space forever. Ms. Mak stated that she visited the City's website and saw that its motto was "preserving rural tranquility". There will no doubt be bigger projects being approved if the City Council approves this project. It will be more fitting according to Ms. Mak to change the motto to "Welcome to the City of Bradbury, a developer's dream come true". If we approve this project, what right do we have to stop the builder of 200 Barranca from building a large home as he proposes?

It is not too late to stop this overdevelopment. Don't do it for me, don't do it for the appellant, but do it for the children.

Frank Hernandez, 333 Sycamore Lane, stated that the City Council is in a tough situation. The Planning Commission listened to these same concerns and has learned a lot. The City needs to make some changes in terms of building guidelines, but they don't have them right now. Mr. Hernandez stated that he hates to see the applicant stressing over this project and state that the City needs to look at their options for the future but currently, they need to approve this project.

William Thon, 5 Deodar West, stated that he hasn't often commented on items, but the people who live in the area currently in Bradbury have priority in terms of their comfort over those who are moving in. There are a number of large homes in the City, but they aren't impacted by this project. This project is in an area that has 5,000 square foot homes. The City Council should recognize that existing homes have a right for views sheds.

Mr. Alan DeVault made his closing comments and stated that he feels bad to stand in the way of a dream home. He offered to meet Mr. Tong, but stated that Mr. Tong didn't see a need to meet. Mr. DeVault stated that if the Chinese value compromise, then why is it the applicant came back with the same plans. They kept submitting the same plan and hoped it would pass. Mr. DeVault stated that he doesn't envy the City Council in the decision they have to make, but by approving this project, they will be setting precedent for non-conforming lots.

Ms. Candida Neal, the applicant's representative, closed by saying that there have been brought forth many arguments for further modifying the home, although the main issue is that they feel the home is too big. The neighbors are in a difficult situation due to the size of Ms. Tian's lot, but the hearing needs to focus on the code issues only, specifically the issues of setbacks and grading, not if the home is too big.

PUBLIC HEARING CLOSED

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

DISCUSSION

Mayor Pro-Tem Lathrop stated that he has concerns over findings number 4 and 7 made by the Planning Commission (page 7 of the October 2010 PC Report). City Planner Meyer stated those are just the findings of the Planning Commission during the October meeting and the Planning Commission adopted a resolution that superseded those.

Mayor Pro-Tem Lathrop continued by stating that he is troubled by the fact that the A-2 ordinance was in existence at the time the applicant purchased the subject property and that the variances being requested can't compliment the City code. The applicant is more concerned about lifestyles rather than following city code according to Mayor Pro-Tem Lathrop and that is the trouble he has with this project.

Councilmember Hale asked Mayor Pro-Tem Lathrop where he finds the trouble in the code. Mayor Pro-Tem Lathrop said a specific plan may be more appropriate. Councilmember Hale continued and asked if Mayor Pro-Tem Lathrop is of the opinion that the lot shouldn't be developed. Mayor Pro-Tem Lathrop said we have to make a way for the findings to be met and if that includes changing the size of the project, so be it.

Councilmember Hale said that there are several lots that will face several problems, but the lots are not in a view corridor or major viewsheds. These will be projects that will have to be reviewed by the City Council individually. The homes in the area are similarly large and people in these homes can see each other. The public hearing process has worked well because the applicant has reduced the overall square footage dramatically, including moving the garage to the basement. We keep giving the applicant the run-around and not giving them the due process they are entitled to.

Councilmember Pycz stated that what worries him is not the design of the home, but the size of the home. By granting the setbacks, the project will take away the ruralness of the community. Barranca Road will become a cluster of shadows maybe not on our tenure, but in the next 10-15 years. Councilmember Hale the height of the home has been brought back to lower levels of those in the area.

Councilmember Barakat stated that he doesn't understand that if on two acre lots the setbacks are 25 feet on the side and the rear and 50 feet on the front then why is the City trying to make this two-acre lot comply with restrictions for a five acre lot. He doesn't understand why the home was moved towards the western portion of the property and not towards the wider portion of the lot. Councilmember Hale stated the home was move towards the east to give the neighbors a better view of the mountains. Councilmember Barakat said then in response for compliance with the law they will upset the neighbors even more.

Mayor Pro-Tem Lathrop stated that this project makes a complete rejection by the applicant for the Development Code and rural character of the City. They made a lot of design choices that required them to use a large portion of the lot and chose not to maintain the rural character of the area.

Councilmember Barakat inquired as to what the footprint of the home is. City Planner Meyer said it is 7,000 square feet. Councilmember Barakat said the total living space isn't really 15,000 as listed then. Councilmember Barakat stated that he wonders if the City Council would be having this discussion if it was a 7,000 square foot home. In essence, you could block the views with a 7,000 square foot home as much as a 15,000 foot home with the 28 foot tall homes typical of the area. With 7,000 square feet on a two acre parcel that would translate to 3,500 square feet on a one acre and that is the typical size of every home in the City of Bradbury, and in fact on the small side for

comparison. The numbers don't add up that the home is overbuilt for the size of the lot, maybe for the neighborhood; but for the lot it's not overbuilding.

Mayor Lewis stated that he respects the views of Mayor Pro-Tem Lathrop and those who spoke, but the views of every person are all equal, not just those of residents. It comes back to the fact that they are asking for two variances for setback and grading. If these two variances were not needed, the City Council would not be seeing this project and it would move forward. He is disturbed about the talk of mansionization because the other homes in the area similarly built. The City has no code requirements dictating the size of the home. Should we? Maybe, but we can't hold the applicant to a non-existent standard.

Mayor Lewis continued and stated that the character of the neighborhood is different in each direction from this property so therefore how can this project impact the character of the neighborhood. There is no problem with the grading and if one looks at the setback of the property to the south, they share the same setbacks.

Mayor Pro-Tem Lathrop stated that the setback issues are an open space issue.

Councilmember Barakat asked City Planner Meyer that if the neighbor to the south were to tear down the house, but leave up the wall closest to this project site, then the non-conforming setbacks could stay as they are. City Planner Meyer stated that is correct.

Councilmember Hale made a motion to find that the Planning Commission properly and thoroughly reviewed the revised development plans presented to it at its April 27, 2011 meeting with respect to compliance with the development philosophy set forth in the City's General Plan and the development standards contained in the City's adopted Development Code and to adopt Resolution No. 11-19 CC making findings of fact and conditionally approving the revised development plans as presented to the City Council. Mayor Lewis seconded the motion.

Mayor Pro-Tem Lathrop stated that he has trouble with the findings and would prefer not to make a decision and continue to work with the applicant to come up with a better solution.

Mayor Lewis stated that if we do that we will be creating laws to address things that have happened in the past.

Mayor Pro-Tem Lathrop added that if we approve this project, the result will be that we allow for anyone to build anything they want.

Mayor Lewis responded that they are not allowing everyone to build whatever they want; when you look at the nature of the project they have changed it dramatically so much so that they are now down to requesting one relevant variance for setbacks.

Councilmember Hale said that the applicant has succeeded in changing the project to please the Planning Commission and HOA board with a 4-1 vote for both bodies.

Mayor Lewis called for a roll call vote on the resolution motioned by

Councilmember Hale and seconded by Mayor Lewis

**MOTION TO APPROVE
RESOLUTION**

Roll Call Vote:

Councilmember Pycz-No
Councilmember Barakat-Yes
Councilmember Hale- Yes
Mayor Pro-Tem Lathrop-No
Mayor Lewis- Yes

The motion made by Councilmember Hale passed 3-2.

**ITEM #3: DISCUSSION
RESOLUTION NO. 11-18:
PROHIBITION OF NO PARKING
RESTRICTIONS ON THE
EASTERLY SIDE OF MOUNT
OLIVE DRIVE FROM GARDI
STREET TO 175 FEET
NORTHERLY OF ELDA STREET**

The City Council reviewed at the April 19, 2011 meeting no parking restrictions on Mount Olive Drive. At that meeting the City Council voted to move the no parking restriction from the west side to the east side of Mount Olive Drive. It is recommended that the City Council adopt a resolution approving the prohibition of parking at any time on the east side of Mount Olive Drive from Gardi Street to 175 northerly of Elda Street and rescind Resolution No. 10-39. Also it is recommended that the Council provide direction to staff as to the placement of trash cans for the disposal of pet waste.

DISCUSSION

Mayor Pro-Tem Lathrop asked if we can separate the two and adopt the parking and pet waste receptacles separately.

City Manager Keith said that a staff report was sent out to the neighbors along the trail regarding the trash cans and yes, both items can be taken separately.

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

Bill Gomez, 635 Mount Olive Drive, spoke in regards to the placement of the dogipot stations and said that he would recommend to the City Council to place a trash can out along the sidewalk, specifically at the intersection and he wouldn't mind placing it in front of his property.

Sharon Misik, 645 Mount Olive Drive, stated that the City Council should consider adding a second trash can higher up on the Mount Olive trail towards the northern end. She stated that there are people who would probably not carry their dog waste bags from the top to the bottom of the trail.

PUBLIC COMMENT CLOSED

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

DISCUSSION

Mayor Lewis asked where the Duarte trash can is along the Royal Oaks Trail, Councilmember Barakat said it is 100 yards east of Mount Olive.

Councilmember Barakat stated that the City needs three trash cans. One at the Mount Olive/Gardi intersection, one near 535 Mount Olive and one at Woodlyn Lane and Mount Olive.

Mayor Lewis stated that he prefers the location outlined in the lower picture, which is at the southwest intersection of Mount Olive and Gardi

in the planter near the entrance sign because of the possibility for it to blend in.

Mayor Pro-Tem Lathrop stated that he agrees with Mayor Lewis' location, but he is concerned with the weekly maintenance of the trash cans and would like to make sure that the trash cans are emptied on a weekly basis. If they aren't, Mayor Pro-Tem Lathrop stated that he would rather have no trash cans at all.

Councilmember Barakat stated that the City would be making more of a mess by installing one bin at the proposed location and not the other towards the top.

Mayor Pro-Tem Lathrop expressed concern that we are turning this into a recreational trail with the placement of the trash cans, but agrees to put in the cans in to eliminate litter. All we need to do is to ensure that we don't turn this into a trail.

**MOTION TO ADOPT
RESOLUTION PROHIBITING
PARKING ALONG MOUNT OLIVE
DRIVE**

Mayor Pro-Tem Lathrop made a motion to adopt Resolution No. 11-18 prohibiting parking on Mount Olive Drive on the easterly side from Gardi Street to 175 feet northerly of Elda Street and to direct staff to put the one trash can at the location outlined in the picture at the southwest corner of Mount Olive and Gardi and then find two other alternative location and present them to the City Council at the next Council meeting for the remaining trash can. Councilmember Barakat 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.

**ITEM #4: DISCUSSION- CIVIC
CENTER FENCE BIDS AND
DESIGN OPTIONS**

Councilmember Barakat recused himself for the upcoming item.

The City Council directed staff to prepare fence plans that included an electrically operated gate at the entrance to the Civic Center to restrict vehicular access to the front parking area; a masonry pilaster and plastic rail fence along the street frontage and wrought iron fencing located approximately 20 feet east of the building front at the April City Council Meeting. Staff went out to bid for the item and has the bids before the City Council.

The City Council may elect to have the masonry pilaster and plastic rail fence installed along the street frontage and the wrought iron fence installed just east of the building frontage. The installation of the electric gate across the entrance to the front parking area can be installed at a later date if the Council finds that the gate is necessary.

Currently, there is \$13,800 in the contingency account for the Civic Center construction project available for use towards this project. The lowest bidder for this project was from Sierra Madre Landscape in the amount \$28,000.00

PUBLIC COMMENT OPENED

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

PUBLIC COMMENT

Ann Armstrong, 1775 Royal Oaks Drive North, asked if with this current proposal the Council is only securing the back parking lot. City Planner Meyer stated that there will be the split rail fence and vehicle gate in the front of the building and then the wrought iron gate just east of the façade of the building.

Steve Collins, 612 Winston Avenue, stated that there are quite a few people that couldn't make the meeting but would like to keep the 6 foot wrought iron fence at the front of the property. There were discussions at previous meetings where he thought the Council was leaning towards the idea of a wrought iron gate, not the one outlined in the picture distributed to the neighbors. Mr. Collins presented a petition from 14 homeowners along Winston Avenue stating that they would like to see the current style of wrought iron fencing stay.

PUBLIC COMMENT CLOSED

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

DISCUSSION

Mayor Lewis asked what the concern was with not having wrought iron. Mr. Collins said it was due to the break in and that there are cars that park regularly on Winston littering and people making out in their cars parked on the street. The proposed fence will leave just one more unsecured area to gain access to.

Mayor Pro-Tem Lathrop stated that the reason for the split rail fence at the front was for aesthetics, which they also chose for the neighbors. Mr. Collins stated that it is also a reason why the neighbors are concerned. Mayor-Pro Tem Lathrop stated we are still protecting the property and if they want to access the property they will have to climb the fence.

Mayor Pro-Tem Lathrop suggested that the City Council table the item and try to get more input from the neighbors and see if they support the split rail fence concept and hear their concerns on the option.

Councilmember Pycz expressed concern that everyone else will be requesting the same type of fencing and creating an alley look. We need to set the standard for new projects along Winston Avenue

Councilmember Hale said it would be possible to use wrought iron and not place it as close to the curb and possibly meander it, starting farther away from the curb at the Northern end of the property and bring it closer to the curb as it proceeds south.

MOTION TO DIRECT STAFF

Mayor Pro-Tem Lathrop made a motion to table the current design and bring a design alternative that along the street frontage contains the 5 or 6 foot wrought iron fence placed as far easterly on the property as possible. Councilmember Hale seconded the motion which passed by the following roll-call vote:

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

NOES: None

ABSENT: None

ABSTAIN: Councilmember Barakat

Motion Passed 4-0-1

Councilmember Barakat rejoined the meeting

**ITEM #5: DISCUSSION- FISCAL
CHALLENGES PART THREE-
REVENUE GENERATION
OPTIONS-PARCEL TAX AND
UTILITY USER TAX**

At the April 19th meeting, the City Council reviewed estimates for the upcoming FY 2011-2012 budget and forecast projections for FY 2013-2014. This report furthers that discussion by providing information regarding revenue enhancement options for the City Council to consider.

The City has two options for increasing revenue, both include ballot measures that place the tax burden on residents to maintain the community as it is today. The two options are the Utility User Tax (UUT) or Parcel Tax. Regardless of which items is selected to move forward, the Government Code requires a 2/3 vote of the City Council to adopt a Resolution or Ordinance proposing the tax to place it on the ballot. Further, the measures themselves require a 2/3 communitywide vote in favor (of all those who voted) to impose the tax.

A UUT is a tax on certain utility bills. A UUT may be imposed on the consumption of utility services on electricity, gas, water, sewer, telephone, trash and cable television. The tax is set at a certain percentage of the bill and can be designed for all of the services offered in the General Fund. Many UUTs have a sunset clause that is essentially an expiration date for the tax. Users pay the tax with their monthly utility bill and then the utility company will remit payment to the City. The City can provide exemptions for very-low income and low-income households from the tax and the rate is adjusted annually by the City Council.

A Parcel Tax is an excise tax on real property that is based on either a flat per-parcel rate or a rate that varies depending upon use, size, and/or number of units on each parcel. Taxes collected from a parcel tax are sent to County of Los Angeles during the normal property tax payment season and the funds are remitted to the City, less a processing fee. A Parcel tax is not collected when a house is in foreclosure or being reassessed. These taxes are not flexible in their percentage rate and may also be designated with a sunset clause.

If the City Council chooses to move forward with a revenue measure, per State law it will require a vote of the people and be placed on the next ballot for which for Bradbury is April 2012. According to the timeline provided by the Secretary of State, the last day for the City Council to adopt a resolution to place a measure on the ballot would be November 21, 2011.

PUBLIC COMMENT OPENED

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

PUBLIC COMMENT

None.

PUBLIC COMMENT CLOSED

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

DISCUSSION

Mayor Lewis asked if all of the unfunded mandates were included in the budget, what the City's structural deficit will be for the upcoming fiscal year. City Manager Keith said the deficit would be \$350,000.

Councilmember Pycz asked which revenue measure would be more likely to pass. City Manager Keith stated that in surveying the cities that have introduced measures the UUT has been approved more than the parcel tax. City Manager Keith added that the really successful ballot measures have been those that have had great community input on the measure and have all the community groups on board.

City Manager Keith shared with the City Council a chart outlining the different rates that would be needed to set up to help resolve the budget deficit. The chart is based on a rough estimate of Sierra Madre, the closest city in size and tax base and compares their UUT. The chart shows revenues approximately $\frac{1}{4}$ of those received by Sierra Madre. Per percentage point of a UUT the City of Bradbury could expect \$49,000; therefore, the City would need a 7% UUT to cover the deficit. Or if the City Council decided to pursue a parcel tax based on assessed value, to cover the deficit they would need to recommend a tax of \$77 per \$100,000 assessed value.

City Manager Keith reminded the City Council that once they approve the resolution or ordinance for the revenue measure, staff cannot campaign for the measure outside of providing facts about the measure in the form of providing an "info sheet" or answering yes/no questions. Councilmembers can campaign for the measure but not while conducting official city business (i.e. Council meeting).

Councilmember Pycz asked what happens if we miss November 2011 deadline. It will cost more and the Council will have to declare a fiscal emergency to put in on the ballot. Pycz was referring to this November ballot. There is a 120 day waiting period. Councilmember Pycz said we should vote before the new DUSD bond is reflected on the property tax payments.

Mayor Pro- Tem Lathrop said he doesn't like the UUT, but we would have good control over it. Mayor Pro-Tem Lathrop asked if a three year period is a typical sunset period for a measure. Mayor Lewis said in three years, the state fiscal crisis will get worse, not better and the measure should be for much longer.

Mayor Lewis said the problem with the parcel tax is we are set in stone with no flexibility. Mayor Pro-Tem Lathrop said laws may change over time and more grants may become available which is why he thinks the sunset clause should be shorter.

Councilmember Barakat stated that we do too much with too little already and this will hopefully help, but the state is susceptible to seeing that cities have more money and may pass on more mandates to cities.

Councilmember Barakat stated all the cities are going to take the costs from the state and raise taxes; it's not that our revenue lines have changed, but the extra unfunded mandates have changed. Mayor Lewis said Councilmember Barakat has raised great points, but how will those points raise money for the city.

Mayor Lewis said he senses that the agreement among the Council that while the hybrid version of taxes would be a good mixture to have, it is too dangerous for not meeting the shortfall in case one part of it doesn't receive voter approval. All of the councilmembers agreed with this statement.

Councilmember Barakat asked what the City's reserve is. City Manager Keith said it is \$800,000 or one year operating expenses.

Mayor Lathrop said the soonest we can get UUT revenue is during the third quarter of 2012. Councilmember Pycz said lets settle on doing a UUT for ease of approval and go out to the community to see their opinions on it. Councilmember Barakat agreed.

Councilmember Hale asked if the City can pick which utilities to tax. City Manager Keith said the Council can pick one or more utilities for the UUT up until drafting the measure and submitting it for a vote.

Mayor Lewis said the parcel tax is not as fair for residents because the costs being paid don't represent the amount of government services they receive; it is different for a UUT and in the long run it could encourage residents to reduce their overall energy usage.

Councilmember Hale said one downside to the UUT is it is difficult to calculate one's tax to expect, unlike a parcel tax. Mayor Lewis said though the beauty of a UUT is that it's for equal for every user.

City Manager Keith said one of the questions the City Council will have to ask the residents to consider is what residents will receive from the tax, will it be public safety or will it be libraries. For Bradbury, the UUT will create the opportunity for Bradbury to maintain independence as a city.

**MOTION TO PROVIDE
DIRECTION TO STAFF**

Councilmember Barakat made a motion to direct staff to pursue the Utility Users Tax option and bring forth to the Council the necessary items to have a successful campaign by surveying different cities with a successful program and see what they did to make it pass, including working with the City Attorney in special services

Mayor Lewis 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

**MATTERS FROM THE
CITY MANAGER**

As of this City Council meeting staff has received 1/3 of the community counts surveys.

The portion of sidewalk along Mount Olive that was removed by Cal Am for their project will be fixed in the upcoming weeks now that the project is done.

There is a Planning Commission meeting on May 25th and the City

Council/Planning Commission joint meeting will be on June 9th from 6 to 9 p.m.

MATTERS FROM THE CITY COUNCIL

MAYOR LEWIS

Nothing to report.

MAYOR PRO-TEM LATHROP

The SGVCOG is in the news dealing with the Caltrans Audit. Mayor Pro-Tem Lathrop reported that he is sitting on the exit interview panel and they will be holding a closed door session to discuss the audit.

COUNCILMEMBER HALE

Councilmember Hale reported that the Bond oversight committee held its first meeting along with the School board and discussed some of the goals of the committee and the roles each member has.

COUNCILMAN PYCZ

Nothing to report.

COUNCILMEMBER BARAKAT

West Nile Virus is back in the area and residents should be hearing about from the media in the next couple of weeks. Councilmember Barakat reminded everyone to maintain their pools since that is one the biggest ways mosquitos breed.

ITEMS FOR FUTURE AGENDAS

None

CLOSED SESSION

Mayor Lewis adjourned the meeting to a Closed Session regarding conference with legal counsel to discuss:

- (1) Personnel/Evaluation of Performance (Title: City Manager) pursuant to California Government Code Section 54957;
- (2) Existing Litigation (CPUC Application 10-07-007 California American Water Rate Increase Proceedings) pursuant to Government Code Section 54956.9 (a)
- (3) Significant Exposure to Litigation, pursuant to Government Code section 54956.9 (b)1 Case

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 June 21, 2011 meeting.

ADJOURNMENT

At 10:45 pm Mayor Lewis adjourned to the meeting to a joint City Council/Planning Commission joint meeting at the Bradbury Civic Center, 600 Winston Avenue Bradbury, CA 91008 on Thursday June 9, 2011 at 6:00 pm. The motion was seconded by Councilmember Pycz and carried unanimously.

MAYOR – CITY OF BRADBURY

ATTEST: _____
CITY CLERK – CITY OF BRADBURY