

**MINUTES OF A REGULAR MEETING OF THE  
CITY COUNCIL OF THE CITY OF BRADBURY  
HELD ON TUESDAY, DECEMBER 19, 2017**

- MEETING CALLED TO ORDER:** The Regular Meeting of the City Council of the City of Bradbury was called to order by Mayor Lathrop at 7:00 p.m. Mayor Lathrop led the Pledge of Allegiance.
- ROLL CALL:** PRESENT: Mayor Lathrop, Mayor Pro-Tem Pycz, Councilmembers Barakat, Hale and Lewis
- STAFF: City Manager Kearney, City Attorney Reisman, City Planner Kasama, City Clerk Saldana and Management Analyst Santos Leon
- APPROVAL OF AGENDA:** Councilmember Lewis made a motion to approve the agenda to proceed with City business. Councilmember Hale seconded the motion which carried.
- DISCLOSURE OF ITEMS REQUIRED BY GOV. CODE SECTION 1090 & 81000 ET SEQ.:** In compliance with the California Political Reform Act, each City Councilmember 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 stated that he was not aware of any conflicts of interest.
- 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 Councilmember requests 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 "waive further reading and adopt."
- A. Minutes – Regular City Council Meeting of November 21, 2017
  - B. Resolution No. 17-20: Demands & Warrants for December 2017
  - C. Monthly Investment Report for the month of November 2017
  - D. Approval of a new Reimbursement Agreement for a Proposed Subdivision and Development Project known as "Oak View Estates" in the City of Bradbury
  - E. Award of Contract to Team Logic IT of Pasadena for the City's Information Technology Needs
- ITEMS E & D PULLED FROM CONSENT CALENDAR:** Mayor Lathrop pulled items E and D from the Consent Calendar for discussion. In regards to item D City Manager Kearney stated that there was a tabulation error in the staff report and that the deposit with the City should be in the amount of \$91,144.00. City Manager Kearney stated that the agreement has already been updated with the correct deposit amount, to be made within 10 business days of execution and delivery of the Reimbursement Agreement.

Section 19.6 of the Agreement with Team Logic (item E) needs to be changed to state that the venue for any litigation shall be *Los Angeles County* instead of Orange County. Mayor Lathrop also asked staff to include the fee schedule (price list) to the minutes (attached).

**MOTION TO APPROVE  
CONSENT CALENDAR:**

With those changes, Councilmember Hale moved to approve the Consent Calendar. Mayor Pro-Tem Pycz seconded the motion, which was carried by the following roll call vote:

**APPROVED:**

AYES: Mayor Lathrop, Mayor Pro-Tem Pycz,  
Councilmember Barakat, Hale and Lewis  
NOES: None  
ABSENT: None

Motion passed 5:0

**APPEAL OF PLANNING COMMISSION  
APPROVAL FOR 406 MOUNT OLIVE DRIVE:**

City Planner Kasama stated that the proposed project is for the construction of a new two-story 6,232 square foot Spanish-style single-family residence with accessory features, and includes the remodeling of the existing one-story 1,704 square foot residence to a Spanish-style accessory living quarter/guest house.

**BACKGROUND:**

The applicant, Mr. John Sheng, Architect, on behalf of the property owner, Dr. Victor De Los Santos, applied for Conceptual Plan Review No. CPR 16-011 on July 2016, which was concluded on August 22, 2016. The applicant was advised about applying for formal Architectural Review and Neighborhood Compatibility review, and that was done on May 12, 2017. Upon completion of review by the City's Development Team and adjustments to the proposed plans, the applications were considered by the Planning Commission at a public hearing on November 22, 2017. The Planning Commission voted 4:0 with one Commissioner absent to adopt Resolution No. PC 17-269 for the conditional approval of the proposed project. On December 1, 2017 the law firm of Fitzgerald-Yap-Kreditor LLP, on behalf of Mr. Hon K. Shing, the owner of the neighboring property at 412 Mount Olive Drive, filed a written appeal of the Planning Commission's decision with the City Clerk. The applicant's representative, Mr. David Meyer, has provided a letter in response to the appeal.

**FINDINGS:**

City Planner Kasama stated that the proposed project complies with the standards and requirements of the Bradbury Development Code. The details and analysis of the proposed project are contained in the Planning Commission staff report dated November 22, 2017. Staff concurs with Mr. Meyer's responses to the issues enumerated in the appeal letter.

**RECOMMENDATION:**

It is recommended that the City Council open the public hearing and solicit testimony on the appeal of the proposed project, close the public hearing and determine that the findings can be made for approval of the project and a determination that the project is Categorically Exempt under CEQA, and make a motion to deny the appeal and uphold the approval of Architectural Review No. AR 17-006 and Neighborhood

Compatibility No. NC 17-005, and adopt Resolution No. 17-21 denying the appeal.

**PUBLIC HEARING OPENED:**

Mayor Lathrop opened the public hearing and asked those wishing to speak in favor or opposition to come forward and be heard.

**PUBLIC TESTIMONY:**

Deborah Rosenthal, attorney for Mr. Hon K. Shing, 412 Mount Olive Drive, summarized the reasons for the appeal:

**APPELLANT:**

1. The subject property at 406 Mount Olive Drive has not been staked with story poles and no view elevations have been prepared to ensure the appellant's view will not be obstructed by construction of a second home on the lot.
2. The proposed new home will be the second dwelling unit on a single lot, but it will be more than twice the size of an accessory unit allowed in the A-2 zone.
3. The existing home is non-conforming as to setbacks in the A-2 zone. No new building or structure may be constructed on the same lot so long as a non-conforming structure exists anywhere on the lot. The applications contemplate retention of the existing home as a non-conforming structure, so the proposed second home falls within this prohibition.
4. The existing structure is non-conforming as to setbacks in the A-2 zone. Although the structure was apparently conforming to the setback requirements when it was built prior to 1960, it was required to be abated within the time set forth in BMC Section 9.10.040.(2). To the best of our knowledge the structure became non-conforming as to setbacks more than 15 years ago, which is the maximum time allowed for abatement of a non-conforming type V building.
5. The applications propose to remodel and expand the existing residence without eliminating or reducing the non-conformity. Alteration and enlargement of non-conforming structures is prohibited by BMC Section 9.10.040(1), except as required to eliminate the non-conformity.
6. The existing structure is non-conforming as to setbacks in the A-2 zone. The applications propose to change the use of the existing home from a primary to secondary residence. Under BMC Section 9.10.040(1), a non-conforming structure must be abated upon any change in use.
7. The applications do not meet the neighborhood compatibility requirements in BMC Chapter 40.
8. The applications do not demonstrate adequate access to a second home from Mount Olive Drive.

**APPLICANT:**

Mr. David Meyer, representing the property owner of 406 Mount Olive Drive, took the opportunity to express rebuttals to the allegations made by the appellant.

1. Section 9.43.020(a) (Applicability) indicates that a significant view shall be determined by the "City." The City Planner and Planning Commission determined that the proposed project would not impact any existing significant view from the appellant's main structure or lot.
2. The existing 1,700 square foot dwelling unit will be converted to an allowable accessory (second) dwelling unit as provided for by Section 9.70.020(2)(c) – Permitted Uses in the A-2 zone. Section 9.85.020(1) specifies that the maximum size of a second dwelling unit in the A-2 Zone is 2,000 square feet. The conversion of the existing dwelling unit to a second dwelling unit complies with the City's development standards.
3. BMC Section 9.70.060 (Existing uses, exemption) specifies that if the existing structure complied with the setback standards applicable at the time of its construction it shall not be deemed to have acquired a non-conforming status, within the meaning given in Section 9.25.020 (Definition of terms) under certain provisions. Based on the provisions of Section 9.70.060 we allege that the existing structure should not be considered as a non-conforming structure.
4. If the existing building is not considered as non-conforming we don't understand this allegation.
5. The existing dwelling is not considered as non-conforming and it will not be expanded in size. However, the applicant does propose to update the exterior appearance of the structure.
6. The existing use of the structure is residential and the proposed use of the structure is to be residential. We do not understand or comprehend the allegation.
7. The proposed development is compatible with existing surrounding neighborhood residential estate dwellings and development. Property owners within a 500 foot radius have been notified and invited to comment on the proposed project. Other than this single objection concerning possible view impairment no one has alleged that the proposed project is not consistent with the development in the surrounding neighborhood. The City's staff and the Planning Commission have determined that the development as proposed is in fact compatible with the development in the surrounding neighborhood.
8. A single 20-foot driveway will provide access to the proposed main dwelling and the second dwelling. The width of the driveway is consistent with the City's development standards. If additional driveway width is required, the Fire Department will most likely be the agency responsible for such a determination.

Mr. Meyer stated that he believes that all of the appellant's attorney's allegations are unsubstantiated and frivolous in nature and believes that this is a deliberate attempt by the appellant to inconvenience and delay the process of constructing the applicant's dream home.

**REBUTTAL BY APPELLANT:**

The appellant's attorney stated that the Google maps provided by the applicant showing the impact of the proposed project are not very helpful.

Councilmember Barakat inquired about the height of Mr. Shing's house, why Mr. Shing did not attend any of the meetings in person, and if Mr. Shing installed story poles for his project. Ms. Rosenthal did not know.

Councilmember Hale wanted to know if Mr. Shing asked for story poles. City Planner Kasama stated no. The request was made by Mr. Shing's attorney at the November 22, 2017 Planning Commission meeting.

Mr. Meyer stated that his client's proposed home is 300 feet away from Mr. Shing's house. Ms. Rosenthal stated that the point was to get information regarding significant view impact. Councilmember Hale stated that the Planning Commission already made that determination. Mayor Lathrop pointed out that there is a picture showing the 45 foot line elevation. Councilmember Lewis stated that the Planning Commission made the findings and asked the attorney if she can dispute this factually? Does the attorney have facts the Planning Commission did not consider?

Ms. Rosenthal stated that Mr. Shing can see the proposed house from his second story. Councilmember Barakat replied that every house that is built changes the view of somebody.

**PUBLIC HEARING CLOSED:**

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

**DISCUSSION:**

Councilmember Hale asked the City Attorney for his opinion. City Attorney Reisman stated that the City determines what constitutes a significant view and if story poles are required. The proposed project flip-flops the primary dwelling unit to a secondary (accessory) unit, which is permitted by our code. State Legislature encourages second units. City Attorney Reisman recommended that the City Council deny the appeal and the decision would hold up in court.

**MOTION TO DENY APPEAL:**

Councilmember Hale moved to adopt Resolution No. 17-21:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRADBURY, CALIFORNIA, SETTING FORTH ITS FINDINGS OF FACT AND DECISION TO DENY AN APPEAL AND UPHOLD THE PLANNING COMMISSION DECISION TO ADOPT PLANNING COMMISSION RESOLUTION NO. PC 17-269 TO CONDITIONALLY APPROVE ARCHITECTURAL REVIEW APPLICATION NO. AR 17-006 AND NEIGHBORHOOD COMPATIBILITY APPLICATION NO. NC 17-005 FOR A NEW TWO-STORY 6,232 SQUARE FOOT SPANISH-STYLE SINGLE-FAMILY RESIDENCE AND REMODELING OF THE EXISTING ONE-STORY 1,704 SQUARE FOOT RESIDENCE TO A SPANISH-STYLE ACCESSORY LIVING QUARTER/GUEST HOUSE AT 406 MOUNT OLIVE DRIVE

Councilmember Barakat seconded the motion, which was carried by the following roll call vote:

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

NOES: None

ABSENT: None

Motion passed 5:0

**INTRODUCTION AND FIRST READING  
OF NOISE ORDINANCE:**

City Manager Kearney stated that at the November meeting, staff presented concerns regarding the City's noise ordinance (BMC Section 9.127.080) which currently allows for construction between the hours of 7:00 am and 7:00 pm on weekdays, and 9:00 am and 7:00 pm on weekends and holidays. Council directed staff to draft an ordinance to limit construction on the following specified holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

**RECOMMENDATION:**

It is recommended that the City Council introduce for first reading, by title only, Ordinance No. 350:

AN ORDINANCE OF THE CITY OF BRADBURY, CALIFORNIA, AMENDING THE BRADBURY MUNICIPAL CODE TO SPECIFY THE DAYS THAT ARE CONSIDERED HOLIDAYS IN THE CITY'S NOISE ORDINANCE

**DISCUSSION:**

Councilmember Hale stated that he does not like the 9:00 am starting time on Saturdays. Contractors like to start early.

Councilmember Barakat stated that residents should be able to sleep in on weekends. Councilmember Barakat also stated that there was a section missing in the draft ordinance regarding the holidays. Councilmember Barakat reiterated that there should be no construction at all on certain holidays.

Councilmember Lewis pointed out that homeowners may only be able work on home improvement projects on weekends and holidays.

Mayor Pro-Tem Pycz stated that this is a noise issue, not a matter of time or day.

**MOTION:**

Mayor Lathrop made a motion to introduce for first reading, by title only, Ordinance No. 350, as presented and to take out the word "celebrated" on the list of specified holidays. Councilmember Barakat seconded the motion, which was carried by the following roll call vote:

AYES: Mayor Lathrop and Councilmember Barakat

NOES: Mayor Pro-Tem Pycz, Councilmembers Hale and Lewis

ABSENT: None

Motion did not pass

**AMENDED MOTION:**

The motion was amended to change Sections 5 and 6 of the draft ordinance to allow construction on weekends and take out the word "celebrated" on the list of specified holidays.

**APPROVED:**

AYES: Mayor Lathrop, Councilmembers Barakat and Hale  
NOES: Mayor Pro-Tem Pycz, Councilmember Lewis  
ABSENT: None

Motion passed 3:2

City Manager Kearney stated that Ordinance No. 350 will be on January 16, 2018 City Council agenda for second reading and adoption.

**INTRODUCTION AND FIRST READING  
ORDINANCE NO. 351:**

City Manager Kearney stated that in 2011 Ordinance No. 321 was added to the BMC to update property maintenance standards. During this update, some language was omitted from the code that prohibits the visibility of trash containers from public streets "except when lawfully placed for collection at the times permitted."

It is recommended to reinstate Section 11.01.480 in order to establish a time for placement of trash containers:

*"No person shall place or cause to be placed any garbage, refuse or recycling receptacle on any sidewalk, road, street or highway, at any time other than on the days established for the collection of garbage, refuse and recyclables on the particular route, prior to 6:00 p.m. on the days immediately prior to such collection, or permit such receptacle to remain thereat for more than twelve (12) hours after it has been emptied."*

**RECOMMENDATION:**

It is recommended that the City Council introduce for first reading, by title only, Ordinance No. 351:

AN ORDINANCE OF THE CITY OF BRADBURY, CALIFORNIA, AMENDING THE BRADBURY MUNICIPAL CODE REGARDING THE PLACEMENT OF TRASH CONTAINERS VISIBLE FROM THE PUBLIC STREET

**DISCUSSION:**

Mayor Lathrop suggested to make the following change:

*"No person shall place, cause to be placed, or allow to remain in place, any garbage, refuse or recycling receptacle on any sidewalk, road, street or highway, at any time other than from 6:00 p.m. on the day preceding the day established for the collection of garbage, refuse and recyclables on the particular route until 6:00 a.m. on the day following the established collection day."*

**MOTION:**

Councilmember Lewis made a motion to introduce for first reading, by title only, Ordinance No. 351, as amended by Mayor Lathrop. Councilmember Hale seconded the motion, which was carried by the following roll call vote:

**APPROVED:**

AYES: Mayor Lathrop, Mayor Pro-Tem Pycz,  
Councilmember Barakat, Hale and Lewis  
NOES: None  
ABSENT: None

Motion passed 5:0

City Manager Kearney stated that Ordinance No. 351 will be on January 16, 2018 City Council agenda for second reading and adoption.

**URGENCY ORDINANCE  
NO. 352U:**

City Manager Kearney stated that in 2006, the State Legislature passed the Digital Infrastructure and Video Competition Act (DIVCA), which created a process for cable video providers to apply for a State franchise permit in lieu of entering local franchise agreements to provide video services. State law allows the City to collect a Public, Educational, or Government (PEG) access fee from cable subscribers to fund the City's access channels. The City needs to adopt a new ordinance to allow for this continued authorization.

**RECOMMENDATION:**

It is recommended that the City Council adopt Urgency Ordinance No. 352U and introduce for first reading, by title only, Ordinance No. 352:

AN (URGENCY) ORDINANCE OF THE CITY OF BRADBURY, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, RETAUTHORIZING THE PUBLIC, EDUCATIONAL, OR GOVERNMENTAL ACCESS CHANNEL FEE

**MOTION TO ADOPT URGENCY  
ORDINANCE NO. 352U:**

Councilmember Hale made a motion to adopt Urgency Ordinance No. 352U. Councilmember Barakat seconded the motion, which was carried by the following roll call vote:

**APPROVED:**

AYES: Mayor Lathrop, Mayor Pro-Tem Pycz,  
Councilmember Barakat, Hale and Lewis  
NOES: None  
ABSENT: None

Motion passed 5:0

**MOTION TO INTRODUCE  
ORDINANCE NO. 352:**

Councilmember Barakat made a motion to introduce for first reading, by title only, Ordinance No. 352. Councilmember Hale seconded the motion, which was carried by the following roll call vote:

**APPROVED:**

AYES: Mayor Lathrop, Mayor Pro-Tem Pycz,  
Councilmember Barakat, Hale and Lewis  
NOES: None  
ABSENT: None

Motion passed 5:0

City Manager Kearney stated that Ordinance No. 352 will be on January 16, 2018 City Council agenda for second reading and adoption.

**DISCUSSION - ANNUAL  
APPRECIATION EVENT:**

Management Analyst Santos Leon stated that the City Council budgeted \$1,200 in the FY 2017-18 budget for the Annual Appreciation event. In the last three years, the Annual Appreciation events have been held at the Congregation Ale House in Azusa (2014 and 2015) and Pasadena (2016) and all expenses associated with the events were generously paid for by the Councilmembers.



**RECOMMENDATION:**

City Manager Kearney stated that staff needs to start planning for this event. It is recommended that the City Council provide direction to staff regarding the time, date and location for the event. Furthermore, it is advised that Council be mindful that City funds will be used toward the event, therefore, a location should be selected that does not present a conflict of interest.

**DISCUSSION AND DIRECTION TO STAFF:**

Mayor Lathrop suggested to combine the Annual Appreciation event with National Night Out. Councilmember Barakat stated that he would prefer to keep the two events separate. The Annual Appreciation event allows the participants to talk one on one in a small setting and it is more like a team meeting.

Mayor Pro-Tem Pycz suggested Villa Italia in the Target shopping center as a possible location. Councilmember Hale added that staff should also check out Bella Sera in Monrovia.

**DISCUSSION – RENEWAL OF THE UTILITY USER TAX (UUT):**

City Manager Kearney stated that at the November meeting, the City Council discussed renewing the City's Utility Users Tax (UUT). As part of this discussion, the Council directed staff research two additional items: 1) The possibility of obtaining a future loan to fund stormwater compliance; and 2) provide information on what kind of assistance would be available in the event of a disaster. Council also directed staff to draft the appropriate ordinance and resolutions needed to move forward with the UUT renewal, knowing that there was still more to discuss before placing the measure on the June 5, 2018 ballot.

As discussed at the November meeting, the City's Utility Users Tax (UUT) will sunset on May 31, 2018. Since the passage of the UUT five years ago, the City's economic health has improved, but little has changed in resolving the uncertainty to the State's mandated stormwater compliance. Although staff is working with a group of surrounding cities to balance the need for financially achievable compliance, the current projections for Bradbury's stormwater compliance are estimated between 30 and 67 million dollars. With so much uncertainty, both staff and the UUT Oversight Committee recommend that the UUT remain in effect at the current rate until the City's stormwater compliance requirements are better known.

**RECOMMENDATION:**

Both the UUT Oversight Committee and staff recommend moving forward with renewing the Utility Users Tax due to the uncertain costs of future stormwater compliance. Should Council decide to move forward with the UUT measure to be voted on at the June 5, 2018 election, it is recommended that the City Council:

1. Approve the introduction and first reading of Ordinance No. 353:

AN ORDINANCE OF THE CITY OF BRADBURY, CALIFORNIA, ADDING CHAPTER 6 TO ARTICLE VI OF THE BRADBURY MUNICIPAL CODE TO IMPOSE A UTILITY USERS TAX AND PROVIDING FOR ITS SUNSET

2. Adopt Resolution No. 17-22 calling for a General Municipal Election to be held on June 5, 2018
3. Adopt Resolution No. 17-23 setting priorities for filing written arguments and directing the City Attorney to prepare an impartial analysis
4. Adopt Resolution No. 17-24 providing for the filing of rebuttal arguments

**DISCUSSION:**

City Manager Kearney stated that he contacted IBank regarding a "stormwater" loan. The quote received was for a loan up to \$2 million with a 30-year payback period and a 3.25% interest rate. In regard to financial assistance in case of a disaster, FEMA and the State provide 75% of the eligible cost after a Presidential disaster declaration. Regarding the City's insurance policy, City Hall has an insured value of \$1,291,272 in the event of a fire to rebuild City Hall. Roads are not covered. City Manager Kearney stated that the City Council has the option of postponing the UUT measure to the November 2018 election.

Councilmember Barakat stated that a lower UUT rate would be an easier sale to the constituents

Mayor Lathrop stated that the County parcel tax is up for discussion again and would prefer to wait until November.

Councilmember Hale stated that he would like to keep the UUT going and be prepared.

**MOTION:**

Councilmember Hale made a motion introduce Ordinance No. 353, submitting to the voters Measure CC at the June 5, 2018 General Municipal Election, removing the sunset clause, and setting the UUT rate at 1% for gas, electric, cable, trash and telecommunications for the first year, and 0.5% on water for the first year, and adopt Resolutions No. 17-22, 17-23 and 17-24. Councilmember Barakat seconded the motion, which was carried by the following roll call vote:

**APPROVED:**

AYES: Councilmembers Barakat, Hale and Lewis  
NOES: Mayor Lathrop and Pro-Tem Pycz  
ABSENT: None

Motion passed 3:2

**MATTERS FROM THE CITY MANAGER:**

City Manager Kearney reminded everyone that City Hall will be closed between Christmas and New Year for Winter Break and re-open on Tuesday, January 2, 2018.

**MATTERS FROM THE CITY ATTORNEY:**

City Attorney Reisman wished everyone Happy Holidays and a Happy New Year and stated that he brought candy for City Council and staff.

**MATTERS FROM THE CITY COUNCIL:**

**MAYOR LATHROP:** Nothing to report

**MAYOR PRO-TEM PYCZ:** Nothing to report

**COUNCILMEMBER BARAKAT:** Nothing to report

**COUNCILMEMBER HALE:** Councilmember Hale stated that there are 4 or 5 properties in the Estates owned by out-of-state buyers. Who is responsible for yard maintenance if it becomes a fire hazard? What responsibility do tenants have? City Manager Kearney replied that all cities have this problem. Maybe our Community Services Officer (CSO) can assist with these type of code enforcement issues.

**COUNCILMEMBER LEWIS:** Nothing to report

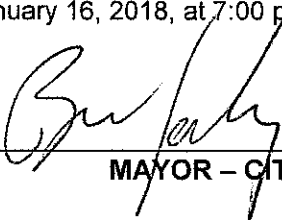
**ITEMS FOR FUTURE AGENDAS:** Further discussion of UUT Election and Appreciation Event

**CLOSED SESSION**

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION:** The City Council convened to a Closed Session to discuss City Attorney Evaluation pursuant to Government Code Section 54957(b)(4)

**RECONVENE INTO OPEN SESSION:** The City Council reconvened into Open Session and to announce any action taken. City Manager Kearney reported that no action was taken during the Closed Session.

**ADJOURNMENT:** At 9:10 p.m. Mayor Lathrop adjourned the meeting to Tuesday, January 16, 2018, at 7:00 pm.

  
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**MAYOR – CITY OF BRADBURY**

ATTEST:

  
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**CITY CLERK – CITY OF BRADBURY**