

**MINUTES OF A REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF BRADBURY
HELD ON TUESDAY, APRIL 17, 2018**

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, Councilmembers Barakat, Hale and Lewis

ABSENT: Mayor Pro-Tem Pycz

STAFF: City Manager Kearney, City Attorney Reisman, John Leveillee (RKA), City Clerk Saldana and Management Analyst Santos Leon

**MAYOR PRO-TEM PYCZ
EXCUSED:**

Councilmember Barakat made a motion to excuse Mayor Pro-Tem Pycz from the meeting. Councilmember Hale seconded the motion, which carried unanimously.

APPROVAL OF AGENDA:

Councilmember Lewis made a motion to approve the agenda (without Item #6) 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 March 20, 2018
- B. Resolution No. 18-09: Demands & Warrants for April 2018
- C. Monthly Investment Report for the month of March 2018
- D. Quarterly Budget Review (as of March 31, 2018)
- E. Appointment of City Treasurer
- F. Second Reading and Adoption of Ordinance No. 356:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
BRADBURY AMENDING THE BRADBURY MUNICIPAL CODE
REGARDING UNINHABITED RESIDENTIAL PROPERTIES

**ITEM E PULLED FROM
CONSENT CALENDAR:**

Mayor Lathrop pulled Item #B (Demands & Warrants) from the Consent Calendar. Mayor Lathrop stated that Check No. 14956 in the amount of \$59,855.20 payable to Michael Baker International for Oaks View Estates should be approved after the Special Meeting (Discussion and Direction regarding City Manager Signing Authority on Contracts). Mayor Lathrop made a motion to approve the Demands & Warrants minus Check No. 14956.

**MOTION TO APPROVE
DEMANDS & WARRANTS:**

Councilmember Barakat made a substitute motion to approve Resolution No. 18-09 (Demands & Warrants for April 2018) as presented. Councilmember Lewis seconded the motion, which was carried by the following roll call vote:

APPROVED:

AYES: Councilmember Barakat, Hale and Lewis

NOES: Mayor Lathrop

ABSENT: Mayor Pro-Tem Pycz

Motion passed 3:1

**MOTION TO APPROVE
CONSENT CALENDAR:**

Councilmember Barakat made a motion to approve the Consent Calendar minus Item #B (Demands & Warrants) as presented. Councilmember Lewis seconded the motion, which was carried by the following roll call vote:

APPROVED:

AYES: Mayor Lathrop, Councilmember Barakat, Hale, Lewis

NOES: None

ABSENT: Mayor Pro-Tem Pycz

Motion passed 4:0

**ORDINANCE NO 355 – AMENDING
THE BMC REGARDING PROPERTY
MAINTENANCE STANDARDS:**

Before starting the discussion regarding Ordinance No. 355, the City Clerk asked those in attendance wishing to address the Council during the public hearing to fill out speaker cards.

POWER POINT PRESENTATION:

City Manager Kearney gave a program overview on Code Enforcement in the City of Bradbury. Mr. Kearney stated that Code Enforcement is established in communities to improve the quality of life for those that live and do business in a City. It also provides residents with a safe, healthy, and quality environment.

City Manager Kearney continued to state that the most common nuisance complaints are:

- Accumulation of junk and debris
- Overgrown vegetation
- Storage of junk cars
- Fire hazards
- Abandoned building
- Discarded furniture
- Garbage containers left out

In the past, Code Enforcement was done by the Building Inspector. Presently, most Code Enforcement cases are handled by the City's Community Services Officer (CSO).

HISTORY OF ORDINANCE NO. 355:

City Manager Kearney stated that at the February meeting, the City Council reviewed the City's current Property Maintenance Standards. At the direction of the City Council, staff presented draft Ordinance No. 355 at the March City Council meeting. The purpose of the Ordinance is to strengthen property maintenance standards and to address water and landscaping services for unoccupied properties.

RECOMMENDATION:

It is recommended that the City Council introduce, waive reading in full, and authorize reading, by title only, Ordinance No. 355: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRADBURY AMENDING THE BRADBURY MUNICIPAL CODE REGARDING PROPERTY MAINTENANCE STANDARDS.

**FLYER/NOTICE DISTRIBUTED
TO RESIDENTS OVER THE WEEKEND:**

To avoid confusion about a flyer that read IMPORTANT NOTICE that was distributed over the weekend, it was clarified that the notice did not come from City Hall. Mayor Lathrop stated that at the March meeting he was the only Councilmember opposing the draft ordinance as written and was outvoted 4:1. Mayor Lathrop stated that he personally distributed the flyer to inform residents of the language in the ordinance and to urge residents to attend the meeting tonight and voice their opinion regarding this matter. The notice reads:

"These laws mean the City will be inspecting your property for anything that they deem "unsightly." City personnel will be applying their subjective view to your paint, fences and walls, along with driveway approaches no longer needed. If they find anything THEY DON'T LIKE, the City may use its police power to convict you of a misdemeanor (A CRIMINAL OFFENSE) and hold a public hearing to assess your property. If you don't comply, they can hire contractors at your expense to "fix" the problem WITHOUT YOUR PERMISSION. The assessment could also go on your property tax bill or be places as a JUDGMENT LIEN on your property. In either case, they can FORECLOSE ON YOUR PROPERTY to collect the assessment."

COUNCILMEMBER BARAKAT:

Councilmember Barakat addressed the audience stating that the Ordinance is needed to deal with abandoned properties, squatters, fires, and lack of pool maintenance, not to take away properties from residents. City Manager Kearney added that over the last 10 years the City had zero abatement actions and only 1 court case.

PUBLIC HEARING OPENED:

Mayor Lathrop thanked everyone in the audience for attending and opened the public hearing for public comments:

PUBLIC TESTIMONY:

Dan Lien, 31 Woodlyn Lane
Brian Hamill, 728 Winston Avenue
Anne Armstrong, 1775 Royal Oaks Drive North
Mike Misik, 645 Mount Olive Drive
Karen Flaherty, 635 Mount Olive Drive
John Hervey, 21 Woodlyn Lane
Walt Dahlem, 160 Mount Olive Drive
Mary Lou Herrera, 1459 Lemon Avenue
Chris McMahon, 428 Mount Olive Drive (per email)

Dan Lien, 31 Woodlyn Lane, stated that he likes the rural tranquility of Bradbury.

Brian Hamill, 728 Winston Avenue, stated that there were lots of problems with the vacant property at 1533 Royal Oaks Drive North (squatters) and supports a stronger ordinance.

Anne Armstrong, 1775 Royal Oaks, stated that the adoption of this Ordinance was not mentioned in the Bradbury Newsletter. Ms. Armstrong also stated that she does not have a paved driveway and does not want to change that.

Mike Misik, 645 Mount Olive Drive, inquired why we always compare ourselves to the City of San Marino. We don't want to be like San Marino.

Karen Flaherty, 635 Mount Olive Drive, stated that she and her boyfriend have lived in the City for 12 years and they do not want to go to jail over a cracked driveway or peeling paint.

John Hervey, 21 Woodlyn Lane, stated that the language in the ordinance could be dangerous in the wrong hands.

Walt Dahlem, 160 Mount Olive Drive, stated that he is 92 years old and has lived in Bradbury for a long time in the City of Bradbury. Mr. Dahlem stated felt that the City should notify its residents. City Manager Kearney stated that all agendas and minutes are posted on the City's website and residents can contact staff at City Hall anytime.

Mary Lou Herrera, 1459 Lemon Avenue, stated that she has problems with an abandoned pool on the property next door. Mr. Herrera also stated that she has seen pregnant Chinese ladies two houses up from City Hall. City Manager Kearney reiterated that this what the proposed ordinance is for.

PUBLIC COMMENT CLOSED:

Mayor Lathrop closed the discussion for public comment.

DISCUSSION:

Councilmember Hale stated that no one in the City is looking at cracked driveways.

Mayor Lathrop disagreed and also stated that he reached out to the City Attorney and received no help. Mayor Lathrop stated that the word "unsightly" is too vague. Mayor Lathrop also stated that people are afraid of Government.

FIRST MOTION:

Mayor Lathrop made a motion to reintroduce Ordinance No. 355 with three changes (Sections 5, 7 and 19). There was no second.

MOTION:

Following further discussion, Councilmember Lewis made a substitute motion to reintroduce Ordinance No. 355, remove the word "unsightly" from the Ordinance and "publish" the entire Ordinance on the City's website, and place it on the May 15 agenda for Second Reading and Adoption. Councilmember Barakat seconded the motion, which was carried by the following roll call vote:

APPROVED:

AYES: Councilmember Barakat, Hale and Lewis

NOES: Mayor Lathrop

ABSENT: Mayor Pro-Tem Pycz

Motion passed 3:1

5-MINUTE RECESS:

The City Council called for a 5-minute recess.

**ROYAL OAKS DRIVE NORTH
CURB EXTENSION:**

City Manager Kearney stated that the City receives restricted funds annually from a number of sources for the upkeep and maintenance of City roads. To date, the City has \$290,362 in these type of funds. Of this amount, the City must move forward toward spending \$7,500 this fiscal year or risk losing these funds.

John Leveillee (RKA) stated that one of the projects identified which would qualify for these restricted funds is the Royal Oaks Drive North Curb Extension, as the curb in this area is currently underdeveloped. RKA has prepared estimates on both the development of the south/west sides only (\$22,096.50) and development of the full intersection (\$75,432.00).

OPTIONS:

One option is to install curb and gutter along the south and west side of Royal Oaks Drive North and along both sides of the roadway; however, it will not be possible to correct the drainage issue without constructing the curb and gutter along both sides of the roadway.

The second option is to complete reconstruction of the roadway where it crosses the Trail and the construction of curb and gutter along both sides of Royal Oaks Drive North. An enhanced Trail crossing and minor improvements to the trail will be included to improve the drainage condition at this area.

RECOMMENDATION:

It is recommended that the City Council review the estimates for the Royal Oaks Drive North Curb Extension project and provide direction to staff on how to proceed. Should the City Council decide to fund a curb extension project, it is recommended Resolution No. 18-10 be adopted in order to redirect funds to the designated project.

DISCUSSION:

The City Council stated that staff needs to have a discussion with the City of Duarte first. City Manager Kearney stated that the City has to earmark the money now by adopting the Resolution. The City Council reviewed the Resolution and suggested some amendments. City Manager Kearney stated that the Resolution is just a template.

MOTION:

Councilmember Barakat made a motion to adopt Resolution No. 18-10 (as amended) and directed staff to do a full survey of the Royal Oaks Drive North Curb Extension Project. Councilmember Lewis seconded the motion, which was carried by the following roll call vote:

APPROVED:

AYES: Mayor Lathrop, Councilmembers Barakat, Hale, Lewis

NOES: None

ABSENT: Mayor Pro-Tem Pycz

Motion passed 4:0

LEMON TRAIL RECONSTRUCTION:

John Leveilee (RKA) stated that the Lemon Trail was constructed around 2005 and was dedicated to the City under two parcel maps (PM No. 26407, recorded July 18, 2005, and PM No. 61576, recorded December 28, 2005). Over the years, the City has received complaints about the trail having run-off into the Royal Oaks Drive North Street and clogging private drains of properties adjoining the trail. Unfortunately, neither the City nor RKA can locate plans for the trail, as the trail was constructed prior to RKA joining the City.

During the November 2017 meeting, the City Council authorized RKA to survey the trail and develop plans for approximately \$5,000. The monies to do the initial survey was taken from TDA restricted funds.

The results of RKA's survey have been completed, and this report provides the Council with two different options for remediation:

- \$57,465.50 – Complete the full remediation
- \$43,230.62 – Reduce the scope of work to only 65% of the remediation work

RECOMMENDATION:

It is recommended that the City Council consider the Lemon Trail Reconstruction Project and direct staff on how to proceed.

DISCUSSION:

John Leveille stated that Decomposed Granite (DG) is not good on slopes or horse trails because it erodes quite easily. There are now new materials available which are designed for trail applications. Regardless of the level of rehabilitation, annual maintenance is required to ensure the facility lasts throughout the years. Any facility, regardless of how well it is designed and constructed, will deteriorate without proper maintenance.

MOTION:

Councilmember Barakat made a motion to proceed with the full remediation of the Lemon Trail in the amount of \$57,465.50. Councilmember Lewis seconded the motion, which was carried by the following roll call vote:

APPROVED:

AYES: Mayor Lathrop, Councilmembers Barakat, Hale, Lewis

NOES: None

ABSENT: Mayor Pro-Tem Pycz

Motion passed 4:0

PLANTING OF TREES:

Management Analyst Scarlett Santos Leon stated that during the March meeting there was a brief discussion on whether the City is interested in replacing the trees scheduled for removal by Mariposa. The item was agendaized for tonight for further discussion.

RECOMMENDATION:

It is recommended that the City Council review the proposed options and provide staff with direction on how to proceed.

**DISCUSSION AND
DIRECTION TO STAFF:**

Councilmember Barakat questioned why the City would provide free trees to citizens. Mr. Barakat also inquired if the City requires a permit to plant a tree. City Manager Kearney replied no. Councilmember Barakat asked what would happen if the replacement tree dies. Would the City buy another tree?

Councilmember Hale suggested staff send a letter to the affected homeowners notifying them of the scheduled tree removal and asking them to contact City Hall with any concerns.

City Manager Kearney stated that the tree removal is scheduled for next week. Door hangers were distributed last week and staff has not heard back from anyone.

City Manager Kearney stated that staff will follow up with a letter to the affected residents. No further action was taken.

SPECIAL MEETING:

The City Council adjourned to a Special Meeting to discuss "City Manager Signing Authority on Contracts."

ROLL CALL:

PRESENT: Mayor Lathrop, Councilmembers Barakat, Hale and Lewis

ABSENT: Mayor Pro-Tem Pycz

STAFF: City Manager Kearney, City Attorney Reisman, City Clerk Saldana and Management Analyst Santos Leon

PUBLIC COMMENT:

None

**CITY MANAGER SIGNING AUTHORITY
ON CONTRACTS:**

Staff is seeking direction regarding the handling of Special Services Agreements with consultants regarding large development projects where the developer is asked to deposit funds to pay for the added costs associated with processing the project(s).

As the City prepares to receive similar contracts at the end of this month, staff is requesting direction from the City Council on how best to proceed in situations like these.

BACKGROUND:

The City has two large project applications in progress (Oak View Estates and Chadwick Ranch), each of which consists of over 100 acres in development. The projects are complex, the environmental reviews are extensive, and the process can take a considerable amount of time to undergo. As a result, developers oftentimes want to expedite the process, knowing that streamlining the process can result in significant time savings in the long run.

To accommodate the need for time sensitivities, the City offers unique services that usually are only applicable to these large developments, such as additional planning and environmental services, which are paid for with developer funds.

One method the City occasionally utilizes in expediting these projects is by having the City Manager approve contracts for such services and deposits, drafted by the City Attorney, and having the City Council ratify the contracts at the next City Council meeting.

MAYOR LATHROP:

Mayor Lathrop started by reading his comments (officially submitted for the record and attached hereto). Mayor Lathrop stated that he questioned one of the warrants presented tonight made out to Michael Baker International in the amount of \$59,855.20 (Check No. 14946) for professional services rendered for Oak View Estates, stating that the Mayor should have signed the contract. Mayor Lathrop also stated that no one (City Council, City Manager, City Attorney) in the City wants to talk to him about this issue and questioned when the City Council became involved with a "private slush fund" to move projects forward. Mayor Lathrop urged the City Council to have a Special Meeting to approve the next contract and stated that he will follow up on it.

DISCUSSION:

City Attorney Reisman stated that the deposits made by developers are not public funds and that the payments (checks) still have to be approved by the City Council. The City Council authorizes the City Manager to sign the contracts to get started.

Mayor Lathrop asked about the section to ratify the contract. Mayor Lathrop also stated that the auditors responded to the City confirming that this practice is legal. Mayor Lathrop stated that the auditors are wrong and suggested to get new auditors.

The Council pointed out that the only person who does not think this is legal is the Mayor. Mayor Lathrop threatened to take this matter to the District Attorney.

Councilmember Lewis inquired if the contract is contingent on City Council approval. City Attorney Reisman replied no. Councilmember Lewis stated that this cannot be a unique situation for Bradbury. Mayor Lathrop interjected by asking why not bring the contract to the City Council in the first place?

Councilmember Barakat stated that according to Mayor Lathrop there is a conspiracy between the City Manager, City Attorney, the auditor and the developer.

Councilmember Hale stated that he is really irritated with the Mayor for making these accusations, but stated that he would be ok with a Special Meeting. Mr. Hale also stated that he does not want the Mayor to "word-craft" the contract at the meeting.

Councilmember Lewis stated that Mayor Lathrop wants to micromanage everything and that the City Attorney's and auditor's opinion on these matters should supersede the Mayor's opinion. Nothing is done secretly here.

Mayor Lathrop stated that the City should have gone out to bid and that the auditor is wrong, the City Attorney is wrong, and the City Manager refused to get a second opinion.

City Manager Kearney stated that the City Attorney is appointed by the City Council. If the Mayor or any other City Councilmember has issues with the City Attorney or the City Manager, then that's a discussion for the full City Council.

**MOTION TO HOLD
SPECIAL MEETING:**

Mayor Lathrop made a motion for the City Council to hold a Special meeting, if necessary, to approve the contract for Chadwick Ranch to keep the project moving. Councilmember Lewis seconded the motion, which was carried by the following roll call vote:

APPROVED:

AYES: Mayor Lathrop, Councilmembers Hale and Lewis

NOES: Councilmember Barakat

ABSENT: Mayor Pro-Tem Pycz

Motion passed 3:1

**REGULAR MEETING
RECONVENED:**

The City Council reconvened to the Regular Meeting.

MATTERS FROM THE CITY MANAGER:

City Manager Kearney stated that Congresswoman Judy Chu's office contacted staff regarding participation in this year's National Night Out event. The Council vote no by a 3:1 vote.

City Manager Kearney stated that Anne Absey of Animazonia is asking to sell raffle tickets for a quilt and pictures during National Night Out. Mayor Lathrop had concerns and directed staff to find out if selling raffles tickets at this event is legal.

MATTERS FROM THE CITY ATTORNEY:

City Attorney Reisman stated that the City Manager evaluation is coming up at the April meeting. Staff will include blank copies of the evaluation form with the Weekly Memo packet.

MATTERS FROM THE CITY COUNCIL:

MAYOR LATHROP:

Mayor Lathrop stated that Superintendent Alan Muccerino was pushed out and will move on. This is a big loss for the Duarte Unified School District.

MAYOR PRO-TEM PYCZ:

Not present

COUNCILMEMBER BARAKAT:

Nothing to report

COUNCILMEMBER HALE:

Councilmember Hale suggested to postpone the May 12, 2018 City Council-Planning Commission Retreat until after June. Planning Commissioner Susan Esparza (District Four) has resigned and District Five will get a new Councilmember in June. A tentative date of August 18, 2018 was discussed for the retreat.

COUNCILMEMBER LEWIS:

Nothing to report

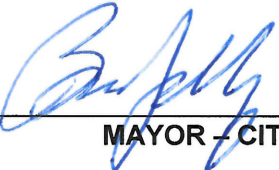
ITEMS FOR FUTURE AGENDAS:

Mayor Lathrop made a motion to schedule a Closed Session for another evaluation for the City Attorney (the last evaluation was in December 2017). The motion failed 3:1.

Mayor Lathrop made a motion to discuss the Option for the City Manager to get a seconded (legal) opinion. The motion carried 4:0.

ADJOURNMENT:

At 10:15 p.m. Mayor Lathrop adjourned the meeting to Tuesday, May 15, 2018 at 7:00 pm.



MAYOR – CITY OF BRADBURY

ATTEST:



CITY CLERK – CITY OF BRADBURY

IMPORTANT NOTICE

The City of Bradbury will be adopting the new property maintenance laws in red below

APRIL 17 MEETING at 7:00 P.M.

I urge you to attend and voice your objection.

These laws mean the city will be inspecting your property for anything that they deem “unsightly.” City personnel will be applying their subjective view to your paint, fences and walls, along with driveway approaches no longer needed. If they find anything THEY DON’T LIKE, the City may use its police power to convict you of a misdemeanor (A CRIMINAL OFFENSE) and hold a public hearing to assess your property. If you don’t comply, they can hire contractors at your expense to “fix” the problem WITHOUT YOUR PERMISSION. The assessment could also go on your property tax bill or be placed as a JUDGEMENT LIEN on your property. In either case, they can FORECLOSE ON YOUR PROPERTY to collect the assessment. (See BMC §§9.22.020, 9.115.020, 9.115.030, 9.115.060, and 9.115.080-120. i)

BE INFORMED!

BE HEARD! ii

SHOW UP!

ORDINANCE NO. 355

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRADBURY AMENDING THE BRADBURY MUNICIPAL CODE REGARDING PROPERTY MAINTENANCE STANDARDS

THE CITY COUNCIL OF THE CITY OF BRADBURY DOES ORDAIN AS FOLLOWS:

Section 1. Section 9.109.020 of Title IX, Part 6, Chapter 109 of the Bradbury Municipal Code is hereby amended to read as follows:

Sec. 9.109.020. - Applicability.

The property maintenance standards provided in this chapter are intended to apply to all property located in the various zoning districts within the City. The term “public right of way” as used herein, includes any private property within the confines of a Community Services District or Homeowners Association serving the same purpose as a public right of way.

Section 2. Section 9.109.030 of Title IX, Part 6, Chapter 109 of the Bradbury Municipal Code is hereby amended to read as follows:

Sec. 9.109.030. - Single-family property maintenance standards; public nuisance declared.

It is hereby declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in the City to maintain such premises in such manner that any of the following conditions are found to exist thereon:

- (1) *Unsafe buildings.* Buildings or structures which are structurally unsafe or which are not provided with adequate egress or which constitute a fire hazard; or which are otherwise dangerous to human life; or which, in relation to existing use, constitute a hazard to safety or health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment. Buildings or structures maintained in violation of the City's building code;
- (2) *Unsafe land.* Land, the topography, geology or configuration of which, whether in natural state or as a result of grading operations, excavation or fill, causes erosion, subsidence, or surface water drainage problems of such magnitude as to be injurious to the public health, safety and welfare or to adjacent properties;
- (3) *Fire hazard.* Premises maintained so as to constitute a fire hazard by reason of woods, rank overgrowth or accumulation of debris;
- (4) *Abandoned buildings.* Buildings which are abandoned, boarded up, partially destroyed, or permitted to remain unreasonably in a state of partial construction;
- (5) *Unpainted buildings.* Unpainted buildings or buildings with peeling or deteriorating paint allowing the effects of sun or water to penetrate so as to cause or permit dry rot, decay, cracking, warping or termite infestation;
- (6) *Hazardous windows.* Broken windows constituting hazardous conditions and inviting trespassers and malicious mischief;
- (7) *Fences or Walls.* Fences or exterior walls which are unsightly, unsafe, or in a state of disrepair;
- (8) *Overgrown vegetation.* Overgrown vegetation:

- a. Likely to harbor rats, vermin ~~and~~ or other nuisances; or
- b. Causing detriment to neighboring properties or property values;
- (9) *Hazardous vegetation.* Dead, decayed, diseased or hazardous trees, weeds and other vegetation:
 - a. Constituting unsightly appearance;
 - b. Dangerous to public safety and welfare; or
 - c. Detrimental to nearby property or property values;
- (10) *Front yard storage.* Trailers, campers, boats, recreational vehicles, construction equipment or other mobile equipment stored or parked for more than seven consecutive days, or more than 14 days in any calendar year, in the front yard areas on any premises;
- (11) *Motor vehicles.* Motor vehicles stored in required yard areas abutting public or private streets and causing or likely to cause depreciation of nearby property values which vehicles are:
 - a. Inoperable;
 - b. abandoned;
 - c. Wrecked;
 - d. Dismantled; or
 - e. Operable, but stored for unreasonable periods of time without being driven.
- (12) Unpaved Parking. Any vehicle parking on unpaved areas which are not designed as driveways, visible from the public right of way.
- (13) *Attractive nuisance.* Attractive nuisances dangerous to children in the form of;
 - a. Abandoned and broken equipment;
 - b. Hazardous pools, ponds and excavations; and
 - c. Neglected machinery;
- (14) *Discarded furniture.* Broken or discarded furniture and household equipment in front yard areas or visible from the public right of way for unreasonable periods and causing damage or detriment to neighboring properties;
- (15) *Clotheslines.* Clotheslines in front yard areas;
- (16) *Garbage containers.* Garbage cans stored in front or side yards or visible from public or private streets, except when lawfully placed for collection at the times permitted therefor;
- (17) *Boxes and debris.* Packing boxes and other debris stored in yards and visible from public or private streets for unreasonable periods, and causing detriment to neighboring properties;
- (18) *Neglected premises.* Neglect of premises:
 - a. To spite neighbors;
 - b. To influence zone changes; or
 - c. To cause detrimental effect upon nearby property or property values;
- (19) Public Right of Way. Conditions not comporting with safe, clean, orderly, or sanitary maintenance on or adjacent to any public right of way, such as:
 - a. Any dirt, litter, debris, rubbish, weed or any other kind of waste or unsanitary material of any kind;
 - b. Any curb cut or driveway approach, or portion thereof, which is no longer needed or which no longer provides vehicular access to the adjacent premises;
 - c. Any curb, sidewalk, parkway, or driveway which is cracked, broken, or otherwise in need of repair, replacement, or maintenance.
- (20) *Lack of maintenance.* Maintenance of premises in such condition as to be detrimental to the public health, safety or general welfare or in such manner as to constitute a public nuisance as defined by Civil Code § 3480;
- (21) *Unsightly property.* Property maintained in such condition as to become so defective, unsightly or in such condition of deterioration or disrepair that the same causes depreciable diminution of the property values of surrounding properties or is materially detrimental to proximal properties and improvements;
- (22) *Premises out of harmony.* Maintenance of premises so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment, use, or property values of such adjacent properties;
- (23) *Depreciated value effect.* Property maintained (in relation to others) so as to establish a prevalence of depreciated values, impaired investments, and social and economic maladjustments to such an extent that the capacity to pay taxes is reduced and tax receipts from such particular area are inadequate for the cost of public services rendered therein;
- (24) *Oversize vehicles.* The parking of an oversize vehicle, for more than seven consecutive days, or more than 14 days in any calendar year, in the front yard is prohibited; provided, however, that this provision shall not apply to the parking of a currently registered oversize vehicle in any area of the front yard that the Planning Commission has determined to be appropriately located and designed for such activity. As used in this provision, the term "oversize vehicle" means a vehicle that exceeds either 20 feet in length, 80 inches in width, or 82 inches in height.

ⁱ Bradbury Municipal Code ("BMC"): <http://www.cityofbradbury.org/city-services/municipal-code>

ⁱⁱ City Staff and Council Contact emails: <http://www.cityofbradbury.org/city-hall/city-council> and <http://www.cityofbradbury.org/city-hall>

- (5) Unpainted buildings. Unpainted buildings or buildings with peeling or deteriorating paint allowing the effects of sun or water to penetrate so as to cause or permit dry rot, decay, cracking, warping or termite infestation and causing or likely to cause depreciation of nearby property values;
- (7) Fences or Walls. Fences or exterior walls which are unsightly, unsafe, or in a state of disrepair and thereby causing or likely to cause depreciation of nearby property values.
- a.
- (19) Public Right of Way. Conditions not comporting with safe, clean, orderly, or sanitary maintenance on or adjacent to any public right of way, such as:
- a. Any dirt, litter, debris, rubbish, weed or any other kind of waste or unsanitary material of any kind;
- b. Any curb cut or driveway approach, or portion thereof, which is no longer needed or which no longer provides vehicular access to the adjacent premises;
- c. Any curb, sidewalk, parkway, or driveway which is cracked, broken, or otherwise in need of repair, replacement, or maintenance,
where such conditions cause or are likely to cause depreciation of nearby property values.

Added language taken from subsection 11.

Comments Read and Submitted for the Record
by Mayor Lathrop on April 17, 2018 During the Special Meeting

Since February 27, 2018, I have spent a considerable amount of time attempting to dissuade the City Attorney and City Manager of their completely unsupported and unlawful position that the funds to pay Michael Baker International (“MBI”) in this matter are not public funds and, therefore, §Sec. 2.07.260 of the Bradbury Municipal Code (BMC) does not apply.

Section 2.07.260 says nothing about “public funds.” It states that it applies when the amount or value involved is over \$7,500. It does not matter if the funds used come from some outside source. It’s the amount or value of the contract. When that threshold is met, the City Council must approve and enter into the contract. Specifically, the Code states, “[w]here the amount, or value involved, is over \$7,500.00, the purchase, or disposal, shall be made by the City Council through competitive bid, upon notice as hereafter required by this chapter.” (Emphasis added.)

The Code also defines “procurement” without reference to “public funds” and includes merely the acquisition of services, whether or not “purchased” by the City. Specifically, §2.07.030 provides that “Procurement means the . . . purchasing . . . or otherwise acquiring of any . . . services. The term "procurement" also includes all functions that pertain to the obtaining of any . . . service, including description of requirements, selection, and solicitation of sources, preparation and awards of contract and contract administration.”

Finally, the Code states that the purpose of the procurement chapter is to safeguard the procurement system to maintain its quality and integrity. The City Attorney completely ignores this second purpose of the Code and instead argues that all that matters is the first section which discusses public funds. In particular, §2.07.010 states that the purpose of the code section is “to maximize the purchasing value of public funds in procurement of goods and services needed for City purposes, and to provide safeguards for maintaining a procurement system of quality and integrity.”

The City Manager also relies on the auditor’s statement that the City is merely acting an agent for the developer in hiring MBI. That is not the case. The City is required by law to do an Environmental Impact Report (“EIR”) and provide city planning services, not the developer. These are services being acquired by the City. There is no agency contract contemplated and if there were, absent payment to the city to act as MBI’s agent, serving as the developer’s agent would be a gift of public funds. Moreover, the City would have a conflict of interest because THE CITY has the duty to complete the EIR and city planning. It can’t do that and also serve as the developer’s agent.

For the same reason, the planned expenditures by the City are “expenditures for the City.” The statement by the auditor that they are not is simply wrong.

More generally, what is happening here is the City is taking a deposit in lieu of charging fees. This approach does not change the “color of money” to private funds. These are public funds.

In light of the foregoing, any contract with Michael Baker of \$7,500 or more that is entered into by the City Manager will be invalid and of no force and effect and any payments made under those contracts will be unauthorized, subject to repayment, and an improper gift of public funds.

I have emailed the City Manager to let him know of the requirements of Penal Code §424. This section provides that the City Manager or any City Council member who obligates money without authority of law, such as executing contracts in violation of the BMC is guilty of a felony. In particular, Penal Code §424 provides in part:

(a) Each officer of any city . . . charged with the receipt, safekeeping, transfer, or disbursement of public moneys, who either:

1. Without authority of law, appropriates the same, or any portion thereof, to the use of another

Is punishable by imprisonment in the state prison for two, three, or four years, and is disqualified from holding any office in this state.

This Penal Code section was recently interpreted by the California Supreme Court in People v. Hubbard where it upheld the conviction of a school superintendent for misappropriating public funds for directing district payroll staff to pay an employee a \$20,000 stipend without school board approval. My understanding is that the anticipated Michael Baker contracts are for considerably more than that.

In light of the above, I urge the Council to comply with the City's procurement code and hold a special meeting to approve all contracts where the value or amount of the contract exceeds \$7,500, regardless of how the money is obtained. I also urge the Council in doing so to reaffirm the city's commitment to conduct all its procurements in a lawful manner, even if it requires extra work and more time to complete projects.

Mayor Bruce Lathrop
City of Bradbury
April 17, 2018