



COUNCIL AGENDA - CITY OF BURBANK
TUESDAY, NOVEMBER 4, 2003
5:00 P.M.

CITY COUNCIL CHAMBER – 275 EAST OLIVE AVENUE

This agenda contains a summary of each item of business which the Council may discuss or act on at this meeting. The complete staff report and all other written documentation relating to each item on this agenda are on file in the office of the City Clerk and the reference desks at the three libraries and are available for public inspection and review. If you have any question about any matter on the agenda, please call the office of the City Clerk at (818) 238-5851. This facility is disabled accessible. Auxiliary aids and services are available for individuals with speech, vision or hearing impairments (48 hour notice is required). Please contact the ADA Coordinator at (818) 238-5021 voice or (818) 238-5035 TDD with questions or concerns.

CLOSED SESSION ORAL COMMUNICATIONS IN COUNCIL CHAMBER:

Comments by the public on Closed Session items only. These comments will be limited to **three** minutes.

For this segment, a **PINK** card must be completed and presented to the City Clerk.

CLOSED SESSION IN CITY HALL BASEMENT LUNCH ROOM/CONFERENCE ROOM:

a. Conference with Legal Counsel – Existing Litigation:

Pursuant to Govt. Code §54956.9(a)

1. **Name of Case:** City of Burbank v. Burbank-Glendale-Pasadena Airport Authority.

Case No.: BC259852

Brief description and nature of case: Declaratory Relief.

2. **Name of Case:** Long Beach v. Department of Industrial Relations.

Case No.: S118450

Brief description and nature of case: Joining as amicus in prevailing wage case before the California Supreme Court.

b. Conference with Legal Counsel – Anticipated Litigation (City as possible plaintiff):

Pursuant to Govt. Code §54956.9(c)

Number of potential case(s): 1

c. Conference with Legal Counsel – Anticipated Litigation (City as potential defendant):

Pursuant to Govt. Code §54956.9(b)(1)

Number of potential case(s): 1

d. Public Employee Performance Evaluation:

Pursuant to Govt. Code §54957 and 54957.6

Title of Employee's Position: City Attorney.

- e. Public Employee Performance Evaluation:
Pursuant to Govt. Code §54957 and 54957.6
Title of Employee's Position: City Manager.

When the Council reconvenes in open session, the Council may make any required disclosures regarding actions taken in Closed Session or adopt any appropriate resolutions concerning these matters.

6:30 P.M.

INVOCATION:

The Courts have concluded that sectarian prayer as part of City Council meetings is not permitted under the Constitution.

FLAG SALUTE:

ROLL CALL:

ANNOUNCEMENT: WEDNESDAY NIGHT PRIME TIME PROGRAMS.

ANNOUNCEMENT: VETERAN'S DAY CEREMONY.

ANNOUNCEMENT: DARK MEETING ON NOVEMBER 11, 2003.

PRESENTATION: STATE SENATOR JACK SCOTT.

COUNCIL COMMENTS: (Including reporting on Council Committee Assignments)

INTRODUCTION OF ADDITIONAL AGENDA ITEMS:

At this time additional items to be considered at this meeting may be introduced. As a general rule, the Council may not take action on any item which does not appear on this agenda. However, the Council may act if an emergency situation exists or if the Council finds that a need to take action arose subsequent to the posting of the agenda. Govt. Code §54954.2(b).

REPORTING ON CLOSED SESSION:

AIRPORT AUTHORITY MEETING REPORT:

1. AIRPORT AUTHORITY COMMISSIONER REPORT:

At the request of the Burbank representatives to the Airport Authority, an oral report will be made to the City Council following each meeting of the Authority.

The main focus of this report will be issues which were on the Airport Authority meeting agenda of November 3, 2003. Other Airport related issues may also be discussed during this presentation.

Recommendation:

Receive report.

INITIAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS: (Two minutes on any matter concerning City Business.)

There are four segments of Oral Communications during the Council Meeting. The first precedes the Closed Session items, the second and third segments precede the main part of the City Council's business (but follow announcements and public hearings), and the fourth is at the end of the meeting following all other City business.

Closed Session Oral Communications. During this period of oral communications, the public may comment only on items listed on the Closed Session Agenda(s). A **PINK** card must be completed and presented to the City Clerk. Comments will be limited to **three** minutes.

Initial Open Public Comment Period of Oral Communications. During this period of Oral Communications, the public may comment on any matter concerning City Business. A **BLUE** card must be completed and presented to the City Clerk. NOTE: Any person speaking during this segment may not speak during the third period of Oral Communications. Comments will be limited to **two** minutes.

Agenda Item Oral Communications. This segment of Oral Communications immediately follows the first period, but is limited to comments on agenda items for this meeting. For this segment, a **YELLOW** card must be completed and presented to the City Clerk. Comments will be limited to **four** minutes.

Final Open Public Comment Period of Oral Communications. This segment of oral communications follows the conclusion of agenda items at the end of the meeting. The public may comment at this time on any matter concerning City Business. NOTE: Any member of the public speaking at the Initial Open Public Comment Period of Oral Communications may not speak during this segment. For this segment, a **GREEN** card must be completed and presented to the City Clerk. Comments will be limited to **two** minutes.

City Business. City business is defined as any matter that is under the jurisdiction of the City Council. Although other topics may be of interest to some people, if those topics are not under City Council jurisdiction, they are not City business and may not be discussed during Oral Communications.

Videotapes/Audiotapes. Videotapes or audiotapes may be presented by any member of the public at any period of Oral Communications or at any public hearing. Such tapes may not exceed the time limit of the applicable Oral Communications period or any public comment period during a public hearing. The playing time for the tape shall be counted as part of the allowed speaking time of that member of the public during that period.

Videotapes must be delivered to the Public Information Office by no later than 10:00 a.m. on the morning of the Council meeting in a format compatible with the City's video equipment. Neither videotapes nor audiotapes will be reviewed for content or edited by the City prior to the meeting, but it is suggested that the tapes not include material that is slanderous, pornographic, demeaning to any person or group of people, an invasion of privacy of any person, or inclusive of material covered by copyright.

Printed on the videocassette cover should be the name of the speaker, the period of oral communication the tape is to be played, and the total running time of the segment. The Public Information Office is not responsible for "cueing up" tapes, rewinding tapes, or fast forwarding tapes. To prevent errors, there should be ten seconds of blank tape at the beginning and end of the segment to be played. Additionally, the speaker should provide the first sentence on the tape as the "in cue" and the last sentence as the "out cue".

As with all Oral Communications, videotapes and audiotapes are limited to the subject matter jurisdiction of the City and may be declared out of order by the Mayor.

Disruptive Conduct. The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones and pagers, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

Once an individual is requested to leave the Council Chamber by the Mayor, that individual may not return to the Council Chamber for the remainder of the meeting. BMC §2-216(b).

Individuals standing in the Council Chamber will be required to take a seat. Also, no materials shall be placed in the aisles in order to keep the aisles open and passable. BMC §2-217(b).

Your participation in City Council meetings is welcome and your courtesy will be appreciated.

COUNCIL AND STAFF RESPONSE TO INITIAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS:

AGENDA ITEM ORAL COMMUNICATIONS: (Four minutes on Agenda items only.)

COUNCIL AND STAFF RESPONSE TO AGENDA ITEM ORAL COMMUNICATIONS:

CONSENT CALENDAR: (Items 2 through 6)

The following items may be enacted by one motion. There will be no separate discussion on these items unless a Council Member so requests, in which event the item will be removed from the consent calendar and considered in its normal sequence on the agenda. A **roll call** vote is required for the consent calendar.

2. MINUTES:

Approval of minutes for the regular meeting of October 21, 2003.

Recommendation:

Approve as submitted.

3. CHILD CARE COMMITTEE APPOINTMENTS:

The purpose of this report is to make recommendations to the Council for the approval and appointment of the 2003 Child Care Committee.

The Council appointed citizens to the Child Care Committee when it was formed in 1988. Upon adoption of the Child Care Master Plan in 1991, the Committee became a regular Council-appointed committee. Pursuant to the by-laws of the Burbank Child Care Committee, appointments are recommended by Committee Members and forwarded to the Council for approval. Appointments are for a one-year term and include representation of those in the city whose cooperation in the child care effort is needed, including the Burbank Unified School District (BUSD), private business employers, child care providers, and parent users of child care service. A press release for vacancies on the Burbank Child Care Committee was published in the Burbank Leader and announcements were put on the Channel 6 scroll and City website. The deadline for submitting an application was Friday, September 19, 2003 at 5:00 p.m.

At the October 14, 2003 Child Care Committee meeting, the current Members met and discussed the submitted applications. The Committee agreed that they represented a solid cross section of the community with a demonstrated interest in child care issues. While the by-laws do not limit the number of individuals who may serve, 13 names are recommended by the Committee for membership.

In addition to responding to individual child care concerns and issues, the Committee participates in Red Ribbon Day, annually publishes a Burbank Child Care Directory, and has published the Child Care Facility Planning Guide and an activity guide entitled "Burbank and Beyond." The Committee is also represented on the Child Care

Demonstration Project Committee and has been instrumental in providing direction for the development of the child care center and the selection of the recommended operator.

The Committee recommends appointment of the following individuals to the Child Care Committee:

Deane Phinney	Retired Provider/Administrator
Goldie Bemel	BUSD
Yvette Coontz	St. Anne's Maternity Home C.F.O
Gail Dover	Y.M.C.A.
Shanna Vaughan	Boys and Girls Club
Mildred Engel	Retired Educator
Barbara Gunderson	The Walt Disney Company, Work & Family Specialist
Annabelle Godwin	Retired Provider, College Instructor
Nancee Rodriquez	Child Care Center Director
Karel Roland Armstorff	Parent and Previous Horace Mann Childrens Center Parent Representative
Carol Miller	Pre-school Director
Helen von Seggern	Retired Educator
Robin Wright	Child Care Instructor

Recommendation:

Staff recommends that the Council appoint the above named members to the Child Care Committee.

4. APPROVING CONTRACT DOCUMENTS AND AWARDED A CONSTRUCTION CONTRACT FOR BID SCHEDULE NO. 1125, CONSTRUCTION OF MEDIA DISTRICT INTELLIGENT TRANSPORTATION SYSTEMS PROJECT:

Staff requests Council approval of contract documents and the award of a construction contract for Bid Schedule No. 1125, Media District Intelligent Transportation Systems (ITS) Project to KDC, Inc., dba Dynalectric. The City solicited and received three State Transportation Improvement – Local (STPL) grants from the Metropolitan Transportation Authority in Fiscal Years 1998-99 and 2000-01. These grants involve the installation of various data collection and traveler information systems in Burbank to better control traffic signals and manage incidents on local streets. Since the three grants include the installation of field devices, they are included in one construction project.

The largest of the grants, the Media District ITS project, includes construction funding of \$1,482,000 in STPL funds and \$412,000 of local development impact fees for a total funding level of \$1,894,000. The two other grants include \$140,000 for Regionwide Incident Management Strategies (RIMS) and \$61,430 for the Advanced Traveler Information System (ATIS).

On October 7, 2003, two contractors submitted bids for this bid schedule. Dynalectric submitted the lowest bid of \$1,878,184.36, which is approximately 20 percent, or \$322,980, above the Engineer's Estimate of \$1,555,202, but within the available project funds. Dynalectric was found to be qualified for this project with all required licenses and experience. Dynalectric is currently installing similar devices in the City of Glendale.

Subsequent staff research revealed that several contractors were unable to bid due to their current backlog which affected their ability to bond for new projects. The lack of competition and current contractor workloads produced high bid prices. Staff decided not to re-advertise for bids because the contract must be awarded in November in order to ensure that the grant funds continue to be available to the City.

A total of \$1,951,351.67 is currently available for this project (Media District ITS - \$1,749,921.67; RIMS - \$140,000; ATIS - \$61,430). The available funds are \$73,167.31 over the contractor's bid amount. The additional funds will allow for minor contingencies for the project.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING AND ADOPTING CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS, AND DETERMINING THE LOWEST RESPONSIBLE BIDDER, ACCEPTING THE BID, AND AUTHORIZING EXECUTION OF A CONTRACT FOR THE BURBANK MEDIA DISTRICT INTELLIGENT TRANSPORTATION SYSTEMS (ITS) PROJECT, BID SCHEDULE NO. 1125.

5. ACCEPTING THE SECOND INSTALLMENT OF GRANT FUNDS FROM THE CALIFORNIA AIR RESOURCES BOARD FOR THE LEASE OF ELECTRIC VEHICLES:

Staff is requesting Council approval of a resolution accepting the second installment of grant funds in the amount of \$36,000 from the California Air Resources Board (ARB), via the South Coast Air Quality Management District, for the lease of 12 zero-emission electric vehicles (ZEV).

On March 26, 2002, the Council adopted Resolution No. 26,211 approving a three-year lease agreement with Toyota Motor Sales Inc. for 12 RAV-4 electric vehicles and authorizing the City Manager to apply for grant funding from the ARB. On August 26, 2002 staff was notified that the City had been successful in obtaining a grant in the amount of \$108,000, the maximum allowed.

On December 10, 2002 the Council adopted Resolution No. 26,390 accepting the first installment of grant funds from ARB and amending the Fiscal Year 2002-03 budget to appropriate the grant funds.

The ZEV Incentive Program is designed to provide incentives for the lease or purchase of new certified zero-emission passenger cars or light-duty vehicles. Electric RAV-4s typically cost approximately \$12,000 to \$13,000 more than gasoline powered RAV-4s. The three-year lease of the 12 vehicles qualified the City for a grant of \$9,000 per vehicle. The total grant amount of \$108,000 for the 12 electric RAV-4s is payable in three annual installments of \$36,000.

Each RAV-4 three-year lease costs the City \$23,242.50. The grand total for leasing 12 new RAV-4s was \$278,910 which the City paid up front. The grant will reimburse the City \$9,000 per vehicle, bringing the cost of each vehicle down to \$14,242.50. With the \$108,000 in grant funds, the total cost to the City for the RAV-4 three-year leases is reduced to \$170,910.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ACCEPTING THE SECOND INSTALLMENT OF GRANT FUNDS FROM THE CALIFORNIA AIR RESOURCES BOARD FOR REIMBURSEMENT TO THE CITY FOR THE LEASE OF ELECTRIC VEHICLES IN THE AMOUNT OF \$36,000.

6. ACCEPTING GRANT FUNDS FOR THE CONSTRUCTION OF THE COMPRESSED NATURAL GAS FUELING STATION AND COMPRESSED NATURAL GAS VEHICLES AND AMENDING THE FISCAL YEAR 2003-04 BUDGET TO APPROPRIATE THE GRANT FUNDS:

Staff is requesting Council approval of a resolution accepting grant funds from the South Coast Air Quality Management District (SCAQMD) Carl Moyer Program, Mobile Source Air Pollution Reduction Review Committee (MSRC), and California Energy Commission (CEC) for the construction of the compressed natural gas (CNG) fueling station and purchase of CNG vehicles, and a resolution amending the Fiscal Year (FY) 2003-04 budget to appropriate the grant funds. These grants presented a financial opportunity for the City to offset the costs of constructing a state-of-the-art CNG fueling station and purchasing CNG vehicles. The City is receiving \$301,270 from SCAQMD and \$440,000 from MSRC for CNG vehicles. The City is also receiving \$230,000 from SCAQMD, \$126,750 from MSRC, and \$125,000 from CEC for station construction.

The CNG fueling station was commissioned for 24-hour, seven days per week public service in April 2003. It supports the City's current and planned CNG fleet including street sweepers, chippers, flatbeds, leaf loaders, refuse haulers and passenger vehicles that operate throughout the Burbank/Glendale areas. The station has been operating continuously with only a few minor problems. Monthly throughput at the station currently averages 11,522 gallons per month, with a projected maximum of 40,000 gallons per month.

The CNG vehicles are being purchased in phases. The City has already placed 33 CNG vehicles (light, medium and heavy-duty) in service and has another 23 on order. Over the next four years, an additional 48 CNG vehicles will be placed in service. Staff will also continue to pursue any grant opportunity for the purchase of CNG, hybrid and hydrogen fueled vehicles.

The total vehicle grant funding of \$741,270 for CNG vehicle purchases will offset approximately 52 percent of the estimated \$1,478,000 in “up charge” costs for CNG vehicle purchases over the next two years. The “up charge” is the difference between the cost of traditional gasoline or diesel powered vehicles and the higher cost of the CNG vehicles.

The total station construction grant funding of \$481,750 will offset 98 percent of the City’s \$491,495 total cost for CNG fuel station construction. The station’s total construction cost was \$896,495, however the design-builder contributed \$405,000 toward the construction cost.

The proposed resolution accepts the vehicle grant funding of \$741,270 and the CNG station grant funding of \$481,750. The resolution also amends the FY 2003-04 budget to appropriate the \$481,750 in grants for the station construction to reimburse the expenditure account from which the City fronted the funds to build the station.

Recommendation:

Adoption of proposed resolutions entitled:

1. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AUTHORIZING THE RECEIPT OF GRANT FUNDS IN THE AMOUNT OF \$741,270 FOR THE PURPOSE OF PURCHASING COMPRESSED NATURAL GAS (CNG) VEHICLES.

2. (4/5 vote required)
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FISCAL YEAR 2003-2004 BUDGET FOR THE PURPOSE OF RECEIVING AND APPROPRIATING GRANT FUNDS IN THE AMOUNT OF \$481,750 FOR THE PURPOSE OF CONSTRUCTING A COMPRESSED NATURAL GAS (CNG) STATION.

END OF CONSENT CALENDAR

REPORTS TO COUNCIL:

7. REAL ESTATE SIGNS ON THE PUBLIC RIGHTS-OF-WAY:

Sections 20-207 and 20-402 of the Burbank Municipal Code (BMC) prohibit objects, including real estate signage, from encroaching upon public right-of-way.¹ License and Code Services staff enforces these Code sections by removing real estate signs from the public right-of-way.

The Burbank Association of Realtors, previously known as the Burbank Board of Realtors, has requested that the Council amend the BMC to make an exception to exclusively allow real estate signage, specifically Open House directional and informational signage, to encroach upon public right-of-way. A letter to this effect was sent to City staff on September 17, 2003.

Staff recommends that the Council not amend the BMC to allow real estate Open House signage exclusive encroachment rights onto public right-of-way. The primary reason for this recommendation is due to the First Amendment considerations whereby there must be a compelling reason (serving a significant government interest) to allow such an exception to the general prohibition on signs in the public right-of-way. Staff does not feel that allowing real estate signs as opposed to other private signage in the public right-of-way constitutes a significant government interest.

However, if the Council chooses to proceed with an ordinance as proposed by the Burbank Association of Realtors, staff recommends that in drafting such an ordinance, the Council consider incorporating certain elements into this ordinance including:

- Requiring a permit with fees sufficient to cover the costs of enforcement;
- Allowing other property owners, and possible renters, to use public right-of-way to advertise the sale/lease of their property;
- Requiring insurance and indemnification protections sufficient to guard the City from liability and safety issues;
- Allowing staff to abate and/or impound illegal signs;
- Establishing days, times, and duration periods that signs would be allowed;
- Establishing the size, shape, quality, quantity, and location of signs; and,
- Determining violation penalties to enforce size, quantity, location, and content requirements.

Recommendation:

Staff requests that the Council consider the recommendation as drafted, initiate discussion on the matter, and direct staff as necessary.

¹ An exception from that general prohibition was adopted by the Council in April, 2001, where the City found that a compelling governmental interest existed to allow signage of lost persons and lost pet signs but only when affixed to City lampposts and/or utility poles in the public right of way and in accordance with the permit process outlined in that section.

8. REQUEST TO EXEMPT ROOF STRUCTURE AT THE BURBANK-GLENDALE-PASADENA AIRPORT FROM THE AIRPORT INTERIM DEVELOPMENT CONTROL ORDINANCE:

In August 2002, the Council adopted an Interim Development Control Ordinance (IDCO) that temporarily suspends the issuance of development permits for ministerial projects on land owned or leased by the Burbank-Glendale-Pasadena Airport Authority or located in the Airport zone. In October 2002, the Council extended the IDCO through August 2004. The purpose of the IDCO is to restrict any airport or related development that may be in conflict with upcoming zoning amendments currently being developed by staff at the direction of the Council.

In July 2003, Chartwell Aviation sought a building permit to construct a free-standing roof structure to provide shelter for approximately 15 parking spaces along the west wall of Hangar 22, located off Clybourn Avenue. The proposed structure would be approximately 18 feet by 140 feet in size and consists only of columns and a roof covering, and would not include any walls or other enclosures.

Because the proposed project is in the Airport zone on Airport Authority-owned property and would require only ministerial approvals from the City, it is subject to the restrictions of the IDCO. Several types of projects are exempted from the provisions of the IDCO. One such type of project is that "...involving minor improvements that do not change the specific use and do not increase the size of any existing building..." The proposed structure is arguably a minor improvement and would not change the underlying use of the land. However, in order to qualify for the exemption, a project must also not increase the size of any building. The proposed structure is defined as a "building" by the Zoning Ordinance. Staff believes that the structure would therefore be a new building with new square footage, and would not qualify under the IDCO exemption. Staff declined to issue the requested permit.

The applicant has requested that the Council consider this matter and allow for the issuance of a building permit to construct the proposed structure. The applicant is requesting three possible courses of action for the Council:

1. Determine that the proposed structure would not increase the size of a building and would therefore qualify for exemption under the IDCO;
2. Grant the applicant a waiver or exception from the IDCO to allow the structure to be built despite the IDCO; and,
3. Amend the IDCO to provide an additional exemption that would apply specifically to parking shelters of a certain size.

If the Council did not intend for the IDCO to apply to this type of unenclosed automobile shelter, the Council could direct staff regarding the interpretation of the IDCO, such that it would be interpreted not to apply to this type of project. The portion of the IDCO exemption regarding no change of use would still apply, so such shelter structures could only be built over existing parking areas, and new or expanded parking facilities could not be constructed.

The Council may also amend the language of the IDCO to add an additional exemption and/or further clarify the type of project that may be considered a minor project and exempted from the IDCO. Alternatively, the Council may grant a special exception or waiver to allow the proposed project to proceed without amending the IDCO. However, either of these actions would require the adoption of an ordinance following a noticed public hearing. As such, an ordinance would have to come back to the Council for consideration at a future date for a public hearing.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK INTERPRETING THE ORDINANCE ESTABLISHING THE INTERIM DEVELOPMENT CONTROL ORDINANCE (CHARTWELL AVIATION).

9. APPLICABILITY OF RESIDENTIAL ADJACENT STANDARDS TO PLANNED DEVELOPMENTS WITH RESIDENTIAL USES:

At the Council meeting of October 14, 2003, questions were raised by the public and Council Members about the applicability of the Residential Adjacent Commercial and Industrial Uses (RACI) ordinance to properties with residential uses that are not located within residential zones. Of particular interest was the applicability of these standards when the residential uses are part of a mixed-use Planned Development (PD). This report clarifies current City standards with regard to the definition of residentially adjacent to facilitate Council discussion on the topic.

With limited exceptions, commercial activities are not permitted within residential zones. In contrast, nearly every commercial zone in the City permits residential units to be constructed above commercial uses through the conditional use permit (CUP) process. The CUPs do not modify the underlying zoning or land use designations of the properties. Since the zoning does not change in this process, the presence of residential units within a commercially-zoned property does not trigger any of the RACI requirements. Likewise, any residential only projects that could be approved through a CUP in a Burbank Center Plan commercial zone would not trigger RACI because the action does not change the underlying zoning for the site.

Planned Development projects, on the other hand, change the underlying zoning of a property. PDs are individualized, project-based zones that may include residential, commercial, industrial, or a combination of uses. The PD ordinance does not establish whether these zones are to be considered commercial or residential in nature. However, a PD is required to be consistent with the General Plan Land Use designation for the area. As such, the determination of whether a particular PD zone is residential or not is dependent upon the underlying Land Use designation.

There are currently two existing mixed-use PDs (the Gangi and Tunnicliffe projects along Palm Avenue). Additionally, the Council has approved a mixed-use project on

the Old Police Block. In each of these cases, the properties are located within commercial land use areas and are considered to be commercial zones. This determination is also consistent with the general prohibition of commercial uses in residential zones and the applicability of RACI requirements to mixed use development in commercial zoning districts.

For residential only PDs, the determination of RACI applicability is based upon the underlying land use designations. Determining whether a PD zone is residential or commercial in this method is consistent with the concept that all PDs must be consistent with the General Plan.

Under the current requirements of the Burbank Municipal Code, a mixed-use project cannot be constructed without approval of a discretionary permit (either CUP or PD) that goes through a public hearing process. Through these processes, the approving body (either the Planning Board or the Council) has the ability to evaluate the project design and place conditions of approval to insure that residential and commercial uses within a project are compatible. Thus, impacts relating to noise, light and pollution can be addressed through the PD and CUP processes through the establishment of conditions of approval that are designed to protect residential uses from the impacts of adjacent commercial uses.

As a result of the recommendations of the Blue Ribbon Task Force on Affordable Housing and the Council, staff is currently looking at the establishment of mixed use zoning districts within the City. Should these zones ultimately be adopted, development standards would be established to insure that the uses were compatible. For example, the new zones might include development standards relating to the location of delivery areas and the types of deliveries that could be conducted.

Recommendation:

If the Council wishes to agendize this matter for further discussion, staff recommends that the Council direct staff to prepare a report outlining the issues related to the compatibility of commercial and residential uses within a mixed-use project and schedule this item for the earliest possible date given the time that will be necessary to compile the necessary data and prepare a comprehensive report.

10. HYDROGEN FUEL CELL INFRASTRUCTURE AND FLEET DEMONSTRATION PROJECT:

The purpose of this report is to provide the Council with an overview and progress report of the Hydrogen Vehicle Fuel Infrastructure and Fleet Demonstration Project. In June 2003, the City was asked by the South Coast Air Quality Management District (AQMD) to participate in a five-year hydrogen fuel infrastructure and fleet vehicle demonstration project. The purpose of this project is to help the development of ultra-clean hydrogen-fueled vehicles and the development of a hydrogen fueling network in the AQMD basin. This is a five-city demonstration project. The four other

participating cities include Ontario, Riverside, Santa Ana and Santa Monica. AQMD will also host a fueling station.

As part of the project, each participating city will receive five hydrogen-fueled internal combustion engine (ICE) vehicles. All five cities will receive the same vehicle type; however, the type of vehicle has not been determined to date. The two most likely possibilities are sedans or light duty trucks.

One of the goals of this project is to develop a network of hydrogen-fueling stations in the Los Angeles Basin that will allow for public fueling capabilities. Where possible, stations are proposed to be located adjacent to existing CNG fueling stations. Each city will identify a site that will best meet these requirements. Burbank has identified a site adjacent to the CNG fueling station and the Burbank Water Reclamation Plant (BWRP). The hydrogen station equipment will be located in a small area currently occupied by a drought resistant plant garden and the public dispenser will be located at the CNG fueling station. AQMD staff has visited the site and determined that it will be adequate for the hydrogen equipment. However, this site has also been identified by BWRP for placement of plant upgrade equipment. Discussions are taking place to resolve this issue.

The timeline for this project is rather aggressive. As administrator of the project, AQMD was responsible for the development and release of the Request For Proposal, (RFP) evaluating proposals, establishing a qualified contractor list, and providing construction guidance. The RFP was released on July 11, 2003 and is comprised of two main scopes of work including station construction and vehicle conversion. The RFP requires that the station be fully operational within 12 months after contract execution. Each City will be allowed to select a contractor from the qualified list established by AQMD.

The vehicles will be delivered in two phases. The first six vehicles will be delivered ten months after contract execution, and the additional 24 vehicles will be delivered within the following two months. Selection of who receives the first vehicles has not been determined to date. The vehicle conversion vendor may or may not be the station construction vendor.

On September 16, 2003, AQMD received the proposals (eight for infrastructure and three for vehicle conversion). An independent review committee is currently reviewing these proposals. Selection and recommendation for the vehicle conversion contractor and a qualified station construction vendor list will be presented to the AQMD Board for approval in November 2003.

AQMD has received Federal grants, which will fund construction of the stations and the conversion cost of the vehicles. The participating cities will only be required to contribute their already budgeted funds for the purchase of the replacement base vehicles. Therefore, there will not be an additional fiscal impact associated with the initial purchase of the hydrogen vehicles.

As hydrogen vehicles involve new technology, their life expectancy has not yet been established; however, staff anticipates that the hydrogen vehicles will be in service for at least the same amount of time as standard gasoline vehicles. Therefore, the City's long-term vehicle replacement costs should stay the same with the addition of the hydrogen vehicles.

Recommendation:

Note and file.

11. APPROVING THE AGREEMENT TO ESTABLISH AN INTERIM JOINT POWERS AGENCY TO CREATE THE INTERAGENCY COMMUNICATIONS INTEROPERABILITY SYSTEM:

Staff is requesting that the Council approve the Joint Exercise of Powers Agreement to establish a Joint Powers Agency (JPA) in order to create the Interagency Communications Interoperability System (ICIS). Staff is also requesting that the Council approve the Master Purchase Agreement for the ultra-high frequency (UHF) Smartzone communications system between the City and Motorola, Inc.

Police, fire and other public safety personnel must shift to other radio channels as they leave one area served by one jurisdiction's radio system and enter another. An ICIS represents a coordinated effort to create a system that provides seamless voice radio operation across jurisdictional boundaries for public safety personnel.

On September 10, 2002, the Council approved Burbank's participation in an Interim Joint Powers Authority with nearby cities to explore developing an ICIS. The development work has been promising enough to merit the formation of a permanent JPA, which would allow Burbank and other cities to benefit from wide area radio communications without having to independently construct the entire ICIS radio infrastructure.

The governance of the proposed JPA will be as follows:

- Each city shall have one representative, appointed by the City Manager, to the Governance Board (Board);
- The Board shall conduct regular meetings at least monthly;
- All Board meetings shall be in accordance with the provisions of the Ralph M. Brown Act;
- A majority of Board members shall constitute a quorum for the transaction of business. The affirmative vote of at least a majority of the members available in the quorum shall be required for any act of the Board other than adjournment;
- Under no circumstance shall the Board enter into any contract or commit any act of omission that may result in a liability for any individual city, unless such city expressly agrees in writing to be bound by such contract or conduct;

- Licenses to frequencies shall remain primary to the member holding the license; and,
- The members shall participate ratably in the costs and benefits of ICIS, including any benefits that accrue from outside funding.

Pursuant to the authority of Section 6508.1 of the California Government Code, the debts, liabilities, or obligations of the JPA shall be solely the debts, liabilities and obligations of the JPA and not its members. However, if any bonds have been issued and remain outstanding, the members benefiting from the bonds cannot withdraw from the JPA until the bonds have been paid or adequate provision has been made for such payment. Absent this restriction, members may withdraw from the JPA with 90 days notice if they are not providing infrastructure to ICIS; with 12 months notice if they are (excepting Glendale, which would have to provide 24 months written notice).

Burbank's radio system has two major parts: a microwave relay system and a UHF system. Burbank Water and Power (BWP) replaced the microwave relay system in Fiscal Year (FY) 2002-03 and the new system will have a useful life of at least 15 years. The UHF system was installed 12 years ago and, except for individual radios, has not yet been replaced.

A five-year plan, approved in 2002, relies on extending the life of its existing UHF system for another two to five years (2005 to 2008) through aggressive preventive maintenance before reliability drops from its present high level. The most critical UHF system replacements, those for Police and Fire, should occur by the end of FY 2004-05. The UHF system should be replaced over the next five years.

Motorola, Inc. (Motorola), the vendor for the City's current radio system, continues to be the pre-eminent source for the backbone of municipal radio systems as well as for the high-end radios needed by police, fire and other safety personnel. BWP has been negotiating prices, terms and conditions with Motorola for the purchase of the backbone for the City's new radio system, as well as for radios for police and fire personnel.

After extensive negotiations, BWP secured a firm price from Motorola of \$6,851,253 for the engineered-and-installed cost of:

- Prime sites, remote sites, console upgrades and other backbone equipment for the City's radio system;
- Control stations and desksets, portable radios and mobile radios for police and fire personnel; and,
- Interface with ICIS.

By interfacing with ICIS as a member of the JPA, the City would avoid the cost of purchasing its own Master Controller at a net additional expense of \$1.1 million beyond the \$6.85 million.

The City's Executive Team, which includes members serving on the Fund 535 Executive Committee, recommended the Council approve the terms and provisions of the Agreement and the Master Purchase Agreement with Motorola.

Joining ICIS has a positive impact on the Fund 535 radio replacement reserves. The City avoids an extra \$1.1 million in radio system costs, and is able to replace all of its radio system by FY 2007-08.

Absent outside funding, joining ICIS will likely impact the General Fund by less than \$10,000 in FY 2003-04; \$84,000 in FY 2004-05; \$126,000 in FY 2005-06; \$134,000 in FY 2006-07; and, \$49,000 in FY 2007-08.

Approving the Master Purchase Agreement with Motorola would secure a firm price for backbone and safety radio system upgrades that are within the ability of the reserve funding to handle.

Recommendation:

Adoption of proposed resolutions entitled:

1. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE MASTER PURCHASE AGREEMENT FOR THE UHF SMARTZONE COMMUNICATIONS SYSTEM BETWEEN THE CITY OF BURBANK AND MOTOROLA, INC.
2. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE AGREEMENT TO ESTABLISH THE JOINT POWERS AGENCY TO CREATE THE INTERAGENCY COMMUNICATIONS INTEROPERABILITY SYSTEM.

12. CITY'S EFFORTS REGARDING AIR QUALITY ISSUES:

At the Council meeting on October 14, 2003, staff was directed to prepare a first-step report that described what the City can do in conjunction with the California Air Resources Board, the South Coast Air Quality Management District, and other State agencies to improve air quality within the City. In response to this directive, staff was to look at the sources of air pollution, the police powers the City has within the various elements of the General Plan and the Municipal Code, and the police powers various State and Federal agencies use to regulate air quality, and to identify some proactive recommendations the City could employ to improve air quality.

At the October 21, 2003 Council meeting, Mayor Murphy requested that this item be brought back for further discussion by the full Council on November 4, 2003, to clarify the issues initially raised, and provide clear direction to staff if any additional research is necessary.

If the Council wishes to agendize this matter, staff recommends Council direction to prepare a detailed report outlining the issues related to air quality, and to allow staff to schedule this item for the earliest possible date given the time required to compile the necessary data for a comprehensive report.

Recommendation:

Staff recommends that the Council discuss the matter and give direction accordingly.

FINAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS: (Two minutes on any matter concerning the business of the City.)

This is the time for the Final Open Public Comment Period of Oral Communications. Each speaker will be allowed a maximum of **TWO** minutes and may speak on any matter concerning the business of the City. However, any speaker that spoke during the Initial Open Public Comment Period of Oral Communications may not speak during the Final Open Public Comment Period of Oral Communications.

For this segment, a **GREEN** card must be completed, indicating the matter to be discussed, and presented to the City Clerk.

COUNCIL AND STAFF RESPONSE TO THE FINAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS:

ADJOURNMENT.

**For a copy of the agenda and related staff reports,
please visit the
City of Burbank's Web Site:
www.ci.burbank.ca.us**