



COUNCIL AGENDA - CITY OF BURBANK
TUESDAY, MAY 4, 2004
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:

Conference with Labor Negotiator:

Pursuant to Govt. Code §54957.6

Name of the Agency Negotiator: Management Services Director/Judie Sarquiz.

Name of Organization Representing Employee: Represented: Burbank City Employees Association, Burbank Management Association, International Brotherhood of Electrical Workers, Burbank Firefighters Association, Burbank Firefighters Chief Officers Unit, and Burbank Police Officers Association; Unrepresented, and Appointed Officials.

Summary of Labor Issues to be Negotiated: Current Contracts and Retirement Issues.

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.

5:30 P.M.

SEWER LATERAL AND TREE ROOT STUDY SESSION:

The Study Session will provide information on the current policy for sewer lateral reimbursement, analyze the policy of other cities, and address the key issues that must be

addressed if the policy is to be changed. The items that will be covered include:

- Benefits of street trees;
- Current Burbank sewer lateral reimbursement policy;
- Claim history for sewer lateral repairs;
- Sewer lateral policies of other cities and agencies;
- Issues of equity, liability and cost;
- Three sewer lateral policy alternatives; and,
- A recommended alternative.

6:30 P.M.

INVOCATION: Reverend Roby Correa, Magnolia Park United Methodist.
The Courts have concluded that sectarian prayer as part of City Council meetings is not permitted under the Constitution.

FLAG SALUTE: Police Color Guard.

ROLL CALL:

ANNOUNCEMENT: WEDNESDAY NIGHT PRIME TIME PROGRAMS.

PRESENTATION: RECYCLING HEROES.

PROCLAMATION: OLDER AMERICANS MONTH.

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 agendas of April 19 and May 3, 2004. 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:
RECESS for the Redevelopment Agency meeting.

RECONVENE for the City Council meeting.

CONSENT CALENDAR: (Items 2 through 4)

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. AGREEMENTS BETWEEN THE CITY COUNCIL, REDEVELOPMENT AGENCY AND THE BURBANK HOUSING CORPORATION TO RESTRUCTURE DEBT FOR THE BURBANK HOUSING CORPORATION:

Staff is requesting that the Council and the Redevelopment Agency (Agency) authorize several actions to restructure debt on properties owned by Burbank Housing Corporation (BHC) in the Lake-Verdugo Focus Neighborhood.

The City and Agency have extended funding to the BHC to assist in the acquisition and rehabilitation of troubled properties as a strategy for upgrading neighborhoods in decline. In several instances, the BHC secured primary financing from a private lender, Washington Mutual Bank, and turned to the City for gap financing to reduce mortgage costs and offset rehabilitation costs. City funding was predicated upon the minimum amount of public assistance warranted to ensure that the revenues from each project, reduced when providing affordable rents, were sufficient to operate the project and fund reserves. However, this approach to funding projects could not, given the small scale of projects, support BHC's growing operational needs as it continued to take on new projects or its operation of the Activity Center in the Lake-Verdugo area.

Staff recommends that the Council consider several steps that restructure BHC's debt on properties it owns in the Lake-Verdugo Focus Neighborhood. This action is consistent with housing objectives and programs adopted by the Agency and Council as recommended by the Blue Ribbon Task Force on Affordable Housing and as later reiterated at the July 2003 Study Session on an affordable housing strategy as follows:

- Objective: Sustain and Strengthen Neighborhoods
- Program: Continue acquisition/rehabilitation activities in focus neighborhoods

Increasing the BHC's operational budget is intended to support staff growth to continue acquiring and operating more projects. To this end, Agency staff is currently working with the BHC in drafting a five-year work plan.

- Objective: Create community in conjunction with housing
- Program: Integrate community-serving uses with housing development

Whenever possible, the Agency is to seek to incorporate community-serving uses within new and existing residential development that address the needs of the larger neighborhood. The revenue from the Verdugo and Tujunga properties is insufficient to adequately fund the Lake-Verdugo Activity Center. Increasing BHC's operational budget by reducing debt on these properties will fully fund the Activity Center's operations.

The Agency received a proposal from the BHC requesting assistance in restructuring debt on several properties in the Lake-Verdugo area. The purpose is to reduce BHC's annual debt payments and thereby generate sufficient cash flow to pay the Corporation's administrative expenses and the operating costs of the Activity Center. Cash flow from the 30 units is adequate for the BHC to meet its debt service obligations, but insufficient to fund the Lake-Verdugo Activity Center or the Corporation's ongoing administrative costs.

Consequently, the Agency and City are asked to take the following actions affecting 237, 257 and 241-243 West Verdugo Avenue, and 220 West Tujunga Avenue:

1. The Agency, using its Low and Moderate-Income Housing Funds, is to enter into a loan agreement with the BHC extending Agency financing to the BHC to retire several Washington Mutual loans in the form of a note secured by a trust deed recorded against the properties that would be used;
2. The City and the Agency are to amend several promissory notes with the BHC for the purpose of rewriting repayment terms and conditions of operation; and,
3. The City and the Agency will replace the regulatory agreements for each property with a master regulatory agreement recorded on the four Lake-Verdugo properties.

Each of the conventional loans includes a prepayment penalty clause that nullifies most means to reduce these annual mortgage payments; buying down a portion of the loan principal, for instance, is precluded because the prepayment penalty would still occur. Consequently, it is staff's recommendation that the Agency (a) pay off the three conventional loans, then (b) have the BHC take out new primary financing at a market rate 30-year fixed loan at 6.82 percent, with the remaining balance carried back by the Agency in a new loan agreement repaid through residual receipts.

The net cost to the Agency would be \$732,200, which is the amount of the Agency payoff of the conventional loans of \$1,255,200 minus the new conventional loan incurred by the BHC of \$523,000. The new Agency loan would be repaid through residual receipts.

The Agency bridged the gap between the achievable conventional loan on each property using the City's HOME or Community Development Block Grant funds subordinate to the bank loan. Certain loan terms were revised as properties were

purchased over time, creating different standards recorded on the properties. Since entering into the agreements for the properties, new terms have emerged, such as fees for property management and capital replacement reserves. As amended, the City's promissory notes (and the Agency's promissory note) on 241-243 West Verdugo Avenue would be altered so that the notes would be consistent.

Staff also proposes supplanting the individual regulatory agreements on each of the four projects and recording a regulatory agreement tying the properties under one set of terms, conditions and covenants. Housing operations of the properties will extend into perpetuity, that is, the useful life of the land use controls, but not less than 55 years.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING A REGULATORY AGREEMENT AND AN AMENDMENT TO AFFORDABLE HOUSING AGREEMENTS AND PROMISSORY NOTES AMONG THE CITY, REDEVELOPMENT AGENCY AND BURBANK HOUSING CORPORATION (237, 241-243, & 257 W. VERDUGO AND 220 TUJUNGA).

3. FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH EIP ASSOCIATES:

Staff is requesting Council approval of an amendment to the Professional Services Agreement with EIP Associates for the preparation of studies and recommendations regarding compact single family residential use, mixed use development and development intensity standards for commercial and industrial use. All these studies are integral components of the Land Use Element of the General Plan that is currently being updated. These studies will also be used to create new zoning standards for mixed use and small-lot residential developments which are both on the Council work program. The City has a current contract with EIP Associates for a study of Multi-family Residential Density and Design. There are significant time and budgetary economies to having the same consultant work on all the Land Use-related issues, and by working on these issues concurrently, EIP Associates has the ability to complete this project within the condensed project schedule established by the City. The consultant's fee for the scope of work is \$117,403. There are sufficient funds available in the Planning Division's accounts to cover the cost of this project. No additional funds are requested.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF BURBANK AND EIP ASSOCIATES.

4. ESTABLISHING THE SPECIFICATION AND SALARY FOR THE CLASSIFICATION OF EXECUTIVE ASSISTANT:

The purpose of the proposed resolution is to establish the specification for the classification of Executive Assistant CTC No. 0275. As part of the recent consolidations within departments, many duties and responsibilities have been shifted and/or reassigned. Additionally, computer technology has changed many needs of the departments for clerical support. Some, but not all, departments have administrative needs greater than that offered by the classification of Administrative Secretary. The classification of Executive Assistant will give the departments the flexibility, if needed, to have a position that can perform more complex administrative as well as secretarial duties. This type of position is more reflective of current trends in management. This will also assist the departments as they need to recruit for this highly specialized field.

The Civil Service Board was advised of this establishment at their regular meeting on April 7, 2004. This classification will be an Unrepresented Management (Z group) position, exempt from Civil Service and the Fair Labor Standards Act (FLSA). This position will also be included in the City's Conflict of Interest Code. Based on the comparison of the salary and duties of the position of Administrative Secretary to the proposed duties for this position and Burbank's 12-city survey, it is proposed that the salary range for the Executive Assistant classification be established at \$3,354 to \$4,075 per month. The position of Administrative Secretary is paid a five percent differential if required to take official minutes for various boards, commissions and committees. This position will also be paid the five percent differential if also required to take these official minutes. The salary range would then be set at \$3,522 to 4,279 per month. This increase in the salary range between an Administrative Secretary and that of the newly-created Executive Assistant classification will be funded through each department's salary savings or through budgeting the position in the Fiscal Year 2004-05 Budget.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ESTABLISHING THE TITLE AND CLASSIFICATION OF EXECUTIVE ASSISTANT (CTC No. 0275) AND PRESCRIBING CLASSIFICATION CODE NUMBER, SALARY AND SPECIFICATION THEREOF.

END OF CONSENT CALENDAR

REPORTS TO COUNCIL:

5. EMPIRE INTERCHANGE DESIGN MODIFICATION:

Staff has recently been exploring with the California Department of Transportation (Caltrans) the feasibility of modifying the Empire Interchange project design to permanently close the San Fernando Boulevard underpasses of the Interstate-5 and railroad in both directions, and also closing the Northbound Interstate-5 Lincoln Street off-ramp. Northbound traffic currently using the underpasses and off-ramp would instead

utilize the new Empire-North San Fernando connection, which would be accessed from the freeway via the northbound Scott Road off-ramp. Alternatively, northbound freeway traffic could continue to utilize the Buena Vista Street off-ramp farther north. Southbound traffic currently using the San Fernando Boulevard underpass would instead either access the new roadway connection to reach the east side of the freeway, continue southbound on Victory Place on the west side of the freeway, or for a longer trip would access the Southbound Interstate-5 via the relocated on-ramp at Empire Avenue. An analysis of the traffic re-distribution has shown that the new connecting roadway and other elements of the network have sufficient capacity to handle the forecasted traffic demand.

There are several benefits associated with this proposed design modification; including improved traffic safety, a more efficient and better designed street network, and a reduced level of traffic impacts to nearby residential neighborhoods. Staff is not aware of any significant impacts or disadvantages of proceeding with this change. The Police and Fire Departments support the design modification. While the Bob Hope Airport has some concerns related to maintaining adequate access to the Airport, especially in the immediate vicinity of the terminal, it has no objection to the proposed closures of the San Fernando Road underpasses and the Scott Road off-ramp.

Recommendation:

Staff recommends that the Council authorize the submittal of a letter to Caltrans requesting that the proposed design modification be incorporated into the Empire Interchange project.

6. AMENDING ARTICLE 11 OF CHAPTER 14 OF THE BURBANK MUNICIPAL CODE PERTAINING TO THE CITY'S UTILITY USERS TAX ORDINANCE:

Staff is requesting that the Council adopt an ordinance amending Article 11 of Chapter 14 of the Burbank Municipal Code (BMC) pertaining to the City's Utility Users Tax (UUT) to: 1) update and clarify the definition of telecommunication services; 2) update and clarify provisions for administration and collection of the UUT; and, 3) reorganize Article 11 into a more logical format.

Under Article 11 of Chapter 14 of the BMC, the City imposes a tax on the users of certain utility services including telephone, electricity and gas. In Burbank, the UUT is a very important General Fund revenue source and represents approximately 14 percent of the total revenue collected for Fiscal Year 2002-03. The revenues generated from this Tax help to fund many municipal services in the General Fund, such as Police, Fire, Parks and Recreation and Libraries.

With society's rapid technological growth, the current UUT Ordinance does not reflect the ongoing changes in the telecommunications services industry. Amendments to the UUT

Ordinance are necessary to update and clarify provisions for administration and collection of the Tax. Staff worked with the City Attorney's Office and the City's UUT consultant, MBIA MuniServices, on the revisions to the Ordinance.

These clarifying amendments neither increase the UUT nor expand the existing tax base and therefore do not require voter approval under Proposition 218. There would be no fiscal impact the City since this is only a change to the language within the BMC.

Recommendation:

Introduction of proposed ordinance entitled: (motion and voice vote only)

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING ARTICLE 11 OF CHAPTER 14 OF THE BURBANK MUNICIPAL CODE PERTAINING TO THE CITY'S UTILITY USER TAX ORDINANCE.

7. APPOINTMENT OF FINANCING TEAM – WASTEWATER TREATMENT REVENUE BONDS:

The purpose of this report is to request Council approval of the following: 1) a ppointment of a Financing Team to review the potential refunding of the existing Wastewater Treatment Revenue Bonds,1995 Series A and issuance of new money bonds of \$5 million; and, 2) adoption of a reimbursement resolution to be reimbursed for capital expenditures should the bonds be issued.

As part of the annual budget process, staff updates the five-year cash flow projection for the Sewer Fund to review the adequacy of sewer rates to determine compliance with bond covenants, financial policies and cash flow needs. During the Fiscal Year (FY) 2003-04 budget process, it was disclosed that sewer rates would need to be increased by 8.5 percent in FY 2003-04 and seven percent for four years thereafter. Spreading needed rate increases over time has the negative consequence of reducing needed cash balances.

Staff is also recommending that the Council approve the appointment of a Financing Team to review the potential of refunding the Wastewater Treatment Revenue Bonds, 1995 Series A with a bond issue that would include \$5 million of funds for planned capital expenditures. The advantage of refunding existing bonds and issuing \$5 million in new money would be to restore available cash balances. The potential bond issue would only be issued if the net present value of the savings from the refunding of the 1995 issue was at least three percent. Interest rates have been fluctuating and currently are at a level that would not meet the City's savings target. At this point staff does not recommend issuing bonds for the new money portion alone. By approving the Financing Team, bond documents can be developed and brought back to the Council for approval.

This resolution will give authority to issue the bonds when sufficient savings can be generated. The reimbursement resolution gives the City the ability, for Federal tax purposes, to reimburse itself from the proceeds of a tax exempt bond issue for capital

expenditures made prior to issuance should the bonds ultimately be issued.

The Public Works Department is ready to proceed with phase two of a nitrogen removal project which has been estimated at \$5 million. This project includes the conversion of the disinfection process, modification of the return activated sludge pump system, construction of a new chemical storage building, modifications to the existing chlorine contact chamber, and electrical demolition, relocation and replacement.

Due to the market timing need and other financing challenges, it is to the City's benefit to appoint a Financing Team which has an understanding of the existing outstanding Wastewater Treatment bond issues. The Financing Team recommended is as follows:

Peter Ross, Ross Financial	Financial Advisor
Rich DeProspero, E.J. De La Rosa & Co., Inc.	Underwriter
Brian Quint – Quint & Thimmig, LLP	Bond Counsel

The Financing Team will also prepare the necessary bond documents and return for approval.

Compensation for the Financing Team will be paid as part of the bond issuance if the bonds are issued. The \$5 million in new money strengthens the cash balances of the Sewer Fund and would enable staff to recommend eliminating or reducing the planned seven percent rate increase scheduled for FY 2007-08.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURBANK EXPRESSING OFFICIAL INTENT REGARDING CERTAIN CAPITAL EXPENDITURES TO BE REIMBURSED FROM PROCEEDS OF TAX-EXEMPT OBLIGATIONS AND APPOINTING CONSULTANTS.

8. COMMENTS ON THE CALIFORNIA HIGH SPEED TRAIN PROJECT DRAFT ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT:

The California High Speed Rail Authority has released a Program-Level Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) representing preliminary feasibility and design for a proposed High Speed Train (HST) connecting northern and southern California. This preliminary study proposes a number of route and station alternatives that if constructed would be routed through the City of Burbank. Staff has reviewed the Draft EIR/EIS and prepared a summary of the scope of the project, its potential impacts to the City, and a list of concerns and issues to be addressed during the study's public comment period. The HST project is still in initial feasibility and design, and no funding has of yet been secured to construct the project. Staff has been monitoring the ongoing progress of the project, but the release of this preliminary

environmental document represents the first opportunity for initial review and comment on the preliminary findings presented by the Authority. As such, neither staff nor prior City Councils have made any policy statements in favor of or opposition to the project. The stated purpose of the HST would be to meet the forecasted increase in inter-city passenger travel demand between the population centers of the State as an alternative to airport and highway expansion, while also extending and improving short and intermediate commute trips within regions of the State.

Recommendation:

Note and file.

9. AMEND BURBANK MUNICIPAL CODE CHAPTER 21, ARTICLE 2, DIVISION 2, SECTION 21-213 RADIOS, TELEVISION SETS AND SIMILAR DEVICES:

The purpose of this report is to request that the Council introduce an ordinance amending Burbank Municipal Code (BMC), Chapter 21, Article 2, Division 2, Section 21-213 *Radios, Television Sets and Similar Devices*. It is staff's recommendation that Chapter 21, Article 2, Division 2, Section 21-213 of the BMC be amended to state:

(a) DISTURBING RESIDENTS

No person shall use or operate any radio receiving set, musical instrument, phonograph, television set or other machine or device for the producing or reproducing of sound or other sound amplification systems in such manner as to disturb the peace, quiet, and comfort of neighboring residents or any reasonable person of normal sensitiveness residing in the area.

(b) PRIMA FACIE VIOLATION

i. Any noise causing the ambient noise level of interior residential areas to be exceeded by more than five decibels shall be deemed to be prima facie evidence of a violation of this section. Noise measurements shall be taken within any adjoining apartment if the radio receiving set, musical instrument, phonograph, television set or other machine or device is in an apartment house, condominium or other multiple dwelling.

ii. Notwithstanding subsection i, any person which operates or permits the operation of an outdoor sound amplification device which can be heard fifty (50) feet or more away from the source of the device shall be deemed prima facie evidence of a violation of this section.

(c) EXCEPTIONS

This section shall not apply if a park permit or other City approval expressly authorizes the use of outdoor sound amplification devices.

Burbank is fortunate to possess high quality park facilities. They are used by a large number of individuals, especially during the summer months. Some park users bring personal compact disc/tape players for their own or their party's enjoyment. Periodically, this has created some disturbances; however, during the past couple of years these musical amplification devices have increasingly created problems for residential neighborhoods immediately adjacent to park facilities.

Currently, BMC Section 21-213 uses language which makes enforcement difficult, which is frustrating to the complainant and the responding officer. During Fiscal Year 2002-03 staff received a number of complaints from neighbors of individual parks concerning excessive use of amplified sound devices. A number of meetings were held to discuss specific concerns and potential solutions.

Park, Recreation and Community Services staff met with the designated Police Officer assigned to the Park Patrol Detail. During the course of his and other officers' patrol, numerous park patrons were requested to lower the volume of their personal amplification devices. While they adhered to the requests, oftentimes the volume was turned up once Officers departed. This was confirmed by neighbors and Park, Recreation and Community Services staff assigned to weekend duty. The current Code covers "any noise causing the ambient noise level of interior residential areas to be exceeded by more than five decibels." However, this is not an ideal enforcement tool when dealing with complaints originating in park settings and negatively affecting surrounding residential areas.

At the February 12, 2004 Park, Recreation and Community Services Board meeting, a representative from the Brace Park neighborhood requested that the Board recommend to the Council a change in the ordinance that regulates sound devices. He shared that the problem is most severe during the summer months when the park attracts the largest number of patrons. The Board agreed with staff's recommendation to amend the Code and to utilize language that is similar to the California Motor Vehicle Code, Chapter 5 Article 1, Section 27007, *Sound Amplification Devices*. It states that "no driver of a vehicle shall operate or permit the operation of any sound amplification system which can be heard outside the vehicle from 50 or more feet." This is slightly more than the width of a two-lane street with parking lanes on both sides. A Code amendment with similar language would be enforceable by Police Officers responding to complaints and would not necessitate a decibel reading. This amended ordinance creates a presumption that noise is unreasonable when it can be heard 50 feet or more from its source.

It is anticipated that the City will not have a significant fiscal impact due to the adoption of this amendment. Signs noting the new regulations will need to be posted.

Recommendation:

Introduction of proposed ordinance entitled: (motion and voice vote only)

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING SECTION 21-213 OF THE BURBANK MUNICIPAL CODE RELATING TO NOISE FROM RADIOS AND OTHER DEVICES FOR PRODUCING OR REPRODUCING SOUND.

10. SITE SPECIFIC SELECTION COMMITTEE FOR ART PROJECTS AT BURBANK WATER AND POWER:

The purpose of this report is to request Council selection of two Council Members to serve on the Site Specific Selection Committee for art projects at Burbank Water and Power (BWP) related to the Magnolia Power Project (MPP) and water.

Efforts have been underway to look at BWP as a site for completing the City's art commitment which was previously designated for the Water Reclamation Plant project. Staff is currently in the process of forming a Site Specific Selection Committee, including City leadership, who will be responsible for selecting two significant Art in Public Places projects which focus on water and light elements, to be located in the view corridors of Olive Avenue and Magnolia Boulevard.

There is no fiscal impact for selecting two Council Members to serve on the Site Specific Selection Committee.

Recommendation:

It is staff's recommendation that the Council select two Council Members to serve on the Site Specific Selection Committee for art projects at BWP.

11. MONTHLY WATER AND POWER OPERATING REPORT:

Staff has prepared the Burbank Water and Power (BWP) Water and Electric Monthly Report regarding water quality and power issues for April 2004.

WATER UPDATE

Water Quality

Water quality during March met or exceeded State and Federal drinking water standards.

Fiscal Year (FY) 2003-04 Year-To-Date preliminary Water Fund Financial Results as of March 31, 2004:

	Year - to - Date			
	Actual	Budget	Variance	% Variance
CCF	7,095,520	7,227,997	(132,477)	(2%)
Potable Revenues	11,554	11,741	(188)	(2%)
Reclaimed and Power Plant Revenues	441	383	58	15%
Purchased Water	4,949	4,820	(129)	(3%)
Gross Margin	7,046	7,304	(259)	(4%)
Direct Operating Expenses	4,932	5,435	502	9%
Allocated Operating Expenses	699	974	274	28%
Operating Income	1,414	896	518	58%
Other Income/(Expenses)	392	188	204	109%
Income before Contr. & Transfers	1,806	1,084	722	67%
Contributed Capital (A.I.C)	639	928	(289)	(31%)
Transfers (In Lieu)	593	587	6	(1%)
Change in Net Assets	1,852	1,424	428	30%

() = Unfavorable

FY 2003-04 preliminary Water Fund Financial Reserve balances as of March 31, 2004 are summarized in the following table:

Water (In thousands)	Balance			Recommended Reserves
	6/30/2003	2/29/2004	3/31/2004	
General Operating Reserve	\$8,880	\$7,387	\$7,399	\$4,430
Capital Reserve	\$1,307	\$2,807	\$2,807	\$3,580
Total Reserves	\$10,187	\$10,194	\$10,206	\$8,010
Water Replenishment Reserve	250	\$650	\$650	
Total Available Cash	\$10,437	\$10,844	\$10,856	
Parity Reserve Fund	777	\$777	\$777	
Debt Service Fund	350	\$893	\$986	
TOTAL CASH BALANCE	\$11,564	\$12,515	\$12,618	

ELECTRIC UPDATE

Electric Reliability

The following table shows the systemwide reliability statistics through March 2004 for FY 2003-04 as compared to FY 2002-03:

Reliability Measure	Fiscal Year 2002-03	Fiscal Year 2003-04, Through March 31
Average Outages Per Year	0.16634	0.2067
Average Outage Duration	91.75 minutes	68.21 minutes
Average Service Availability	99.9971%	99.9964%

Financial and Operations Update

Year-to-date MWh sales remain slightly above budget due to warmer average temperatures during the summer months and cooler average temperatures during the winter months.

Wholesale gross margins for the month of March were comparable to budget and the YTD margins were higher than budget due to BWP's ability to utilize its assets to increase sales in the wholesale market.

FY 2003-04 year-to-date preliminary Power Financial Results as of March 31, 2004:

	Year - to - Date			
	Actual	Budget	Variance	% Variance
NEL MWh	875,637	861,422	14,215	2%
Weather Normalized NEL MWh	864,755	861,422	3,333	0%
Sales MWh	832,191	818,357	13,834	2%
Retail Revenues (1)	106,411	105,722	689	1%
Retail Power Supply Expenses	61,534	67,741	6,207	9%
Retail Gross Margin	44,877	37,980	6,897	18%
Wholesale Revenues	99,467	12,075	87,392	724%
Wholesale Expenses	94,715	9,375	(85,340)	(910%)
Wholesale Gross Margin	4,752	2,700	2,052	76%
Gross Margin	49,629	40,680	8,949	22%
Telecom Revenues	725	767	(42)	(5%)
Operating Expenses	30,507	29,530	(977)	(3%)
Operating Income	19,847	11,917	7,930	67%
Other Income & (Expense)	(1,138)	(1,616)	478	30%
Net Inc. before Contributed Capt.	18,709	10,302	8,407	82%
Contributed Capital (A.I.C)	2,504	1,804	700	39%
Change in Net Assets (N.I.)	21,213	12,106	9,107	75%
Net Power Supply Cost - Cents/Kwh	6.82	7.95	1.12	14%

() = unfavorable

FY 2003-04 preliminary Power Fund Financial Reserve as of March 31, 2004 is summarized in the following table:

Electric (In thousands)	Balance			Recommended Reserves
	6/30/2003	2/29/2004	3/31/2004	
General Operating Reserve	\$22,979	\$37,961	\$37,774	\$41,000
Debt Reduction and Cap. Funding Reserve	\$5,548	\$7,473	\$7,473	\$15,100
Fleet Replacement Reserve	\$0	\$300	\$300	\$4,500
General Plant Reserve	\$0	\$200	\$200	\$1,170
Total Reserves	\$28,527	\$45,934	\$45,747	\$61,770
Bond Cash	\$9,166	\$6,559	\$6,559	
Total Available Cash	\$37,693	\$52,492	\$52,306	
Parity Reserve Fund	\$10,841	\$10,652	\$10,653	
Debt Service Fund	\$1,651	\$6,821	\$7,768	
TOTAL CASH BALANCE	\$50,185	\$69,965	\$70,727	

Recommendation:

Receive report.

RECONVENE the Redevelopment Agency meeting for public comment.

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. To Saturday, May 8, 2004 at 9:00 a.m. at the Buena Vista Library Community Room for the Council Goal Setting Workshop.

**For a copy of the agenda and related staff reports,
please visit the
City of Burbank's Web Site:**

www.ci.burbank.ca.us