



COUNCIL AGENDA - CITY OF BURBANK  
TUESDAY, JUNE 8, 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:

- a. Conference with Legal Counsel – Anticipated Litigation (City as possible plaintiff):  
Pursuant to Govt. Code §54956.9(c)  
**Number of potential case(s): 3**
  
- b. Conference with Legal Counsel – Anticipated Litigation (City as potential defendant):  
Pursuant to Govt. Code §54956.9(b)(1)  
**Number of potential case(s): 2**
  
- c. 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.

**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:            ST. FRANCIS XAVIER CHURCH – OLD TYME COUNTRY FAIR.

RECOGNITION:                BURBANK ALL STARS.

RECOGNITION:                TEENS IN ACTION COMMUNICATION TEAM VIDEO AWARD.

PROCLAMATION:               PAUSE FOR THE PLEDGE OF ALLEGIANCE.

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).

6:30 PUBLIC HEARING:

1. AMENDING THE BURBANK MUNICIPAL CODE TO AUTHORIZE TEMPORARY "OPEN HOUSE" SIGNS TO BE PLACED IN THE PUBLIC RIGHT-OF-WAY WITH CERTAIN STANDARDS, RESTRICTIONS AND REQUIREMENTS:

The purpose of this report is to provide the Council with an analysis of two ordinance options which would allow the posting of real estate "Open House" signs within certain public rights-of-way. At the November 4, 2003 Council meeting, staff was directed to return with an ordinance allowing the posting of real estate "Open House" signs within the public right-of-way. Over the past months staff has been working with the Burbank Association of Realtors to formulate two ordinances which address the restrictions, standards and requirements as follows:

1. **Size of sign** - face of sign may be no larger than 24" X 24"

2. **Height of sign** - total height, including frame, not to exceed three feet
3. **Local address** - only a Burbank residence may be advertised on the Open House sign
4. **Limit in number** - no more than four signs per property advertised may be posted on public property
5. **Sign types** - stake-type or A-frame signs may be used and no attachments such as balloons, pennants or flags may be added to the sign. Furthermore, all signs must be made of quality materials and maintained in good condition at all times
6. **Location** - Open House signs may not be posted on:
  - Trees, traffic signs or utility poles, or obstruct any official public sign
  - Signs may not obstruct the safe and convenient use by the public of any street, sidewalk or curbside parkway areas
  - Signs may not be placed in any roadway area or center median area
  - Placement of signs may not in any manner violate the American with Disabilities Act (curb cuts blocking disabled access)
  - Signs may not be within 18" from the face of the curb
  - Signs may not be on streets undergoing construction, nor on streets with special events
  - Signs may not be within five feet of the beginning of the curb return of any two intersections
  - Signs may not be within five feet of any driveway, traffic signal, traffic sign, designated bus stop, bus bench or any other bench on the sidewalk
7. **Time** - Signs may only be displayed during an open house on Saturdays, Sundays, and Federal and State holidays between 8:00 a.m. and dusk or 6:00 p.m., and Thursdays between 8:00 a.m. to 2:00 p.m.
8. **Permit** - A permit shall be obtained from the Public Works Department which includes: fees paid; insurance (combined single limit of at least \$1,000,000 for each permit); indemnification; and, decal application onto the "Open House" sign
9. **Identification required** - Each sign shall have affixed to it, in an area not to exceed 2" X 3", the name, address, and telephone number of the person responsible for the placing of maintaining the sign within the public right-of-way

The only difference between the two ordinance options is the requirement in Option No. 1 for insurance, permits and permit fees. Most cities surveyed, including Glendale, which allow temporary "Open House" signs within the public right-a-way, do so by a matter of right and therefore do not require insurance, permits or permit fees.

Staff estimates that if the Council adopts ordinance Option No. 1, because of insurance and a permit system requirement, the estimated cost of administration and enforcement of this option for the first year will be \$13,629. Staff and the Burbank Association of Realtors estimate that approximately 1,200 "Open House" sign permits may be applied for annually. If the City were to recover costs associated with an "Open House" sign permit program, appropriate permit fees are recommended to be \$10 per sign, per year (fee to be prorated on a fiscal year basis).

Recommendation:

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

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING CHAPTER 20 OF THE BURBANK MUNICIPAL CODE TO AUTHORIZE TEMPORARY "OPEN HOUSE" REAL ESTATE SIGNS TO BE PLACED IN THE PUBLIC RIGHT-OF-WAY BY PERMIT.

JOINT PUBLIC HEARING WITH THE REDEVELOPMENT AGENCY, HOUSING AUTHORITY, PARKING AUTHORITY AND YOUTH ENDOWMENT SERVICES FUND BOARD:

2. PROPOSED FISCAL YEAR 2004-05 ANNUAL BUDGET, CITYWIDE FEE SCHEDULE, INCLUDING AN INCREASE IN THE TRANSIENT PARKING TAX AND APPROPRIATIONS LIMIT PUBLIC HEARING:

The purpose of this report is to present the proposed Fiscal Year (FY) 2004-05 Annual Budget, Citywide Fee Schedule, including an increase in the Transient Parking Tax and Appropriations Limit to the Council, Redevelopment Agency Board, Housing Authority, Parking Authority and Youth Endowment Services Fund Board for a public hearing. The adoption of the FY 2004-05 Budget will be considered on June 22, 2004.

Staff has worked diligently over the past months to develop a balanced approach to address the long-term structural problem that the City is still facing. Although Burbank was fortunate to have the budget balancing resources available for FY 2004-05, staff anticipates recurring deficits to continue over the next five years, from \$2.9 million in FY 2005-06, \$1.4 million in FY 2006-07, and escalating to \$1.8 million in FY 2008-09. The Executive Team continued its diligent work from last year in trying to resolve the recurring deficit. Through teamwork and creative thoughts, several budget balancing ideas were devised, and a comprehensive five-year plan was provided at the initial Budget Study Session held on April 13, 2004. As part of the long range budget balancing plan, staff will continue to look at business practices in an effort to identify efficiencies while also looking at regional synergy and collaborations to reduce ongoing costs.

It was determined that each department would attempt to identify reductions and reasonable increases in fees that would not necessarily achieve any quantifiable target, but instead, be intuitive in nature. However, in order to have some benchmark for discussion, departments were requested to provide two percent and/or four percent reduction scenarios. For the most part, each General Fund department achieved or came close to achieving at least the two percent reduction through actual reductions in personnel, Materials, Supplies and Services Accounts (MS&S), and programs, as well as fee increases. The total proposed General Fund reduction was \$2,731,926, or an average of 2.97 percent of each department's discretionary budget. The breakdown was: \$1,463,448 from salaries/benefits/overtime; \$696,535 from MS&S; and, \$571,943 from an increase in fees/revenue. Making these reductions was challenging, considering last year's 10 percent reduction.

The continuing strategy is to make reductions in areas that will have the least impact, such as freezing or eliminating vacant positions, offering retirement incentives to employees close to retirement, and reducing programs and services or increasing fees for existing programs and services that will not materially affect the quality of life that the residents and businesses of Burbank have come to enjoy.

## **FY 2004-2005 BUDGET PLANNING AND DEVELOPMENT**

Even before the City considered the potential State budget impacts to the upcoming Fiscal Year budget, the City was already progressing into a deficit position over the next several years due to the underperformance of several revenue categories and the significant increase in recurring costs, especially the Public Employee Retirement System (PERS) rates. As previously noted, the General Fund budget parameters for this year were once again strict, requesting two percent and four percent reduction scenarios based on FY 2003-04's discretionary budget amounts.

### **New Positions/Upgrades:**

Similar to last year, no new positions or upgrades were accepted unless revenue offset, or recommended by the Executive Team for operational needs. A new position title, Executive Assistant, was added to more accurately reflect the responsibilities of certain individuals. This new title has a minimal budgetary impact.

### **Frozen Positions:**

Most of the positions frozen in FY 2003-04 carried over into FY 2004-05 with savings of \$1,710,345. Additionally, newly frozen positions in FY 2004-05 resulted in savings of \$314,714. Total FY 2004-05 frozen position savings amount to \$2 million.

### **MS&S Accounts:**

There was no allowable increase in MS&S accounts provided to any General Fund department. Any exceptions were to be beyond the department's control. A total of \$416,918 (of which \$47,428 is non-recurring) in MS&S exceptions is being requested.

### **Capital Outlay:**

No new requests for capital outlay were to be allowed unless funded by a revenue source. Any exceptions were to be beyond the department's control. No new requests for capital outlay were allowed with the following exceptions: Fire shelters and new pickup truck (Fire Department), and an aerial truck (Public Works Department).

The first Council Budget Study Session was held on April 13, 2004 and included staff recommended reductions and fee increases. The Council then received the Proposed Budget prior to the May 8, 2004 annual Goal Setting Workshop. Other Budget Study Sessions were held on May 11, May 25 and May 27, 2004. At the first Study Session, the Financial Services Director provided a brief overview of the Proposed Budget, projected available recurring and non-recurring fund balances, and significant changes to all departmental budgets including increases in Internal Service Funds and PERS rates. Each Department Manager then reviewed their respective proposed budgets and any

capital outlay requests.

With the budget parameters, costs and revenues in mind, the following chart is the proposed source of funds and appropriations for each fund or fund type for the FY 2004-05 Budget:

FUND/FUND GROUP	PROPOSED RESOURCES*	PROPOSED APPROPRIATIONS**
General Fund	\$117,015,848	\$115,006,841
Special Revenue Funds (incl. Cap. Projects Fund)	\$27,522,197	\$23,769,374
Internal Services Funds	\$30,573,462	\$29,272,698
Water Reclamation and Sewer	\$16,629,914	\$16,629,914
Golf Fund	\$2,175,971	\$2,105,360
Water and Electric (BWP)	\$219,985,805	\$219,985,805
Refuse Collection and Disposal	\$11,906,200	\$11,906,200
Redevelopment Agency	\$41,250,142	\$39,857,598
Housing Authority	\$6,584,502	\$6,584,502
Parking Authority	\$992,329	\$982,738
<b>TOTAL ALL FUNDS</b>	<b>\$474,636,370</b>	<b>\$466,101,030</b>

\*Resources represent the total sources available to each fund, such as taxes, fees, charges, sales, interest, use of fund balance (from bond proceeds, depreciation, and available retained earnings) and includes changes disclosed in the addendums to the Proposed Budget. The recurring portion of revenue for the General Fund is \$113,350,848, and the recurring General Fund appropriation is \$113,350,848.

\*\* The General Fund variance between proposed sources and appropriations is a result of the following: the inclusion of the 1) use of reserves (Utilities Users Taxes, BWP In-Lieu and related interest earnings) previously designated for BWP competitiveness and set-aside in the General Fund; and, 2) yet to be settled contracts with several bargaining groups.

### **STATE BUDGET – IMPACT ON BURBANK**

The Governor released his FY 2004-05 Proposed State Budget on January 10, 2004, and his May Revision on May 13, 2004. If adopted, a balanced budget for FY 2004-05 will be achieved and the State will have enough Proposition 57 bond proceeds left to cover much of the structural budget gap for FY 2005-06.

Following is a brief overview of the potential impacts that the Governor's May Revision to the Proposed FY 2004-05 State Budget will have on the City.

Redevelopment Agency:

Educational Revenue Augmentation Fund (ERAF): In FY 2003-04, the State required a one-time shift of Burbank redevelopment revenue of \$1,343,093 which, as it turns out, was not a one-time shift after all, as the Governor's January 2004 Budget again requires

redevelopment agencies to shift \$135 million to the ERAF in FY 2004-05. The Governor's May Revision added another \$1,134,010 to this amount, bringing the total ERAF shift from the Redevelopment Agency to \$2,477,103. To put this ERAF shift into perspective, with the Proposed FY 2004-05 shift, the total amount shifted from the Redevelopment Agency since the ERAF's inception is over \$8.3 million.

**General Fund Impacts:**

**Public Library Foundation:** The May Revision cut 10 percent from the previous year's levels, equating to an additional loss of \$4,694 for the FY 2004-05 Budget.

**Booking Fee Reimbursement:** This item was eliminated by the Governor, but is a small revenue loss of \$12,772 to Burbank. This reduction is already included in the City's Proposed FY 2004-05 Budget.

**Proposition 42 Transportation Funding:** Although there is no improvement for local cities, counties and road rehabilitation in the May Revision, the State indicated that if any additional one-time money from the Indian Gaming Negotiations became available, funding would be directed towards local road improvements. The current estimate is a \$180 million loss for FY 2004-05, in addition to the \$188 million loss in FY 2003-04 to cities and counties. It is difficult to quantify the precise dollar impact to Burbank at this time.

**State Mandates:** The City has not budgeted State reimbursement payments for FY 2004-05 due to the State suspending payments to local agencies for State-mandated programs. However, this continued suspension of payments remains a real loss of revenues that the City had counted on for many years. Further, the Governor's proposal suggests an array of changes, including: accelerating the timing of test claims; the ability of local governments to terminate the mandate within 90 days if the State cannot reimburse in the current or future State budgets; disallowing the Governor to veto a mandate appropriation; and, broadening the definition of mandate to include situations when the State transfers partial funding responsibility for a joint State-county program.

A significant development which staff has been monitoring closely in the last few weeks has been the Ballot Initiative proposed by the League of California Cities entitled the "Local Taxpayers and Public Safety Protection Act," also known as LOCAL (Leave our Community Assets Local). This Ballot Initiative has qualified for the November 2004 Presidential Election, and will require voter approval before the State can divert local revenues. The Governor quickly responded to this act by proposing his own budget agreement which permanently eliminates the State's Vehicle License Fee (VLF) backfill (i.e., the two percent rate becomes .65 percent rate) and replaces it with Property Tax revenues. Local governments will contribute \$350 million for two years (FY 2004-05 and FY 2005-06) after which the State will be prohibited from diverting Property Tax, Sales Tax and the remaining VLF revenues from local governments through a constitutional amendment. In addition, the State will repay the VLF revenue lost in FY 2003-04. For Burbank, the General Fund is expected to lose \$1.794 million annually for the next two years, but will receive \$1.863 million in FY 2006-07, for a net loss of \$1.726 million over

the three-year period. In light of numerous other proposals and compromises that were far less palatable, Burbank supports the Governor's proposal, but also continues to support the LOCAL Initiative.

Staff will continue to monitor the State Budget and its potential impacts on the City and keep the Council advised as developments arise.

### **PROPOSED CITYWIDE FEE SCHEDULE**

The primary purpose of the Citywide Fee Schedule is to provide a one-stop listing of all City fees, charges and rates. The Fee Schedule is reviewed and updated annually as part of the budget process in an effort to document all fees that have been revised or changed during the fiscal year. The Council has already approved fee changes during FY 2003-04 that have been incorporated into the Fee Schedule.

As was previously discussed, there was a conscious effort made to review all City fees, charges and rates due to the significant budget challenges facing the City. It was agreed upon that making reductions in costs alone would not be the most prudent course of action, as many more services, programs and employees would have been affected. Thus, each department that has fees, charges and rates, spent a great deal of time researching the current rates, identifying areas of concern, and conducting surveys of other cities to ascertain a fair and reasonable charge. In addition, some departments were able to identify new fees that were being charged by surrounding communities that made sense for Burbank to consider.

The following are the significant fee changes being proposed.

#### **Transient Parking Tax (TPT):**

Following a lengthy analysis of the TPT, including a survey of the rates charged by other cities, the Council approved placing a Ballot Measure on the April 8, 2003 General Election for the electors to consider increasing the TPT. Burbank voters approved the Ballot Measure which allows the Council to increase the City's existing TPT from the current rate of 10 percent up to a maximum of 12 percent, after a public hearing on the matter.

The City held its first public hearing on June 10, 2003 to receive public input on its FY 2003-04 Proposed Budget and Citywide Fee Schedule, which included a proposal to increase the TPT to 12 percent. The Council voted 4-1 against raising the TPT at that time.

On December 16, 2003, by majority vote, the Council agreed to consider holding another public hearing on raising the TPT from 10 percent to 12 percent. The second public hearing was held on January 27, 2004, and the Council again voted 4-1 against raising the TPT at that time.

In light of the City's current financial condition, and the fact that there are very few opportunities for the City to effectuate a positive change in a revenue source, staff is



recommending that the Council take public comment on the matter at a third public hearing, as required by the Ballot Measure and ultimately take action to approve an increase in the TPT from 10 to 12 percent. It is estimated that this increase will provide an additional \$330,000 in TPT revenue.

**Water Rate:**

This is the third year of a five-year smooth ramp-up of a water rate increase, which averages 4.8 percent a year.

**Sewer Fee:**

This is the second year of a five-year rate plan with annual seven percent rate increases for FY 2004-05 through FY 2007-08 (monthly fee will increase from \$13.99 to \$14.97 for FY 2004-05).

**Film Permit Fees and Associated Costs – Facility Usage Fee:**

It is recommended that new fees be established to cover the staffing cost of various Park, Recreation and Community Service facilities used for filming purposes.

**City Attorney Restitution Fee:**

This new fee will reimburse the City for the costs of administering the criminal restitution program. The Fee will be paid by the defendants and is expected to generate \$5,000 in revenue.

**Safety Personnel Rates:**

Both the Police and Fire personnel rates in a number of categories have been increased to be in line with recent Memorandum of Understanding increases. The average rate increase over FY 2003-04 is 6.85 percent.

**Emergency Medical Services (EMS) Membership Fee:**

This fee will be increased by 33 percent, to \$48 per household annually. Both the current and new fee are lower than other local cities, and had not been increased since 1998. Estimated incremental revenue is expected to be \$39,845.

**Traffic Plan Check and Study Fees:**

These new fees cover the cost of staff's time in inspecting, researching, and reviewing many facets of the developing and building process. Examples of review include site plans, building permits, conditional use and administrative use permits, subdivision map review, variance review, lot line adjustment, zone map and text amendment review, excavation/street use permit review, traffic study review, traffic control plan review, sign/signing plan review, among others. In total, the estimated additional revenue is \$79,570.

**Planning Permits:**

A new fee of \$30 is proposed to compensate staff's time involved in performing plan checks for non-development projects. This fee along with proposed increases to other planning applications is estimated to account for \$72,690 in additional revenue.

#### License and Code Services Fees:

Various fees were raised on average 10 percent, including Property Maintenance Inspection fees, regulatory license fees to cover 90 percent of cost and Business Tax Amnesty Program to encourage business registration. In total, the increase in revenue is expected to be \$115,000 for this fee category.

#### Building Permits:

Building, grading, mechanical, electrical and plumbing fees were increased four percent. Other fees that fall in this category that have a smaller impact are the surcharge fees which have been revised as follows: Community Facility Fee (five percent); Fire Permit (\$20); and, Grading Bond (\$50 administrative fee per permit). Altogether, the building permit category is expected to yield an additional \$135,429 in revenue.

#### Monthly Parking Permit Fee:

This is year two of a three-year ramp-up for the public lot monthly parking permit fee. The rate increases from \$24 to \$28 in FY 2004-05 and another increase of \$4 will be implemented in FY 2005-06. Based on surveys performed, staff has found that the \$32 rate is still lower than fees charged by other cities.

Due to the FY 2003-04 budget deficit and projected deficits in future years, staff performed a comprehensive overhaul of the Fee Schedule which resulted in a number of fee increases as well as new fees. For FY 2004-05, the trend continued to ensure that the fees are in line with surrounding cities, remain affordable and have minimal impact on the users. Moreover, it is important to keep in mind that the City is not out to make money, and as such, very few of the non-enterprise funded programs have total cost recovery, instead the City General Fund heavily subsidizes many City services.

#### **GANN INITIATIVE APPROPRIATION LIMIT**

The City is required by State law to establish an appropriation limit each fiscal year. Only those revenues received from proceeds of taxes are subject to this limit. This means that only certain revenues from funds such as the General Fund and Propositions A and C Transportation Funds are subject to the appropriation limit. All other funds that fall under the Council's control (i.e., Redevelopment Agency and Enterprise Funds) are exempt from this limitation. The Redevelopment Agency is statutorily exempt and Enterprise Funds receive their funds through service charges, not general taxes.

The City's FY 2004-05 appropriation limit is estimated to be \$121,877,315. The actual amount of the appropriations contained in the budget that is subject to the limit is \$89,250,018. The difference between the City's appropriation limit and the amount subject to it is \$32,627,297. As a result, the City has a significant gap between its legal limit and the actual appropriations subject to the limit. The exact figures will be calculated and made available after the budget is adopted on June 22, 2004.

## **FISCAL IMPACT**

At the Mid-Year review in February 2004, staff had projected that the year-end deficit for FY 2004-05 would be a staggering \$4.5 million. This deficit, in addition to the State's budget deficit of \$14 billion, provided a significant challenge for the City.

Per the Council's direction at the May 27, 2004 Budget Study Session, staff was directed to utilize the Burbank Water and Power (BWP) Utility Users Tax (UUT) In-Lieu Set-Aside Account in the amount of \$274,457 to close the City's FY 2004-05 budget gap. The Council was also in favor of combining the BWP In-Lieu Set-Aside and Budget Stabilization Reserve Funds. In addition, staff was directed to: defer the funding of reserves to the close of FY 2003-04; consider increasing the TPT rate from 10 percent to 12 percent which generates an additional \$330,000 annually, plus recognizing an additional \$1,104,000 in UUT and In-Lieu tax reserves; and, fund additional positions within the Police Department. However, as has been disclosed to the Council in the Five-Year Financial Forecast, the City is still in a precarious position for the outgoing years and continued prudent fiscal planning is required.

The adoption of the Budget sets the initial appropriations for the new fiscal year. Appropriations have been balanced against estimated revenue and other sources of funding, such as reserves or bond proceeds.

### Recommendation:

Staff recommends that the Council, Redevelopment Agency Board, Housing Authority, Parking Authority and Youth Endowment Services Fund Board conduct the public hearing on the Proposed Fiscal Year 2004-05 Annual Budget, Citywide Fee Schedule, Transient Parking Tax increase and Appropriations Limit. Staff will incorporate any direction into the budget resolutions that will be presented on June 22, 2004 for final adoption.

## REPORTING ON CLOSED SESSION:

### AIRPORT AUTHORITY MEETING REPORT:

#### 3. 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 June 7, 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:

CONSENT CALENDAR: (Items 4 through 9)

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.

4. APPROVAL OF THE SECOND AMENDMENT TO THE AGREEMENT WITH THE CITIES OF PASADENA AND GLENDALE FOR THE PURCHASE OF REPLACEMENT TRI-CITY SEWER TV EQUIPMENT AND VAN:

Staff is requesting Council approval authorizing the City Manager, or her designee, to approve the second amendment to the Joint-City Agreement, concerning the acquisition and operation of a replacement sewer TV van.

In 1987, the City joined with the cities of Pasadena and Glendale to purchase a sewer TV van. This original unit was shared equally between the three cities on a rotational basis. The City of Glendale maintained the van. Each participating city reimbursed Glendale for the ongoing maintenance of this equipment.

In 1995, the three cities entered into a first amendment to the cooperative agreement to purchase a second sewer TV van and share the cost of its maintenance and operation. At that time, the 1995 unit became the primary unit and the 1987 unit was used when the 1995 unit was in for service, during emergencies or for special projects.

The proposed resolution authorizes the City to enter into a second amendment to the agreement with the City of Pasadena and the City of Glendale for the purpose of acquiring and operating a sewer TV van to replace the unit purchased in 1987, which is no longer serviceable. The new unit is scheduled for use by July 1, 2004. The unit purchased in 1995 will become the back-up unit and the 1987 unit will be salvaged and credited to the purchase of the new van.

Over the years, the joint purchase and use of the sewer TV van has lessened the cost impact for each of the cities involved. Each city has benefited from the use of the camera equipment. This equipment allows City crews to view the interior of the sewer system and correct minor problems. The videotape feature provides a historical record of the condition of the system, which is useful in showing and explaining abnormalities and maintenance requirements.

The City of Glendale will remain the lead agency in the maintenance of this vehicle and equipment and in all other responsibilities set forth in the original 1987 Agreement.

The total cost of the replacement van/equipment is \$199,551.30. This cost will be shared equally by each city involved. Public Works Department has budgeted to pay for Burbank's one-third share of \$66,517.10.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE SECOND AMENDMENT TO THE AGREEMENT BY AND AMONG THE CITIES OF BURBANK, GLENDALE AND PASADENA FOR THE ACQUISITION AND OPERATION OF SEWER TV EQUIPMENT AND VAN.

5. APPROVAL OF FINAL MAP NO. 60332:

Staff is requesting Council approval of Final Tract Map No. 60332. The property covered on Final Tract Map No. 60332 is a one-lot subdivision totaling 5,719 square feet and located at 4123 Hood Street. The property is in the MDR-4 Media District Residential Multiple Medium Density Zone. The property is owned by Donald Zappala.

The existing property was a single-family dwelling and the proposed development consisted of constructing a three-unit multi-family residential building. The Tentative Tract Map subdivided a three-unit multi-family residential building into condominiums. Final Tract Map No. 60332 finalizes the conversion of the existing property to the condominium subdivision.

All Conditions of Approval and requirements of the State Subdivision Map Act have been met. The following is a summary of information pertinent to the approval of Final Tract Map No. 60332:

1. The tentative tract map was conditionally approved by the Community Development Director on October 3, 2003 pursuant to Burbank Municipal Code (BMC) Section 27-323 (Director's Decision on Tentative Map).
2. The Final Tract Map contains three condominium units at 4123 Hood Street, which is located in the MDR-4 Media District Residential Multiple Medium Density Zone.
3. Conditions of Approval will be satisfied when the applicant submits two recorded copies of the Covenants, Conditions and Restrictions to the Planning Division. All other requirements as set forth in the tentative tract map conditions have cleared the Planning Division for purposes of Final Tract Map No. 60332 approval.
4. The Public Works Engineering Division has cleared all conditions for the approval of Final Tract Map No. 60332.
5. This project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301(k). This class 1 Categorical Exemption applies to the division of multi-family structures into common interest ownership.

According to the State Subdivision Map Act, Chapter 3, Article 4, Section 66458, and the provisions of Chapter 27 of the BMC, the Council must approve Final Tract Map No. 60332 if it conforms to all the requirements. If such conformity does not exist, the Council must disapprove the map at the meeting it receives the map, or at its next regular

meeting. If the Council has not authorized an extension to allow more time to disapprove the map, and the map conforms to all requirements, the map shall be deemed approved by operation of law.

Recommendation:

Adoption of proposed resolution entitled:  
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING FINAL MAP OF TRACT NO. 60332 (4123 Hood Street).

6. ESTABLISHING THE SPECIFICATION AND SALARY FOR THE CLASSIFICATION OF POLICE ADMINISTRATOR:

The purpose of the proposed resolution is to establish the specification for the classification of Police Administrator CTC No. 0638. Over the past several years, the duties of the Administrative Officer in the Police Department have expanded significantly. The position is now equivalent to that of a Division Head. The Administrative Officer is now responsible for financial services, budget, payroll, purchasing, asset/forfeiture, parking citation management, alarm permits and grants. This position also advises other Division Heads/sworn Police Captains on personnel issues including disciplinary matters. The new proposed title and specification more accurately describes the actual duties and requirements of this position. This will also assist the Department in their recruitment efforts 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 be included in the City's Conflict of Interest Code. Based on the comparison of the salary and duties of this position with comparables in Burbank's 12- city survey, it is proposed that the salary range for Police Administrator be established at 65 percent of the Police Chief's salary or a salary range of \$6,743 to \$8,193 per month. The Police Department will be replacing the Administrative Officer position with this new position of Police Administrator and has already budgeted this new 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 POLICE ADMINISTRATOR (CTC No. 0638) AND PRESCRIBING CLASSIFICATION CODE NUMBER, SALARY AND SPECIFICATION THEREOF.

7. REVISING THE SPECIFICATION FOR THE CLASSIFICATION OF SUPERVISING



## CONSTRUCTION INSPECTOR:

The purpose of the proposed resolution is to revise the specification for the classification of Supervising Construction Inspector CTC No. 0932. The Supervising Construction Inspector specification was created on November 24, 1981. Since that time, the specification format was revised in June 2002 to adhere to the requirements of the Americans with Disabilities Act. The minimum qualifications were revised on July 15, 2003 to include the revised education/training language that was applied to all Burbank Management Association (BMA), unrepresented managers and executive classifications. Other than these minor changes, the specification had never been updated since its inception. The proposed revisions were made for the following reasons: to better reflect the actual duties and requirements of the position in the current market environment; to conform to the current rules, regulations, laws and standards applicable to the position; and, to assist the Department when it needs to recruit for this highly-specialized field.

The Civil Service Board approved these revisions at their regular meeting on May 5, 2004. This classification will continue to be a Civil Service position, represented by the BMA, and subject to the Fair Labor Standards Act (FLSA). This position will be included in the City's Conflict of Interest Code. Since these are revisions to the specification only, there will be no fiscal impact.

### Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK REVISING THE SPECIFICATION OF SUPERVISING CONSTRUCTION INSPECTOR (CTC No. 0932).

## 8. SECOND AMENDMENT TO THE ICG FIBER OPTIC CABLE SERVICE AGREEMENT:

ICG Telecom and ICG Holdings, Inc. have submitted a request for a second amendment to their original Fiber Optic Cable Service Agreement. Approval of the second amendment would result in quarterly billing of the fees associated with their fiber lease (\$155,520), in-lieu of annual billing. The term of the Agreement, which was executed January 31, 1997, is 15 years.

### Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING A SECOND AMENDMENT TO THE OPTICAL FIBER USE AGREEMENT BY AND AMONG THE CITY OF BURBANK, ICG TELECOM GROUP, INC., AND ICG HOLDINGS, INC.

9. AUTHORIZING THE CITY ATTORNEY TO RETAIN OUTSIDE COUNSEL FOR A CIVIL SERVICE BOARD APPEAL AND AMENDING THE FISCAL YEAR 2003-04 BUDGET BY APPROPRIATING FUNDS IN THE AMOUNT OF \$40,000:

On April 28, 2004 the Management Services Director received a request from Stuart Adams, attorney for the Burbank Police Officers Association (BPOA), requesting that an appeal hearing be set before the Burbank Civil Service Board regarding disciplinary action against a Burbank Police Officer. During its May meeting, the Board set the hearing dates and the City Attorney's Office planned on representing the City at the hearing.

Although in the past the City Attorney's Office has represented the City before the Board, a recent Court of Appeals decision, *Quintero v. Santa Ana* (2003) 114 Cal. App. 4<sup>th</sup> 810, has called into question the ability of the City Attorney's Office to prosecute an appeal before the Civil Service Board if the attorney advocating for the City has served as an advisor to the Board in the past. Unfortunately, the Senior Assistant City Attorney who was to represent the City in this matter has, within the last ten years, advised the Board. This may violate the holding in the *Quintero* case. At this time there are no other attorneys available that can prosecute this matter before the Board.

Therefore, the City Attorney's Office must retain outside counsel to prosecute the appeal. Staff has selected the law firm of Bannan, Green, Frank & Terzian LLP as outside counsel in this matter. The attorneys in the firm are experts in employment law and have successfully prosecuted cases before the Board in the past. None of the attorneys in the firm have ever acted in an advisory capacity before the Board.

Recommendation:

Adoption of proposed resolution entitled:  
(4/5 vote required)

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AUTHORIZING THE CITY ATTORNEY TO RETAIN OUTSIDE COUNSEL FOR A CIVIL SERVICE BOARD APPEAL AND AMENDING THE FISCAL YEAR 2003-2004 BUDGET BY APPROPRIATING FUNDS IN THE AMOUNT OF \$40,000.

END OF CONSENT CALENDAR            \*\*\*            \*\*\*            \*\*\*

REPORTS TO COUNCIL :

10. AMENDING BURBANK MUNICIPAL CODE CHAPTER 21, ARTICLE 2, DIVISION 2, SECTION 21-213.5 RELATING TO RADIOS, TELEVISION SETS AND SIMILAR DEVICES IN AND ADJACENT TO PARK FACILITIES:

The purpose of this report is to request that the Council introduce an ordinance to add Chapter 21, Article 2, Division 2, Section 21-213.5 to the Burbank Municipal Code

(BMC) relating to noise from radios and other devices producing or reproducing sound, stating:

**Sec. 21-213.5 Radios, Television Sets and Similar Devices in and Adjacent to Park Facilities.**

(a) DISTURBING RESIDENTS.

No person in a park (including public parking lots) or on a right-of-way adjacent to a park 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 person which operates or permits the operation of an outdoor sound amplification device which can be heard seventy-five (75) feet or more away from the closest boundary of the park, when the source of the noise is within the boundaries of a park; or from the actual source of the noise, when the source of noise is located in the right-of-way adjacent to a park shall be deemed to be prima facie evidence of a violation of this section.

(c) EXCEPTIONS.

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

2. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this City Council hereby declares that it would have passed the remainder of this Ordinance, if such invalid portion thereof has been deleted.

3. The City Clerk shall certify to the passage of this Ordinance and cause the City Attorney Synopsis of this Ordinance to be published once in a newspaper of general circulation, published and circulated in the City of Burbank, California.

4. This Ordinance shall become effective at 12:01 a.m. of the thirty-first day after publication.

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 with residential neighborhoods immediately adjacent to park facilities.

The current BMC Section 21-213 uses language which makes enforcement difficult. This

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 contacted and 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.

On February 12, 2004 at the 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 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 "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.

On May 4, 2004, staff presented a recommendation to the Council to amend the existing Code and utilize language consistent with the California Motor Vehicle Code dealing with sound amplification devices. However, the Council expressed some concerns and directed staff to develop a new ordinance which would regulate the impact of unpermitted amplified music in park settings which negatively affects the adjacent residential neighborhoods.

This ordinance establishes a provision that prohibits unreasonable noise generated from radios, musical instruments, television sets or other machines or devices for the production or reproduction of sound in parks or on the right-of-way adjacent to park facilities. The ordinance creates a presumption that a sound amplification system which can be heard 75 feet away from the source of noise as measured from the closest boundary of the park is unlawful. This ordinance is limited to noise when generated in parks or in the right-of-way adjacent to park facilities. An exception to this presumption is if the noise is authorized by a park permit or other City approval.

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

Recommendation:

Introduction of proposed ordinance entitled: (motion and voice vote only)  
AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK ADDING  
SECTION 21-213.5 OF THE BURBANK MUNICIPAL CODE RELATING TO NOISE  
FROM RADIOS AND OTHER DEVICES FOR PRODUCING OR REPRODUCING  
SOUND.

11. COUNCIL MEMBER GOLONSKI'S REQUEST TO DISCUSS AMENDING THE  
BURBANK MUNICIPAL CODE TO ALLOW NONPROFIT ORGANIZATIONS TO PAINT  
ADDRESSES WITH ORGANIZATION LOGOS:

At the May 25, 2004 Council meeting, Council Member Golonski requested that staff place an item on the agenda to amend the Burbank Municipal Code (BMC) to allow nonprofit organizations to paint addresses with organizational logos on curbs. Prior to expending any significant staff effort, this item has been placed on the agenda as the first step, in what is referred to as the "one-step, two-step process", for additional Council discussion and consideration.

Street and house numbers on curbs are regulated by BMC Section 8-110. Currently, any person wishing to engage in the business of painting, stenciling or otherwise marking street or house numbers on curbs must pay an annual license fee of \$50, an initial application fee of \$30, and a \$1,000 surety bond. The BMC also specifies that the numbering must be black on a white and beaded background and be three inches in height and width.

Council Member Golonski indicated that his request stems from his communication with Burbank Priority in Education (BPIE), a foundation recently established to raise money for Burbank schools. BPIE would like to begin a program to raise funds by offering to paint address numbers with a BPIE logo on curbs. The specifications for curb numbering contained in the BMC do not currently allow for the inclusion of organizational logos.

Recommendation:

Staff recommends that the Council discuss the matter and provide direction as desired.

RECONVENE the Redevelopment Agency, Housing Authority, Parking Authority and Youth Endowment Services Fund Board meetings 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. Tuesday, June 15, 2004 at 5:00 p.m. for a Utility Undergrounding Master Plan Study Session.

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