



COUNCIL AGENDA - CITY OF BURBANK
TUESDAY, NOVEMBER 9, 2004
4:30 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 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.
- b. Conference with Legal Counsel – Anticipated Litigation (City as possible plaintiff):
Pursuant to Govt. Code §54956.9(c)
Number of potential case(s): 1
- c. Conference with Legal Counsel – Anticipated Litigation (City as potential defendant):
Pursuant to Govt. Code §54956.9(b)(1)
Number of potential case(s): 1
- d. Public Employee Performance Evaluation:
Pursuant to Govt. Code §54957
Title of Employee's Position: City Manager and City Attorney.

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.

PROCLAMATION: BURBANK TEMPORARY AID CENTER WEEK.

PROCLAMATION: NATIONAL FAMILY LITERACY 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:

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 1 and 2)

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.

1. BID SCHEDULE NO. 1046, BURBANK BOULEVARD/VICTORY BOULEVARD INTERSECTION REALIGNMENT PROJECT, PHASE 3:

Staff is requesting Council approval of the resolution related to Bid Schedule (B.S.) No. 1046, Burbank Boulevard/Victory Boulevard Intersection Realignment Project, Phase 3 (RPSTPL-5200 (019)), and thereby take the following actions:

1. Authorize execution of a Professional Services Agreement (PSA) for construction management;
2. Authorize execution of a Construction and Maintenance Agreement with the Southern California Regional Rail Authority (SCRRA);

3. Authorize execution of a funding agreement with the California Department of Transportation (Caltrans);
4. Approve a project budget amendment of \$1,500,000; and,
5. Make the necessary findings of benefit for Redevelopment Agency (Agency) funding.

Additionally, staff is requesting that the Agency Board approve a resolution providing a Fiscal Year (FY) 2004-05 budget amendment, appropriating \$1.5 million from the Golden State Redevelopment Project Area Unappropriated Fund Balance.

On June 13, 2000, the Council approved the Environmental Impact Report (EIR) for the Burbank Empire Center and Costco development. This EIR identified several traffic improvements, including realigning the former Five Points intersection at Burbank Boulevard/Victory Boulevard/Victory Place. This is the third and final phase of the Five Points project.

On August 10, 2004, the Council awarded a \$4,545,181 contract to D. W. Powell Construction, Inc. of Fontana, California for the Phase 3 construction. At that time, Public Works Engineering staff was evaluating proposals to provide construction management services for this phase of the project. Staff indicated that they would return to request Council authorization to award a P SA for these services. The Burbank Boulevard Bridge widening construction is scheduled to occur between January and November 2005.

Due to the Phase 3 construction, administrative complexity and aggressive schedule, full-time construction management (including inspection) services will be required, which are beyond the availability of current Public Works staffing. A Request for Proposal to provide construction management services was advertised and four firms submitted proposals by the due date of July 30, 2004. A Public Works selection committee rated the proposal and presentation of each firm based on their project understanding, qualifications and experience. After a final review of references, LAN Engineering, from the City of Irvine, was selected for this project. Staff negotiated a PSA with a fee of \$618,312.37, which is 13.6 percent of the awarded construction contract amount for B.S. 1046.

The SCRRA Construction and Maintenance Agreement provides for SCRRA to procure, construct and maintain the required railroad material/equipment to accommodate widening the Burbank Boulevard Bridge Metropolitan Transportation Authority (MTA) railroad right-of-way. SCRRA has estimated a maximum Agreement amount of \$147,700 charged to the City of Burbank to pay SCRRA for the requisite services.

In order to receive reimbursement on the Five Points Improvement Project, the City must execute a Program Supplement Agreement No. 013-M to the existing Administering Agency-State Agreement No. 07-5200 between Caltrans and the City of Burbank. The Program Supplement Agreement provides reimbursement of \$4,636,000 in construction and construction engineering (i.e., management) for Phase 3 of the Five Points Improvement Project.

A project budget increase of \$1,500,000 is recommended to cover the construction contract and construction management services, with a 15 percent combined contingency (\$800,000); plus estimated costs for the SCRRA Construction and Maintenance Agreement, MTA License Agreement, and Burbank Water and Power water line realignment.

Funding for the \$4,545,181 for Phase 3 construction contract is available in the Burbank Boulevard Bridge Widening Project. The MTA granted \$8,768,000 for the three phases of Burbank Boulevard/Victory Boulevard Intersection Realignment Project. Phase 3 construction has been allocated \$4,636,000 from the grant funding with Federal and State funds.

This project will require \$1,500,000 of Agency funds from the Golden State Redevelopment Project Area Unappropriated Fund Balance to pay for the above estimated costs beyond the grant funding of \$4,636,000. In order for the Agency to fund these additional costs, certain findings must be made in accordance with California Community Redevelopment Law, Section 33445.

Health and Safety Code (HS) Section 33445 requires that the Council find that: 1) the use of Agency funds outside a Redevelopment Project Area is of benefit to the project area funding the improvement; 2) there is no other reasonable means of financing the improvements; 3) the redevelopment purpose served is identified; and, 4) that funding public improvements will assist in the elimination of one or more blighting conditions inside the project area or assist in providing affordable housing. This project meets all of the HS 33445 requirements.

Recommendation:

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

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING VARIOUS AGREEMENTS AND AMENDING THE FISCAL YEAR 2004-2005 ANNUAL BUDGET IN THE AMOUNT OF \$1,500,000 FOR THE CONSTRUCTION OF BURBANK BOULEVARD/VICTORY BOULEVARD INTERSECTION REALIGNMENT PROJECT, PHASE 3 (BID SCHEDULE NO. 1046 – BRIDGE WIDENING PROJECT).

2. APPROVAL OF COORDINATE NETWORK AGREEMENT WITH LOS ANGELES DEPARTMENT OF WATER AND POWER:

Staff requests that the Council adopt the proposed resolution which will enable the General Manager of Burbank Water and Power (BWP) to execute an agreement with the Los Angeles Department of Water and Power (LADWP) for the coordinate operation of BWP and LADWP fiber optic systems so that they may together provide to their customers telecommunication services which span the two cities. These services are designed to enhance the region's attractiveness to the media industry by providing a very

reliable dedicated fiber optic transport service for video, film and audio. This Agreement does not include the equipment necessary to provide telephone, cable, Internet or wireless services.

This service will be funded from its revenues. It will not require support from the General Fund, nor will it result in any adverse rate impacts upon the electricity customers of the utility.

In 1987, BWP and LADWP began to install fiber optic cable into its electrical facilities in order to better operate those electrical facilities. In the early 1990's the major media companies in Burbank asked the City if they would consider sharing BWP's fiber so the companies might be better able to operate their businesses. In Los Angeles it was telecommunication companies, rather than media companies that sought to use LADWP's fiber in order to expand those systems. Both utilities developed ways to provide the companies fiber that fully recovered the cost of providing such fiber to these companies.

Over the years as BWP and LADWP have provided such fiber, businesses have asked BWP for connections from Burbank into Los Angeles. However, because of the limited amount of fiber on the Los Angeles network between the Burbank fiber system at Receiving Station E and the rest of the Los Angeles fiber network, it was not practical to provide such connections. Only recently has it become practical to provide such an option.

Last year BWP and LADWP staffs found a way that would allow for providing such connections across the combined systems. Early this year, in order to determine if this approach would work LADWP sought a trial from BWP to test this approach. The service was embraced so strongly by the media companies that the trial remains in service even today.

While the trial was a success, there was no means in place to replace the trial with an on-going commercial service. BWP immediately notified LADWP to seek the development of an agreement which would allow us to mutually serve these customers. Over the last six months, Los Angeles and Burbank have developed this Agreement. This Agreement between BWP and LADWP will allow Burbank media companies to connect with media and telecommunication companies in Los Angeles. The services provided under this Agreement allow for the exchange of high bandwidth, high resolution video and electronic film formats that are used in the production of movies, television shows, television news and related media. These services are not used for providing telephone services, cable television or other commonly provided telecommunications service.

This service uses a technology called wave division multiplexing. This is a technology similar to dark fiber but with an important difference, it allows multiple independent uses of the same strand of fiber. Where dark fiber allows only one customer to transmit its own light signal down a single strand of fiber, wave division multiplexing allows multiple users or applications to each transmit its own light signal down a single strand of fiber.

Wave division multiplexing allows multiple users to send multiple light signals down a strand of fiber by having each light be a different color.

Injecting these multiple colored light signals into a single fiber optic strand requires special equipment. The cost for the equipment required to take up to eight different video signals and send them down one fiber is about \$30,000 for each end of the fiber, for a total of \$60,000. The distance where it becomes more cost effective to use this equipment is in the range of two to four miles.

Under this Agreement, Burbank and Los Angeles share the revenue associated with this service involving both utilities. BWP will receive 30 percent of the revenue and LADWP will receive 70 percent of the revenue. Los Angeles receives the greater share as they operate the system and provide the most assets.

This Agreement will cost the BWP \$30,000 in return for a service contract that will produce sufficient revenues to return this investment in less than a year and half. If the service continues beyond 18 months, as expected, it will do so with a favorable cash flow. The Agreement's initial term is for five years and will be funded from the current telecommunications budget.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE COORDINATE NETWORK AGREEMENT BETWEEN CITY OF BURBANK AND THE CITY OF LOS ANGELES FOR THE PURPOSE OF COORDINATING TELECOMMUNICATIONS SERVICES AND APPLICATIONS.

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

REPORTS TO COUNCIL :

3. COUNCIL MEMBER GOLONSKI'S REQUEST TO RECONSIDER THE KENNEL ATTENDANT POSITION FOR THE POLICE DEPARTMENT:

During the City's Fiscal Year (FY) 2004-05 budget process, the Police Department eliminated one Kennel Attendant position. Kennel Attendants work at the Animal Shelter, and are responsible for the hands-on care of the animals and maintenance of the shelter. Historically, the Animal Shelter operated with one Kennel Attendant, but in FY 2000-01, the Police Department increased staffing to two Kennel Attendants due to more animals entering the shelter and animals being kept for longer periods of time. Animal care and maintenance are continuing duties that must be undertaken seven days a week. When Kennel Attendants are not available, Animal Control Officers are required to perform the duties, decreasing patrol time and extending response time to calls for service. With a new Lieutenant overseeing the Animal Shelter and animal adoption rates increasing, the

need for the second Kennel Attendant has never been more necessary. Cutting the Kennel Attendant has directly affected service to the public.

Following Council Member Golonski's request that the Kennel Attendant position be reconsidered, staff presented a report on the matter on October 12, 2004. At that meeting, staff was directed to return with a report.

Recommendation:

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

4. COMMERCIAL SHADE TREE PROGRAM:

Since March 2003, Burbank Water and Power (BWP) has successfully implemented a residential shade tree program. BWP is now expanding this program to Burbank's business customers and is proposing the following commercial shade tree programs. The first program will run exactly as the residential shade tree program. Interested Burbank businesses will contact BWP's program arborist and arrange an on-site visit. Business customers who will plant the shade trees on their private property in approved shade-providing locations will be eligible to receive up to 20 trees free of charge. BWP will also provide stakes, ties and arbor guards to increase the success rate of the plantings. As an additional element to this program, BWP is proposing to partner with the City's Forestry Division in promoting and sponsoring Forestry's Tree Stewardship Program. Tree Stewardship provides for 15-gallon commercial street trees for \$55 per tree. This price includes the cost of the tree, tree planting, any concrete work necessary and the encroachment permit. BWP will include this program in all marketing efforts for the private property shade tree program. Additionally, BWP will pay the \$55 per tree cost to make the program attractive to businesses.

The second program is designed to assist the City's Community Development Department (CDD) reach its goal for tree plantings along selected commercial corridors. BWP proposes to provide funding to the CDD in support of tree plantings for streetscape enhancement projects, such as the South San Fernando and Burbank Boulevard projects.

BWP has earmarked a combined total of \$100,000 to support these commercial shade tree programs in the approved Fiscal Year 2004-05 budget.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING A COMMERCIAL SHADE TREE PROGRAM.

5. APPROVAL OF THE LOCATION AGREEMENT WITH STARWEST PUBLIC COMMUNICATIONS, INC.:

Staff is requesting that the Council approve a five-year Location Agreement (Agreement) with Starwest Public Communications, Inc. (Starwest). The City has 70 payphones: 54 are outdoors and 16 are indoors in various City facilities. Payphone revenues go to Fund 535, the City's Internal Service Fund, for its radios and telephones. Recently, the City's agreement with SBC Pacific Bell (SBC) came up for renewal. Staff believes that entering into an agreement with Starwest would be more favorable to the City.

The key features of the Agreement with Starwest are as follows:

- Starwest would have the exclusive right to install and maintain the payphones, and would be the exclusive agent to deal with the local exchange carrier, interexchange carrier and other service providers;
- The City would have the right to place its logos on the phone equipment;
- The term of the Agreement would be five years;
- The City would receive 30 percent of the adjusted gross profits of all United States coin revenue plus all operator services;
- The City would not be liable for theft, vandalism or destruction of phone equipment caused by third parties; and,
- The City would receive a signing bonus of \$4,000.

Additionally, Starwest will not charge for the City's 16 indoor payphones, saving Fund 535 \$6,000 annually. Staff expects pay phone revenues to increase by at least \$2,400 per year, from \$1,200 to at least \$3,600 per year.

The Fund 535 Executive Committee unanimously approved entering into an agreement with Starwest. The fiscal impact to the City's Fund 535 is positive, representing a net benefit of \$8,400 per year.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE LOCATION AGREEMENT BETWEEN THE CITY OF BURBANK AND STARWEST PUBLIC COMMUNICATIONS, INC.

6. MULTIPLE FAMILY RESIDENTIAL DENSITIES:

The Land Use and Mobility (Transportation) Elements of the City's General Plan are being updated concurrently, with scheduled completion in April 2005. In response to Council and public concern, staff is working with consultants to address the community's concerns about the impacts of multiple family residential developments on the quality and character of Burbank's residential neighborhoods. Staff will present information about

the multiple family residential densities, proposed reductions to these densities and the effect this will have on the overall capacity of the Land Use Element.

Recommendation:

Staff seeks direction from the Council regarding the use of the proposed densities in the Land Use Element Update.

ADOPTION OF PROPOSED ORDINANCE:

7. PROJECT NO. 2004-76 – ZONE MAP AMENDMENT – 1001 NORTH SAN FERNANDO BOULEVARD – CHANGE ZONING FROM M-1 TO C-3:

The purpose of this report is to adopt an ordinance changing the zoning on a lot at 1001 North San Fernando Boulevard. The subject property is currently zoned both C-3 Commercial General Business and M-1 Light Industrial. A zone change to make the entire property C-3 is necessary for a proposed expansion of a shopping center.

The Land Use Element designates the property as Shopping Center. The M-1 zoning is inconsistent with this General Plan designation. The intent of this designation as described in the Land Use Element is for grouped commercial facilities which are primarily related to and dependent upon the adjacent and surrounding areas for the majority of their customers. The C-3 zone is more appropriate for this land use designation.

The property is currently improved with a 4,660 square foot single tenant fast food restaurant with a drive thru window. If the zone change is approved, the applicant will expand the improvement to create a 12,305 square foot multiple-tenant shopping center. The new buildings would include retail, restaurant and commercial service tenants and the site would include a 60-space surface parking lot. The Planning Board held a public hearing and approved the proposed expansion along with a sign variance, but both approvals are subject to Council approval of the zone map amendment and associated Negative Declaration.

This ordinance was introduced at the November 2, 2004 Council meeting.

Recommendation:

Adoption of proposed ordinance entitled:
AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK APPROVING A ZONE MAP AMENDMENT FOR PROJECT NO. 2004-76 (1001 North San Fernando Boulevard; Applicant: Rafik Khatchaturian).

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.

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