



COUNCIL AGENDA - CITY OF BURBANK  
TUESDAY, MAY 24, 2005  
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 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 – Existing Litigation:  
Pursuant to Govt. Code §54956.9(a)  
**Name of Case:** Porco, et al. v. City.  
**Case No.:** BC177854  
**Brief description and nature of case:** Complaint alleged First Amendment violations re private phone “hotline.” Dismissed with order to plaintiffs to pay City’s costs and attorneys fees; Collection of City’s Costs.
- c. Conference with Legal Counsel – Anticipated Litigation (City as possible defendant):  
Pursuant to Govt. Code §54956.9(c)  
**Number of potential case(s):** 1

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:

RECOGNITION: GIRLS 3<sup>RD</sup> AND 4<sup>TH</sup> GRADE BASKETBALL.

RECOGNITION: SERVICE RECOGNITION AWARDS AND SCHOOL SCHOLARSHIP AWARDS SPONSORED BY BURBANK WATER AND POWER AND PUBLIC WORKS.

PROCLAMATION: MEMORIAL DAY.

RECOGNITION: WORLD WAR II VETERAN.

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 P.M. PUBLIC HEARINGS:

1. ADOPTION OF THE 2004 CALIFORNIA ELECTRICAL CODE AND REVISIONS TO CHAPTER 7 OF THE BURBANK MUNICIPAL CODE:

This public hearing includes the following proposed revision to the Burbank Municipal Code:

1. Every three years, the State of California revises and adopts updated editions of the California Building Codes. In February, the Building Standards Commission

published the 2004 California Electrical Code, with an effective date of August 1, 2005. This Code reflects revisions to the 2002 National Electrical Model Code, published by the National Fire Protection Association, as adopted by the California Building Standards Commission.

2. State Senate Bill 1025 has mandated new disabled accessibility requirements for multi-story, or townhouse, dwelling units, which are effective on July 1, 2005. These requirements include accessible entrances and paths of travel, accessible switches and outlets, and accessible kitchens and bathrooms for ground floor townhouse-style dwelling units which had previously been exempt from the disabled access provisions of the California Building Code.
3. Currently, Section 5537 of the Business and Professions Code establishes limitations for projects that do not require a signature by a licensed professional. This proposed revision to Section 7-1-106.4.1 will also extend those restrictions to which individuals a permit may be issued. The revision requires that, for any project required to be signed by a licensed professional, permits may only be issued to a State of California licensed contractor.
4. Section 7-102 regulates the use of tents and canopies in the City. The revisions to this section clarify these regulations as they relate to the Fire Code and provide for exemptions from permit in accordance with Section 7-1-106 of the California Building Code.

Recommendation:

Introduction of proposed ordinance entitled:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING CHAPTER 7 OF THE BURBANK MUNICIPAL CODE REGARDING THE BUILDING CODE AND ADOPTING THE 2004 CALIFORNIA ELECTRICAL CODE.

2. DEVELOPMENT STANDARDS FOR R-1 AND R-1-H SINGLE-FAMILY RESIDENTIAL ZONES (PROJECT NO. 2004-69):

On September 14, 2004, the Council adopted an Interim Development Control Ordinance (IDCO) that established interim height and floor area ratio standards for the single-family residential zones. The IDCO was adopted in response to increasing concerns that many new and remodeled homes in Burbank were out of character with their surrounding neighborhoods. On October 26, 2004, the Council extended the IDCO through June 30, 2005 to provide staff with additional time to solicit community input and prepare a proposed set of new single-family development standards.

The IDCO was adopted following two community meetings held in May and July 2004, at which community members provided input about their concerns with ongoing development and staff's proposed standards. The Council directed staff to seek additional input from the community. Two additional community meetings were held on January 27, 2005 and February 9, 2005, and a study session was held with the Council on April 5, 2005.

Based upon input from the Council and the community, staff has prepared a comprehensive set of revised single-family development standards. Most of the proposed revisions to the existing standards seek to address “mansionization” concerns by revising standards that directly affect the massing of a house and the potential impacts on neighboring properties. Other revisions are also proposed to standards that may not be directly related to mansionization but which staff believes should also be addressed as part of a package of new standards. The new standards would apply to the R-1 and R-1-H zones. As part of the proposed action, the R-1-E Residential Estate zone would be deleted from the Code, and all R-1-E properties would be rezoned to R-1.

The most notable among the proposed changes to the standards are the following:

- Reduction of maximum height from 27 feet to ceiling and 35 feet to top of roof to 23 feet to top plate and 30 feet to top of roof (consistent with current interim standard under the IDCO);
- Reduction of maximum floor area ratio from 0.6 including garage to 0.4 not including garage, with incentives available to get up to 0.45 (0.45 is the current interim standard under the IDCO);
- Reduction of maximum lot coverage from 60 percent to 50 percent;
- Increase in minimum rear yard setback from five feet to 15 feet;
- Increase in minimum accessory structure setback from no setback to three feet for the ground floor and greater distance for the second floor based on setback planes;
- Three parking spaces required for minimum 3,400 square foot house rather than 3,600 square foot house;
- Special standards to address lots of substandard size or width; and,
- Special standards for the hillside area to address view protection concerns.

Many of the issues raised at the community meetings were not directly related to any of the proposed standards, but dealt with broader concerns. The most common issues raised were related to design and privacy, and a desire for discretionary architectural review for all projects to ensure that all homes are consistent with neighborhood character and not intrusive upon neighboring properties. These are not issues that can be addressed through a set of traditional development standards. These issues could only be effectively dealt with through a formal design review process, which staff strongly recommends against because of the staff resources required and the added cost and time burdens to the homeowner.

The vast majority of single-family projects that have been submitted for plan check since the IDCO was adopted in September 2004 have complied with the interim standards. The interim height and floor area ratio standards have not generally affected single-family development in the City, except to prevent the relatively small number of very large homes that would otherwise have been built. Staff believes that this indicates that the interim standards, now proposed to become permanent, are not detrimental to Burbank homeowners’ ability to develop their properties. The goal of the standards is not to prevent homeowners from building to meet their needs, but rather to preserve neighborhood character by preventing the construction of very large homes.

The Planning Board held a public hearing to consider the proposed standards on April 25, 2005 and May 9, 2005. The Board recommended changes to several of the proposed standards including the floor area ratio and parking requirements, and voted to recommend approval of the proposed amendments to the Council.

Recommendation:

Adoption of proposed resolution entitled:

1. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ADOPTING A NEGATIVE DECLARATION FOR PROJECT NO. 2004-69 (RESIDENTIAL DEVELOPMENT STANDARDS AND ELIMINATION OF R-1-E ZONE).

Introduction of proposed ordinances entitled:

2. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING VARIOUS PROVISIONS OF CHAPTER 31 OF THE BURBANK MUNICIPAL CODE RELATING TO DEVELOPMENT STANDARDS FOR R-1 AND R-1-H ZONES.
3. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE ZONE MAP TO ELIMINATE THE R-1-E RESIDENTIAL ESTATE ZONE.

3. PUBLIC HEARING TO CONSIDER INCREASING THE CITY'S TRANSIENT PARKING TAX FROM 11 PERCENT TO 12 PERCENT:

The purpose of this report is to present information related to increasing the City's Transient Parking Tax (TPT) from 11 percent up to 12 percent. On December 12, 1995, the Council approved an ordinance that authorized the collection of a TPT. This Tax, set at 10 percent, has been collected by the City since February 1, 1995. In compliance with Proposition 218 which requires that any general tax imposed after January 1, 1995 be approved by a majority of the voters, the Council decided to place the Tax on the ballot for voter approval in late 1996. The voters approved the TPT by a majority vote of 61 percent in the April 8, 1997 election.

On October 15, 2002, staff presented a report requesting the Council to consider increasing the TPT from 10 percent. The Council directed that staff return with additional information to determine the appropriate tax increase to be placed on the April 2003 ballot. This information was provided to the Council by staff on December 17, 2002 wherein Council approved that the measure to increase the Tax from 10 percent to 12 percent be placed on the April 8, 2003 ballot. It was then approved by the voters, but still required Council approval.

The City held its first Public Hearing on June 10, 2003 to receive public input on the Fiscal Year (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 and directed staff to use the BWP Set-Aside Fund to cover the budget

shortfall and to bring the matter back for discussion at the budget mid-year review. A second Public Hearing was held on January 27, 2004 and the Council again voted 4-1 against raising the TPT. Another Public Hearing was held on June 8, 2004, in conjunction with the City's FY 2004-05 Proposed Budget and the Citywide Fee Schedule. On June 29, 2004, the Council approved (3-2) raising the TPT from 10 percent to 11 percent. This increase became effective August 2004.

At the initial FY 2005-06 Study Session held on April 19, 2005, Council Member Golonski requested looking at raising the TPT an additional one percent to become effective July 1, 2005. This item was then considered at the Council meeting of April 26, 2005, whereby the decision was made to conduct another public hearing.

The TPT is a stable source of General Fund revenue, representing approximately two percent of total General Fund recurring revenue. It is a flat tax (i.e., not regressive), that is relatively easy to collect and is remitted quarterly by the parking owners/operators. For FY 2003-04, the City received \$1.7 million in TPT revenues, and is expecting to receive \$2.5 million for FY 2004-05. The large increase of 41.6 percent for FY 2004-05 over FY 2003-04 is due to: 1) Airport area parking operators raising their parking rates last summer; and, 2) the TPT increase from 10 percent to 11 percent. If the TPT were further increased from 11 percent to 12 percent, the City anticipates receiving roughly \$230,000 in additional revenue, assuming the parking owner/operators absorb the tax increase. However, if they pass on some or all of the increase to their customers, the amount remitted to the City would probably be more than \$230,000.

The five-year forecast shows that Burbank has a budget gap ranging from \$578,000 in FY 2005-06 up to \$5 million in FY 2009-10. The increase in the TPT would eliminate nearly half of the budget gap for FY 2005-06, and would significantly improve the City's fiscal position for the outgoing years.

In the worst case scenario for owner/operators (i.e., they absorbed the cost of the increased TPT), the annual incremental cost to them would range from an estimated \$62 (Warner Bros.) per year to an estimated \$155,914 (USA Parking at Bob Hope Airport) per year.

Based on the City's analysis, half of the operators would be negatively impacted by less than \$1,000 per year (or \$83 per month). Only one owner/operator, generating in excess of \$15 million per year, would be paying more than \$50,000 per year in incremental taxes.

This is a tax on parking customers, therefore, the owner/operators have the option to not absorb the increase of the TPT. Following the increase from 10 percent to 11 percent, the Airport area operators increased their parking rates last summer and ended the parking "price wars." Although the rates have increased, there has been no significant decline in volume.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE INCREASE OF THE TRANSIENT PARKING TAX FROM 11% TO 12%.

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 action items on the agenda 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 Action Agenda items only.)

**COUNCIL AND STAFF RESPONSE TO AGENDA ITEM ORAL COMMUNICATIONS:**

**CONSENT CALENDAR:** (Items 4 through 13)

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. **UPDATE ON PROPOSED MODIFICATIONS TO THE TRAFFIC SIGNAL OPERATION AT CHANDLER BOULEVARD/HOLLYWOOD WAY AND CHANDLER BOULEVARD/BUENA VISTA STREET:**

This report is intended to provide the Council with an update on the progress of modifying the traffic signal operation and timing at the Chandler Boulevard/Hollywood Way and Chandler Boulevard/Buena Vista Street intersections.

Staff presented information to the Council on March 29, 2005 about existing traffic operation issues at the two signalized intersections. The identified issues are: 1) traffic signal operation that produces traffic delays and long vehicle queues on the major north-south streets during peak travel periods; and, 2) specialized traffic signal heads installed for safety cause confusion to some drivers at each intersection. After discussion, the Council directed staff to modify the traffic signal operation to favor traffic on Hollywood Way and Buena Vista Street by increasing traffic delay on Chandler Boulevard as soon as possible.

Over the last several weeks, staff investigated several variations to the basic signal operation plan to identify the safest operation for bicyclists and pedestrians while minimizing delays on the two major north-south streets. Traffic signal operational changes were also investigated to address the driver confusion issue.

The proposed phasing was thoroughly tested with the City's signal simulation software and further tested in a controlled test environment for the last several weeks to fully ensure the achievability of desired safety and operational requirements. The tests are completed and the timing is ready to install at the intersections upon final approval of the Council. The timing can be fully operational within a week of Council approval. Residents will be notified of the changes by letter.

After installation of the timing, staff will test some new traffic signal heads that are designed to eliminate driver confusion at each intersection. The new devices operate more reliably during both daytime and nighttime periods. This equipment will be installed within a few weeks of the re-timing operations.

Recommendation:

Note and file.

5. ESTABLISHMENT OF THE SPECIFICATION FOR THE CLASSIFICATION OF MAIL ROOM ASSISTANT:

Due to fiscal cutbacks in 2003, the Management Services Department's Messenger-Bill Deliverer position was eliminated. The more complex duties that this position performed were reassigned to a full-time Work Trainee that also performed work in the Print Shop. To assist this Work Trainee, a part-time (19 hour per week) Youth Services Worker was hired to help with the pick-up, sorting and delivery of mail to the various departments throughout the City.

In an effort to more appropriately classify the incumbent and the duties that now go along with the position, the classification of Mail Room Assistant is being established. The proposed specification streamlines the major functions of the position and defines them as the pick up, sorting and delivery of mail to City departments. These functions comprise the majority of the part-time schedule.

This classification will be exempt from Civil Service, subject to the Fair Labor Standards Act (FLSA), and will not be included in the City's Conflict of Interest Code. The Burbank City Employees Association will represent this classification and has been advised of this establishment. The Management Services Director concurs with this recommendation.

There is no fiscal impact to the department since the new establishment will have the same salary as the incumbent's current title of Youth Services Worker. As such, the salary range for Mail Room Assistant will be \$1,170-\$1,461.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ESTABLISHING THE TITLE AND CLASSIFICATION OF MAIL ROOM ASSISTANT (CTC No. 0524) AND PRESCRIBING CLASSIFICATION CODE NUMBER, SALARY AND SPECIFICATION THEREOF.

6. ESTABLISHMENT OF THE SPECIFICATION FOR THE CLASSIFICATION OF FLEET UTILITY WORKER:

Over the years, Sanitation Workers in the Fleet and Sanitation Division of the Public Works Department have been washing and fueling their assigned refuse trucks after completing their routes. Trucks get very dirty after the pick up and disposal of refuse. The

task of cleaning these refuse trucks can be quite time consuming. In an effort to increase the Division's productivity, it is their goal to create a position that is solely responsible for the cleaning and fueling of all City fleet vehicles. With these responsibilities taken away from the Sanitation Workers, it will enable them to be more productive on their routes.

This classification will be a Civil Service position, subject to the Fair Labor Standards Act (FLSA), and will not be included in the City's Conflict of Interest Code. The Burbank City Employees Association will represent this classification and has been advised of this establishment. The Deputy City Manager – Public Works & Capital Projects concurs with this recommendation.

The salary range for Fleet Utility Worker will be set at \$2,401 - \$2,998. This position will be equally funded by the Refuse and Equipment sections of the Department and there will be no fiscal impact since there will be sufficient salary savings due to vacant Sanitation Worker and Equipment Mechanic Helper positions, respectively.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ESTABLISHING THE TITLE AND CLASSIFICATION OF FLEET UTILITY WORKER (CTC No. 0368) AND PRESCRIBING CLASSIFICATION CODE NUMBER, SALARY AND SPECIFICATION THEREOF.

7. AUTHORIZING THE ACCEPTANCE OF A UNITED STATES DEPARTMENT OF JUSTICE GRANT AND AMENDING THE FISCAL YEAR 2004-05 BUDGET BY APPROPRIATING GRANT FUNDS:

Staff is requesting Council approval of a proposed resolution that authorizes the City Manager to accept \$33,312 in United States Department of Justice grant funds for the Police Department, and to amend the Fiscal Year 2004-05 budget by appropriating grant funds.

This Justice Assistance Grant blends the previous Byrne Formula and Local Law Enforcement Block Grant Programs to provide agencies with the flexibility to prioritize and place justice funds where they are needed most. Staff began the online application on April 21, 2005, with a deadline of May 31, 2005. Prior to the deadline, this grant must be made available for review by the governing body not fewer than 30 days before the application is submitted. This information was presented to the City Manager for Council review on April 27, 2005, in order to meet this requirement.

This grant will aid in the following areas: providing crime prevention/education funding for programs such as Street Beat cable programming, Neighborhood Watch and the Community and Youth Academies; identifying and purchasing computer forensics

equipment; and, updating various law enforcement equipment. The funding recommendations for this grant are consistent with Police Department goals.

Accepting the grant will have no fiscal impact on the City. There is no match or recurring costs associated with the Justice Assistant Grant. The grant provides for one-time funding for law enforcement efforts specifically designated by the Council.

Recommendation:

Adoption of proposed resolution entitled:

(4/5 vote required)

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FISCAL YEAR 2004-2005 BUDGET FOR THE PURPOSE OF RECEIVING AND APPROPRIATING JUSTICE ASSISTANCE GRANT FUNDS IN THE AMOUNT OF \$33,312 FROM THE U.S. DEPARTMENT OF JUSTICE.

8. AUTHORIZING SUBMITTAL OF THE CALIFORNIA USED OIL RECYCLING BLOCK GRANT APPLICATION FOR FISCAL YEARS 2005-06 THROUGH 2010-11 AND AMENDING THE FISCAL YEAR 2004-05 BUDGET BY ACCEPTING AND APPROPRIATING THE FUNDS:

Staff is requesting Council approval to: apply for a California Integrated Waste Management Board (CIWMB) Used Oil Recycling Block Grant for Fiscal Years (FY) 2005-06 through 2010-11; accept grant funds for the 11th Cycle in the amount of \$27,324; and, amend the FY 2004-05 budget to appropriate the grant funds.

Used oil recycling block grant funds are intended for the collection of used oil and oil filters. The Burbank Recycle Center (BRC) has been collecting used motor oil for recycling since 1982 and recycles approximately 20,000 gallons of used motor oil and three tons of filters each year. Eligibility is contingent upon meeting certain CIWMB requirements such as hours of operation, notification to the public of its used oil collection/recycling program, oil filter recycling, advertising and public education.

State funding for the City's used oil collection/recycling programs benefits the BRC and the City's waste reduction efforts by:

- Promoting the City's used motor oil and oil filter collection program specifically, while promoting the BRC overall recycling program;
- Financing improvements to and operations of the BRC's used oil facility;
- Maintaining and enhancing a convenient buyback/drop-off location to facilitate proper recycling of used oil and oil filters;
- Working with other used oil CIWMB-certified centers in Burbank;
- Reducing illegal disposal of oil and the costs associated with it; and,
- Encouraging the environmental protection of storm drains, groundwater and waterways.

The CIWMB requests that cities apply only once for a five-year grant term and that the

appropriate resolution include five fiscal years (FY 2005-06 through 2010-11). The formula for grant funds distribution is based on a city's population. Burbank is eligible to receive \$27,324 in annual non-discretionary grant funds based on approximately 30 cents per capita, using the Department of Finance population statistics.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AUTHORIZING SUBMITTAL OF THE CALIFORNIA USED OIL RECYCLING BLOCK GRANT APPLICATION FOR FISCAL YEARS 2005-06 THROUGH 2010-11 AND AMENDING THE FISCAL YEAR 2004-05 BUDGET BY ACCEPTING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$27,324 FOR THE 11<sup>TH</sup> CYCLE.

9. APPROVAL OF FINAL TRACT MAP NO. 54149 – 600 EAST MAGNOLIA BOULEVARD:

Staff is requesting Council approval of Final Tract Map No. 54149. The property covered on Final Tract Map No. 54149 is a combined two-lot subdivision totaling 15,203 square feet located at 600 East Magnolia Boulevard. The new 18 condominium subdivision will consist of a three-story condominium building over two levels of subterranean garage. The owners are Armik and Hilda Boghossian.

On January 31, 2003, the property owners requested City approval to convert the existing two-lot nine-unit apartment, into 18 residential condominiums with a subterranean parking garage. Final Tract Map No. 54149 finalizes the condominium subdivision.

All 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. 54149:

1. The vesting tentative tract map was approved by the Community Development Director on May 21, 2003, pursuant to Burbank Municipal Code Section 27-323 (Director's Decision on Tentative Map);
2. The Final Tract Map contains 18 condominium units at 600 East Magnolia Boulevard, which is located in the R-4 Residential Multiple Medium Density zone;
3. This project is Categorically Exempt from the provisions of the California Environmental Quality Act pursuant to Section 15268(b)(3) pertaining to approval of final subdivision maps;
4. Conditions of Approval for Vesting Tentative Tract Map No. 54149 have been cleared by the Planning Division for the purpose of Final Tract Map approval. The Condition of Approval relating to Covenants, Conditions and Restrictions (CC&Rs)

will be satisfied when the applicant submits two recorded copies of the CC&Rs to the Planning Division (applicant cannot record the CC&Rs until this tract map is approved by the Council and recorded at the Los Angeles County Recorder's Office); and,

5. The owners of the newly-created Tract Map No. 54149 will enter into a subdivision improvement agreement with the City of Burbank, and deliver a deposit or a security as determined by the Deputy City Manager/Public Works and Capital Projects to guarantee the completion of all the off-site improvements placed on this development. Certain off-site improvements remain outstanding, including the reconstruction of the alley approach, alley pavement fronting the property and resurfacing to the centerline of Sixth Street fronting the property. Conditions also include certain curbs, gutters, driveways and sidewalks, all of which shall occur upon the completion of construction.

According to the State Subdivision Map Act, Chapter 3, Article 4, Section 66458, and the provisions of Chapter 27 of the Burbank Municipal Code, the Council must approve Final Tract Map No. 54149 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 THE FINAL MAP OF TRACT NO. 54149 AND APPROVING A SUBDIVISION IMPROVEMENT AGREEMENT (600 EAST MAGNOLIA BOULEVARD).

10. AUTHORIZING THE ACCEPTANCE OF A CITY OF GLENDALE CONTRACT AWARD AND AMENDING THE FISCAL YEAR 2004-05 BUDGET BY APPROPRIATING CONTRACT FUNDS:

The purpose of this report is to request Council approval of a resolution that authorizes the City Manager to negotiate and accept a contract award from the City of Glendale for the Management Services Department to run a CalWORK's summer youth employment program, and amends the Fiscal Year 2004-05 budget by appropriating award funds.

CalWORK is a California welfare reform program. The City of Glendale administers the "CalWORK Youth Jobs" Program for the Los Angeles County Board of Supervisors for the areas of Glendale, Burbank and La Canada-Flintridge.

This Program provides paid work-based learning opportunities for qualifying family members between the ages of 14- 19. In addition to job placement opportunities, these students are provided instruction in life skills, career planning and job readiness skills.

The City of Glendale, through their Verdugo Workforce Investment Board (VWIB), issued a Request for Proposals (RFP) to administer this Program in the Burbank area for summer 2005. Staff submitted a proposal on March 28, 2005. VWIB recommended that the City be awarded the contract at their April 21, 2005 meeting. On May 17, 2005, the Los Angeles County Board of Supervisors approved VWIB's recommendation to award the City \$13,000 to administer and operate a Summer 2005 Program for at least 40 qualifying Burbank residents ages 14 -19 (in-school youth). The City has 30 days from the date the Los Angeles County Board of Supervisor's approved VWIB recommendation (May 17, 2005) to accept this award from the City of Glendale. Therefore, this award is being brought before the Council for official approval.

The \$13,000 awarded to the City is for administrative and operating costs only and not for student wages. The salary and benefits for all 40 program participants will be paid by the City of Glendale. Glendale will administer the payroll for the youth workers and although working under the Department's direction, the youth participants will be City of Glendale employees.

There is no fiscal impact from the operation of the CalWORK's Program. Although the City will provide administrative and operating costs up front, all administrative and operating fees will be reimbursed at the conclusion of the Program by the City of Glendale. There are sufficient funds in the existing budget to front these costs as the reimbursement will be provided prior to the commencement of the fall youth employment programs. The funds received will be adequate to complete the program as described without incurring any additional costs to the City. The youth wages will be paid through the City of Glendale and will not fiscally impact the City.

Recommendation:

Adoption of proposed resolution entitled:

(4/5 vote required)

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FISCAL YEAR 2004-2005 BUDGET FOR THE PURPOSE OF RECEIVING AND APPROPRIATING CITY OF GLENDALE CONTRACT AWARD FUNDS IN THE AMOUNT OF \$13,000 FROM THE CITY OF GLENDALE FOR THE PURPOSE OF FUNDING THE CALWORKS PROGRAM.

11. APPROVING THE LEGAL SERVICES AGREEMENT BETWEEN THE CITY OF BURBANK AND LIEBERT CASSIDY WHITMORE AND AMENDING THE FISCAL YEAR 2004-05 BUDGET TO APPROPRIATE FUNDS FOR LEGAL SERVICES:

The Fair Labor Standards Act (FLSA), which requires that all employees be paid

minimum wage and overtime premium pay except those employed in bona fide administrative, executive, or professional positions, was enacted in 1938. It did not apply to public employees until 1985 when the United States Supreme Court held it applicable to public entities. The United States Department of Labor (DOL) is tasked with issuing regulations to implement the provisions of the FLSA.

Last year, in an attempt to clarify and update rules dating back in some cases 50 years, the DOL issued new rules dealing with the exemptions to the FLSA. In order to ensure that the City is in compliance with the new rules, it is necessary to do a complete audit of the City's payroll practices, Memorandums of Understanding (MOUs), and employee classifications, which involves not only a review of each employee's salary but also their duties. This task is beyond what staff in Financial Services, Management Services and the City Attorney's Office can do.

Peter Brown of the law firm of Liebert Cassidy Whitmore is a recognized FLSA expert. The City Attorney's Office desires to retain him to perform the FLSA audit. The estimated cost of the audit is \$35,000.

It is important that the City comply with the new rules. Failure to do so could expose the City to potential liability for misclassification of employees.

Recommendation:

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

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE LEGAL SERVICES AGREEMENT BETWEEN THE CITY OF BURBANK AND LIEBERT CASSIDY WHITMORE AND AMENDING THE FISCAL YEAR 2004-2005 BUDGET TO APPROPRIATE \$35,000 FOR LEGAL SERVICES.

12. AUTHORIZING THE BURBANK WATER AND POWER GENERAL MANAGER TO NEGOTIATE PRICE, TERMS AND CONDITIONS OF A DESIGN-BUILD CONTRACT WITH ABB, INC., FOR REPLACING OLD AND UNDERSIZED POWER TRANSFORMERS SERVING THE BURBANK STATION:

Staff requests that the Council waive competitive bidding and authorize the General Manager of Burbank Water and Power (BWP) to negotiate the price, terms and conditions of a design-build contract with ABB, Inc., (ABB) for replacing old and undersized power transformers serving the Burbank Station, which is the oldest station in BWP's electrical system. After replacing the transformers, staff intends to pursue a competitively-bid design-build contract to replace the Burbank Station.

Transformer Banks A-4 and A-5 support the Burbank Station which provides power to five neighborhood stations, serving some 40,000 hillside residents and several hundred



businesses, including those in downtown Burbank. BWP's Lake 1 power plant can provide additional power to the five stations, but if Lake 1 is not available, or if one of the banks fails, then some or even all of these customers could face lengthy summer power outages or rolling blackouts. No other course of action, including limited load transfers to other Switching Stations, can substitute for replacing Bank A-4 and Bank A-5 with newer, larger transformers.

Bank A-4 and Bank A-5 can also trip off line unnecessarily, as they recently did on January 7, 2005 and January 25, 2005. Once off line, it takes 15 minutes or more of fussing with manual controls to get the transformers back on line. Upgrading the relay protection and making the synchronizing controls automatic would eliminate these drawbacks and is much easier to do when replacing Bank A-4 and Bank A-5.

BWP wants to change out one of the banks before the summer of 2006. The new bank would be large enough to comfortably handle summer loads all by itself (should the remaining old bank fail), making the change-out of the second bank a low reliability risk during the winter of 2007. By November 2006, the remaining old bank would be removed, enabling the second new bank to be energized in time for the summer of 2007.

To replace Bank A-4 or A-5 before the summer of 2006, BWP must select a design-build contractor by July 2005. Negotiating with a prospective design-build contractor on a sole-source basis would save four to six months over using a competitive Request For Proposal (RFP) process. Once in place, a design-build contract would reduce procurement and construction time by streamlining the coordination among engineering, procurement and construction activities on major capital projects like replacing transformer banks.

BWP is comfortable negotiating with ABB on a sole-source basis due to the following reasons:

- *ABB has a proven track record with BWP.* ABB has completed three of BWP's design-build projects on time and under budget and with no change orders initiated by ABB. The quality of work was excellent as was the cooperation with BWP field crews and engineering staff.
- *ABB is highly motivated to continue their business relationship with BWP and to increase their design-build presence among Southern California utilities.* Also, ABB has a design-build major station project for Glendale through June 2006, which would put ABB's Glendale project manager in a position to also manage transformer bank replacements in Burbank.

Staff also believes that negotiating with ABB can yield a competitive price without sacrificing schedule or quality because:

- *There is a competitively bid price on a project similar enough to serve as a benchmark.* The City selected the design-builder (ABB) for the Alan E. Capon

Switching Station out of a very competitive RFP process. Part of the work involved the design, procurement and installation of transformer banks very similar to those that would be replacing Banks A-4 and A-5. The adjustments to the 2001 pricing would mainly be due to known factors like the rising cost of copper and other metals. Recent ABB competitive bidding in Glendale and Anaheim can provide BWP with further guidance.

- *Additional safeguards can help assure that a negotiated price is also a competitive price.* BWP can require ABB to share the cost data it would otherwise not have to share under the usual RFP process. ABB could only be entitled to a profit that is well-defined (such as a fixed percent of the cost) and subject to a cap based on the overall project cost. The contractor's costs could also be subject to certain caps.

City staff gained much experience from negotiating three previous design-build projects. BWP staff will lead the negotiations, with assistance from the Purchasing Division and the City Attorney's Office. The Purchasing Division would offer valuable guidance in assessing cost-of-metal adjustments, CPI adjustments for labor and other proposed adjustments that may arise.

Waiving competitive bidding would not have a negative fiscal impact. BWP and the Purchasing Division both believe that a well-negotiated design-build contract would assure that BWP would not be in the position of accepting a higher price than might have resulted from a full RFP process.

If by June 24, 2005 BWP is not close to an agreement with ABB that it can recommend for approval to the Council, it will consider other options at its disposal. Authorizing the funds for a design-build contract will be a separate Council action and part of the Fiscal Year 2005-06 BWP Budget approval process.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AUTHORIZING THE GENERAL MANAGER OF BURBANK WATER AND POWER TO NEGOTIATE PRICE, TERMS AND CONDITIONS OF A DESIGN-BUILD CONTRACT WITH ABB, INC., FOR REPLACING POWER TRANSFORMERS SERVING BURBANK STATION.

END OF CONSENT CALENDAR

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REPORTS TO COUNCIL:

13. ADDING ARTICLE 20 TO CHAPTER 14 OF THE BURBANK MUNICIPAL CODE RELATING TO PROPOSED COMMUNITY FACILITIES DISTRICT NO. 2005-1 (THE COLLECTION PUBLIC PARKING FACILITY):

This ordinance provides for the addition of a new Article 20 to Chapter 14 of the Burbank Municipal Code. The new Article 20 would allow for the establishment of a Special Tax Financing Improvement Code, which would allow for the creation by the City Council of community facilities districts to finance certain public and other improvements and certain municipal services.

The California Government Code currently permits various public entities in California to create community facilities districts to finance facilities and services specified in the Government Code. A community facilities district allows for the levy of an annual special tax within a specified geographic area the proceeds of which are used to fund specified services or pay costs of specified improvements, or otherwise to pay debt service on bonds issued to pay the costs of the specified improvements. The Government Code contains certain procedural requirements and imposes various limitation for the formation and use of community facilities districts. The City, however, as a California chartered city, has the power to adopt legislation providing independent authority for the establishment of community facilities districts, which legislation may allow for variations from the Government Code provisions that may otherwise apply.

In December 2004, the Redevelopment Agency entered into an Amended and Restated Owner Participation Agreement (OPA) with Champion Realty, Ltd., which contemplated the establishment of a community facilities district to finance public parking facilities. The agreement with Champion Realty, Ltd. contains various timing requirements and stipulations regarding the proposed community facilities district.

In order to allow for a more efficient financing structure and additional flexibility in the formation of the community facilities district specified by the Amended and Restated OPA, it has been recommended that the City adopt a Special Tax Financing Improvement Code pursuant to which the community facilities district called for by the OPA would be established. In particular, the proposed City code would allow for the community facilities district to be established on an expedited schedule, and the bonds to be issued by the community facilities district could fund capitalized interest for more than the two-year period otherwise allowed under current State law. The City code, if enacted, could also be used for future City infrastructure financings in appropriate circumstances.

Recommendation:

Introduction of proposed ordinance entitled:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK ADDING ARTICLE 20 TO CHAPTER 14 OF THE BURBANK MUNICIPAL CODE RELATING TO PUBLIC SERVICES AND IMPROVEMENT FINANCING.

14. QUALIFICATIONS AND RECRUITMENT OF POLICE OFFICER CANDIDATES:

The purpose of this staff report is to respond to the April 26, 2005 Council request for an

overview of police recruitment procedures, as well as an update on the current vacancy rate and the success of enhanced recruitment efforts to date.

Currently, there are 18 vacant police officer positions (including eight frozen positions), and the Burbank Police Department has been unsuccessful in its efforts to recruit qualified candidates. This vacancy rate, which is expected to climb by summer's end, represents approximately 12 percent of the Department's total sworn personnel. Enhanced and expanded recruitment efforts to date include: job fairs; cable television advertising; worldwide military publication advertising; local college advertising; website re-design; diverse access website advertising; signing bonuses; recruitment incentives for current City employees; and, fast-track testing for lateral applicants. The testing process has also been modified, both in the written portion and in the physical agility phase, and the background and hiring standards have been re-evaluated and more clearly defined.

Recommendation:

Note and file.

15. FISCAL YEAR 2005-06 BUDGET STUDY SESSIONS (Fire Department and Burbank Water and Power); BUDGET OVERFLOW ITEMS AND FINAL DECISION MAKING:

As indicated at the initial Budget Study Session on April 19, 2005, staff has prepared a schedule for the Fiscal Year (FY) 2005-06 Department Budget Study Sessions to be held on Tuesday nights. During these sessions, each department will have an opportunity to fully disclose the details of proposed changes related to their respective department contained in the FY 2005-06 Proposed Budget. This includes proposed budget reductions, proposed fee changes, and any new positions or upgrades, and Materials, Supplies and Services exceptions. During this time, the Council will have the opportunity to review and inquire about any of the recommended budget proposals.

In addition, the Council will be considering the following items: Perform Arts Grant Funding; Buena Vista Street Improvement Project; Seed money for refurbishing Burbank High and Burroughs High stadium/tracks/fields; and, Code Enforcement Verification Program.

Recommendation:

Staff recommends that the Council review the proposed budget materials and direct staff to incorporate any necessary changes into the June 7, 2005 public hearing report.

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

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

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

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

ADJOURNMENT.

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