



COUNCIL AGENDA - CITY OF BURBANK  
TUESDAY, AUGUST 23, 2005  
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:** Contracts and Retirement Issues.
- b. Conference with Legal Counsel – Anticipated Litigation (City as potential defendant):  
Pursuant to Govt. Code §54956.9(b)(1)  
**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.

**5:00 P.M.**

STUDY SESSION – CHARTER REVIEW COMMITTEE APPLICANT INTERVIEWS:

The Council will hold a Study Session for the purpose of interviewing applicants for the Charter Review Committee. On March 22, 2005, the Council directed staff to convene a Charter Review Committee charged with the task of working with staff and an outside consultant to review the Charter, identify necessary changes, and make recommendations regarding those changes to the Council. At that time, the Council also gave direction regarding the make-up of the Committee and the process to appoint its members.

The Charter Review Committee will be made up of 11 members. Each Council Member may select one member of the Committee from among all qualified electors of the City of Burbank for a total of five. The Council will select the remaining six members of the Committee through a vote of the entire Council from the list of qualified applicants. The Council also tentatively agreed to select the chair of the Committee at the same time it selects the members of the Committee.

The City Clerk's Office received 38 applications for the Charter Review Committee, and 29 applicants are scheduled for interviews with the Council during study sessions prior to the Council meetings on August 16 and 23, 2005. Nine of the applicants withdrew from consideration or moved out of the City. The Council is scheduled to make appointments to the Charter Review Committee during its regular meeting on August 30, 2005.

Staff recommends that the Council hold applicant interviews for the Charter Review Committee in preparation for the Council's appointment of the Committee on August 30, 2005.

**6:30 P.M.**

INVOCATION: Reverend Ron White, American Lutheran Church.  
The Courts have concluded that sectarian prayer as part of City Council meetings is not permitted under the Constitution.

FLAG SALUTE:

ROLL CALL:

RECOGNITION: ALLAN AKOPIAN AND RON THORSIAN FOR PROVIDING ASSISTANCE TO AN INJURED CITY EMPLOYEE.

RECOGNITION: TOMMY IVO, ORIGINAL MEMBER OF THE ROAD KINGS AND MOTORSPORTS HALL OF FAME INDUCTEE.

RECOGNITION:                    23<sup>RD</sup> ANNIVERSARY OF THE BURBANK CERTIFIED FARMER'S MARKET.

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. ADOPTION OF THE 2005 LOCAL DEVELOPMENT REPORT FOR THE METROPOLITAN TRANSPORTATION AUTHORITY'S CONGESTION MANAGEMENT PROGRAM FOR LOS ANGELES COUNTY:

Staff recommends the Council approve the proposed resolution certifying that the City is in compliance with the Los Angeles County Metropolitan Transportation Authority's (MTA) Congestion Management Program (CMP) and give direction to submit the Local Development Report (LDR) for the 2004-2005 reporting period as required by the CMP. Continued eligibility for Proposition 111 State Gas Tax revenues is contingent upon the City's conformance with CMP requirements, including submitting an annual report documenting net new commercial and residential development impacting the transportation system. As was the case in 2004, the traditional "credit" and "debit" method of tracking development versus transportation improvements is suspended while the MTA continues work on a nexus study on the feasibility of implementing a county-wide congestion mitigation fee in lieu of the debit-credit system. Thus, the 103,590 point surplus accrued under the program from prior years remains fixed pending the result of the study. The City remains in compliance with the remaining requirements of the CMP and, with the approval of the proposed resolution and submittal of the LDR as required, will continue to be eligible for Proposition 111 State Gas Tax revenues as well as other transportation funding sources that require CMP compliance.

Recommendation:

Adoption of proposed resolution entitled:  
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK FINDING THE CITY TO BE IN CONFORMANCE WITH THE CONGESTION MANAGEMENT PROGRAM AND ADOPTING THE LOCAL DEVELOPMENT REPORT, IN ACCORDANCE WITH GOVERNMENT CODE SECTION 65089.

CONVENE the Redevelopment Agency for a joint public hearing with the Council.

JOINT PUBLIC HEARING WITH THE REDEVELOPMENT AGENCY:

2. PROPOSED CHILDCARE AND FAMILY RESOURCE CENTER PROJECT CONSIDERATION; AWARD OF CONSTRUCTION CONTRACT FOR BID SCHEDULE NO. R-1190; AND, V-370 - CONDITIONAL VACATION OF A PORTION OF THE ALLEY LOCATED AT 401 NORTH BUENA VISTA STREET:

The purpose of this report is to: 1) provide information for project consideration; 2) provide information related to Bid Schedule No. R-1190 (Old Buena Vista Library – Children’s Center/Resource Center); and, 3) provide information on alley vacation V-370; all for the proposed reuse of the former Buena Vista Library as a childcare and family resource center.

Since the opening of the new Buena Vista Library, extensive analysis has been conducted on land re-use opportunities for the former Buena Vista Library site. A variety of land uses were identified and analyzed, including: a community room; senior center; community arts center; performing arts center; new residential development; and, a childcare facility. Various factors were considered during the land use analysis phase, including: minimum required building and lot size; parking requirements; neighborhood compatibility; and, the benefits of the City retaining ownership of the property. Most of the proposed uses were deemed inappropriate for the site considering the size of the site and neighborhood compatibility. After additional analysis, two land use options were presented to the Council that were determined to be compatible with the single-family nature of the neighborhood, and that could be accommodated by the site and/or existing building: 1) single-family residential; and, 2) re-use of the existing building for a childcare facility.

On February 3, 2003, the Council directed staff to hold a general community meeting with special notification to the neighborhood to get feedback on these two land use options, and any other ideas the community had for the site. The community meeting was held on Saturday, May 31, 2003. There were two primary messages that staff received from the community: 1) the City should keep the existing building; and, 2) use the building for some type of community use based on need (possibly a mix of uses). Based on that feedback and the general understanding of the need for more childcare in the community, staff proposed to the Council that the former Buena Vista Library site be used as a childcare facility. The site is appropriately located for a childcare center (in close proximity to the Media District employment center and in a residential neighborhood), and has good vehicular access with good on-site circulation. In addition, the building has a scale that is compatible with the residential nature of the neighborhood.

In July 2003, the Council and Redevelopment Agency Board (Board) authorized staff to finalize plans for a childcare facility and asked staff to include a family resource center component. In addition, the Council and Board requested that staff meet with the

community to develop plans for a proposed childcare and family resource center, and address any concerns of the community including: impact to Frederic Street with additional traffic; the need for a buffer along the perimeter of the site; and, the security of the playground areas.

Pursuant to this direction, staff has completed several components of the project: 1) held three community design meetings to develop and refine plans for a childcare and family resource center (nearly a 12-month phase); 2) conducted a childcare needs assessment to confirm the future need of childcare in the community (which tracked simultaneously with the community outreach phase); 3) met regularly with the City's Childcare Committee to discuss and refine plans on an on-going basis; 4) worked with the Knowledge Learning Corporation, a nationally-acclaimed childcare operator, to get feedback from an operations point of view on the proposed plans; 5) met with representatives of the State Licensing Board to get feedback on the proposed plans; 6) toured several childcare facilities in the City and other areas to assist with finalizing plans; 7) received Planning Board land use approvals for the proposed childcare and family resource center; 8) prepared construction plans and went through the formal plan check process; and, 9) completed the bid process for the rehabilitation of the former library as a childcare and family resource center. The bid opening was held in July 2005.

On July 26, 2005, the Council adopted a Resolution of Intention to Vacate, declaring its intention to consider the vacation of the subject alley and setting the public hearing date for August 23, 2005. The alley vacation is required in order to accommodate the required play yard at the rear of the building for the proposed childcare facility. The proposed vacation of the alley would only become effective if the project occurs. All appropriate City departments and outside utility companies have reviewed the proposed vacation, including the Fire, Police and Public Works Departments, Pacific Bell, Charter Cable, The Gas Company, the Los Angeles County Department of Public Works and the Metropolitan Water District. The proposed vacation is conditioned in accordance with their responses. Since the development of the property is not feasible with all the utility reservations, staff has confirmed that all utility companies are agreeable to the relocation of their facilities as part of the project expense. Staff has been in discussions with Burbank Water and Power, Charter Communications and SBC Communications on the coordination of utility undergrounding. All procedures for routing the application for comment, notification mailing, setting and publication of public hearing, and posting at the proposed areas of the proposed vacation were performed in accordance with the Burbank Municipal Code and the State Streets and Highways Code.

Furthermore, staff recommends the Council and Board enter into a cooperation agreement that would allow the City to retain ownership of the site and allow the Redevelopment Agency (Agency) to fund and complete the rehabilitation of the former Buena Vista Library site as a childcare and family resource center. 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; and, 3) the elimination of one or more blighting conditions in the project area is served or

provide housing for low or moderate-income persons. All required findings have been made.

Staff recommends that the Council and Board approve the reuse of the former Buena Vista Library as a childcare and family resource center. The plans have been developed with input from the community and City departments. There is a clear, unmet childcare need in the community, and there are available Agency funds to complete the project. Furthermore, the proposed childcare and family resource center assists in meeting the Agency's primary purpose of blight elimination through measures that support economic development, and by providing community-serving facilities that support the revitalization of the project areas and focus neighborhoods.

Recommendation:

Adoption of proposed City Council resolutions entitled:

1. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ORDERING THE CONDITIONAL VACATION OF A PUBLIC ALLEY ADJACENT TO THE FORMER BUENA VISTA LIBRARY (V-370).
2. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK CONSENTING TO THE REDEVELOPMENT AGENCY EXPENDITURE FOR CERTAIN PUBLIC IMPROVEMENTS FOR THE CHILDCARE AND FAMILY RESOURCE CENTER PROJECT AT THE FORMER BUENA VISTA LIBRARY AND AUTHORIZING THE EXECUTION OF A COOPERATION AGREEMENT WITH THE AGENCY.

Adoption of proposed Redevelopment Agency resolution entitled:

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF BURBANK AMENDING FISCAL YEAR 2005-2006 BUDGET, AWARDING A CONSTRUCTION CONTRACT, AND APPROVING A COOPERATION AGREEMENT FOR THE CHILDCARE AND FAMILY RESOURCE CENTER PROJECT AT THE FORMER BUENA VISTA LIBRARY (BID SCHEDULE NO. R-1190).

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:

RECESS for the Redevelopment Agency, Housing Authority, Parking Authority and Youth Endowment Services Fund Board meetings.

RECONVENE for the City Council meeting.

CONSENT CALENDAR: (Items 3 through 10)

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.

3. MINUTES:

Approval of minutes for the regular meetings of April 5, April 12, April 19 and April 26, 2005.

Recommendation:



Approve as submitted.

4. TREASURER'S REPORT:

The City Treasurer's report on investment and reinvestment of temporarily idle funds for the quarter ending June 30, 2005.

Recommendation:

Note and file.

5. EXTENSION OF CONTRACT DOCUMENTS FOR THE OPERATION OF BURBANK CENTER STAGE:

Staff is requesting Council approval of a 90-day extension of contract documents for the operation of Burbank Center Stage. On March 28, 2000, the Council approved two resolutions related to contract documents for the operation of Burbank Center Stage. Resolution No. 25,710 approved the Sublease and Master Lease Modification between the City, C.T. Operating Partnership and The Colony Theatre Company relating to the Performing Arts Center. The second resolution (No. 25,711) approved the Theater Operating Agreement between the City and The Colony Theatre Company. The terms for both agreements were to commence on the Occupancy Date and expire on the fifth anniversary of the Opening Day. The Opening Day was August 26, 2000, therefore the agreements terminate on August 27, 2005.

The contracts allowed the City to extend the terms for three separate and successive periods of five years each, upon the same terms and conditions. However, with the approval of both the Park, Recreation and Community Services Board and the Council, the terms could be amended, modified or eliminated.

In February 2005, staff received a letter from The Colony Theatre Company requesting the first extension. Upon further discussions and meetings between the two parties, issues were raised regarding the terms of the agreement. The negotiations have taken longer than expected, and a final agreement will not be completed by the termination date of August 27, 2005.

Staff is confident that a final agreement can be completed and presented to the Park, Recreation and Community Services Board and the Council within 90 days of the original termination date. There is no fiscal impact.

Recommendation:

Adoption of proposed resolutions entitled:

1. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE FIRST AMENDMENT TO THE SUBLEASE AGREEMENT AND MASTER LEASE MODIFICATION BETWEEN THE CITY OF BURBANK, BURBANK MALL ASSOCIATES, AND THE COLONY THEATRE COMPANY RELATING TO THE PERFORMING ARTS CENTER.
2. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE FIRST AMENDMENT TO THE THEATER OPERATING AGREEMENT BETWEEN THE CITY OF BURBANK AND THE COLONY THEATRE COMPANY RELATING TO THE PERFORMING ARTS CENTER.

6. SOUTHLAND TRANSIT SERVICES CONTRACT EXTENSION:

The purpose of this report is to request Council approval of a second amendment to the agreement between the City and Southland Transit Services. Staff requests the extension of this agreement for a period of 12 months from September 1, 2005 through August 31, 2006.

On May 14, 2002, a Request for Proposal was distributed to approximately 11 transportation service vendors for the operation of the Burbank Local Transit (BLT) Fixed Route Service. Southland Transit was among three responsive and qualified bidders for the BLT Fixed Route Service Area. Through the competitive bid process, Southland Transit received the highest technical score for the Fixed Route services.

In June 2004, the Transit Services Task Force was created to review existing local transit services, and make recommendations on how the services can best be expanded to better serve Burbank residents and employees. The Task Force has met nine times over the past year, initially looking at the existing operations, ridership and costs of each of the three transit programs. The results of two current public-opinion surveys on the Got Wheels! and BLT programs were considered, as were the comments of the Burbank Transportation Management Organization (TMO) Director Judith Johnston-Weston, and those of local transit riders that have contacted the City's transit marketing and information service. The Task Force also reviewed service routes and schedules of the Metropolitan Transportation Authority's bus and metro rail services, as well as the Metrolink commuter rail service.

Pursuant to the Transit Services Task Force's recommendations, the Council approved the expansion of the BLT shuttle system on January 25, 2005. Most significantly, the plan calls for terminating the existing Super Shuttle contractor, which provides service to passengers in two major employment areas of Burbank, the Downtown and Airport Areas, and replacing that service with fixed route service. The plan was designed to utilize the existing contractor Southland Transit for the new fixed route services.

Southland Transit has performed well under the existing agreement on the Fixed Route

services since July 2002. The Southland agreement was extended once, on September 14, 2004 due to the impending implementation of expanded services.

Given the timing of the contract's termination on August 31, 2005, and the commencement of Phase II service, staff feels that attempting to begin a Request for Proposal would hinder continued implementation of the phase for expanded services. Additionally, the City has asked Southland Transit to make a considerable investment in additional personnel and equipment in order to meet the transit needs of Burbank, to which Southland Transit has complied. They have recently leased five Compressed Natural Gas (CNG) buses in an effort to meet the expanded services.

In providing this service efficiently, it is important to have staff that is knowledgeable about routes, route stops, traffic patterns and street locations. They have also been valuable in developing operating practices and implementation of the CNG fleet.

Per the original agreement, an extension of the contract for a third year, and subsequent years, will be at a rate not to exceed the Los Angeles/Orange County Clerical Worker Consumer Price Index. The current rate increase of the Los Angeles/Orange County Clerical Workers Consumer Price Index is approximately 4.8 percent from June 2004 to June 2005. Staff successfully negotiated a lower rate; three percent increase over the current cost per revenue hour. The new rate for Southland Transit will be \$47.79 when the contractor supplies the vehicles, and \$31.67 when City vehicles are utilized.

In summary, the approval of the second amendment will:

- Maintain current service levels, with no service disruption;
- Allow time to implement major service adjustments as directed by the Council; and,
- Utilize additional contractor-owned CNG vehicles to provide BLT service.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE SECOND AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF BURBANK AND SOUTHLAND TRANSIT SERVICES, INC.

7. APPROVING CONTRACT DOCUMENTS AND AWARDED A CONSTRUCTION CONTRACT FOR BID SCHEDULE NO. 1193 – OAK STREET AND BEL AIRE DRIVE IMPROVEMENT PROJECT:

Staff is requesting Council approval of contract documents and award of a construction contract for Bid Schedule No. 1193 – Oak Street and Bel Aire Drive Improvement Project. This project provides for street resurfacing, removal and reconstruction of curbs, gutters, sidewalks and driveways, and new sidewalk construction. By using rubberized asphalt, the City will be recycling approximately 1,167 used tires.

The project was advertised on July 6 and July 9, 2005. On July 26, 2005, two contractors submitted bids ranging from \$718,175 to \$729,400. KALBAN Inc. of Sun Valley,

California, submitted the lowest bid, 4.2 percent below the engineer's estimate of \$750,000. This contractor has previously performed work similar to the scope of work in this project for the City with satisfactory results. Construction of this project is planned to occur between September and November 2005.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING AND ADOPTING CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS, AND DETERMINING THE LOWEST RESPONSIBLE BIDDER, ACCEPTING THE BID, AND AUTHORIZING EXECUTION OF A CONTRACT FOR THE OAK STREET AND BEL AIRE DRIVE IMPROVEMENT PROJECT TO KALBAN, INC., BID SCHEDULE NO. 1193.

8. SUMMARY VACATION V-374, 1000 FLOWER STREET (APPLICANT – CARMAX AUTO SUPERSTORES):

The applicant, Carmax Auto Superstores, is requesting to vacate the 10-foot pole line easement which extends across the subject property parallel to Flower Street for the purpose of establishing an auto dealership. The proposed vacation has been submitted to all appropriate City departments and outside utility companies and there are no public utilities within the area to be vacated. The Streets and Highway Code allows this vacation since the easement has not been used for its intended purpose for five consecutive years immediately preceding the proposed vacation. Staff has not received any opposition to this vacation request and recommends the Council approve this summary vacation (V-374).

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ORDERING THE SUMMARY VACATION OF A POLE LINE EASEMENT LOCATED AT 1000 FLOWER STREET (V-374).

9. INFORMED CONSENT AND WAIVER OF POTENTIAL CONFLICT OF INTEREST:

The purpose of this item is to request the Council's consent to a potential conflict of interest resulting from Rutan & Tucker, LLP representing Crown Fairfield Associates, LLC on a residential development matter at the same time the law firm represents the City on cable television matters. It is the position of the City Attorney's Office that Rutan & Tucker LLP's proposed representation of Crown Fairfield Associates will not compromise the firm's representation of the City on cable television matters and other matters not involving land use or development entitlements.

Recommendation:

Adoption of proposed resolution entitled:  
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING A  
WAIVER OF POTENTIAL CONFLICT OF INTEREST FOR RUTAN & TUCKER, LLP.

10. AUTHORIZING THE ENGAGEMENT OF COX, CASTLE & NICHOLSON LLP FOR ENVIRONMENTAL LEGAL ASSISTANCE RELATED TO THE EMPIRE INTERCHANGE PROJECT AND APPROVING THE EXECUTION OF A COOPERATION AGREEMENT BETWEEN THE CITY AND THE REDEVELOPMENT AGENCY:

The purpose of this item is to request the Council and Redevelopment Agency Board to: 1) authorize the City Attorney to hire Cox, Castle & Nicholson LLP for environmental legal assistance related to the Empire Interchange project; and, 2) approve a Cooperation Agreement between the Redevelopment Agency (Agency) and the City which allocates the payment of such legal fees between the two separate legal entities.

As part of the Empire Center entitlements, Zelman Retail Partner, Inc. (Zelman) is obligated to dedicate a portion of its property (approximately two acres) to the City, which will be used for the Empire Interchange project, a California Department of Transportation (Caltrans) construction project. At the time of the execution of the development agreement, Lockheed's Vapor Extraction System (VES) was expected to have been completed and removed from the dedicated property area. Unfortunately, it remains in operation and the actual infrastructure of the VES is physically inconsistent with the proposed street improvements/freeway improvements.

Because of the unanticipated issues related to the VES and other soil-related matters coupled with the strict time schedule of the Caltrans project, the City Attorney's Office desires to engage the legal services of Cox, Castle & Nicholson LLP, primarily Robert Doty, a partner of the firm, to assist in legal matters related to environmental issues. Such work will include assistance in the investigation and planning for the environmental cleanup work (if necessary) in conjunction with certain roadway and interchange improvements to be constructed at Empire Avenue and the Interstate 5 freeway. Payment of these services shall not exceed \$40,000, and the costs shall be allocated between the City and the Agency pursuant to a Cooperation Agreement.

Recommendation:

Adoption of proposed resolution entitled:  
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AUTHORIZING THE  
ENGAGEMENT OF COX, CASTLE & NICHOLSON FOR ENVIRONMENTAL LEGAL  
ASSISTANCE RELATED TO THE EMPIRE INTERCHANGE PROJECT AND  
APPROVING THE EXECUTION OF A COOPERATION AGREEMENT BETWEEN THE  
CITY AND THE REDEVELOPMENT AGENCY OF THE CITY OF BURBANK.

END OF CONSENT CALENDAR

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## REPORTS TO COUNCIL:

### 11. ABANDONED SHOPPING CARTS:

At the April 19, 2005 meeting, Council Member Ramos requested a report on the various practical ways the City may approach the increasing problems associated with abandoned shopping carts. It is estimated that Burbank businesses have a shopping cart population in excess of 5,000 carts. If, as an example, at any particular time 10 percent of these carts are abandoned, this means a minimum of 500 carts are on public or private property. The number of abandoned carts increases if carts which originate from the adjacent communities of North Hollywood, Sun Valley and Glendale are included in this example.

Abandoned shopping carts are a difficult issue to deal with because of a protective State law which limits a city's ability to provide uninhibited and expeditious code enforcement relief. As such, this State law prevents expeditious abandoned shopping cart removal by local governments. Provisions of the California Shopping Cart Law state that abandoned shopping carts, which are not impeding emergency services, can remain at the abandoned location for up to three working days (72 hours) prior to pick-up abatement efforts by a city. Further, this law also requires that after the 72- hour period has lapsed and the abandoned shopping cart has been impounded, the local jurisdiction must notify the owner of the cart of the impoundment within a 24- hour period. Impoundment fees may not be collected if an impounded cart is picked up by the cart owner within three working days of the impoundment notification.

In the last decade, abandoned shopping carts have increased significantly in Burbank. This increase is probably due to:

- The adoption and imposition of the California Shopping and Laundry Cart Law;
- The successes of additional large retail businesses in Burbank which utilize shopping carts;
- The demographic factors;
- The move of a major retailer (Costco) from a border of Burbank to a more geographically interior location.

Staff has three options for the Council to consider concerning the issue of abandoned shopping carts. Those options are a combination of a short-term option, a legislative study option, and adoption of a containment ordinance.

#### **Option #1 (Short-Term Option)**

The short-term option is for the License and Code Services Division to work in conjunction with the Public Information Office and the Public Works Department to develop a plan of action which includes, among other elements, a public education

program campaign coupled with periodic “sweeps” of the City to pick up unmarked abandoned shopping carts.

### Education Program

The education program would include:

- Presentations to attendees at Burbank Senior Centers;
- Targeted mailings to multi-family residential properties;
- Information being distributed and posted at Burbank homeless advocacy locations such as the Burbank Temporary Aid Center and the Burbank Salvation Army;
- Information being distributed at public and private schools;
- Information being distributed at business locations which utilize shopping carts;
- Informational press releases to the general public;
- Utility insert information;
- Civic Pride Committee involvement;
- City Website posting;
- Chamber of Commerce information distribution;
- Video production for Channel 6 presentations by the Public Information Office; and,
- Consideration of a personal two or four-wheeled collapsible cart give-away program or a program where carts are provided at cost.

### **Option #2 (Legislative Study)**

The long term option is for the Council to consider:

- Making a formal request to Burbank’s State legislators and the League of California Cities to consider sponsoring and/or supporting legislation which would amend the California Shopping and Laundry Cart law to more reasonably represent the interests of local government.
- Council appointment of a Citizen Action Committee to study the issue of abandoned shopping carts and report back to the Council within six months with recommendations concerning this matter. Composition of the Committee could include the following members:

1. A Burbank Civic Pride Committee member;
2. Three Burbank business representatives: a manager of a Burbank market (Vons, Ralphs, etc.); a manager of a large Burbank retailer (Costco, Kmart, Lowes, etc.); and, an owner/manager of a small business located in Burbank which utilizes shopping carts;
3. A Burbank Chamber of Commerce representative;
4. Three Burbank residents;
5. City of Burbank staff members from License and Code Services, the Burbank Police Department, and the Public Works Department; and,
6. A representative from a Burbank homeless advocacy organization such as the Burbank Temporary Aid Center or the Burbank Salvation Army.

### **Option #3 (Adopt a Containment Ordinance)**

The third option is for the Council to adopt the City of Glendale's new Shopping Cart Ordinance. This would entail a Zone Text Amendment to make the use of shopping carts by businesses a land use. As a part of this ordinance, Burbank could either craft a mandatory shopping cart containment requirement, or establish acceptable daily threshold numbers for the quantity of abandoned carts on public or private property.

#### Recommendation:

Staff recommends the Council provide direction to immediately enact those elements of Option #1 which can be achieved quickly. In addition, staff also recommends the Council direct staff to return with a report on the progress of the Glendale ordinance within four months after the compliance date of January 1, 2006.

#### 12. ORDINANCE IMPLEMENTING CHANGES TO BURBANK WATER AND POWER RATE ASSISTANCE PROGRAMS:

On July 19, 2005, the Council approved a change to Burbank's rate assistance programs. The change adds an income means requirement for all customers who qualify for the rate assistance programs, including those who use essential life support equipment.

To accomplish this, the use of life support equipment has been added to the definition of "disabled person". In addition, the Ordinance updates the definition of "disabled person", updates obsolete references, and adds some language for clarity. These updates and clarifications do not change the essential meaning or guidelines for the rate assistance programs.

#### Recommendation:

Introduction of proposed ordinance entitled:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING SECTIONS 30-201 AND 30-206 OF THE BURBANK MUNICIPAL CODE PERTAINING TO THE LIFELINE SERVICE RATE FOR UTILITY SERVICE.

#### 13. PROPOSED FISCAL YEAR 2005-06 ANNUAL WORK PROGRAM AND DEPARTMENTAL PERFORMANCE INDICATORS (CITY TREASURER'S OFFICE):

The purpose of this report is to provide the Council with the proposed Fiscal Year (FY) 2005-06 Annual Work Program and Departmental Performance Indicators.

The Annual Work Program is used as a management tool to identify, prioritize and monitor the City's projects and activities. The proposed FY 2005-06 Annual Work



Program contains over 300 work items that have been identified by each department and suggested by the Council during the past year and the annual budget study sessions.

The FY 2005-06 Departmental Performance Indicators are used by the City to assess how efficiently and effectively programs and activities are provided and determine whether organizational goals are being met.

Recommendation:

Staff requests that the Council review the proposed Fiscal Year 2005-06 Work Program and Departmental Performance Indicators and provide input and direction as necessary.

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.

**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)**