



COUNCIL AGENDA - CITY OF BURBANK
TUESDAY, NOVEMBER 1, 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; Unrepresented, and Appointed Officials.

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

When the Council reconvenes in open session, the Council may make any required disclosures regarding actions taken in Closed Session or adopt any appropriate resolutions concerning these matters.

6:30 P.M.

INVOCATION:

Reverend Tania Kleiman, Olive Branch Ministries.

The Courts have concluded that sectarian prayer as part of City Council meetings is not permitted under the Constitution.

FLAG SALUTE:

ROLL CALL:

PRESENTATION: POLICE DEPARTMENT PROFESSIONAL ESTEEM AWARDS.

PROCLAMATION: NATIONAL CAREGIVERS MONTH:

COUNCIL COMMENTS: (Including reporting on Council Committee Assignments)

INTRODUCTION OF ADDITIONAL AGENDA ITEMS:

At this time additional items to be considered at this meeting may be introduced. As a general rule, the Council may not take action on any item which does not appear on this agenda. However, the Council may act if an emergency situation exists or if the Council finds that a need to take action arose subsequent to the posting of the agenda. Govt. Code §54954.2(b).

6:30 P.M. PUBLIC HEARING:

1. PLANNED DEVELOPMENT NO. 2004-64 WITH TENTATIVE TRACT MAP NO. 61361, GENERAL PLAN AMENDMENT AND DEVELOPMENT REVIEW – EMPIRE AVENUE AND BUENA VISTA STREET:

The developer, Fairfield Properties/Crown Realty, is requesting approval of a Planned Development to develop a project consisting of 300 multi-family residential units (including 44 townhome-style units and 256 stacked flats) and 1,000 square feet of retail space at 1935 North Buena Vista Street. The site is currently developed with two single-story buildings, totaling 7,235 square feet and 123,883 square feet, and surface parking. Additionally, a General Plan Amendment is proposed to change the land use designation of the property from General Manufacturing to Limited Commercial and a Tentative Tract Map is proposed to permit the units to be sold as condominiums.

The proposed project involves the demolition of the existing buildings and the construction of up to 300 multi-family residential units, 1,000 square feet of retail space and associated parking. The residential units will consist of two building styles. Forty-four units are proposed to be constructed as townhomes, with two levels of living space above an attached garage. These units are proposed to be in four buildings located on the northern portion of the site. The townhomes will have a street orientation, either towards Empire Avenue, Buena Vista Street, or a private street that runs through the project.

The remaining units are located on the opposite side of the private street from the townhome units. These units are designed as “stacked flats”, which are to be constructed in a four-story building. These units will be oriented around three courtyards. The courtyards are proposed to include resort-style amenities, such as a pool, spa and built-in barbecue facilities. Parking for these units is proposed to be provided within a four-level parking garage on the southern portion of the property.

Pursuant to the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration has been prepared for the project. The Mitigated Negative Declaration indicates that, with the proposed mitigation measures, the project will not result in a significant impact on the environment.

On September 12, 2005, the Planning Board conducted a public hearing regarding the proposed amendment. At the completion of the public hearing, the Board recommended approval of the application to the Council by a vote of 5-0.

Recommendation:

1. Adoption of proposed resolution entitled:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ADOPTING A MITIGATED NEGATIVE DECLARATION FOR PLANNED DEVELOPMENT NO. 2004-64, A DEVELOPMENT AGREEMENT, GENERAL PLAN AMENDMENT, DEVELOPMENT REVIEW, AND TENTATIVE TRACT MAP NO. 61361 (Fairfield Residential Project – 1935 North Buena Vista Street, Crown Fairfield Associates, LLC, Applicant).
2. Introduction of proposed ordinance entitled:
AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK APPROVING PLANNED DEVELOPMENT ZONE NO. 2004-64 AND APPROVING THE DEVELOPMENT AGREEMENT FOR PLANNED DEVELOPMENT NO. 2004-64 (Fairfield Residential Project – Crown Fairfield Associates, LLC, Applicant).
3. Adoption of proposed resolution entitled:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING A GENERAL PLAN AMENDMENT, DEVELOPMENT REVIEW, AND TENTATIVE TRACT MAP NO. 61361 (Fairview Residential Project – 1935 North Buena Vista Street, Crown Fairfield Associates, LLC, Applicant).

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:

JOINT MEETING WITH THE REDEVELOPMENT AGENCY:

2. DRAFT AGREEMENT BETWEEN THE CITY AND BURBANK COMMUNITY FOUNDATION:

The purpose of this report is to seek input and approval from the Council to proceed with negotiations on an agreement with the Burbank Community Foundation (BCF) for the City to be a lead partner in the Foundation.

The BCF was incorporated as a non-profit corporation on May 11, 2000 with the mission of supporting and advancing the educational, cultural and economic interests of the Burbank community. Over the past five years, the Foundation has provided scholarships to high school seniors and sponsored a few non-profit programs such as the Young Men's Christian Association's (YMCA) Healthy Kids Day and Shakespeare at Play for grammar school children. The original intent of the BCF was to be a small community-run organization managed by the Board of Directors without the position of Executive Director. Since that time, the Board has considered expanding the operations but has not had sufficient funds to hire an Executive Director nor expand due to high overhead costs of operating an organization. The BCF funds have been acquired through the

contributions of Board members and donations from the occasional solicitations of individual donors. Moreover, due to the current limitations of the existing structure, the BCF has not conducted public fundraising nor implemented any formal donation programs.

Currently, non-profit organizations in Burbank seem to access a small percentage of potential donors. Additionally, there appears to be a feeling amongst the non-profit organizations that they need to compete with each other to access donations. The BCF has the potential to raise funds through unexplored charitable donation programs and to provide capacity building and technical assistance for the non-profit organizations, in addition to expanding services and programs for the benefit of the Burbank community.

Over the past year, City staff and the BCF have had discussions on ways of making a bigger impact in Burbank. The result of this dialogue is for the City to take a more active and formal role in the Foundation. This is to be accomplished through the proposed Agreement. The Agreement will delineate the City's and the Board of Director's role in the BCF. The Board of Directors will remain an independent body and will continue to provide oversight of policy, fundraising and allocation of funds to programs and services. The Executive Director shall be a City employee designated by the City Manager. The City may provide additional support staff on an as-needed basis and will incur the costs of carrying out the responsibilities, administration and operation of the Foundation. Additionally, the Agreement will list two new positions on the Board of Directors: 1) General Manager of Burbank Water and Power; and, 2) Community Development Director. As mentioned earlier, other municipalities have used similar models successfully. The City of Anaheim found that the biggest benefit to this approach was that all donations are returned directly to the community by absorbing the operating costs through the City.

The proposed process by which the City and the BCF plan on expanding opportunities is to develop an Employee Payroll Deduction Program. City employees will have an opportunity to give to the Foundation through payroll deductions. The employee/donor will have an opportunity to specify the amount deducted from his/her paycheck and will also have an opportunity to designate a recipient charitable organization. Once the Employee Payroll Deduction Program is developed and successful within the City, the Foundation will introduce it to other private and public businesses located in Burbank.

There is no direct impact on the City's General Fund. The Agreement would require staff time for the Executive Director to administer the programs. This would be a part-time duty of an existing staff member. Administrative overhead such as office space, equipment and supplies for the Executive Director would be absorbed by the City via the Redevelopment Agency budget.

Recommendation:

Staff seeks input and authority from the Council to negotiate a final agreement with the Burbank Community Foundation.

CONSENT CALENDAR: (Items 3 through 5)

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. REQUEST FROM THE LEAGUE OF WOMEN VOTERS TO CONDUCT A CANDIDATE FORUM ON DECEMBER 8, 2005:

Each election year, the League of Women Voters of Glendale/Burbank (League) has traditionally presented a candidate forum for the local elected offices. A Special Election will be held on January 24, 2006 to fill a vacancy on the Council. The League is requesting to cablecast a forum live on December 8, 2005. In recent years, these forums have been produced in cooperation with the City. The City has allowed the use of the Council Chamber, and has televised the forum live and rebroadcast it until Election Day.

On May 21, 1996, the Council adopted Resolution No. 24,741, which establishes policies regarding the use of City cable broadcast facilities for election candidate forums. Through adoption of the resolution, the Council expressed its belief that "it would be in the public interest for the City to permit, at no cost recovery, access by qualified organizations to use City facilities for the purpose of broadcasting debates and forums provided that neutrality is maintained in how the program is conducted so as to ensure that public funds are utilized solely for public education and information."

In the same resolution, the League was recognized by the Council as a neutral, non-partisan organization that meets all established requirements. Additionally, as required by the resolution, the League does not endorse or back candidates for elective office or take positions on local measures. The League has, however, taken positions on State measures.

Recommendation:

It is recommended that the Council approve the request from the League of Women Voters to conduct a candidate forum on Thursday, December 8, 2005.

4. BURBANK WATER AND POWER MONTHLY OPERATING REPORT:

Staff has prepared the Burbank Water and Power Water and Electric Monthly Report regarding water quality and power issues for October 2005.

WATER UPDATE

Water Quality

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

Fiscal Year (FY) 2005-06 Year-To-Date Water Fund Financial Results as of September 30, 2005:

	Year - to - Date			
	Actual	Budget	Variance	% Variance
Water put into the system (CCF)	2,986,038	3,044,844	(58,806)	(2%)
Potable water sales (CCF)	2,910,734	2,899,915	10,819	0%
Reclaimed water sales (CCF)*	361,464	311,462	50,002	16% (A)
Potable Revenues	\$5,051	\$5,187	(\$136)	(3%)
Reclaimed and Power Plant Revenues	383	423	(40)	(10%) (B)
Total Operating Revenues	\$5,434	\$5,610	(\$176)	(3%)
WCAC	2,530	2,374	(156)	(7%) (C)
Gross Margin	\$2,904	\$3,237	(\$332)	(10%)
Operating Expenses	1,779	2,208	429	19%
Operating Income	\$1,125	\$1,029	\$96	9%
Other Income/(Expenses)	134	216	(82)	(38%)
NI before Contr. & Transfers	\$1,259	\$1,245	\$14	1%
Transfers (In Lieu)	(208)	(259)	51	20% (D)
Contributed Capital (A.I.C)	84	259	(174)	(67%)
Change in Net Assets (Net Income)	\$1,135	\$1,244	(\$109)	(9%)

() = Unfavorable

* Includes Power Plant Sales, Commercial and Industrial Reclaimed Sales

- (A) Public Works was overbilled 208,800 CCF or \$295k in September, which will be corrected in October.
- (B) Public Works overbilling (see A), offset by a reverse entry due to overbilling \$135k in the prior fiscal year. In addition to that, MPP has not been billed for reclaimed water use since Magnolia did not come operational until September 22, 2005. MPP accounts for 60,403 CCF or \$82k per month.
- (C) The BOU has experienced reduced operating capacity due to carbon screen failures, water production problems associated with the persistent low water

table and well maintenance. Thus, there was an increased need for purchased water from the Metropolitan Water District (MWD). The BOU had an average of 51 percent of operating capacity compared to a 75 percent budgeted capacity.
 (D) In-lieu accrual of \$39k was recorded in June 2005. This entry was reversed in July 2005.

FY 2005-06 Water Fund Financial Reserve balances as of September 30, 2005 are summarized in the following table:

Water (In thousands)	Balance	Recommended
	9/30/2005	Reserves
Unrestricted Cash		
General Operating Reserve	\$5,470	\$4,430
Capital Reserve	\$2,807	\$3,580
Sub-Total Unrestricted Cash	\$8,277	\$8,010
Restricted Cash		
Water Replenishment Reserve	\$1,000	\$1,000
WCAC	\$925	\$925
Distribution Main Reserve	\$1,100	\$1,100
Debt Service Fund & Other Restricted Cash	\$457	\$457
Parity Reserve Fund	\$620	\$620
Sub-Total Restricted Cash	\$4,102	\$4,102
Total Cash	\$12,379	\$12,112

ELECTRIC UPDATE

Electric Reliability

The following table shows the system-wide reliability statistics for FY 2005-06 through September 30, 2005 as compared to the same time period for FY 2004-05:

Reliability Measure	Fiscal Year 2004-05	Fiscal Year 2005-06
Average Outages Per Year	0.3254	0.0357
Average Outage Duration	73.64 minutes	60.33 minutes
Average Service Availability	99.9954%	99.9984%

Financial and Operations Update

FY 2005-06 year-to-date Power Financial Results as of September 30, 2005:

	Year - to - Date				
	Actual	Budget	Variance	% Variance	
NEL MWh	338,212	336,590	1,622	0%	(A)
Weather Normalized NEL MWh	345,975	336,590	9,385	3%	
Retail Sales MWh	330,147	319,691	10,456	3%	
Retail Revenues	41,754	41,081	\$673	2%	
Other Revenues	232	249	(17)	(7%)	
Retail Power Supply & Transmission expenses	(28,748)	(24,331)	(4,417)	(18%)	(B)
Retail Gross Margin	13,237	\$16,999	(\$3,762)	(22%)	
Wholesale Revenues	51,899	16,000	35,899	224%	
Wholesale Power Supply	(49,792)	(14,880)	(34,912)	(235%)	
Wholesale Gross Margin	\$2,106	\$1,120	\$986	88%	
Gross Margin	15,343	\$18,119	(\$2,775)	(15%)	
Operating Expenses	(9,263)	(9,105)	(158)	(2%)	
Operating Income	\$6,081	\$9,014	(\$2,933)	(33%)	
Other Income/ (Expense)	488	(237)	725	305%	(C)
NI before Contr. & Transfers	\$6,568	\$8,776	(\$2,208)	(25%)	
Transfers In/(Out) - (In lieu)	(2,214)	(2,513)	299	12%	(D)
NI before Contributions	\$4,354	\$6,264	(\$1,910)	(30%)	
Contributed Capital (A.I.C)	68	595	(527)	(89%)	
Change in Net Assets (Net Income)	\$4,422	\$6,859	(\$2,437)	(36%)	

() = Unfavorable

- (A) Staff is currently working with other division managers to review the actual NEL MWh.
- (B) Primarily due to replacement power cost for MPP, which went into commercial operation on September 22, 2005. Staff is currently working on the year-to-date variance analysis.
- (C) BPA settlement of \$591k.

(D) In-lieu accrual of \$364k was recorded in June 2005. This entry was reversed in July 2005.

FY 2005-06 Power Fund Financial Reserve balances as of September 30, 2005 is summarized in the following table:

Electric (In thousands)	Balance	Recommended
	9/30/2005	Reserves
Unrestricted Cash		
General Operating Reserve	\$40,643	\$41,000
Capital and Debt Reduction Fund	\$10,000	\$15,100
Fleet Replacement Reserve	\$3,000	\$4,500
General Plant Reserve	\$800	\$1,170
Bond Cash	\$4,034	\$0
Sub-Total Unrestricted Cash	\$58,477	\$61,770
Debt Service Fund & Other Restricted Cash	\$4,149	\$4,149
Parity Reserve Fund	\$10,000	\$10,000
Sub-Total Restricted Cash	\$14,149	\$14,149
Total Cash	\$72,626	\$75,919

Recommendation:

Note and file.

5. COUNCIL REVIEW OF THE LOCAL EMERGENCY, AS MODIFIED, AND RATIFYING THE DIRECTOR OF EMERGENCY SERVICES' RULES AND REGULATIONS:

On Thursday, September 29, 2005, the Director of Emergency Services proclaimed a local emergency due to the wildfires in the hills of the City, in accordance with Burbank Municipal Code (BMC) Section 10-106 (the Local Emergency). The Council ratified that action on October 4, 2005. On or about October 17, 2005, weather patterns shifted dramatically from hot, dry Santa Ana winds, to rain showers and wind. While the threat of any additional fires ended, the burnt hillsides began to experience severe mudslides. On October 17, 2005, at approximately 4:00 p.m., heavy rain showers began to jeopardize the stability of the hillside areas damaged by the fires, threatening severe mudslides and causing a new condition of extreme peril to the safety of persons and property directly

below the burnt hillside. The Director of Emergency Services modified the scope of the existing Local Emergency by the Director of Emergency Services, when the Council was not in session, and proclaimed the existence, or threatened existence, of a disaster within the hill area of said City at that time due to the mudslides. Such modification was reviewed by the Council on October 18, 2005, and the Council declared that such Local Emergency, as modified, was to continue at that time. On October 19, 2005, and in accordance to BMC Section 10-106(6)(i), the Director of Emergency Services adopted certain emergency rules and regulations, waiving bidding requirements during existence of a local emergency as to emergency contracts related to the mudslide clean-up.

The Council is required to review and ratify the Director's rules and to review the Local Emergency, as modified. It is recommended that the Council ratify the rules and regulations. At this time, the Director of Emergency Services recommends that the declaration of Local Emergency, as modified, remain valid and is necessary due to the on-going clean up efforts coupled with the imminent threat of additional rain and mudslides. Such conditions result in extreme peril to the safety of persons and property located directly below the burnt hillsides which are likely to be beyond the control of the City.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK REVIEWING THE LOCAL EMERGENCY, AS MODIFIED, AND RATIFYING THE DIRECTOR OF EMERGENCY SERVICES' RULES AND REGULATIONS.

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

REPORTS TO COUNCIL:

6. APPROVAL OF THE MAYOR'S YOUTH TASK FORCE RECOMMENDED PROGRAMS – MIDDLE SCHOOL GRANT:

Staff requests authorization to appropriate \$35,250 from the previously-established Youth Services Holding Account to fund a continuation of Middle School Grant programs and services on the three Burbank Unified School District (BUSD) middle school campuses as recommended by the Mayor's Youth Task Force. There is currently \$75,800 in this account.

With direction from the Council, the Board of Education, the Mayor's Youth Task Force, the Youth Board and the Teens In Action teams, staff continues to implement programs reflecting the solutions developed by youth. Programs which have received funding from the Youth Services Holding Account include: Teens In Action Media Communication Team; Teens In Action Police Youth Relations Team; Bliss Unlimited; Middle School

Counseling Program; High School Counseling Program; and, the Middle School Grant Program.

In July 2002, the Council approved the Mayor's Youth Task Force recommendations and the Board of Education approved the implementation of the Middle School Grant Program at each middle school. The emphasis of the program includes promoting activities which prevent violence and bullying, and help students learn techniques and strategies for anger management, conflict resolution and respect. The intent of the program was to provide each of the middle schools with focused yet flexible funding to allow implementation of individualized programs to meet the specialized needs of each school and its students.

For the purpose of this grant program, funding is limited to programs and activities serving the BUSD middle school youth. Collectively, the grant funding is serving 3,770 of the community's youth, which comprise the total current enrollment at the three middle school campuses.

The Mayor's Youth Task Force is recommending funding in the amount of \$35,250 to continue the proposed program components at the three middle schools. These components include funding for an "at-risk" coordinator, tutoring programs, lunchtime activities, buses for field trips to the Museum of Tolerance and motivational and anti-bullying programs.

If funding is approved, the remaining balance in the holding account will be \$40,550.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROPRIATING FUNDS FOR THE MAYOR'S YOUTH TASK FORCE FROM THE CITY OF BURBANK TO THE CITY OF BURBANK MIDDLE SCHOOL GRANT PROGRAM (PEACE COLORS PROGRAM) FOR \$35,250.

7. PART 161 STUDY AND NOISE VARIANCE:

There have been two recent developments concerning Airport noise issues which directly affect the City and about which City staff seeks direction from the Council.

First, an Airport Authority staff report, which was provided to the City, recommends that further work on the Part 161 Study be deferred for an indefinite time while the Authority seeks legislation from Congress to change Federal Aviation Administration (FAA) procedures regarding evaluation of noise benefits. The City has to decide whether to agree with the Authority's recommended course of action.

Second, as required by the Development Agreement, the Authority has provided the City with a draft of its proposed application for a Noise Variance. The City has 30 days to comment on this application; the formal application must be filed with the California Department of Transportation (CalTrans) by November 19, 2005. The City has to decide what position it wants to take on the application and its posture in the administrative process by which CalTrans will issue a new three-year Variance.

Recommendation:

Staff recommends that the Council provide direction by motion as to the: 1) City's position on the future of the Part 161 Study; and, 2) City's position as to the recent Noise Variance Application by the Airport Authority.

8. WAIVER OF CONFIDENTIALITY OF LEGAL OPINION REGARDING THE NBC CATALINA PROPERTY:

When it came to the attention of the City that NBC was anticipating selling the Catalina property, questions were raised by members of the public as well as the Council as to the extent, if any, of the City's control over such sale in light of the previously-approved Development Agreement. As a result, the Council authorized the retention of the law firm of Shute, Mihaly & Weinberger LLP to obtain a second opinion relative to this issue. The firm has now provided its opinion on this matter.

Correspondence from attorneys to their clients is normally confidential unless the confidentiality is waived by the client. Should the Council desire to make public the outside counsel's opinion, a majority vote will be required.

Recommendation:

Staff recommends that the Council make a determination whether or not to release the outside counsel's legal opinion.

ADOPTION OF PROPOSED ORDINANCES:

9. FORMATION OF COMMUNITY FACILITIES DISTRICT NO. 2005-1 (THE COLLECTION PUBLIC PARKING FACILITY) AND ISSUANCE AND SALE OF 2005 SPECIAL TAX BONDS:

On October 25, 2005, the Council conducted a public hearing and took related actions to: 1) form the City of Burbank Community Facilities District No. 2005-1; 2) levy the special tax on property owners in the District; and, 3) issue and sell special tax bonds in an amount not-to-exceed \$6,400,000 to finance certain costs of The Collection Public Parking Facility. The Redevelopment Agency Board (Board) was also requested to adopt a resolution approving certain documents related to such bonds.

On November 23, 2004, the Council and the Board approved an Amended and Restated Owner Participation Agreement with Champion Development, Inc., a Second Implementation Agreement to the Owner Participation Agreement with Burbank Entertainment Village, LLC (AMC), and other documents relating to the proposed development of the Phase II site of the Burbank Entertainment Village Project.

Under the Champion Owner Participation Agreement, the Developer is required to construct a mixed-use project which includes 118 residential units, approximately 40,000 square feet of commercial uses and a six-level parking structure on the Phase II site. The parking structure will consist of parking spaces required for the residential condominium and commercial components of the project and 278 public parking spaces. The parking structure will be subdivided into three legal components: a component to be owned by residential condominium owners; a component to be owned by the commercial owner of the project; and, the public parking component to be owned by the City.

The Developer is required to pay the costs of all improvements on the Phase II site, including the parking structure. However, the Redevelopment Agency is required to provide Community Facilities District financing that will generate \$5 million in net proceeds to finance a portion of the costs of constructing the Public Parking Facility. Following the completion of the Public Parking Facility, annual debt service on and annual administrative expenses in connection with the Community Facilities District financing will be paid from 75 percent of the tax increment generated by the Phase I and Phase II improvements. To the extent that tax increment revenues are insufficient to pay all Community Facilities District obligations, the remaining amount of annual debt service and administrative expenses will be paid from special taxes levied and collected by the City on certain property in the Community Facilities District. The Redevelopment Agency's obligation to contribute tax increment will be triggered upon completion of the Public Parking Facility.

This ordinance was introduced at the October 25, 2005 Council meeting.

Recommendation:

Adoption of proposed ordinance entitled:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK LEVYING SPECIAL TAXES WITHIN CITY OF BURBANK COMMUNITY FACILITIES DISTRICT NO. 2005-1 (THE COLLECTION PUBLIC PARKING FACILITY).

10. SECOND AMENDMENT TO PLANNED DEVELOPMENT NO. 97-4 AND AMENDMENT TO CONDITIONAL USE PERMIT NO. 2001-17 WITH DEVELOPMENT REVIEW NO. 2004-118 (GRACIELA HOTEL):

The applicant, Pass Avenue Associates, LLC, requested to amend Planned Development No. 97-4, which controls the development and use of the Graciela extended

stay hotel. The requested amendment would allow the applicant to add a swimming pool, restaurant, and spa/fitness center to the hotel. The existing hotel with 99 guest rooms is located at 322 Pass Avenue at the corner of Oak Street. The applicant has acquired the undeveloped neighboring property to the south at 312 Pass Avenue and is proposing to expand the hotel facility onto that site. The proposed project would include an outdoor swimming pool with poolside cabanas and a two-story structure that would include a full service restaurant and spa/fitness center. The first floor of the proposed building would be about 3,100 square feet, and the second floor would be about 2,000 square feet. The building would also include a service basement with mechanical and storage rooms. Because the proposed building would include a new fitness center for use by hotel guests, the existing fitness center on the top floor of the existing hotel building would be converted to a hotel guest room, increasing the total number of hotel rooms to 100.

In addition to amending the Planned Development, the applicant further requested to amend Conditional Use Permit (CUP) No. 2001-17, which allows the Graciela to sell alcoholic beverages through room service, from in-room self-service bars, and throughout the hotel including the lobby lounge area. The applicant requested to expand the scope of the CUP to allow alcohol service in the restaurant, pool and spa. The applicant is also requesting that the CUP conditions be amended to allow alcohol service beginning at 8:00 a.m. seven days per week and to remove the sunset provision of the CUP. Under the current conditions, alcohol service may not begin before 5:00 p.m. on weekdays and 11:30 a.m. on weekends, and the CUP will terminate on January 31, 2008 unless renewed by the Council. Staff recommended that alcohol service be allowed to expand to the restaurant, pool and spa, but recommended against any change in the hours of alcohol service or a change to the sunset provision of the CUP.

This ordinance was introduced at the October 25, 2005 Council meeting. The Council approved the amendment to the CUP Conditions of Approval to allow alcohol service beginning at 8:00 a.m. seven days per week but maintained the sunset provision of the CUP. The Council did not make any amendments to the Planned Development Conditions of Approval.

Recommendation:

Adoption of proposed ordinance entitled:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING PLANNED DEVELOPMENT ZONE NO. 97-4 AND APPROVING THE SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR PLANNED DEVELOPMENT NO. 97-4 (Graciela Hotel – Applicant: Pass Avenue Associates, LLC).

RECONVENE the Redevelopment Agency meeting for public comment.

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

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

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

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

ADJOURNMENT.

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