

TUESDAY, NOVEMBER 1, 2005

A regular meeting of the Council of the City of Burbank was held in the Council Chamber of the City Hall, 275 East Olive Avenue, on the above date. The meeting was called to order at 5:18 p.m. by Mr. Vander Borght, Mayor.

CLOSED SESSION

Present- - - - Council Members Campbell, Golonski, Ramos and Vander Borght.

Absent - - - - Council Members None.

Also Present - Ms. Alvord, City Manager; Mr. Barlow, City Attorney; and, Mrs. Campos, City Clerk.

Oral Communications There was no response to the Mayor's invitation for oral communications on Closed Session matters at this time.

5:18 P.M. Recess The Council recessed at this time to the City Hall Basement Lunch Room/Conference Room to hold a Closed Session on the following:

- 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.

Regular Meeting Reconvened in Council Chambers The regular meeting of the Council of the City of Burbank was reconvened at 6:49 p.m. by Mr. Vander Borght, Mayor.

Invocation The invocation was given by Reverend Ron White, American Lutheran Church.

Flag Salute The pledge of allegiance to the flag was led by Detective Ryburn.

ROLL CALL

Present- - - - Council Members Campbell, Golonski, Ramos and Vander Borght.

Absent - - - - Council Members None.

11/1/05

Also Present - Ms. Alvord, City Manager; Mr. Barlow, City Attorney; and, Mrs. Campos, City Clerk.

301-1
Police
Professional
Esteem Awards
Captain Lowers commended Police Department personnel for their commitment to provide high quality service to the community, and presented Professional Esteem Awards to the following individuals for their distinguished achievements: Lieutenant Eric Rosoff; Sergeant Darin Ryburn; Victoria Payson, Forensics Supervisor; Celeste Patchett, Forensic Specialist; Detective Chuck Howell; Detective Chris Racina; and, Lieutenant Pat Lynch. She also recognized Sergeant Jose Duran and Detective Ron Miller who were unable to attend.

301-1
National
Caregivers
Month
Mayor Vander Borght presented a proclamation in honor of National Caregivers Month to Sami Lomax.

Reporting on
Council Liaison
Committees
Mr. Vander Borght reported on the Transit Task Force meeting he attended with Mr. Campbell.

Mrs. Ramos reported on the DeBell Clubhouse Committee meeting and announced a public hearing to be held on November 8, 2005 at the Buena Vista Library on the renovation project.

Mr. Golonski gave a status report on the Mayor's Youth Task Force.

7:11 P.M.
Hearing
1702
1204-1
PD 2004-64 w/
Tentative Tract
Map No. 61361
(Empire and
Buena Vista)
Mayor Vander Borght stated that "this is the time and place for the hearing on Planned Development No. 2004-64; Development Agreement; General Plan Amendment; Development Review; Tentative Tract Map No. 61361; and, Mitigated Negative Declaration concerning the Fairfield Residential Project. Crown Fairfield Associates, LLC, is the Owner/Applicant of the proposed project which will be located at 1935 North Buena Vista Street."

Meeting
Disclosures
Mr. Golonski, Mr. Campbell, Mrs. Ramos and Mr. Vander Borght, disclosed their meetings with the applicant.

Notice
Given
The City Clerk was asked if notices had been given as required by law. She replied in the affirmative and advised that two

pieces of correspondence had been received in opposition to the project.

Staff
Report

Mr. Ochsenbein, Senior Planner, Community Development Department, requested the Council consider a request to approve Planned Development No. 2004-64, a proposal by Crown Realty & Development and Fairfield Residential to develop a residential project on the southwest corner of Empire Avenue and Buena Vista Street. With a visual aid, he identified the subject site and surrounding uses and gave a brief history on the property's uses. He stated that the proposed project includes 300 residential units, with 44 town homes and 256 flats. He noted that three of the town homes are proposed to be live/work units located along Buena Vista Street, with commercial space below the living spaces. He added that the project also includes the construction of a small, 1,000-square foot commercial space, at the corner of Empire Avenue and Buena Vista Street. He then discussed the project's site plan and stated that parking is proposed to be provided in a combination of private garages, surface parking and a four-level parking garage.

Mr. Ochsenbein then discussed the project's entitlements which include a Planned Development; Tentative Tract Map No. 61361 which will allow the entire development to be converted and sold as condominiums; General Plan Amendment which would change the land use designation from General Manufacturing to Limited Commercial; Development Review which is required of all construction projects; and, a Development Agreement which establishes the scope and terms of development.

Mr. Ochsenbein noted that the 44 town home units are proposed to be located in two rows parallel to and facing Empire Avenue, separated by a driveway providing access to the units. He added that the live/work units will be located along Buena Vista Street adjacent to the commercial space. He noted that the town homes are designed as two stories of living space above an attached garage with a maximum height of 35 feet, and will be oriented towards either the public streets around the project or the private drive running through the project. He stated that 16 units are proposed to include tandem garage spaces rather than typical garage design. He added that the units are proposed to have a 10-foot setback from Empire Avenue; however, staff has proposed a Condition of Approval that would require the units to have a 15-foot setback from Empire Avenue, consistent with the City's multi-family development standards.

Mr. Ochsenbein added that the stacked flats are more traditional apartment-style units with a mixture of one and two bedrooms. He noted that these units will be located in a building towards the center of the site with frontage along Buena Vista Street. He stated that the proposed design is a four-story building surrounding three courtyard areas with a variety of amenities such as a resort-style swimming pool and spa, and permanent barbeque areas. He further elaborated that the commercial component of the project is relatively small in scale and is intended to function as a project and neighborhood-serving use. He stated that the 1,000-square foot space is located at the corner of Empire Avenue and Buena Vista Street, with an outdoor seating area and is envisioned as a location that residents will primarily walk to.

Mr. Ochsenbein reported that the parking structure is not only intended for use as a parking facility but also as a sound barrier between the units and the railroad right-of-way. In addition, he stated that an abutting 20-foot sound wall at the end of the parking structure will also provide additional noise reduction for the project. He stated that four levels of above-grade parking are proposed, with a maximum height of 40 feet. He added that vines will be utilized to reduce the massing of the wall and parking structure. He also stated that the project contemplates a potential connection to Robert Gross Park subject to City approval. He discussed that the project includes a realignment of the Lockheed Channel creating a box culvert upon which the parking structure would be built, and that 10 percent of the project's units will be made available to moderate-income households.

Mr. Ochsenbein also reported that the project is subject to the requirements of the California Environmental Quality Act and noted that the City contracted with two consultants; EIP Associates, for the environmental review, and Austin-Foust, for preparing the traffic impact analysis. He stated that the traffic study concluded that the project would not have a significant impact on any of the intersections, noting that this analysis was conservative in that it evaluated the site as if there were no existing uses. He added that the project would have a lower daily and peak trip generation compared to the existing office building and even lower trip generation in comparison to the site's maximum by-right development. He also stated that as part of the Development Agreement, the applicant is providing additional right-of-way dedications to further improve traffic in the area and increase sidewalk widths to enhance pedestrian traffic. He noted that these dedications are not required mitigation but negotiated items. He discussed the mitigation measures established which were incorporated into the Conditions of Approval for the project and the public

comment received on the project. He stated that the correspondence generally expressed concerns about the traffic and parking in the area, establishment of additional residential uses in the vicinity of the Airport, and the proposed 10-foot setbacks from Empire Avenue.

Mr. Ochsenbein reported that the Planning Board reviewed the matter on September 12, 2005, at which time members of the public also expressed concerns about the traffic and parking impacts of the project. He noted that during its deliberations, the Board raised a variety of questions relating to long-term traffic improvements, ingress and egress to the site, school impacts and the transition from industrial uses. He added that at the conclusion of the meeting, the Board recommended that the Council approve the project and emphasized the traffic benefits of the project in comparison to the existing or a by-right use.

Applicant

Jim O'Neil, Crown Realty & Development, reported that the proposed project is a joint partnership with Fairfield Residential. He explained that the project is designed to become a vibrant contemporary and inclusive part of the community, promoting a live/work lifestyle due to its location in close proximity to employment and retail at the Burbank Empire Center. He added that the project will be a community of its own, with ample on-site resident amenities and located adjacent to a City park. He noted that the project will provide entry-level homes for sale, which are lacking in the City, and 10 percent of the units will be made available to moderate-income buyers without any request for financial assistance or density bonuses from the City.

Mr. O'Neil noted the community's concerns about traffic in the area and stated that the conversion of the current site to a residential use will reduce the estimated vehicle trips compared to a by-right commercial use. He also noted that in addition to providing land, the project will fund the widening of the Buena Vista Street and Empire Avenue intersection, and generate approximately \$17 million in total net new tax increment to the Redevelopment Agency through the year 2022.

Shon Finch, Fairfield Residential, gave a brief background on the Fairfield Residential corporation and discussed several projects that have been accomplished by the company in different communities nationwide. With the aid of a PowerPoint presentation, he discussed the: site plan; development proposal elements; project amenities; project elevations; and, benefits that will be provided to the community such as redeveloping a vacant dilapidated site,

providing affordable housing, generation of significant annual tax increment to the Redevelopment Agency, improving public utilities and infrastructure, additional neighborhood-serving retail, development fees to the community, enhancing a strong local economy and enhancing the community's vision.

Citizen
Comment

Appearing to comment were: Don Nay, Beverly Chew, Esther Espinoza and Eden Rosen, expressing concerns about the project's size, density, traffic and parking impacts.

Appearing to comment in opposition to the project were: David Piroli; Irma Loose; Tom Atherton; Dink O'Neal; Tom Schamber; and, John Wiljeck.

Also, Mike Nolan commented on past legislative action with regard to grade separation improvements; and, Mark Barton commented on the grade separation cost.

Rebuttal by
Applicant

Mr. O'Neil responded to public comment with regard to location of the inclusionary housing units and traffic analysis of the proposed project in comparison to other uses.

Jordan Seagraves, Architect, Thomas Cook Architects, responded to Mrs. Ramos' inquiry regarding noise reverberations and echo effect mitigation.

Alison Rondone, Project Manager, EIP Associates, elaborated on the reflected noise standards.

Mr. O'Neil and Joe Emerson, Fairfield Residential, responded to Mr. Campbell's request for clarification with regard to the project's proximity to transportation, walkability to the Empire Center, and affordability, location and amenities of the affordable housing units.

Staff
Rebuttal

Mr. Ochsenbein further clarified on the affordable housing requirements found in Condition of Approval No. 8 and responded to public comment with regard to: parking impacts in the immediate area; the project meeting the City's parking requirements; potential impacts on schools in the area; traffic and trip generation; and, turning movements along Buena Vista Street.

Mr. Campbell also requested clarification with regard to the setback along Empire Avenue and sound attenuation for the project's residents. Mr. Ochsenbein responded that since the Planning Board meeting, staff has re-evaluated the site plan and determined that a 15-foot setback would be easily accommodated. He also stated that the Building Code requires and that a minimum interior decibel level be maintained, and in

addition, the Conditions of Approval include a disclosure requirement that the project is in close proximity to a railroad track.

Mrs. Ramos requested additional information on what multi-family standards have not been met. Mr. Ochsenbein responded that: there is an average setback requirement under the new standards which will be determined at a future date when more specific plans have been submitted; the proposed height of the stacked-flat units is 50 feet while the typical multi-family height is 35 feet; and, tandem spaces are proposed for 16 of the town home units while the Code prohibits tandem parking for a residential project of this size.

Mr. Finch informed the Council that the project is intended to be developed for condominium purposes and that the developer is aware of the parking parameters.

Mr. Herrmann, Assistant Community Development Director/ Transportation and Planning, and Mrs. Georgino, Community Development Director, responded to Mrs. Ramos' request for clarification with regard to the grade separation issues discussed by a member of the public.

9:04 P.M.
Hearing
Closed

There being no further response to the Mayor's invitation for oral comment, the hearing was declared closed.

Council
Deliberations

Mr. Vander Borcht recognized the existing building at the site which has the ability to generate a substantial amount of traffic and parking impacts. He noted that the proposal is a better project for the City. He expressed concern with the parking lot height, and suggested that the structure be set back at least five feet with additional landscaping. He clarified that he was not prepared to approve the project without the precise number of units, setbacks and landscape plan.

Mr. Golonski suggested the Council place specific Conditions of Approval on the project rather than continue the hearing. He expressed concern with tandem parking but was supportive of it for the 16 town homes. He also suggested that the project be required to provide a minimum of two parking spaces per unit in addition to a guest parking requirement of one space per five units, regardless of whether the project becomes a rental or for-sale product. He also supported a setback for the parking structure, and suggested planting trees along the parking structure and sound wall instead of a trellis and vine. He requested clarification with regard to the

Lockheed Channel and the proposed box culvert, and suggested that the developer be given an opportunity to lease the land from the railroad to accomplish the required landscaping. Mr. Ochsenbein reminded the Council that trees cannot encroach onto the railroad right-of-way.

Mr. Campbell commended the project for reduced trip generation, the affordability component, quality of materials and disbursement of moderate-income units. He noted the need for specific information with regard to the number of units proposed, parking spaces, eliminating the tandem element and providing adequate guest parking as stated earlier. He also suggested that the developer provide additional mitigation in the form of a sound wall for the adjacent neighborhood, supported a 15-foot setback along Empire Avenue, and expressed preference for lush landscaping instead of brick planters and a continued trellis along the parking structure and sound wall.

Mrs. Ramos supported the 15-foot setback along Empire Avenue and the five-foot parking structure setback. She suggested a Condition of Approval for a recycle board and supported the issues raised by the Council. She stated that the proposed project, which incorporates housing, would have less impact on the surrounding neighborhood compared to a by-right development which could generate more traffic at peak hours.

Mr. Vander Borcht encouraged staff to explore the feasibility of installing a wayside horn, which provides sound that is not connected to the train but is sent in advance of its arrival targeting motorists.

Motion It was moved by Mr. Vander Borcht seconded by Mrs. Ramos and carried that "a 10-foot setback from the sidewalk be provided along Buena Vista Street for the entire project and a 15-foot setback be provided along Empire Avenue."

Motion It was moved by Mr. Vander Borcht seconded by Mrs. Ramos and carried that "the parking structure at the rear of the property along the railroad right-of-way be set back a minimum of five feet in compliance with the R-4 setback standard. The setback would apply to the sound wall as well."

Mr. Golonski requested that the landscape not only consist of the trellis and climbing vine, but some substantial trees. Rob Moffat, Landscape Architect, IMA Design, suggested that bamboo trees could be planted in the five-foot setback, noting their fast growth rate. The Council requested that the landscape plan be brought back for approval at a later date.

Mr. Golonski requested clarification from the developer that the landscaping could be accommodated on the box culvert. Mr. Finch responded that the box culvert design will be modified to accommodate the landscaping.

The Council also requested that the landscaping, particularly along the parking garage on Buena Vista Street, be enhanced.

Mr. Golonski requested clarification as to whether the project will provide new street trees to replace the existing ones, and suggested that the size of the trees be identified on the landscape plan.

Mrs. Ramos suggested that the developer consider incorporating landscaping in the relocated Metropolitan Transportation Authority bus shelter/bench. The Council concurred.

Mr. Vander Borght requested that the retaining wall along Empire Avenue be further set back and additional landscaping be provided.

The Council also agreed to allow tandem parking for the 16 town home units.

The Council required that the project provide a minimum of two parking spaces per unit with one guest parking space per five units, regardless of whether the project is for rental or condominium purposes.

Mr. Golonski noted that the retail space had limited parking and suggested that the leasing office parking spaces not be exclusively reserved and be made available to the retail component after the first year. The Council concurred.

Mrs. Ramos requested that the recycling board be incorporated alongside the rideshare board or in the Covenants, Conditions and Restrictions. The Council concurred.

The Council also requested that staff work with the applicant to ensure that the quality of the project, as submitted, is maintained. Mr. Ochsenbein responded that a contract architect reviewed the project in its preliminary stages and his services could be used to review the final project proposal prior to issuing building permits. He also added that the Conditions of Approval could reference the pictures provided at this hearing with regard to the type, quality, design, colors and nature of the project.

11/1/05

Motion	It was moved by Mr. Campbell, seconded by Mrs. Ramos and carried that "the hearing be continued to the December 6, 2005 Council meeting."
Reporting on Closed Session	Mr. Barlow reported on the items considered by the City Council and the Redevelopment Agency during the Closed Session meetings.
Initial Open Public Comment Period of Oral Communications	Mr. Vander Borght called for speakers for the initial open public comment period of oral communications at this time.
Citizen Comment	Appearing to comment were: Gary Garrison, on Christmas season celebrations; Don Elsmore, on the Part 161 Study; Esther Espinoza, on traffic safety concerns; Irma Loose, on swimming pool safety; Eden Rosen, commending Police Officers and expressing appreciation for the Family Caregivers Month proclamation; Barbara Howell, in coordination with Shawna Vaughn and Laurie Bleick, in support of the agreement with the Burbank Community Foundation; Mark Barton, on the Burbank seal; and, Mike Nolan, on transfer of funds between City accounts.
Staff Response	Members of the Council and staff responded to questions raised.
Agenda Item Oral Communications	Mr. Vander Borght called for speakers for the agenda item oral communications at this time.
Citizen Comment	Appearing to comment were: Dan Hacking, Anita Shackman and Mary Margaret Kljunak, expressing appreciation for the Middle School Grant Program and in support of further funding; Don Elsmore, on the Part 161 Study; Mark Barton, on the League of Women Voters and on Mr. Nolan's comments; Esther Espinoza, on noise issues and on the Mayor's Youth Task Force recommendations; and, Mike Nolan and David Piroli, on the Part 161 Study.
Staff Response	Members of the Council and staff responded to questions raised.

804-3
Mayor's Youth
Task Force

Ms. Stein, Deputy Director, Park, Recreation and Community Services Department/Recreation Services, requested authorization to appropriate \$35,250 from the previously-established Youth Services Holding Account to fund a continuation of the 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. She reported that pursuant to direction from the Council, Board of Education, Mayor's Youth Task Force, Youth Board and Teens In Action teams, staff continues to implement programs reflecting the solutions developed by youth. She noted that 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.

Ms. Stein informed the Council that 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. She explained that 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.

Motion

It was moved by Mr. Golonski and seconded by Mr. Campbell that "the following resolution be passed and adopted:"

804-3
Middle School
Grant Program

RESOLUTION NO. 27,108:

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.

Adopted

The resolution was adopted by the following vote:

Ayes: Council Members Campbell, Golonski, Ramos and Vander Borght.

Noes: Council Members None.

Absent: Council Members None.

11/1/05

Jt. Mtg. with
Redev. Agency
700
Draft Agmt.
With Burbank
Community
Foundation

Ms. Frausto, Community Coordinator, Community Development Department, requested 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 BCF. She explained that the BCF was incorporated as a non-profit corporation in May 2000 with the mission of supporting and advancing the educational, cultural and economic interests of the Burbank community. She noted that over the past five years, the BCF 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. She added that 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. She stated 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. She reported that BCF funds have been acquired through the contributions of Board Members and donations from occasional solicitations, but no public fundraising events have been conducted nor have formal donation programs been implemented. She noted that 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.

Ms. Frausto reported that over the past year, City staff and the BCF have had discussions on ways of making a bigger impact in Burbank and reached a decision for the City to take a more active and formal role through the proposed Agreement. She noted that the Agreement will delineate the City's and the Board of Director's role in the BCF; however, the Board of Directors will remain an independent body and continue to provide oversight of policy, fundraising and allocation of funds to programs and services. She stated that the Executive Director shall be a City employee designated by the City Manager and the City may provide additional support staff on an as-needed basis and will incur the administration and operation costs of the BCF. Additionally, she stated that 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. She also noted that other municipalities, such as Long Beach, have used similar models successfully.

Ms. Frausto informed the Council that the proposed process by

which the City and the BCF plan on expanding opportunities is to develop an Employee Payroll Deduction Program through which employees will have an opportunity to donate and designate a recipient charitable organization. She noted that once the Employee Payroll Deduction Program is successful within the City, the BCF will introduce it to other private and public businesses located in Burbank. She reported that there is no direct impact on the City's General Fund.

Staff was directed to return with additional information.

Motion It was moved by Mr. Campbell and seconded by Mrs. Ramos that "the following items on the consent calendar be approved as recommended."

204-4 A report was received from the Public Information Office
102-3 presenting a request by the League of Women Voters of
Request to Glendale/Burbank (League) to cablecast a candidate forum live
Conduct a on December 8, 2005 for the Special Election which will be
Candidate held on January 24, 2006 to fill a vacancy on the Council.
Forum

The Council approved the request from the League of Women Voters to conduct a candidate forum on Thursday, December 8, 2005.

1503 The Monthly Water and Power operating report for the month
1504 of October 2005 was received from Burbank Water and Power.
BWP Monthly
Water and
Power Report The report was noted and filed.

904 RESOLUTION NO. 27,109:
Review of Local A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Emergency, as REVIEWING THE LOCAL EMERGENCY, AS MODIFIED, AND
Modified RATIFYING THE DIRECTOR OF EMERGENCY SERVICES'
RULES AND REGULATIONS.

Adopted The consent calendar was adopted by the following vote:

Ayes: Council Members Campbell, Golonski, Ramos and Vander Borght.

Noes: Council Members None.

Absent: Council Members None.

406
Part 161
Study

Mr. Barlow, City Attorney, presented information related to the Part 161 Study, Noise Variance Proceeding and the Noise Working Group status report. He reported that in 1998, the California Department of Transportation (Caltrans) ordered the Airport Authority (Authority) to prepare a Part 161 Study, which is a necessary prerequisite to achieving nighttime noise reduction. He noted that the study commenced in early 2000, but the progress has been extremely slow and costly. He explained that in order to obtain the Federal Aviation Administration's (FAA) approval, the Authority must demonstrate that there is reasonable probability that the benefits will exceed the costs of a full nighttime curfew. He reported that in 2003, the Authority sent a draft analysis to the FAA for its informal comment and in May 2004, an FAA response highly criticized the manner in which the analysis was conducted and the benefits were monetized. He noted that the Authority is not required by Federal regulations to quantify or monetize the benefits. He added that in May 2005, the consultant prepared a revised analysis which monetized and quantified some but not all of the benefits, and concluded that the benefits are not likely to exceed the costs of a nighttime curfew.

Mr. Barlow reported that in the City's view, the consultant's analysis is incomplete until the appropriate size of the study area and the comparison of quantified costs against qualitative benefits have been fully explored technically and in consultation with the FAA. He added that the Authority staff has proposed that the Part 161 Study be deferred for an undetermined period of time while the Authority seeks Federal legislation which would change the manner in which the FAA evaluates costs and benefits of a noise restriction, noting that the process has not been identified.

With regard to the noise variance, Mr. Barlow reported that the California Airport Noise Standard prohibits noise problem airports that have a noise impact area from operating without a noise variance. He explained that the noise impact area consists of homes, schools, hospitals, churches and similar incompatible uses within the 65 decibel Community Noise Equivalent Level. He added that schools and homes that have been insulated are considered compatible and not included in the noise impact area. He added that the Caltrans noise regulations require that airports eliminate the noise impact area and that the airport proprietor is required to have a plan in place to reduce the size of the noise impact area prior to being granted a variance.

Mr. Barlow stated that the application for a new three-year noise variance is due on November 19, 2005 and pursuant to the Development Agreement between the City and the Authority, the Authority has provided a draft of the variance application for City review and comment. He noted that the Authority predicts that, at its present pace, the noise impact area may be eliminated by 2010 as opposed to 2015 as previously projected.

Mr. Barlow also reported that the Noise Working Group has met several times to discuss noise issues, the possibility of citing an additional Compressed Natural Gas station at the Airport and construction of a transportation center on Airport property to serve Airport, shuttle and train passengers. He noted that due to various technical issues, these discussions have not been successful.

Mr. Barlow also informed the Council that staff has suggested hiring a joint consultant to assist the parties in working towards noise solutions or an attorney knowledgeable in Airport matters and independent of either party; however, those proposals were not acceptable to the Authority. He added that staff was optimistic that agreements can be reached on all issues discussed.

Mr. Barlow requested that the Council: 1) recommend that the Airport Authority aggressively pursue a full nighttime curfew though the Part 161 Study, perhaps with some adjusted direction, and to so direct the City's commissioners; 2) give direction to seek Caltrans' and the Authority's agreement to enter into an informal noise variance process; and, 3) recommend that the Authority delay seeking any legislative solution until the Part 161 Study process is exhausted.

The Council recommended that: the Airport Authority proceed with the Part 161 Study aggressively and intelligently; a negotiated noise variance application be pursued; and, the Airport Authority delay seeking any legislative solution.

213
Legal Opinion
Regarding the
NBC Catalina
Property

Mr. Barlow, City Attorney, reported that 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. He added that 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.

11/1/05

Mr. Barlow clarified that correspondence from attorneys to their clients is normally confidential unless the confidentiality is waived by the client; however, should the Council desire to make public the outside counsel's opinion, a majority vote will be required.

Motion Failed It was moved by Mrs. Ramos, seconded by Mr. Vander Borght and failed with Mr. Campbell and Mr. Golonski voting no that "the legal opinion be released."

The report was noted and filed.

Ordinance Submitted It was moved by Mrs. Ramos and seconded by Mr. Golonski that "Ordinance No. 3683 be read for the second time by title only and be passed and adopted." The title to the following ordinance was read:

804-9
1102
Levying Special Taxes for the CFD
ORDINANCE NO. 3683:
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).

Adopted The ordinance was adopted by the following vote:

Ayes: Council Members Campbell, Golonski, Ramos and Vander Borght.
Noes: Council Members None.
Absent: Council Members None.

Ordinance Submitted It was moved by Mr. Campbell and seconded by Mr. Golonski that "Ordinance No. 3684 be read for the second time by title only and be passed and adopted." The title to the following ordinance was read:

1702
1704-3
2nd Amend to PD No. 97-4 (Graciela)
ORDINANCE NO. 3684:
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).

Adopted The ordinance was adopted by the following vote:

Ayes: Council Members Campbell, Golonski, Ramos and Vander Borght.
Noes: Council Members None.
Absent: Council Members None.

11:48 P.M. The Redevelopment Agency meeting was reconvened at this
Reconvene time.
Redev. Agency
Meeting
Final Open There was no response to the Mayor's invitation for speakers
Public Comment for the final open public comment period of oral
Period of Oral communications at this time.
Communications

Adjournment There being no further business to come before the Council,
the meeting was adjourned at 11:49 p.m.

Margarita Campos, CMC
City Clerk

APPROVED DECEMBER 6, 2005

Mayor of the Council
of the City of Burbank