

TUESDAY, NOVEMBER 22, 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 4:35 p.m. by Mr. Vander Borght, Mayor.

CLOSED SESSION

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

4:35 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.

5:43 P.M. Inclusionary Housing and Density Bonus Study Session Mrs. Forbes, Deputy City Planner, Community Development Department, reported that in 2003 the Council directed staff to proceed with the establishment of an Inclusionary Housing Ordinance which would require developers to include affordable units within new residential projects. She noted that the ordinance was a recommendation from the Blue Ribbon Task Force on Affordable Housing. She discussed that the basic parameters of the ordinance are: 15 percent of the units to be made affordable; ownership projects shall be made affordable to moderate-income households and rental units shall be made available for very-low and low-income households; projects of four units or less would be exempt; the term of affordability would be in perpetuity or have re-sale provisions for ownership units; alternatives to on-site construction would be provided but only under certain circumstances; and, the affordable housing agreement would

be processed along with Development Review. She then noted staff's proposal that projects with a completed Development Review application by the effective date of the ordinance be exempt and that the ordinance have a phased-in approach whereby the affordability would only apply to 10 percent of the units in the first six months, and thereafter to 15 percent of the units.

Mrs. Forbes added that pursuant to Council direction, staff formed a focus group of stakeholders to examine the details of the ordinance. She added that the Planning Board considered the ordinance in 2004 and expressed concerns with its feasibility considering the then-pending multi-family standards, new density bonus law and possible changes to density standards. She added that at the joint Council/ Planning Board study session held in May 2005, the Council expressed concern with the length of affordability and the density bonus law, but gave staff direction to proceed with the ordinance. She added that the Planning Board has since considered the ordinance and three members did not support the ordinance, citing philosophical objections to inclusionary zoning and the fact that developers have to pay for the cost of providing affordable units.

Mrs. Forbes informed the Council that the purpose of the study session was to receive Council input on the implementing regulations and the in-lieu fee study. Regarding the in-lieu fee, she explained that the ordinance proposes that projects with five to nine units be able to pay the fee by-right and projects with more than nine units require Council approval upon proving that its not financially feasible to provide the units on-site. She added that the fee proposed is the actual gap between the market rate unit and the cost of providing the affordable unit. She noted that if the fee adopted is less than the gap cost, it would be more financially feasible to pay the fee than to construct the unit on-site.

With regard to the implementing regulations, and specifically the concessions and the tiering system developed by staff, Mrs. Forbes stated that the concessions will allow developers to vary from the multi-family development standards. She noted that staff categorized the concessions in the following three tiers: administrative approval; Planning Board approval; and, Council approval. She stated that staff believed that tiering would benefit the City by providing an easy way for developers to get up to three concessions in a simple process. She noted a concern expressed by the Planning Board that the

public may perceive that they have the right to affect the approval or denial of a concession; however, the decision will be based solely on the findings consistent with the State density bonus law. She explained that the findings mostly relate to the fact that the concession is financially necessary for the developer to provide the affordable units. She stated that staff is proposing to retain the services of a financial firm to evaluate proformas on the financial feasibility but the standard of review by staff, the Planning Board or the Council will be maintained. She noted that the density bonus law is strict with the findings and the tiering of concessions is designed so that the developer does not have to go through a lengthy process which might bring the City's compliance with State law into question.

Council discussion centered around: the interaction between the density bonus law and inclusionary zoning; the per-unit gap cost; the State-mandated density bonus law overriding the City's parking requirements, and its applicability to ownership units, rental units and projects requiring discretionary review; ownership and rental unit fee schedules; the projected number of total units and affordable units over a five-year horizon; and, concessions that eliminate open space requirements and allow an increase in lot coverage. The Council also expressed concern with the possibility of encouraging smaller units or one-bedroom units with minimized parking requirements.

The Council requested a further analysis on the in-lieu fee and inclusionary percentages.

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| 6:37 P.M. Recess | The Council recessed at this time. |
| Regular Meeting Reconvened in Council Chambers | The regular meeting of the Council of the City of Burbank was reconvened at 6:46 p.m. by Mr. Vander Borcht, Mayor. |
| Invocation | The invocation was given by Reverend Sally Kinarthy, Unity Church of Burbank and North Hollywood. |
| Flag Salute | The pledge of allegiance to the flag was led by Mr. Kramer, Community Assistance Coordinator. |
| ROLL CALL | |

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

Absent - - - - Council Members None.

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

Report on
Liaisons and
Committees

Mayor Vander Borcht reported on a meeting he held with Los Angeles Council Member LaBonge to discuss issues of importance to Burbank and Los Angeles, and specifically the proposed Los Angeles sewer project that may impact Burbank residents. He noted that Council Member LaBonge will be addressing the Council at the end of January 2006.

406
Airport Authority
Meeting

Commissioner Lombardo reported on the Airport Authority meeting of November 21, 2005. He stated that the Authority awarded a contract for Bid Schedule No. 2005-24 in the amount of \$286,000 to BBS Construction, Inc. for the maintenance facility repairs and mitigation, and approved: the revised selection criteria for future professional services agreements; the Federal Aviation Administration airport surveillance radar site land lease; and, the GTC Management Services, Inc.'s sublease agreement with Valhalla Aviation.

The Council noted and filed the report.

7:07 P.M.
Hearing
1504
2005 Urban
Water Mgmt.
Plan

Mayor Vander Borcht stated that "this is the time and place for the hearing on the City's adoption of the Urban Water Management Plan 2005."

Meeting
Disclosures

There were no meeting disclosures.

Notice
Given

The City Clerk was asked if notices had been given as required by law. She replied in the affirmative and advised that no written communications had been received.

Staff
Report

Mr. Mace, Assistant General Manager/Water Systems, Burbank Water and Power (BWP), presented BWP's 2005 Urban Water Management Plan. He reported that the basic

purpose of the Plan is to ensure that water providers are planning effectively to provide reliable water supply for current and projected demands. He explained that the Plan is required by the California Urban Water Management Planning Act which specifies topics to be addressed and mandates a five-year update.

With the aid of a PowerPoint presentation, Mr. Mace discussed Burbank's water resources through the year 2030, and the plan contents, which include: Chapter I, the introduction; Chapter II, service area information; Chapter III, water supplies and demands; and, Chapter IV, demand management measures. He elaborated on staff's efforts with regard to the following demand management measures: water survey programs for single-family and multi-family residential customers; residential plumbing retrofit; system water audits, leak detection and repair; metering with commodity rates for all new connections and retrofit of existing ones; large landscape conservation programs and incentives; high-efficiency washing machine rebate programs; public information programs; school education programs; conservation programs for commercial, industrial and institutional accounts; conservation pricing; conservation coordinator; water waste prohibition; and, residential ultra-low flush toilet replacement programs. He continued to discuss Chapter V, water recycling; Chapter VI, comparison of water supplies and demands; and, Chapter VII, water shortage contingency plan.

Citizen
Comment

Appearing to comment were: Mike Nolan, commending the progress made during the past several years, and commenting on Chrome 6 impact on water supply, ground water replenishment and requesting that the Council receive regular updates on the matter; and, Esther Espinoza, inquiring as to any potential increases in water rates and commenting on water conservation.

Staff rebuttal

Mr. Mace responded to public comment with regard to water replenishment.

Hearing
Closed

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

Motion

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

11/22/05

1504
2005 Urban
Water Mgmt.
Plan

RESOLUTION NO. 27,117:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
ADOPTING URBAN WATER MANAGEMENT PLAN 2005.

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.

Reporting on
Closed Session

Mr. Barlow reported on the items considered by the City Council
during the Closed Session meeting.

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: Don Elsmore, on the Magnolia
Boulevard resurfacing project; Floran Frank, on sewer odors in
the Rancho Area; R. C. Chappy Czapiewski, on the P-38
display at Bob Hope Airport; Eden Rosen, on additional
caregivers support groups and home-delivered meals; Molly
and Stan Hyman, on the Fence Ordinance enforcement; Sam
Asheghian, on the success of the Holiday In The Park event;
Carolyn Berlin, requesting clarification on the hour restrictions
with regard to homeowners performing construction work; Phil
Berlin, on the need to maintain Burbank's identity separate
from Los Angeles'; James Schad, in opposition to anonymous
complaints and requesting a status on the geothermal
program; Michael Scandiffio, on the proposed Los Angeles
sewer line and enforcement of the Fence Ordinance; Esther
Espinoza, on the recycled water program and the cost of
water; Rose Prouser, on the Home Depot project; Howard
Rothenbach, on a redevelopment conference he attended;
Mark Barton, on the City logo; David Piroli, on Assembly Bill
556 with regard to Los Angeles International Airport aviation
easements; Irma Loose, on enforcement of the Fence
Ordinance; and, Mike Nolan, on parking in downtown Burbank.

Staff
Response

Members of the Council and staff responded to questions
raised.

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| 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: Mel Peffers, in support of the proposed clean construction equipment ordinance; Don Elsmore, on the potential of achieving a nighttime curfew at Bob Hope Airport; Carolyn Berlin, in support of waiving confidentiality on the legal opinion regarding a Planning Board member and on the inclusionary housing ordinance; Tony Church, requesting the resignation of a Planning Board member; Jim Macris, on the conflict of interest issue with regard to a Planning Board member; Stan Hyman, on the proposed clean construction equipment ordinance and conflict of interest issue regarding a Planning Board member; Irma Loose, on the Fence Ordinance enforcement; Eden Rosen, on the gateway monument at Burbank and Victory Boulevards and Victory Place; Phil Berlin, on past history with regard to an avigation easement at the Airport and in support of waiving confidentiality on the legal opinion regarding a Planning Board member; Mark Barton, on the art installation at Burbank and Victory Boulevards and Victory Place; Esther Espinoza, on the Magnolia Boulevard resurfacing project; David Piroli, on release of the legal opinion with regard to a Planning Board member and the Airport noise variance criteria; and, Mike Nolan, on ground water replenishment. |
| Staff Response | Members of the Council and staff responded to questions raised. |
| Motion | It was moved by Mr. Campbell and seconded by Mrs. Ramos that "the following items on the consent calendar be approved as recommended." |
| Minutes Approved | The minutes for the regular meeting of October 25, 2005 were approved as submitted. |
| 1007-1 1009-1 | <u>RESOLUTION NO. 27,118:</u> A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK |

11/22/05

Establish Spec. For Project Accounting Mgr/BWP ESTABLISHING THE TITLE AND SPECIFICATION FOR THE CLASSIFICATION OF PROJECT ACCOUNTING MANAGER/BWP (CTC No. 0688) AND PRESCRIBING CLASSIFICATION CODE NUMBER, SALARY AND SPECIFICATION THEREOF.

1007-1
1009-1
1006
Abolishing Inactive Titles And Specs. RESOLUTION NO. 27,119:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE CLASSIFICATION, PAY PLAN AND CONFLICT OF INTEREST CODE BY APPROVING THE ABOLISHMENT OF CERTAIN JOB TITLES AND SPECIFICATIONS.

1602
405-2
Glendale Traffic-Related Electrical Devices Maint. Agmt. RESOLUTION NO. 27,120:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE BURBANK-GLENDALE TRAFFIC-RELATED ELECTRICAL DEVICES MAINTENANCE AGREEMENT BETWEEN THE CITY OF BURBANK AND THE CITY OF GLENDALE.

1301-3
Magnolia Blvd. Imp. Project (B.S. 1144) RESOLUTION NO. 27,121:
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 MAGNOLIA BOULEVARD IMPROVEMENT PROJECT: STPL-5200(018) TO GRIFFITH COMPANY, BID SCHEDULE NO. 1144.

1506
webTrader Service Agmt. for Open Access Technology RESOLUTION NO. 27,122:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING CHANGE ORDER NO. 08 TO THE webTRADER SERVICE AGREEMENT BETWEEN THE CITY OF BURBANK AND OPEN ACCESS TECHNOLOGY INTERNATIONAL, INC. FOR THE PURPOSE OF EXTENDING THE TERM OF SAID AGREEMENT THROUGH AND INCLUDING JUNE 30, 2008.

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.

1705-2
Art Installation Mr. Hansen, Park, Recreation and Community Services Director, reported that at the October 18, 2005 meeting, the

Burbank Blvd./
Victory Blvd./
Victory Pl.

Council requested a discussion on the potential of developing a gateway public art installation at the intersection of Burbank and Victory Boulevards and Victory Place, formerly known as Five Points. He noted that this item has been placed on the agenda as the first step in the two-step agenda process for additional Council discussion and consideration. He added that funding for this project can be secured by appropriating a specific amount from either the General Fund or the Public Art Fund, noting that Public Art Fund policies govern the manner in which projects are brought forward and approved.

Staff was directed to return with a second step report.

708
Extension of
Operation of the
Burbank Center
Stage

Mr. Nelson, Deputy Director, Park, Recreation and Community Services/Recreation Services, requested Council approval of a 182-day extension of contract documents for the operation of Burbank Center Stage. He stated that on March 28, 2000, the Council approved two resolutions related to contract documents for the operation of Burbank Center Stage with the Colony Theatre Company (Colony). He noted that the terms for both agreements were to commence on the Occupancy Date and expire on the fifth anniversary of the Opening Day, which was August 26, 2000.

Mr. Nelson informed the Council that the agreements 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 from the Park, Recreation and Community Services (PRCS) Board and the Council, the terms could be amended, modified or eliminated. He added that in February 2005, staff received correspondence from the Colony indicating its intent to initiate its contractual option to renew the second of the three separate and successive five-year periods. He stated that following a series of meetings, it became apparent that a finalized agreement would not be reached by the August 27, 2005 termination date. He added that on August 23, 2005, the Council approved a 90-day extension which terminates on December 1, 2005 to provide adequate time to finalize an effective agreement.

Mr. Nelson reported that in the subsequent agreement negotiations, the Colony indicated concerns regarding their

financial status. He noted that a joint meeting including the Colony administrative staff, a representative of the Colony Board of Directors, the City Manager, City Attorney's Office, and administrative staff from the PRCS Department was scheduled to review and discuss the Colony's fiscal status. He added that the meeting focused on the Colony's proposed program to address its short- and long-range financial issues, and discussed the three phases proposed to enhance revenues through fundraising, sponsorships and enhanced subscriptions.

Mr. Nelson noted that at the conclusion of the meeting, representatives from both the Colony and the City determined that, in light of the Colony's current fiscal condition, it would not be prudent to initiate a second five-year agreement. He added that the representatives concurred that an extension of the current agreement through May 31, 2006 would provide the Colony a reasonable time period to initiate its fundraising plan, kick off its annual subscription drive and implement reductions to operational costs. He noted that under the terms of the current agreement, the Colony will be obligated to pay its quarterly rent payments throughout the extension period.

Mrs. Ramos expressed support for the Colony Theatre but expressed concern with its financial status and fundraising proposal. She suggested reviewing the financials and operating models of successful facilities in other communities, and supported the 182-day extension.

Barbara Beckley, Artistic Director and Sean Cutler, Managing Director, Colony Theatre, responded to the Council's concern with regard to the financial shortfall and announced a fundraiser that was being held on November 29, 2005.

The Council expressed support for the theatre and suggested a review of the theatre's operation in order to develop a model that is sustainable over the long term. The Council also requested that information on the theatre's events be provided on Channel 6.

Motion

It was moved by Mr. Campbell and seconded by Mrs. Ramos that "the following resolutions be passed and adopted:"

708
2nd Amend. to

RESOLUTION NO. 27,123:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK

Theater Operating Agmt. With Colony Theatre Co. APPROVING THE SECOND AMENDMENT TO THE THEATER OPERATING AGREEMENT BETWEEN THE CITY OF BURBANK AND THE COLONY THEATRE COMPANY RELATING TO THE PERFORMING ARTS CENTER.

708 2nd Amend. to the Sublease and Master Lease With Burbank Mall Assoc. RESOLUTION NO. 27,124:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE SECOND 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.

Adopted The resolutions were adopted by the following vote:

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

902 Clean Construction Equip. Ordinance Mr. Van Hazelen, Assistant Public Works Director/Fleet and Building, presented a report in response to Vice Mayor Campbell's request to discuss the possibility of creating a clean construction equipment ordinance. He reported that in an effort to further reduce air pollution, Vice Mayor Campbell provided staff with a sample ordinance that would require all diesel-fueled construction equipment over 50 horsepower owned and used by the City and/or contractors working for the City on City projects, to meet more stringent emissions standards than are currently enforced by various air quality control agencies. He stated that if the Council desires, staff will return with a report on the feasibility of implementing such an ordinance.

Staff was directed to return with a second step report.

916 Update on BWP's Conservation Programs Mrs. Meyer, Marketing Manager, Burbank Water and Power (BWP), presented an update on the following electric and water conservation programs: Made In The Shade; Commercial Corridor Trees; Torchiere Exchange; Home Rewards Rebates; Home Energy Analyzer; Energy Solutions; Business Bucks; Solar Photovoltaic Energy; Landfill Microturbines; Ice Bear Installation; Clean Green Support; Splash Into Savings; Ultra Low Flush Toilets; Water Saving Devices; High-Efficiency

Clothes Washers Rebate; Recycled Water; and, Landscape Education.

Mrs. Meyer requested the Council approve of the dissolution of the Splash Into Savings Program, which provides a \$5 monthly incentive to program participants in exchange for pool pump timers set for non-peak hours only. She reported that the program has not lived up to expectations and staff has consistently found one-third non-compliance. Additionally, she stated that there has been a challenge to the program's eligibility for public benefits inclusion.

Ms. Forrest, Senior Conservation Advisor, BWP, introduced and discussed the proposed Drip Irrigation Program which would provide education and a drip irrigation system kit for participating Burbank homeowners. She also discussed the program's goals of reaching 1,200 single-family homes and achieving water savings of 21.5 to 30 million gallons of water annually. She informed the Council that staff applied for a Bureau of Reclamation grant for this program and was awarded a 100-percent matching grant of up to \$25,848. She requested Council approval of the proposed program and the resolution authorizing the acceptance of the grant.

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

916 Update on BWP's Conservation Programs
RESOLUTION NO. 27,125:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK RATIFYING AND APPROVING AN ASSISTANCE AGREEMENT WITH THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION FOR A GRANT TO FUND A RESIDENTIAL DRIP IRRIGATION PROGRAM, AND AMENDING THE FY 2005-2006 ANNUAL BUDGET IN AN AMOUNT NOT TO EXCEED \$25,848.00.

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.

201 Hurricane Interim Fire Chief Pansini reported that at the November 8, 2005 meeting, Council Member Golonski requested an update

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| Katrina Relief Update | <p>on local assistance efforts to aid the victims of hurricanes in the Gulf States Region. He reported that hurricanes Katrina and Rita wreaked havoc in the early Fall of 2005 causing significant human, infrastructure and economic impacts. He noted that recovery efforts will continue for years, and the associated costs will amount to billions of dollars.</p> <p>Chief Pansini reported that on September 13, 2005, Council Member Golonski requested an assessment of the possibility of the City assisting with some type of relief effort that would be directed towards the victims of Hurricane Katrina. He noted that this report was being presented as the first step in the two-step agenda process for discussion and additional Council direction only. He added that the decision made by the Council as a result of this report will determine future fiscal impacts.</p> <p>Staff was directed to return with a report on the cost associated with the City participating as a facilitator in conjunction with Habitat for Humanity.</p> |
| 209 Waiver of Attorney-Client Privilege regarding Planning Board Member Humfreville | <p>Mr. Barlow, City Attorney, reported that at the request of the Council, the City Attorney's Office prepared a legal opinion memorandum regarding the possible conflict of interest of Planning Board Member Dan Humfreville relative to his participation in Project No. 2005-50, Conditional Use Permit and Variance for Andre de Montesquiou, California Chicken Café. He noted that the memorandum is a confidential attorney-client privileged document and requested Council direction on whether or not to waive the attorney-client privilege and publicly release the memorandum.</p> |
| Motion | <p>Following Council deliberation, it was moved by Mr. Golonski, seconded by Mrs. Ramos and carried that "the confidential memorandum be released to the public."</p> |
| Motion | <p>It was moved by Mr. Vander Borcht, seconded by Mr. Campbell and carried that "the matter be put back on a future agenda to provide for a response from Mr. Humfreville."</p> |
| Final Open Public Comment | <p>There was no response to the Mayor's invitation for speakers for the final open public comment period of oral</p> |

11/22/05

Period of Oral Communications communications at this time.

Adjournment There being no further business to come before the Council, the meeting was adjourned at 11:19 p.m. to Wednesday, November 30, 2005 for a meeting with Los Angeles County Supervisor Antonovich at 7:30 a.m., Buena Vista Library, 300 North Buena Vista Street, Burbank, to discuss the following items: Flood Control Support/Cooperation; Los Angeles County Fire Department Aid; Storm Water Management; Household Hazardous Waste; Transportation; County Fee Related Budget Impacts; and, Bridge Inspection Services.

Margarita Campos, CMC
City Clerk

APPROVED MARCH 28, 2006

Mayor of the Council
of the City of Burbank