



COUNCIL AGENDA - CITY OF BURBANK  
TUESDAY, JUNE 6, 2006  
6:30 P.M.

**CITY COUNCIL CHAMBER – 275 EAST OLIVE AVENUE**

INVOCATION:

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

FLAG SALUTE:

ROLL CALL:

RECOGNITION:            SPONSORS FOR ANTI-TOBACCO VIDEO.

RECOGNITION:            FIREFIGHTER OF THE YEAR.

RECOGNITION:            MILITARY SERVICE.

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).

AIRPORT AUTHORITY MEETING REPORT:

1. AIRPORT AUTHORITY COMMISSIONER REPORT:

At the request of the Burbank representatives to the Airport Authority, an oral report will be made to the City Council following each meeting of the Authority.

The main focus of this report will be issues which were on the Airport Authority meeting agenda of June 5, 2006. Other Airport-related issues may also be discussed during this presentation.

Recommendation:

Receive report.

6:30 P.M. JOINT PUBLIC HEARING WITH THE REDEVELOPMENT AGENCY, HOUSING AUTHORITY, PARKING AUTHORITY AND YOUTH ENDOWMENT SERVICES FUND BOARD:

2. PROPOSED FISCAL YEAR 2006-07 ANNUAL BUDGET, CITYWIDE FEE SCHEDULE AND APPROPRIATIONS LIMIT:

The purpose of this report is to present the Proposed Fiscal Year (FY) 2006-07 Annual Budget, Citywide Fee Schedule and Appropriations Limit to the City Council, Redevelopment Agency Board, Housing Authority, Parking Authority and Youth Endowment Services Fund Board for a public hearing. The adoption of the FY 2006-07 Budget is scheduled to be considered on June 20, 2006.

On February 14, 2006, staff presented the Council with the mid-year report, which advised how the City was operating six months into the fiscal year. In May 2005, five budget study sessions were held for the Council to review each department's Proposed Budget for FY 2006-07, and make any desired modifications. Notable changes made during the sessions affecting recurring expenditures included: restoring two frozen police officer positions, adding two police cadet positions, a forensic specialist and a kennel attendant; additional funding for citywide training; and, ramping up for an enhanced Burbank Bus circulator. The Council also agreed to set aside an additional \$1 million for infrastructure maintenance and repairs.

**GENERAL FUND'S FINANCIAL STATUS:**

The following summarizes the Proposed Budget and Council modifications for the FY 2006-07 budget:

<b>RECURRING GENERAL FUND BALANCE</b>	
Available Recurring Revenues	\$129,438,975
<i>Less:</i>	
Recurring Appropriations (including MOU labor agreement impact)	129,342,340
<b>Recurring Surplus/(Deficit)</b>	<b>\$ 96,635</b>
<b>NON-RECURRING GENERAL FUND BALANCE</b>	
Projected Undesignated Fund Balance – July 1, 2006	\$ 2,412,203
Less Required Reserves	(2,353,000)
Less Projected One-Time Appropriations	(3,201,554)
Available Non-Recurring Balance/(Deficit)	(3,142,351)
Use of Reserves (PERS and Budget Stabilization Funds, UUT-In Lieu Set Aside)	3,142,351
<b>Non-Recurring Balance, June 30, 2007</b>	<b>\$0</b>

## PROPOSED CITYWIDE FEE SCHEDULE

The primary purpose of the Citywide Fee Schedule is to provide a one-stop listing of all City fees, charges and rates. The Fee Schedule is updated annually during the budget process.

Several proposed fee increases for services, permits, electric rates, water rates, sewer rates and refuse rates are included in the proposed budget. The proposed electric, water, sewer and refuse rate increases will raise a typical residential customer's monthly bill by approximately \$7 for FY 2006-07. Even with these proposed fee and rate increases, Burbank is still well within the range of comparison cities' fees for the same items.

## GANN INITIATIVE APPROPRIATIONS LIMIT

The City is required by State law to establish an appropriations limit each fiscal year. The City's FY 2006-07 appropriations limit is estimated to be \$136,356,986. The actual amount of the appropriations contained in the budget that is subject to the limit is \$99,833,207. The difference between the City's appropriations limit and the amount subject to it is \$36,523,778. As a result, the City is well below its appropriations limit.

## FISCAL IMPACT

The General Fund will have a recurring balance of \$96,635 and a projected Undesignated Fund (non-recurring) deficit of \$3 million (before balancing). As presented to Council during the budget study sessions, staff recommends using the Public Employee Retirement System and Budget Stabilization Funds, and the Utility Users Tax In-Lieu Set Aside account to fund those non-recurring items recommended by the Council.

## Recommendation:

Staff recommends that the Council, Redevelopment Agency Board, Housing Authority, Parking Authority and Youth Endowment Services Fund Board conduct the public hearing on the Proposed Fiscal Year 2006-07 Annual Budget, Citywide Fee Schedule and Appropriations Limit. Staff will incorporate any direction into the budget resolutions that will be presented on June 20, 2006 for final adoption.

**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 OPEN PUBLIC COMMENT AND AGENDA ITEM PERIOD OF ORAL COMMUNICATIONS:

AGENDA ITEM ORAL COMMUNICATIONS: (Four minutes on Action Agenda items only.)

COUNCIL AND STAFF RESPONSE TO AGENDA ITEM ORAL COMMUNICATIONS:

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

RECONVENE for the City Council meeting.

CONSENT CALENDAR: (Items 3 through 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. BURBANK WATER AND POWER MONTHLY OPERATIONS REPORT:

Staff has prepared the Burbank Water and Power (BWP) Water and Electric Monthly Report regarding water quality and power issues for May 2006.  
**WATER UPDATE**

**Water Quality**

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

Fiscal Year (FY) 2005-06 Year-To-Date Water Fund Financial Results as of April 30, 2006:

	<u>Year - to - Date</u>			
	<u>Actual</u>	<u>Budget</u>	<u>Variance</u>	<u>% Variance</u>
Water put into the system (CCF)	7,832,088	8,153,996	(321,908)	(4%)
Potable water sales (CCF)	7,682,328	7,766,115	(83,787)	(1%)
Recycled water sales (CCF)*	476,057	883,279	(407,222)	(46%) (B)
Potable Revenues	\$13,334	\$13,845	(\$511)	(4%) (A)
Recycled and Power Plant Revenues	514	1,200	(686)	(57%) (B)
<b>Total Operating Revenues</b>	<b>\$13,847</b>	<b>\$15,045</b>	<b>(\$1,197)</b>	<b>(8%)</b>
WCAC	6,049	5,846	(203)	(3%) (C)
<b>Gross Margin</b>	<b>\$7,798</b>	<b>\$9,198</b>	<b>(\$1,400)</b>	<b>(15%)</b>
Operating Expenses	6,721	7,340	620	8%
<b>Operating Income</b>	<b>\$1,078</b>	<b>\$1,858</b>	<b>(\$781)</b>	<b>(42%)</b>
Other Income/(Expenses)	1,244	675	569	84% (D)
<b>NI before Contr. &amp; Transfers</b>	<b>\$2,321</b>	<b>\$2,533</b>	<b>(\$212)</b>	<b>(8%)</b>
Transfers (In Lieu)	658	697	39	(6%)
Contributed Capital (A.I.C)	499	862	(363)	(42%)
<b>Change in Net Assets (Net Income)</b>	<b>\$2,162</b>	<b>\$2,698</b>	<b>(\$536)</b>	<b>(20%)</b>

( ) = Unfavorable

\* Includes Power Plant Sales, Commercial and Industrial Reclaimed Sales

(A) WCAC over collection decreased potable water revenue by \$49k in April 2006 and \$394k for year-to-date. There was also a credit of approximately \$207k in April 2006 because of demand charge over billed in prior months.

- (B) The actual YTD recycled water consumption for MPP was 422,529 CCF lower or \$598k lower in revenues.
- (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 56% of operating capacity compared to a 75% budgeted capacity.
- (D) Customer deposit of \$600k for fire hydrant meter dated from 2002.

FY 2005-06 Water Fund Financial Reserve balances as of April 30, 2006 are summarized in the following table:

Water (In thousands)	Balance	Recommended Reserves
	4/30/2006	
<b>Unrestricted Cash</b>		
General Operating Reserve	\$5,429	\$4,430
Capital Reserve	\$2,807	\$3,580
<b>Sub-Total Unrestricted Cash</b>	<b>\$8,236</b>	<b>\$8,010</b>
<b>Restricted Cash</b>		
Water Replenishment Reserve	\$1,000	\$1,000
WCAC	\$1,394	\$1,394
Distribution Main Reserve	\$1,100	\$1,100
Debt Service Fund	\$1,029	\$1,029
Parity Reserve Fund	\$620	\$620
<b>Sub-Total Restricted Cash</b>	<b>\$5,143</b>	<b>\$5,143</b>
<b>Total Cash</b>	<b>\$13,379</b>	<b>\$13,153</b>

## ELECTRIC UPDATE

### Electric Reliability

The following table shows the system-wide reliability statistics for Fiscal Year 2005-06 through April 30, 2006, as compared to the same time period for Fiscal Year 2004-05:

Reliability Measure	Fiscal Year 2004-05	Fiscal Year 2005-06 (through April 30, 2006)

Average Outages Per Year	0.3005	0.3277
Average Outage Duration	76.66 minutes	66.25 minutes
Average Service Availability	99.9942%	99.9950%

Financial and Operations Update

FY 2005-06 year-to-date Power Financial Results as of April 30, 2006:

	Year - to - Date			
	Actual	Budget	Variance	% Variance
NEL MWh	969,307	969,542	(235)	(0%)
Retail Sales MWh	952,850	921,075	31,774	3%
Retail Revenues	119,102	117,458	\$1,644	1%
Other Revenues	2,887	1,872	1,015	54% (A)
Retail Power Supply & Transmission expenses	85,481	74,359	(11,122)	(15%) (B)
<b>Retail Gross Margin</b>	<b>36,508</b>	<b>44,970</b>	<b>(\$8,462)</b>	<b>(19%)</b>
Wholesale Revenues	134,568	38,000	96,568	254%
Wholesale Power Supply	128,990	35,340	(93,650)	(265%)
<b>Wholesale Gross Margin</b>	<b>\$5,578</b>	<b>\$2,660</b>	<b>\$2,918</b>	<b>110%</b>
<b>Gross Margin</b>	<b>42,086</b>	<b>\$47,630</b>	<b>(\$5,544)</b>	<b>(12%)</b>
Operating Expenses	30,175	30,350	175	1%
<b>Operating Income</b>	<b>11,912</b>	<b>\$17,280</b>	<b>(\$5,369)</b>	<b>(31%)</b>
Other Income/ (Expense)	826	(791)	1,616	204% (C)
<b>NI before Contr. &amp; Transfers</b>	<b>12,737</b>	<b>\$16,489</b>	<b>(\$3,752)</b>	<b>(23%)</b>
Transfers In/(Out) - (In lieu)	7,046	7,240	194	3%
<b>NI before Contributions</b>	<b>5,691</b>	<b>\$9,249</b>	<b>(\$3,558)</b>	<b>(38%)</b>
Contributed Capital (A.I.C)	768	1,983	(1,216)	(61%)
<b>Change in Net Assets (Net Income)</b>	<b>\$6,459</b>	<b>\$11,233</b>	<b>(\$4,773)</b>	<b>(42%)</b>

( ) = Unfavorable

- (A) Transmission revenue related to MPP scheduling system was not budgeted. YTD impact is \$875k.
- (B) Primarily due to the MPP COD delay and planned outages in October 2005 – April 2006.
- (C) BPA settlement of \$591k in July and supplemental crude oil refund of \$130k in February was not budgeted. Actual interest income is higher than budget due to higher interest rate. Budget assumes interest rate of 2.5% APR. Actual interest rates ranges between 4%-5.5%. YTD impact of higher interest income is \$840k.



FY 2005-06 Power Fund Financial Reserve balances as of April 30, 2006 are summarized in the following table:

<b>Electric (In thousands)</b>	<b>Balance</b>	<b>Recommended</b>
	<b>4/30/2006</b>	<b>Reserves</b>
<b>Unrestricted Cash</b>		
General Operating Reserve	\$42,603	\$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	\$3,814	\$0
<b>Sub-Total Unrestricted Cash</b>	<b>\$60,216</b>	<b>\$61,770</b>
Debt Service Fund & other	\$9,741	\$9,741
Parity Reserve Fund	\$10,001	\$10,001
<b>Sub-Total Restricted Cash</b>	<b>\$19,742</b>	<b>\$19,742</b>
<b>Total Cash</b>	<b>\$79,958</b>	<b>\$81,512</b>

Recommendation:

Note and file.

4. ANTI-TOBACCO VIDEO SPONSORSHIP:

Staff is requesting the Council accept and appropriate funds totaling \$12,500 to the Teens in Action Media Communication Team account, for expenditures associated with the production of a teen-related anti-tobacco video. Under direction from the Mayor's Youth Task Force, the Teens in Action Media Communications Team was formed in 2003. Assigned tasks for the Team included the production of a video series developed by teens, for teens, concerning topics of interest to teens. Shows air on the local cable Burbank TV6, are utilized in teen focus groups, and are available at Burbank libraries.

As an educational tool for the classroom, teacher guidelines were developed for each show. Teacher Packs consisting of a video and guidelines, were provided to Burbank middle schools and high schools, public and private. The Burbank Unified School District (BUSD) approved use of the shows and guidelines in their high school health curriculum beginning in September 2005.

The latest Teens in Action Media Communication Team video deals with issues related to teen tobacco usage. To support a project aimed at reducing tobacco use among our youth, staff secured sponsorship from the Providence Saint Joseph Medical Center in the amount of \$2,500, provision of physician resources for information and interview purposes, and access to the hospital for filming. An additional \$10,000 was received from the BUSD via a competitive grant from the California Department of Education, Healthy Schools Office, funded through Proposition 99, the Tobacco Tax Initiative of 1988. One of the projects included in the grant work-plan was the creation of a teen smoking issue video that would be written and produced by Burbank teens, shown to all students in ninth grade health classes and on the local public access television station. Production of the video entitled "Tobacco...Slow Motion Suicide" commenced in December 2005 and was completed in May 2006.

Recommendation:

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

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FISCAL YEAR 2005-2006 BUDGET AND APPROPRIATING FUNDS IN THE AMOUNT OF \$12,500.00 FOR THE FUNDING OF AN ANTI-TOBACCO VIDEO BY THE TEENS IN ACTION MEDIA COMMUNICATIONS TEAM.

5. APPROVAL OF THE MAYOR'S YOUTH TASK FORCE RECOMMENDED PROGRAM – YOUTH COUNSELING:

Staff, supported by a recommendation from the Mayor's Youth Task Force, is requesting Council authorization to provide funding for youth counseling programs on Burbank Unified School District (BUSD) campuses. If approved, the Family Service Agency of Burbank will receive up to \$175,000 from the Youth Services Holding Account to fund the continuance of programming at three middle school campuses and two high school campuses, and, the expansion of high school services to include the Monterey High School campus.

During the Fiscal Year 2002-03 budget process, the Council directed staff to set aside \$500,000 to be utilized for teen services and programming. Additional allocations of funding to the holding account were approved by the Council on February 15, 2005, in the amount of \$250,000 and on February 14, 2006, in the amount of \$250,000. There is currently \$250,550 in the Youth Services Holding Account.

Programs which have received funding include the Teens in Action Media Communications Team, Teens in Action Police-Youth Relations Team, Bliss Unlimited, Middle School Grant Program, Middle School Counseling Program, High School Counseling Program and creation of a Mayor's Youth Task Force Grant Resources Account.

The Middle School Counseling Program commenced in spring 2004 at all three middle school campuses. The Family Service Agency of Burbank was selected as the service provider. The total appropriated funding to date for the middle school program is \$175,000. Following the successful model of the Middle School Counseling Program, the Mayor's Youth Task Force recommended and the Council approved funding to provide services to high school students. The total appropriated funding to date for the high school program on two campuses is \$75,000.

The Mayor's Youth Task Force is recommending offering counseling services on the Monterey High School campus. Approximately 200 students are enrolled at Monterey High School. Based on its population of at-risk students, the percentage of students needing services is higher than at the other two high schools. The Monterey High School program would commence on September 1, 2006 and end August 31, 2007. If approved, the high school population in Burbank will be served on four campuses: Burbank, John Burroughs and Monterey High Schools, and the Community Day School. The latter is not funded through the Youth Services Holding Account.

The Mayor's Youth Task Force desires to continue and enhance the on-campus counseling programs at the three middle schools and two high schools; and, to initiate a counseling program that will service students at Monterey High School. At its May 17, 2006 meeting, the Mayor's Youth Task Force recommended an appropriation of \$75,000 for the three BUSD middle schools and \$75,000 to continue counseling services on Burbank and John Burroughs High School campuses, for the 2006-07 school year, September 1, 2006 through August 31, 2007. The Mayor's Youth Task Force also recommended an appropriation of \$25,000 to implement counseling services at Monterey High School as proposed by the Family Service Agency of Burbank.

The total amount recommended for funding the middle schools, Burbank and John Burroughs High Schools, and Monterey High School Program is \$175,000. The Family Service Agency is also dedicated to seeking and identifying additional funding sources to expand services which may include additional groups, individual, family and other services to best meet the needs of Burbank students.

Recommendation:

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

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FISCAL YEAR 2005-2006 BUDGET AND APPROPRIATING FUNDS IN THE AMOUNT OF \$175,000.00 FOR THE FUNDING OF YOUTH COUNSELING PROGRAMS FOR BURBANK UNIFIED SCHOOL DISTRICT CAMPUSES.

END OF CONSENT CALENDAR

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REPORTS TO COUNCIL:

6. NO FURTHER ACTION ON CHANDLER BOULEVARD ONE-WAY PAIR EVALUATION:

The Council directed staff to investigate the potential for modifying the existing traffic operation on Chandler Boulevard from two bi-directional streets to a one-way pair operation between Mariposa Street and Pass Avenue. The study began in November 2005, and it included the collection and analysis of current traffic demand and accident data, as well as a determination of the change in travel characteristics with a one-way pair. A public input component of the study was intended to gauge the disposition of residents and other users of Chandler Boulevard towards the one-way operation.

The technical data suggest that safety will not be significantly improved with a one-way pair operation of Chandler Boulevard. Travel efficiency will be improved for users of the main streets, but local residents will travel further. The data do not show an overwhelming improvement on Chandler Boulevard with the one-way pair operation.

Recommendation:

Staff recommends termination of the Chandler Boulevard study.

7. REQUEST TO CONSIDER ADDITIONAL SPEED CONTROL DEVICES ON EAST TUJUNGA AVENUE:

The Public Works Department received a petition to study the installation of speed humps, stop signs, cameras, flashing lights, medians or security gates from the residents on Tujunga Avenue between Sunset Canyon Drive and Gibson Court. Staff met with interested residents during two evening meetings on September 21, 2004 and October 25, 2004 to discuss the resident issues and to formulate a list of potential improvements for staff to investigate.

Improvement options were thoroughly discussed during six Traffic and Transportation Committee meetings on November 18, 2004, March 10, 2005, May 12, 2005, July 14, 2005, September 8, 2005 and November 10, 2005. Over the year-long period of discussion and evaluation, a number of improvements were installed on Tujunga Avenue including pavement markings, signs, traffic controls and visibility improvements. It was determined by the Traffic and Transportation Committee that these traffic control improvements were adequate and sufficient to resolve the speeding and safety issues raised by residents. Sharon Springer, a Tujunga Avenue resident, has requested that the item be reconsidered by the Council.

Recommendation:

Staff recommends that no further action be taken on speed control devices for Tujunga Avenue.

8. CONSIDERATION OF A VOLUNTARY DRUG AND ALCOHOL TESTING POLICY FOR CITY COUNCIL MEMBERS:

The purpose of this report is to request Council consideration of a voluntary drug and alcohol testing policy for Council Members, pursuant to Council direction given at the November 15, 2005 meeting. As part of the Council's consideration, it was noted that in May of 1997, the Council had previously discussed the issue of mandatory drug testing of Council Members. It was concluded by the City Attorney's Office that, based on several United States Supreme Court cases, mandatory drug testing of elected officials was not permissible.

Following presentation of the 1997 report, the Council voted 3-2 directing staff "to prepare an Administrative Procedure for voluntary drug and alcohol testing of elected officials, on a random basis, and that such policy include a process for reporting the results to the public." Subsequently in July 1997, a draft voluntary random drug and alcohol testing program was presented. However, the Council voted 3-2 against the implementation of such a program.

After reviewing the previous information on this matter, the Council, at the November 15, 2005 Council meeting, directed staff to return with a drug and alcohol testing policy for Council Members. They further asked for information regarding whether or not any such policy could be made applicable to the other Elected Officials (City Clerk and City Treasurer) as well as the Appointed Officials (City Manager and City Attorney).

In a separate memorandum, the City Attorney's Office has advised that while the Council cannot legally require suspicionless mandatory drug and alcohol testing of Council Members, Elected Officials and Appointed Officials, they can establish a drug and alcohol testing process for Council Members to voluntarily participate in. It would be a violation of the law, however, for the Council to require Appointed or other Elected Officials to submit to this process.

Pursuant to Council direction, staff has prepared a draft drug and alcohol testing policy for Council Members consistent with the legal guidelines outlined by the United States Supreme Court and the California Supreme Court, and set forth in greater detail in the City Attorney's memorandum. As required by law, this draft, which has been prepared for the purposes of discussion only, is designed to provide the Council Members with the opportunity to participate in a purely voluntary and random testing

process.

In developing this draft testing policy, staff attempted to find a sample policy that may have been contemplated or implemented in another city; however, staff was unable to locate a city in the State which has Council Members participating in a voluntary drug and alcohol testing program.

The following is a brief summary of the highlights of the draft policy.

Testing Procedure:

The names of two Council Members will be selected randomly for testing by the City's Department of Transportation (DOT) computer program on any Tuesday when the Council is scheduled to meet. This selection would occur once every two months. Council Members who are selected but were tested in the prior two months shall be passed over and another name selected. By offering the testing every two months, this would ensure that all Council Members would be tested at least once each year. The testing could also be done more or less frequently.

The selected Council Members will be notified by 11:00 a.m. on the day of testing that their name has been selected and asked if they will volunteer for the testing protocol. If they volunteer, they shall have until two hours prior to the commencement of the Council meeting to report to the designated testing clinic and submit the required urine and breath samples.

Disclosure of Results/Participation:

Council Members have a right of privacy in every aspect of submission to a medical procedure and drug testing is considered to be a medical procedure. As the Supreme Courts have determined, in order to preserve this right of privacy, the drug testing process in all of its component parts must be a truly voluntary process. In order for this to be a truly voluntary program, as required, the Council Member must voluntarily agree to the disclosure of: 1) whether he or she actually participated when his/her name was randomly selected; and, 2) what the results of the testing were. The draft policy provides that at each stage the Council Member has the opportunity to agree or not to submit to the test and to the release of the information relating to this process.

Recommendation:

It is staff's recommendation that the Council consider the draft voluntary drug and alcohol testing policy of Council Members and provide staff with appropriate direction.

ADOPTION OF PROPOSED ORDINANCE:

9. COMMERCIAL MUSIC LESSONS HOME OCCUPATION ORDINANCE:

The purpose of the proposed ordinance and resolution is to allow the conduct of

commercial music lessons from residences in Burbank, through the application of the following specified conditions, standards and regulations:

1. Applicants must obtain an Administrative Use Permit (AUP) pursuant to Division 4.1 of Article 19 of Chapter 31 of the Burbank Municipal Code (BMC), except that notice of the AUP decision shall be mailed to all property owners and occupants within 150 feet radius of the property. Cost of the AUP is to be \$175;
2. Applicants for an AUP to teach music lessons to minors, which are students under 18 years of age, are required to submit fingerprints in order to obtain any criminal history of the applicant;
3. Music lessons shall be conducted between the hours of 9:00 a.m. and 7:00 p.m.;
4. Music lessons shall be limited to a maximum of five days per week, however lessons shall not be given on Sundays;
5. Music lessons shall be limited to a maximum of 10 students per day;
6. Music lessons shall be conducted as one-on-one lessons, with one teacher and one student per lesson;
7. Noise associated with music lessons shall be limited to the current BMC decibel limit criteria which relates to noise levels in a residential zone that are associated with machinery, equipment, fans and air conditioning. Staff conducted field tests to assure these decibel limits would not be overly prohibitive, yet substantially protective of adjoining properties;
8. There must be designated on the premises a location for the queuing of students before and after lessons to prevent the uncontrolled loitering of students in the residential area. Such location shall be shown on the submitted site plan (the site plan will accompany the AUP application);
9. There must be on-premises parking for persons coming to or leaving music lessons. On-premises parking must be provided for at least one vehicle in addition to the required parking for the residence itself and must be shown on the submitted site plan for an AUP. Such parking area may be located in a driveway in a single-family residential zone. Guest parking may be used to satisfy this requirement in a multiple-family residential zone. When music lessons are being conducted, the designated parking area must be left open and available for student parking;
10. Music lessons are not subject to the pedestrian and vehicle traffic restrictions of Subsection (i) of the Home Occupation Ordinance;
11. Music lessons are prohibited in any multi-family structure which shares a common wall, ceiling, or floor with any other unit; and,
12. The applicant is responsible for all costs associated with the permitting process.

This ordinance was introduced at the May 30, 2006 meeting with modifications to allow for up to two students per class and a requirement that notice be provided to the property owner of any Administrative Use Permit application.

Recommendation:

Introduction of proposed ordinance entitled:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING

CHAPTER 31 OF THE BURBANK MUNICIPAL CODE RELATING TO HOME OCCUPATIONS AND MUSIC LESSONS.

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

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

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

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

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

**ADJOURNMENT.**

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