



COUNCIL AGENDA - CITY OF BURBANK
TUESDAY, AUGUST 8, 2006
5:30 P.M.

CITY COUNCIL CHAMBER – 275 EAST OLIVE AVENUE

This agenda contains a summary of each item of business which the Council may discuss or act on at this meeting. The complete staff report and all other written documentation relating to each item on this agenda are on file in the office of the City Clerk and the reference desks at the three libraries and are available for public inspection and review. If you have any question about any matter on the agenda, please call the office of the City Clerk at (818) 238-5851. This facility is disabled accessible. Auxiliary aids and services are available for individuals with speech, vision or hearing impairments (48-hour notice is required). Please contact the ADA Coordinator at (818) 238-5021 voice or (818) 238-5035 TDD with questions or concerns.

CLOSED SESSION ORAL COMMUNICATIONS IN COUNCIL CHAMBER:

Comments by the public on Closed Session items only. These comments will be limited to **three** minutes.

For this segment, a **PINK** card must be completed and presented to the City Clerk.

CLOSED SESSION IN CITY HALL BASEMENT LUNCH ROOM/CONFERENCE ROOM:

a. Conference with Legal Counsel – Existing Litigation:

Pursuant to Govt. Code §54956.9(a)

Name of Case: City of Burbank v. Kajima Construction, et al.

Case No.: 04CC12506

Brief description and nature of case: Complaint is for design and construction defects.

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

6:30 P.M.

INVOCATION:

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

FLAG SALUTE:

ROLL CALL:

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 special meeting agenda of July 31, 2006. Other Airport-related issues may also be discussed during this presentation.

Recommendation:

Receive report.

6:30 P.M. PUBLIC HEARING:

2. MAGNOLIA PARK PROPERTY-BASED BUSINESS IMPROVEMENT DISTRICT:

The purpose of this agenda item is for the Council to continue procedures and finalize proceedings on the proposed Property-based Business Improvement District (PBID), and authorize the opening of ballots. If upon the conclusion of the hearing, the submitted ballots (which shall be weighted according to the proportional financial obligation of the affected properties) in favor of the assessment exceed the ballots submitted in opposition, then the Council can adopt the resolution establishing the District and levying the first assessment. The City shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. The purpose of the PBID is to provide special services and improvements to enhance Magnolia Park.

On June 20, 2006, the Council considered initiation of the proposed PBID after receiving a petition representing over 50 percent of the property owners (weighted by the proposed assessment) supporting the proposed PBID. At that time, the Council authorized the distribution of ballots to the property owners who would be subject to the assessment. This action was the result of several months of developing a

Management District Plan in conjunction with various property owners, business owners, the Magnolia Park Community Advisory Committee and a PBID Steering Committee.

The Management District Plan outlines major components of the PBID, including: the proposed boundaries; service plan and budget; the proposed assessment formula; and, the proposed governance of the organization. The Plan proposes a number of improvements as well as service programs such as maintenance, promotions and administration. The Plan proposes a five-year budget, which is the maximum length that a PBID may be established, before a PBID needs to be re-established. The following summarizes the budget on an annual basis:

Annual Budget Summary

Parking Improvement	\$ 67,500
Maintenance	\$ 57,500
Promotion, Advertising, Events, and Business Recruitment	\$ 55,000
Advocacy and Administration	\$ 65,000
Contingency Reserve	<u>\$ 5,000</u>
Total	\$250,000

The proposed assessments for the District are divided between two zones. Zone 1 runs from Buena Vista Street and Magnolia Boulevard to Pass Avenue including Hollywood Way from Clark Avenue to Chandler Boulevard. Zone 2 runs from Pass Avenue to Ledge Street and Clybourn Avenue to Magnolia Boulevard. The cost to the property owners in Zone 1 is \$0.12 per lot square foot per year plus \$0.05 per building square foot per year. Because of fewer services and reduced benefits, the cost to owners in Zone 2 is \$0.06 per lot square foot per year plus \$0.025 per building square foot per year. Because of the commercial nature of the improvement programs, residential and non-profit properties are not assessed. The Parking Authority and other government jurisdictions will be assessed at the same formula.

Should the Council approve the formation of the PBID, it is recommended that the Council direct staff to advertise to solicit applications for the proposed PBID Board of Directors. Once sufficient applications are received, staff will return to the Council for the selection of the Board.

Recommendation:

Adoption of proposed resolution entitled:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ESTABLISHING THE MAGNOLIA PARK PROPERTY AND BUSINESS IMPROVEMENT DISTRICT, APPROVING THE ASSESSMENT FORMULA AND LEVYING THE ASSESSMENT FOR FISCAL YEAR 2006-2007.

REPORTING ON CLOSED SESSION:

INITIAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS: (Two minutes on any matter concerning City Business.)

There are four segments of Oral Communications during the Council Meeting. The first precedes the Closed Session items, the second and third segments precede the main part of the City Council's business (but follow announcements and public hearings), and the fourth is at the end of the meeting following all other City business.

Closed Session Oral Communications. During this period of oral communications, the public may comment only on items listed on the Closed Session Agenda(s). A **PINK** card must be completed and presented to the City Clerk. Comments will be limited to **three** minutes.

Initial Open Public Comment Period of Oral Communications. During this period of Oral Communications, the public may comment on any matter concerning City Business. A **BLUE** card must be completed and presented to the City Clerk. NOTE: Any person speaking during this segment may not speak during the third period of Oral Communications. Comments will be limited to **two** minutes.

Agenda Item Oral Communications. This segment of Oral Communications immediately follows the first period, but is limited to comments on action items on the agenda for this meeting. For this segment, a **YELLOW** card must be completed and presented to the City Clerk. Comments will be limited to **four** minutes.

Final Open Public Comment Period of Oral Communications. This segment of oral communications follows the conclusion of agenda items at the end of the meeting. The public may comment at this time on any matter concerning City Business. NOTE: Any member of the public speaking at the Initial Open Public Comment Period of Oral Communications may not speak during this segment. For this segment, a **GREEN** card must be completed and presented to the City Clerk. Comments will be limited to **two** minutes.

City Business. City business is defined as any matter that is under the jurisdiction of the City Council. Although other topics may be of interest to some people, if those topics are not under City Council jurisdiction, they are not City business and may not be discussed during Oral Communications.

Videotapes/Audiotapes. Videotapes or audiotapes may be presented by any member of the public at any period of Oral Communications or at any public hearing. Such tapes may not exceed the time limit of the applicable Oral Communications period or any public comment period during a public hearing. The playing time for the tape shall be counted as part of the allowed speaking time of that member of the public during that period.

Videotapes must be delivered to the Public Information Office by no later than 10:00 a.m. on the morning of the Council meeting in a format compatible with the City's video equipment. Neither videotapes nor audiotapes will be reviewed for content or edited by the City prior to the meeting, but it is suggested that the tapes not include material that is slanderous, pornographic, demeaning to any person or group of people, an invasion of privacy of any person, or inclusive of material covered by copyright.

Printed on the videocassette cover should be the name of the speaker, the period of oral communication the tape is to be played, and the total running time of the segment. The Public Information Office is not responsible for "cueing up" tapes, rewinding tapes, or fast forwarding tapes. To prevent errors, there should be ten seconds of blank tape at the beginning and end of the segment to be played. Additionally, the speaker should provide the first sentence on the tape as the "in cue" and the last sentence as the "out cue".

As with all Oral Communications, videotapes and audiotapes are limited to the subject matter jurisdiction of the City and may be declared out of order by the Mayor.

Disruptive Conduct. The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones and pagers, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

Once an individual is requested to leave the Council Chamber by the Mayor, that individual may not return to the Council Chamber for the remainder of the meeting. BMC §2-216(b).

Individuals standing in the Council Chamber will be required to take a seat. Also, no materials shall be placed in the aisles in order to keep the aisles open and passable. BMC §2-217(b).

Your participation in City Council meetings is welcome and your courtesy will be appreciated.

COUNCIL AND STAFF RESPONSE TO 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:

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. MINUTES:

Approval of minutes for the regular meetings of July 11 and July 18, 2006.

Recommendation:

Approve as submitted.

4. CONFIRMING THE ITEMIZED WRITTEN REPORT OF THE AGRICULTURAL COMMISSIONER/DIRECTOR OF WEIGHTS AND MEASURES FOR THE COUNTY OF LOS ANGELES FOR THE ABATEMENT OF WEEDS AND PUBLIC NUISANCES AND CONFIRMING THE COSTS OF SUCH ABATEMENT AND ASSESSING SUCH COSTS AGAINST CERTAIN REAL PROPERTY:

Staff is requesting Council approval of a resolution confirming and approving the itemized written report submitted by the County of Los Angeles Agricultural Commissioner/Weights and Measures and the special assessment for the costs to abate certain weeds and debris. This resolution also directs the Agricultural Commissioner to file with the County Auditor of Los Angeles County, a certified copy of this resolution and a copy of the itemized list of private property costs for abatement work performed by the County of Los Angeles.

The purpose of the annual weed abatement program is to remove the nuisance created on certain private properties by weeds and debris. The nuisances are potential fire hazards and serve as a haven for rodents and vectors. Each December, the County provides the City with a list of properties in need of abatement.

On February 14, 2006, the Council certified the County's list and the property owners were notified of the status of their parcels. On February 28, 2006, following a public hearing, the Council ordered the abatement of nuisances caused by weeds and debris on the declared properties and authorized an assessment for costs incurred for abatement work performed by the County.

The County completed the abatement of weeds and debris on all parcels that did not respond to the earlier notice and submitted a report to the City that identifies the parcels where abatement occurred and the cost of abatement.

The resolution before the Council confirms the report and the assessments against the affected properties, which if confirmed, will be submitted to the Los Angeles

County Tax Collector for inclusion in the 2006 and 2007 Property Tax bill. Those property owners who opted to pay their bill outside of this process will not have an assessment on their Property Tax bill.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK CONFIRMING THE ITEMIZED WRITTEN REPORT OF THE AGRICULTURAL COMMISSIONER/DIRECTOR OF WEIGHTS AND MEASURES FOR THE COUNTY OF LOS ANGELES FOR THE ABATEMENT OF WEEDS AND PUBLIC NUISANCES, AND CONFIRMING THE COSTS OF SUCH ABATEMENT AND ASSESSING SUCH COSTS AGAINST CERTAIN REAL PROPERTY.

5. CALIFORNIA'S PUBLICLY-OWNED ELECTRIC UTILITIES' PRINCIPLES ADDRESSING GREENHOUSE GAS REDUCTION GOALS:

Staff seeks the Council's adoption of the California Municipal Utilities Association (CMUA), California's Publicly-Owned Electric Utilities' Principles addressing Greenhouse Gas Reduction Goals. Burbank Water and Power is a member of CMUA.

At the June 2006 Board meeting, the CMUA Board of Governors adopted principles addressing Greenhouse Gas reduction goals. The CMUA Board recommends that these principles be adopted by city councils of local publicly-owned electric utilities. Wide adoption of these principles will allow CMUA to communicate and represent a united front to the Legislature and State regulatory agencies regarding the planned reduction in Greenhouse Gas emissions by publicly-owned electric utilities.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ADOPTING THE GREENHOUSE GAS REDUCTION GOALS OF THE CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION.

END OF CONSENT CALENDAR

REPORT TO COUNCIL:

6. COUNCIL MEMBER GOALS, PROPOSED FISCAL YEAR 2006-07 ANNUAL WORK PROGRAM AND PERFORMANCE INDICATORS (PARK, RECREATION AND COMMUNITY SERVICES DEPARTMENT, PUBLIC WORKS DEPARTMENT AND CITY MANAGER'S OFFICE):

The purpose of this report is to provide the Council with an opportunity to discuss each Council Member's individual Fiscal Year (FY) 2006-07 goals and, if desired by the Council, to work together to combine these individual goals into a consensus list of Council goals, as requested during the Council's Goal Setting Workshop held on May 6, 2006.

Staff is also presenting the proposed FY 2006-07 Annual Work Program and Performance Indicators for Council discussion and direction. The Annual Work Program is used as a management tool to identify, prioritize and monitor the City's projects and activities. The proposed FY 2006-07 Annual Work Program contains over 275 work items that have been identified by each department and suggested by the Council during the past year, the Council's Goal Setting Workshop and the annual budget study sessions.

The FY 2006-07 Performance Indicators are used by the City to assess how efficiently and effectively programs and activities are provided and determine whether organizational goals are being met.

Each Department Head will present his or her proposed FY 2006-07 Annual Work Program and Performance Indicators for the Council's review per the following schedule:

Park, Recreation and Community Services Public Works City Manager's Office	August 8, 2006
Management Services Police Department	August 15, 2006

Recommendation:

Staff recommends that the Council discuss the individual Council Members' goals for the upcoming fiscal year and provide any additional direction to staff as may be desired. Staff further recommends that the City Council review the proposed FY 2006-07 Annual Work Program and Performance Indicators per the proposed presentation schedule and provide input and direction as necessary.

ADOPTION OF PROPOSED ORDINANCES:

7. APPEALS AND DEVELOPMENT REVIEW PROCESSES FOR PLANNING APPLICATIONS:

Staff is requesting that the Council approve a Zone Text Amendment (ZTA) that would amend both the City's appeal and development review process for planning applications. The proposed amendment incorporates additional changes to the development review process as directed by the Council on June 27, 2006.

The roles and responsibilities of the applicant, appellant, public, Planning Board and Council, in the event of appeal, are not explicitly stated in the Burbank Municipal Code. The proposed ZTA would add new language to the Municipal Code, detailing the appeal process, obligations for recusal and the Council's ability to take action as a body, in-lieu of appeal.

The proposed ZTA would create a cutoff date after which an appeal may not be withdrawn by the appellant. Rather than permitting an appellant to withdraw their appeal up until the public hearing, staff recommends that withdrawal not be permitted as of 20 days prior to the public hearing. As such, if an appellant does not withdraw their appeal prior to the 20-day deadline, the public hearing would occur. This cutoff is set to coincide with the mailing of public notices and advertisement of the public hearing in the Burbank Leader newspaper.

Staff additionally recommends codifying a citizen participation process that would require a community meeting for all development review projects. It is the intent of staff to provide the public with an opportunity to voice comments and concerns to staff and the project applicant prior to issuance of the decision by the Community Development Director. Staff is currently holding these meetings on alternate Monday evenings when there is no Planning Board meeting. Additionally, at the recommendation of the Council, staff proposes that the noticing radius for development review applications be increased from 300 to 1,000 feet.

On June 27, 2006, staff provided a report to the Council regarding the ongoing update to the Land Use and Mobility Elements of the City's General Plan and the related development and traffic model. Given the direction of the Council, staff is proposing additional changes to the development review process that are intended to be in place for an interim period of time until the Council considers the proposed General Plan update and related development regulations. As proposed by staff, all non-residential projects having 50 or more trips during the AM or PM peak traffic hours would be processed as discretionary applications and would be subject to environmental review. In addition, all projects generating 50 or more trips would be subject to additional discretionary findings. These projects would have to be approved by the Planning Board following a noticed public hearing, rather than being approved administratively by the Community Development Director.

The Planning Board considered the proposed ZTA (not including the additional changes requested by the Council as noted above) at a public hearing on June 12, 2006. All Board members expressed their support for the development review community meetings and increasing the noticing requirement from 300 to 1,000 square feet for development review projects. The Board voted 4-0 to recommend that the Council adopt the ZTA, as proposed by staff with the additional provisions requiring that the appeal hearing be heard, by the appropriate body, no later than 75 days following the filing of the appeal.

These ordinances were introduced at the July 25, 2006 Council meeting.

Recommendation:

Adoption of proposed ordinances entitled:

1. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING CHAPTER 31 OF THE BURBANK MUNICIPAL CODE RELATING TO APPEALS AND THE DEVELOPMENT REVIEW PROCESS (Project No. 2006-008, Zone Text Amendment).
 2. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING CHAPTER 31 OF THE BURBANK MUNICIPAL CODE RELATING TO THE DEVELOPMENT REVIEW PROCESS (Project No. 2006-008, Zone Text Amendment).
8. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING SECTIONS 14-1101 AND 14-1102 OF THE BURBANK MUNICIPAL CODE, TELEPHONE USERS TAX:

Since 1969, the City of Burbank has imposed a Utility Users Tax, and specifically a Telephone Users Tax on every person using intrastate telephone communication services. In 1991, the Telephone Users Tax was amended to include interstate and international telephone communications services. The definition of "telephone communication services" contained in Burbank Municipal Code (BMC) § 14-1102 contains definitional references to provisions of Federal statutory and regulatory laws, including those relating to the imposition of the Federal Excise Tax on certain types of telecommunication services.

On May 26, 2006, the Internal Revenue Service changed its interpretation of the definitions contained in the Federal Excise Tax laws and determined that it would no longer impose the Federal Excise Tax on long distance and bundled telecommunications service. While Burbank's Municipal Code provisions referenced these Federal statutes and regulations for purposes of definition and ease and consistency of administration, the City of Burbank has, at all times, since its adoption in 1969 and as subsequently amended, intended that the imposition, administration and calculation methodology of its Utility Users Tax remain within the sole and exclusive jurisdiction of the City of Burbank and the BMC.

The amendments to this ordinance are intended only to remove obsolete references in the Telephone Users Tax ordinance to the now-repealed Internal Revenue Code rulings regarding definitions and exemptions, and to clarify the original intent and historical construction and practice of the City regarding the type of telephone service subject to the Utility User's Tax. **This Ordinance does not impose any new tax, increase any tax, or revise existing tax administration or calculation methodology. This Ordinance does not, nor is it intended to impose, extend or increase the Telephone Users Tax.**

This ordinance was introduced at the July 25, 2006 Council meeting.

Recommendation:

Adoption of proposed ordinance entitled:
AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING SECTIONS 14-1101 AND 14-1102 OF THE BURBANK MUNICIPAL CODE, TELEPHONE USERS TAX.

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**