



COUNCIL AGENDA - CITY OF BURBANK
TUESDAY, SEPTEMBER 12, 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 – Anticipated Litigation:

Pursuant to Govt. Code §54956.9(c)

Number of potential case(s): 1

b. 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: Burbank Firefighters Association.

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

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

6:30 P.M.

INVOCATION:

Joanne Oemig, First Presbyterian Church.

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

FLAG SALUTE:

ROLL CALL:

PROCLAMATION: CHILDHOOD INJURY PREVENTION WEEK.

PROCLAMATION: PROSTATE CANCER AWARENESS MONTH.

RECOGNITION: JAY TARNOFF, VERDUGO RECREATION CENTER VOLUNTEER.

RECOGNITION: MILITARY BANNER PROGRAM.

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 September 11, 2006. Other Airport-related issues may also be discussed during this presentation.

Recommendation:

Receive report.

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:

RECESS for the Parking Authority meeting.

RECONVENE for the City Council meeting.

CONSENT CALENDAR: (Items 2 through 8)

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.

2. APPROPRIATION OF FUNDS TO UNDERTAKE A STRUCTURAL ASSESSMENT OF THE DOWNTOWN PUBLIC PARKING STRUCTURES:

Staff requests the Council authorize an appropriation of \$25,000 from the General Liability Fund to augment the Parking Authority's budgeted funding for a structural assessment of City-owned parking structures in the downtown area.

In May 2006, the Council directed staff to complete a detailed analysis of the Parking Authority Fund (Fund), including all costs and income associated with operating the downtown parking system. The Council further directed staff to include an itemized evaluation of expenditures for each parking structure. The desired itemized evaluation will include short-term maintenance, utilities, management and long-term maintenance.

The request for maintenance information and recent emergency repairs to the AMC structure pointed to the need for a thorough evaluation of the public parking structures in the downtown area. Walker Parking Consultants (Walker) had previously been selected to evaluate structural issues at the AMC parking structure in conjunction with the construction of The Collection facility. This consultant was requested to develop a Capital Improvement Protection Program proposal for all downtown public parking structures, as they are experts in parking structure evaluation, restoration and repair. Walker's proposal provides a comprehensive evaluation of the current physical condition and structural elements of the three City-owned parking structures. The evaluation will include a due-diligence survey of the privately-owned parking facilities on Orange Grove Avenue and Palm Avenue to identify any immediate safety issues or durability issues that could impact the service life of the structures, which the City will use to ensure maintenance standards are properly followed in these structures. In addition, Walker will develop a recommended long-term maintenance program for the parking structures.

Staff budgeted \$65,000 in the Fund to hire Walker this fiscal year to provide an assessment of the AMC structure in preparation of The Collection project construction. The increase in scope of the assessment to include additional parking structures has increased the cost of the consultant's proposal to \$120,000. However, the proposal includes \$30,000 to develop a ten-year maintenance program; this portion of the proposal can be postponed to next fiscal year. Due to fiscal constraints, the Fund does not have sufficient resources within its budget or reserves to pay the additional \$25,000 currently needed for the assessment. Therefore, staff is requesting a budget appropriation from the General Liability Fund to augment the Fund budget.

Recommendation:

Adoption of proposed resolution entitled:

(4/5 vote required)

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FISCAL YEAR 2006-2007 BUDGET AND APPROPRIATING FUNDS IN THE AMOUNT OF \$25,000 FOR THE PARKING AUTHORITY ASSESSMENT OF THE DOWNTOWN PUBLIC PARKING STRUCTURES.

3. AUTHORIZING THE EXECUTION OF A GRANT AGREEMENT, ACCEPTING GRANT FUNDS, AND AMENDING THE FISCAL YEAR 2006-07 BUDGET TO FACILITATE THE CONSTRUCTION OF A COMPRESSED NATURAL GAS TIME-FILL STATION:

Staff is requesting Council approval of a resolution: authorizing the City Manager to execute a grant agreement with the South Coast Air Quality Management District (AQMD) Clean Transportation Funding from the Mobile Source Air Pollution Reduction Review Committee (MSRC); accepting grant funds from the AQMD in the amount of

\$287,700; appropriating \$403,912; and, amending the Fiscal Year (FY) 2006-07 Budget.

The Council appropriated \$400,000 in the FY 2005-06 Budget for the design and construction of a Time-Fill CNG fueling station at the City of Burbank Corporate Yard (Yard). This station will allow refuse trucks to fuel overnight at the Yard, rather than at the busy City-owned public access facility. Due to an increase in anticipated construction costs, an additional appropriation of \$175,000 was approved by the Council in the FY 2006-07 Budget.

In an effort to off-set some of the project costs, staff applied for grant funding in the amount of \$287,700 from the MSRC as part of a local government match program. On March 3, 2006 the AQMD Governing Board approved funding for the project in the amount of \$287,700, which will be paid to the City upon completion of the project.

Preliminary engineering estimates were figured at \$575,000. However, due to certain unknown conditions at the outset of the project, such as location of the station, distance from gas and electrical service feeders, and certain design elements added to enhance safety and productivity, the engineer's original estimate did not encompass all costs unique to the needs of the City's CNG Time-Fill station. In addition, due to significant increased costs of construction materials that are being experienced in all City projects including steel, concrete, electrical materials and labor costs, the estimated cost for the station has risen significantly. The new estimated cost for the station is \$978,912. Therefore, an appropriation of \$403,912 is necessary to complete the project.

Recommendation:

Adoption of proposed resolution entitled:

(4/5 vote required)

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AUTHORIZING THE EXECUTION OF A GRANT AGREEMENT TO ACCEPT SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT GRANT FUNDS IN THE AMOUNT OF \$287,700; APPROPRIATING ADDITIONAL FUNDS IN THE AMOUNT OF \$403,912 FOR THE NATURAL GAS FUELING STATION; AND AMENDING THE FISCAL YEAR 2006-2007 BUDGET.

4. AMENDING THE FISCAL YEAR 2006-07 BUDGET BY ACCEPTING A GRANT AWARDED TO THE BURBANK PUBLIC LIBRARY FROM THE BILL AND MELINDA GATES FOUNDATION PUBLIC ACCESS COMPUTER HARDWARE UPGRADE GRANT AND APPROPRIATING THESE MONIES FOR THE UPGRADING OF PUBLIC ACCESS COMPUTERS:

On January 11, 2000, the Council passed a resolution ratifying the Library Services Department's Gates Library Initiative Grant and accepting the award in the amount of \$20,663 for the purpose of expanding public access to computers, the Internet and digital information to the Burbank Community at the Burbank Public Library.

Subsequently, seven computers were purchased and distributed among the three libraries. In 2002 and 2003, the Library received the software upgrades provided for in the Grant for these computers.

In February 2006, the California State Library applied to the Bill and Melinda Gates Foundation for the Public Access Computer Hardware Upgrade (PAC HUG) program for libraries serving populations less than 300,000. In March 2006, the California State Library was awarded the grant and they notified participating libraries throughout the State of the upgrade program for the original Gates computers. The Burbank Public Library was awarded \$10,500 for this purpose. This money will be used to purchase public access computers with software. All funds must be expended by December 31, 2008.

There is no fiscal impact by accepting this grant.

Recommendation:

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

RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FISCAL YEAR 2006-07 BUDGET BY ACCEPTING THE GRANT AWARDED TO THE BURBANK PUBLIC LIBRARY FROM BILL AND MELINDA GATES FOUNDATION PUBLIC ACCESS COMPUTER HARDWARE UPGRADE GRANT (PAC HUG) OF \$10,500.00 AND APPROPRIATING THESE MONIES FOR THE UPGRADING OF PUBLIC ACCESS COMPUTERS.

5. ADOPTING THE NATIONAL INCIDENT MANAGEMENT SYSTEM AS THE OFFICIAL INCIDENT MANAGEMENT SYSTEM OF THE CITY OF BURBANK:

The purpose of this report is to request the Council's support of the National Incident Management System (NIMS) through adoption of a NIMS resolution. On February 28, 2003, President Bush issued a Homeland Security Presidential Directive (HSPD-5). The intent of this directive is to enhance the ability of the United States to manage domestic incidents such as terrorism and man-made and natural disasters by establishing a single, comprehensive, national incident management system. As a result of HSPD-5, the Department of Homeland Security developed NIMS, which is to be utilized for the management of all types of disasters. NIMS is very similar to California's Standardized Emergency Management System (SEMS), which was adopted through State legislation in the 1990s.

The Department of Homeland Security has notified all recipients of Federal grant funds relating to anti-terrorism, that adoption of and compliance with NIMS is required for future participation in Federal grants. The Governor's Office of Emergency Services (OES) has begun the process of integrating the NIMS program with California's adopted SEMS program. Ultimately, in California, SEMS will be synonymous with NIMS, and all government agencies will be required to use the new NIMS in order to qualify for post-disaster personnel cost reimbursement, as well as to qualify for Federal anti-terrorism grants.

Recommendation:

Adoption of proposed resolution entitled:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ADOPTING THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS).

6. SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT WITH ORSA CONSULTING ENGINEERS, INC. FOR UTILITY DESIGN WORK FOR THE STATE ROUTE 134 RAMP PROJECT:

The City and the California Department of Transportation (Caltrans) are finalizing design work in preparation for construction of a new westbound on-ramp at the State Route 134 interchange at Hollywood Way. This project is being constructed to relieve traffic congestion at the adjacent Hollywood Way/Alameda Avenue intersection by providing an additional on-ramp adjacent to the existing westbound off-ramp. Construction of this ramp requires widening of overpasses at Hollywood Way, Alameda Avenue, Pass Avenue and a number of City utility relocations are required to accommodate the bridge widenings. The City has been working with Caltrans to provide final design plans for required electrical utility relocations in and around the project site. A professional services agreement has been executed between the City and Orsa Consulting Engineers, Inc. (Orsa) to complete this design work. In the process of finalizing their construction staging plans, Caltrans has determined that additional underground electrical utility ducts will need to be installed in Riverside Drive near the Hollywood Way bridge to accommodate electrical loads during the construction period. The proposed Second Amendment to the Professional Services Agreement in the amount of \$9,500 would allow Orsa to prepare construction plans for the design of these underground utility ducts. Transportation Development Impact Fee funds for this task have been budgeted as part of overall project support for the State Route 134 Project, but because the total contract amount, including amendments, exceeds \$75,000, the Council must approve this amendment.

Recommendation:

Adoption of proposed resolution entitled:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE SECOND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF BURBANK AND ORSA CONSULTING ENGINEERS, INC. TO COMPLETE UTILITY RELOCATION DESIGN WORK ASSOCIATED WITH THE SR-134 RAMP PROJECT.

7. EAST VERDUGO AVENUE BICYCLE LANES AND TRAFFIC SIGNAL BICYCLE DETECTION UPGRADE PROJECT:

Staff requests the Council adopt the proposed resolution authorizing appropriation of \$35,000 from Fund 127 Development Impact Fees for the purposes of constructing bicycle lanes and bicycle traffic signal detection on Verdugo Avenue between Front

Street and Glenoaks Boulevard as part of a new traffic signal installation at Third Street that is already planned.

The Public Works Department Traffic Division is currently in final design to install a new traffic signal at the intersection of Third Street and Verdugo Avenue in Downtown Burbank. This signal project will require lane restriping along Verdugo Avenue to accommodate new left turn lanes required for the traffic signal improvement. Because the striping on Verdugo must be adjusted for this project, Public Works Traffic Division and Community Development Department Planning and Transportation Division staff felt that this was an opportunity to reconfigure the street to provide bicycle lanes and bicycle signal detection, and to implement an identified route in the Bicycle Master Plan. The bicycle lanes would be implemented by reducing the number of lanes from four to three (resulting in one travel lane in each direction and a center turn lane). Traffic counts taken on Verdugo Avenue and a review of Level of Service at the First Street/Verdugo Avenue intersection shows that this modification would not affect flows on the street. The additional \$35,000 would be used to fund additional street restriping and provide for bicycle lanes and signal detection to augment the traffic signal project.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FISCAL YEAR 2006-2007 ANNUAL BUDGET IN THE AMOUNT OF \$35,000 FOR BICYCLE LANE STRIPING AND TRAFFIC SIGNAL BICYCLE DETECTION UPGRADES ON EAST VERDUGO AVENUE.

8. AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN LOS ANGELES COUNTY AND THE CITY OF BURBANK FOR THE ADMINISTRATION OF THE UNIFIED HAZARDOUS WASTE AND MATERIALS MANAGEMENT REGULATORY PROGRAM:

The purpose of this report is to request the Council support and adopt the amendment to the Agreement Between the Consolidated Fire Protection District of Los Angeles County (County) and the City of Burbank for Administration of the Unified Hazardous Waste and Materials Management Regulatory Program (Program) and amend the Fiscal Year (FY) 2006-07 Fee Schedule to reflect the changes made pursuant to this amended agreement.

On December 10, 1996, the Council passed a resolution approving an agreement and Memorandum of Understanding (MOU) with the County. This agreement and MOU spelled out the specific details as to how these two governmental bodies would work together to administer the Program that was incorporated into law under Senate Bill 1082, now codified in Health and Safety Code Section 25404 et al.

Under the provisions of the Program, the County, in cooperation with the City, would institute a Single Fee System. The County would collect all related recurring fees and submit the collectibles back to the City as specified under this agreement. In 1996, a late payment penalty of 25 percent was established with the belief that this would pay

for the cost of late payment and collections. Under the provisions established by the Legislature, the program agency is permitted to collect fees to cover the cost of program administration. The County experience revealed that the current 25 percent late payment penalty was not covering the cost. Therefore, the Board of Supervisors approved a change in the Single Fee System to permit the Consolidated Fire Protection District to collect a 40 percent penalty for late payment. This action, since it is part of the Single Fee System, needs to be approved by the City through and amendment to the original contract.

The amended agreement will require the City to amend its Fee Schedule to reflect the changes and ensure consistency within the Single Fee System and all elements of the Program.

Recommendation:

Adoption of proposed resolutions entitled:

1. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY AND THE CITY OF BURBANK FOR ADMINISTRATION OF THE UNIFIED HAZARDOUS WASTE AND MATERIALS MANAGEMENT REGULATORY PROGRAM.

2. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING SECTIONS 4 AND 6 OF ARTICLE V OF RESOLUTION NO. 27,258, THE BURBANK FEE RESOLUTION, RELATING TO THE PENALTY FOR DELINQUENT PAYMENT OF HAZARDOUS MATERIALS REGULATORY FEES.

END OF CONSENT CALENDAR

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REPORTS TO COUNCIL:

9. TOBACCO RETAILERS LICENSING:

In June 2003, the Council directed staff to provide a report on the issue of Tobacco Retailers Licensing. Tobacco Retailer Licensing Ordinances function as a tool to help prevent under-aged persons (under the age of 18) from easily acquiring tobacco products from retailers. The requirement for a retailer to have a regulatory license in order to sell tobacco products is an incentive for retailers to not violate tobacco sales laws for fear of losing tobacco sale privileges through revocation or suspension of their license. In the past decade, local government tobacco retailer licensing has become increasingly effective as a deterrent for the prevention of tobacco usage by under-aged persons. To date, over forty California cities and counties utilize this licensing mechanism as a tobacco use deterrent for under-aged persons. Some counties, such as Contra Costa County, credit the combination of their Tobacco Retailer Licensing Ordinance and strong policing activity as the reason for the dramatic drop in the youth tobacco use rate from 37 percent to 2 percent.

The Council also directed staff to forward this matter to the Burbank Youth Board (Youth Board) for their review and recommendation. Coinciding with the Youth Board's review was a newly-enacted State of California law known as the California Cigarette and Tobacco Products Licensing Act, Assembly Bill (AB) 71. In addition to the Youth Board recommendation, the Council also wanted staff to evaluate the effectiveness of AB 71 as a tool for preventing under-aged persons from acquiring and utilizing tobacco products.

In November 2003, the Youth Board initially deliberated on the issue of tobacco retailer licensing. At that time, the Youth Board's recommendation was for the Council not to adopt such an ordinance. The Youth Board felt such an ordinance would be ineffective in preventing under-aged persons from acquiring tobacco products because there are so many other sources for acquiring tobacco products other than retailers. Then once again in May 2006, the Youth Board reviewed this matter and for a second time declined to favor Burbank adopting a Tobacco Retailer Licensing Ordinance.

As directed by the Council, through 2004 and 2005 staff observed how AB 71 functioned and found that the law primarily dealt with tobacco tax evasion and the smuggling of tobacco products. Consequently, it has been determined that the primary function of the law was to generate lost revenues through resale tax recovery. Although the State law provides for licensing elements it does very little to reduce tobacco sales to under-aged persons and is therefore not as effective as local tobacco retailer licensing ordinances.

Although the Youth Board has twice stated that if the Council adopted a Burbank Tobacco Retailer Licensing Ordinance it would not be effective as a deterrent for under-aged persons from acquiring and utilizing tobacco products; professional health officials, over forty California cities and counties, and code enforcement officials disagree. Regulatory business licensing has traditionally been an excellent tool for discouraging illegal and unwanted business practices. Such licensing makes it more difficult for clientele (under-aged persons) of licensed businesses to violate associated laws because of the threat of suspension or revocation of requisite licensing.

Should the Council direct staff to return with a draft Tobacco Retailers Licensing Ordinance, staff would begin this task by formulating a draft ordinance which utilizes the Technical Assistance Legal Center model ordinance as the backbone framework for an ordinance which would meet Burbank's needs. The model ordinance is designed to regulate tobacco retailers by establishing a licensing process which enables the adopting jurisdiction the ability to exercise both policing and administrative authority. The cost of the regulating license and subsequent enforcement is recovered through licensing fees.

Recommendation:

Staff recommends that the Council direct staff to return with a draft Burbank Tobacco Retailer Licensing Ordinance because adoption of such an ordinance will benefit the future health and well-being of Burbank youth.

10. APPOINTMENT TO FILL A VACANCY ON THE DOWNTOWN PARKING MANAGEMENT COMMITTEE:

Staff is requesting the Council make an appointment to fill the vacant position on the Downtown Parking Management Committee (DPMC).

The City Clerk's Office advertised and accepted applications for a vacancy on the DPMC created by the resignation of Stephen Chen who relocated to another city. Notice of the vacancy was sent to the newspapers and placed on the City's website and the Channel 6 scroll in order to obtain qualified candidates. As of the July 2006 deadline, the City Clerk's Office received applications from two candidates: Jesse Byers and Chipper Pastron.

The DPMC works with the City's Public Works, Community Development and Police Departments to develop recommendations to improve the effectiveness of existing parking resources and respond to the changing parking needs in the downtown area.

Recommendation:

Staff recommends the Council make an appointment from the applicants to fill the vacancy on the DPMC.

11. PARKING AUTHORITY FINANCIAL ANALYSIS:

The purpose of this report is to present the Council with detailed financial information about the operation and maintenance of the downtown parking system. Staff will summarize the current Parking Authority Fund (Fund) financial status and provide financial projections for the next several years.

On May 16, 2006, staff presented a modified downtown parking management plan to the Council recommending increased enforcement to adequately manage the parking demand in the downtown area and potential revenue sources to offset the cost associated with any improved parking enforcement implementation. The Council directed staff to return with a financial analysis of the Fund detailing the costs and revenues associated with the administration and maintenance of the downtown parking system.

The Fund was established in the early 1970's to administer parking-related matters. The Parking Authority (Authority) conducts real estate acquisition, construction, operation and maintenance of parking facilities for the City. Historically, the fund balance allowed the Authority to act as an independent entity without City assistance. However, this is no longer the case, primarily due to the anticipated unbudgeted funding needed for long-term structural maintenance of the downtown parking system and the anticipated increase for on-going routine maintenance.

The City's fiscal policy requires that the Authority maintain a balance equal to 60 days operating expense. The Fund is projected to fall below the required amount during the next fiscal year.

Recommendation:

Staff recommends the Council provide further direction on the financial future of the Authority.

12. REQUEST FOR COUNCIL DIRECTION TO PLACE THE TRANSIENT OCCUPANCY TAX INCREASE ON THE APRIL 10, 2007 GENERAL ELECTION BALLOT:

The purpose of this report is to request the Council place a measure on the April 10, 2007 General Election ballot seeking voter approval of an increase in the City's Transient Occupancy Tax (TOT). General Fund expenditures are outpacing ongoing revenues. In addition, the City has not been able in recent years to adequately fund infrastructure maintenance, repair and construction. An increase in the TOT would help offset the \$4 million gap between annual expenditures and revenues projected for Fiscal Year 2011, and could also help fund the City's growing infrastructure needs.

The TOT, or "bed tax," rate is currently 10 percent. The tax is applied to the room rate paid by those who occupy a room in a hotel, inn, motel, tourist home, or other lodging facility within the City's limits. The TOT was initially adopted in 1964 at a rate of four percent, and increased over the years to 10 percent in 1983. It has remained at 10 percent since 1983.

Staff is proposing the Council consider placing a measure on the April 10, 2007 ballot requesting voter approval of an increase in the TOT rate of up to 14 percent, from its current rate of 10 percent. Each one percent of the TOT rate generates approximately \$482,494. Therefore, an increase of four percentage points, to a new rate of 14 percent, would generate approximately \$1.9 million in additional annual revenue.

In addition to staff's proposal, the Chamber of Commerce (Chamber) has also proposed that a portion of the tax increase be earmarked for promotion and marketing of the City. This proposal is supported by Burbank hotels. The Chamber supports an increase in the TOT rate to 12 percent and has also proposed that 0.5 percentage points, which is approximately \$241,247, be directed toward a new marketing program to be administered by the Chamber. The details of this proposed marketing program have not been worked out. Should the Council be interested in considering this proposal, staff suggests that the Chamber be requested to provide a preliminary marketing/business plan.

A third proposal, suggested by Vice Mayor Marsha Ramos, would earmark 0.25 percentage points of the rate increase for City arts programs, with the Chamber's share of the rate increase reduced to 0.25 percentage points. This would result in approximately \$120,623 for arts programs and \$120,623 for City promotion and marketing.

The following lists several options for structuring the ballot measure.

1. General tax increase to 14 percent - funds used for general City purposes.
 - Majority voter approval required.
2. General tax increase to 14 percent.
 - During the annual budget adoption, the Council may include an allocation for City arts and/or promotion and marketing from general City revenues.
 - Requires majority voter approval.
 - Chamber concerned that funds would be subject to annual appropriation process.
3. Increase the tax to 14 percent with 0.5 percent for promotion and marketing.
 - Requires a two-thirds voter approval.
 - Chamber supports this option since it provides secure source of funding for City promotions.
 - Staff is concerned that a two-thirds vote is difficult to achieve.
4. Increase the tax to 14 percent for general governmental purposes and earmark 0.5 percentage points for promotion and marketing via a second, companion advisory vote.
 - Measure A: "Raise TOT to 14 percent for general governmental purposes?"
 - Measure B: "If TOT increase approved, shall 0.5 percentage points be used to fund City promotion and marketing?"
 - Majority voter approval required for both measures.
 - If "A" approved but "B" fails, TOT increase goes into effect.
 - If "A" fails but "B" approved, neither measure goes into effect.
 - Measure B is not legally binding (a moral obligation of the City).
 - Staff supports this approach should the Council wish to earmark a portion of the TOT increase.

For Options 2, 3 and 4, the Council may also include the earmarking of a portion of the increase for City arts. In addition, the Council may also choose a lower tax rate, below the 14 percent rate proposed by staff.

Many cities and counties who have been successful in securing voter approval for tax increases have, early in their processes, retained the services of a consultant to conduct community surveys, or polling, in order to gauge the level of support that might be expected from the tax measure. Should the Council support a TOT rate increase, staff recommends that a consultant be retained to survey the community. The costs of this effort have not been determined, but staff estimates it to be \$25,000 or less. The TOT is paid by visitors to Burbank who stay in City hotels, and who use City services. It is unreasonable to expect that the citizens of Burbank subsidize all the costs of services and infrastructure due to visitor use of services, streets, public works, etc. On the other hand, it is reasonable that these visitors help pay for the services they use. An increase in the TOT rate to 12 percent - 14 percent would only add between \$4.64 to \$5.24 per night to the average starting room rate for a hotel

customer.

Recommendation:

1. It is recommended that the Council provide direction as to which TOT rate increase option they prefer.
2. Adoption of proposed resolution entitled:
(4/5 vote required)
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FISCAL YEAR 2006-2007 BUDGET AND APPROPRIATING FUNDS IN THE AMOUNT OF \$25,000 FOR THE PURPOSE OF HIRING A CONSULTANT TO CONDUCT POLLING AND PROVIDE OTHER SERVICES FOR A POSSIBLE BALLOT MEASURE REGARDING THE CITY'S TRANSIENT OCCUPANCY TAX.

ADOPTION OF PROPOSED ORDINANCES:

13. ORDINANCE TO EXTEND PLAN LIMITS OF THE GOLDEN STATE, CITY CENTRE AND WEST OLIVE REDEVELOPMENT PROJECT AREAS AS AUTHORIZED BY SENATE BILL 1096:

Staff is requesting the Council adopt three ordinances extending the Redevelopment Plan (Plan) effectiveness dates and the debt repayment and receipt of tax increment dates by one year for the Golden State, City Centre and West Olive Redevelopment Project Areas in accordance with Senate Bill (SB) 1096. [Health and Safety Code §33333.2 (d)(4) and 33333.6(e)(2)(D)]

In 1992, the State Legislature for the first time enacted Educational Revenue Augmentation Funds (ERAF) to reduce the State's obligations to fund education and reduce a portion of the State's budget shortfall. ERAF reallocates a portion of Property Tax revenues due to local governments (counties, cities, special districts and redevelopment agencies) to fund education, thereby reducing the State General Fund allocations to school districts. As a component of the Fiscal Year (FY) 2004-05 State budget, the Legislature adopted SB 1096, which required every redevelopment agency to make an ERAF payment to the County Auditor for FYs 2004-05 and 2005-06.

In an effort to offset the financial burden caused by the ERAF payments, SB 1096 authorizes redevelopment agencies to amend their redevelopment plans to extend the time limits of effectiveness of their plans and to extend the dates for debt repayment and receipt of tax increment. Under SB 1096, redevelopment agencies may amend their redevelopment plans, depending upon the time remaining in the lives of these plans, by one year if the agency was required to make an ERAF payment for FY 2004-05 and an additional year if the agency was required to make an ERAF payment for FY 2005-06.

On August 30, 2005, the Council adopted an ordinance to extend the effectiveness dates of the plans by one year for payment of the FY 2004-05 ERAF payment. At that time, staff recommended that after the FY 2005-06 payment had been made, staff

would return for a second one-year time extension for the Council's consideration. Since the Agency remitted ERAF payments totaling \$2,498,676.73 for FY 2005-06 and because the Golden State, City Centre and West Olive Redevelopment Plans satisfy the SB 1096 requirements and notice of the public hearing has been given, the time limits for plan effectiveness and the time limit to repay indebtedness and receive tax increment for each plan may be extended by an additional year.

Recommendation:

Adoption of proposed ordinances entitled:

1. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK EXTENDING THE TIME LIMITS ON THE LIFE OF THE CITY CENTRE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN AND THE TIME LIMITS TO COLLECT TAX INCREMENT FROM THE CITY CENTRE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN FOR THE PAYMENT OF INDEBTEDNESS.
2. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK EXTENDING THE TIME LIMITS ON THE LIFE OF THE GOLDEN STATE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN AND THE TIME LIMITS TO COLLECT TAX INCREMENT FROM THE GOLDEN STATE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN FOR THE PAYMENT OF INDEBTEDNESS.
3. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK EXTENDING THE TIME LIMITS ON THE LIFE OF THE WEST OLIVE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN AND THE TIME LIMITS TO COLLECT TAX INCREMENT FROM THE WEST OLIVE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN FOR THE PAYMENT OF INDEBTEDNESS.

RECONVENE the Parking Authority meeting for public comment.

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

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

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

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

ADJOURNMENT: To September 19, 2006 at 5:00 pm in the Council Chamber at City Hall, 275 East Olive Avenue, for a Burbank Transportation Management Organization Study Session.

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