



COUNCIL AGENDA - CITY OF BURBANK
TUESDAY, APRIL 3, 2007

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.

6:30 P.M.

INVOCATION:

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

FLAG SALUTE:

ROLL CALL:

ANNOUNCEMENT: DARK MEETING ON APRIL 10, 2007.

PROCLAMATION: NATIONAL LIBRARY WEEK.

PROCLAMATION: SEXUAL ASSAULT AWARENESS MONTH.

PROCLAMATION: FAIR HOUSING MONTH.

PRESENTATION: VALLEY COMMUNITY CLINIC.

PRESENTATION: LOS ANGELES DEPARTMENT OF TRANSPORTATION
COMMUTER EXPRESS 549.

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 April 2, 2007. Other Airport-related issues may also be discussed during this presentation.

Recommendation:

Receive report.

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 THE OPEN PUBLIC COMMENT 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 2 through 4)

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. **AUTHORIZING EXECUTION OF A GRANT AGREEMENT AND ACCEPTANCE OF GRANT FUNDS TO ASSIST IN THE PURCHASE OF FIVE COMPRESSED NATURAL GAS REFUSE TRUCKS:**

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 (SCAQMD) Clean Transportation Funding from the Mobile Source Air Pollution Reduction Review Committee (MSRC) and to accept grant funds in the amount of \$125,000 to assist in funding the purchase of five Compressed Natural Gas (CNG)-fueled refuse trucks.

Following regularly scheduled equipment replacement and procurement procedures for the City, staff will be replacing five refuse trucks in Fiscal Years 2006-07 and 2007-08. The SCAQMD's Fleet Rule 1193 requires public and private solid waste collection fleets to acquire alternative-fuel refuse collection heavy-duty vehicles. In accordance with this rule, the new refuse trucks will be CNG-fueled. The City currently operates 21 CNG-fueled refuse trucks, all of which were purchased with the aid of grant funding from the SCAQMD.

In August 2006, the City's Fleet Board of Directors adopted a policy to pursue all viable grant funding opportunities for alternative fuel vehicles when it is in the best interest of the City. In accordance with this policy, staff applied for grant funding from Clean Transportation Funding from the MSRC to help fund the purchase of five CNG refuse vehicles.

The SCAQMD Governing Board approved funding for five CNG refuse trucks in the amount of \$125,000 on December 1, 2006. Staff received contract documents for this grant on February 23, 2007. The grant funds will be payable to the City upon completion of the purchase of the five CNG-fueled refuse trucks.

Delivery of the first of the five CNG refuse trucks is anticipated for June 2007. The delivery of the remaining trucks will follow the initial delivery in two-week increments.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AUTHORIZING THE EXECUTION OF A GRANT AGREEMENT AND ACCEPTANCE OF GRANT FUNDS TO ASSIST IN THE PURCHASE OF FIVE (5) CNG REFUSE TRUCKS.

3. APPROVAL OF FINAL MAP NO. 63102 – 701 EAST CYPRESS AVENUE:

Staff is requesting Council approval of Final Map No. 63102, a one-lot subdivision totaling 7,967 square feet located at 701 East Cypress Avenue. The property is in the R-3 Multiple-Family Low-Density Residential Zone and is owned by 701 East Cypress, LLC, a California Limited Liability Company.

On July 23, 2005, the property owner requested City approval to subdivide a five-unit multi-family residential building into a five-unit condominium building with a subterranean parking garage. Final Map No. 63102 finalizes the condominium subdivision.

All requirements of the State Subdivision Map Act have been met. The following is a summary of information pertinent to the approval of Final Map No. 63102:

1. The tentative tract map was approved by the Community Development Director on December 19, 2005 pursuant to Burbank Municipal Code Section 27-323 (Director's Decision on Tentative Map);
2. The Final Map contains five condominium units at 701 East Cypress Avenue, which is located in the R-3 Multiple-Family Low-Density Residential Zone;
3. This project is Categorically Exempt from the provisions of the California Environmental Quality Act pursuant to Section 15268(b)(3) pertaining to approval of final subdivision maps;
4. Conditions of Approval for Tentative Tract Map No. 63102 have been cleared by the Planning Division for the purpose of Final Map approval. The Condition of Approval relating to Covenants, Conditions and Restrictions (CC&Rs) will be satisfied when the applicant submits two recorded copies of the CC&Rs to the Planning Division (applicant cannot record the CC&Rs until this tract map is approved by the Council and recorded at the Los Angeles County Recorder's Office); and,
5. According to the State Subdivision Map Act, Chapter 3, Article 4, Section 66458, and the provisions of Chapter 27 of the Burbank Municipal Code, the Council must approve Final Map No. 63102 if it conforms to all the requirements. If such conformity does not exist, the Council must disapprove the map at the meeting it receives the map, or at its next regular meeting. If the Council has not authorized an extension to allow more time to disapprove the map, and the map conforms to all requirements, the map shall be deemed approved by operation of law.

Recommendation:

Adoption of proposed resolution entitled:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING
FINAL MAP OF TRACT NO. 63102 (701 EAST CYPRESS AVENUE).

4. APPROVING AND AUTHORIZING EXECUTION OF A FIRST AMENDMENT TO THE
LEGAL SERVICES AGREEMENT BETWEEN THE CITY AND RUTAN & TUCKER,
LLP.:

This item seeks Council approval of an amendment to the City's Legal Services Agreement with Rutan & Tucker, LLP, to increase the maximum amount of compensation from \$25,000 to \$35,000.

Recommendation:

Adoption of proposed resolution entitled:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE
FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF BURBANK AND RUTAN & TUCKER, LLP.

END OF CONSENT CALENDAR *** *** ***

REPORTS TO COUNCIL:

5. CONTINUATION OF PROJECT NO. 2006-26 – ZONE TEXT AMENDMENT:
REORGANIZATION OF BURBANK MUNICIPAL CODE PLANNING APPLICATION
PROCEDURES:

Article 19 of Chapter 31 of the Burbank Municipal Code (BMC) prescribes procedures for City consideration of various types of planning applications including Development Review, Conditional Use Permits, Variances and other planning permits and entitlements. As currently structured, each type of planning application has its own processing requirements, including those pertaining to hearings, noticing and decision making. Aside from Article 19, other sections of Chapter 31 establish the processing requirements for other types of applications. Processing requirements for tract and parcel maps are specified in Chapter 27 of the BMC.

In the current BMC, many of the requirements for different application types are duplicative, which results in redundant information appearing in the BMC. In other cases, requirements that could be applied uniformly to all application types are instead applicable only to certain types of applications but not others. The proposed Ordinance seeks to standardize the application process for all types of planning applications. The Ordinance would establish five application processes. All planning applications would be processed pursuant to the provisions of one of the five processes. The general procedures in place now for individual application types

would not change, but would be grouped into the process categories. The majority of changes included in the proposed Ordinance deal with the organization and language of the BMC, and would not result in any substantive changes to the process or other requirements.

In addition to improving the user friendliness of the Zoning Ordinance by removing redundancy and improving consistency, this Ordinance is being proposed by staff to simplify the process of adding new types of applications in the future. Further, the proposed use of standardized application processes is desired in conjunction with the use of a new project tracking software system that has been implemented for the Planning and Transportation Division. The system has greatly enhanced the Planning and Transportation Division's ability to manage project cases and to track previously-approved cases for compliance. Placing projects into broader processing categories as proposed would improve the workload management and reporting capabilities of the system because of the manner in which projects are categorized and filed in the software system.

The Planning Board (Board) held a public hearing to consider the proposed Zone Text Amendment (ZTA) on September 25, 2006. The Board asked a number of questions about various aspects of the proposed Ordinance, and voted to recommend one addition to the Ordinance, to include a statement regarding the applicability of timelines specified under various State laws to all planning applications. All of the Board members stated their support for the proposed ZTA and the creation of the standardized permit processes as a means to simplify and clarify application processing requirements. The Board voted 5-0 to recommend approval to the Council of the ZTA, including all proposed changes to Chapters 31 and 27.

Recommendation:

Introduction of proposed ordinance entitled:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING SECTIONS OF THE BURBANK MUNICIPAL CODE RELATING TO PLANNING APPLICATION PROCEDURES (CHAPTERS 27 AND 31).

6. APPROVAL TO ENTER INTO AN AGREEMENT WITH WAYNE HEALY FOR AN ART IN PUBLIC PLACES PROJECT AT THE COMMUNITY SERVICES BUILDING:

The purpose of this report is to request Council approval of a public art proposal for the Community Services Building (CSB) and authorization to enter into an agreement with artist Wayne Healy for the final design, fabrication and installation of the art project.

The Council directed staff to initiate an artist search, without the use of an art consultant. The total art budget, based upon the Art in Public Places Ordinance, was \$150,000. A Request For Qualification was developed and distributed to those artists on the City's open public artist interest list of over 150 individuals. Additionally, an advertisement soliciting artists was placed in the Daily News. Staff received approximately 50 completed applications.

The Site Specific Art Selection Committee is composed of members of the Project Oversight Committee which included Mayor Todd Campbell, Council Member Jef Vander Borcht, City Manager Mary Alvord, Assistant City Manager Michael Flad, Community Development Director Sue Georgino, Public Works Director Bonnie Teaford, building Architect Alex Ward, Park, Recreation and Community Services Director Eric Hansen, business representative Yumiko Whitaker and Art in Public Places Committee representative Penny Young. The Committee selected five finalists and on August 22, 2005, Mr. Healy was selected. He entered into a Design Agreement to create a proposal for the CSB. Prior to meeting with the Committee, he met separately with Architect Alex Ward to discuss various opportunity sites. They agreed upon the concept of developing a continuum of art for the building's public spaces.

On December 19, 2005, Mr. Healy made his initial presentation to the Committee. It included entrance walkway skylights with five historic images, 3'x 6' mobiles suspended from the atrium ceiling featuring images of workers fabricated out of gatter board, a vertical mural on an atrium wall, a large metal sculpture with a community-based theme and three additional skylights at the rear entrance featuring images of recreation activities. The Committee was very supportive of his concepts and provided direction as to the mural design, the placement of the large sculpture and the worker images. A follow-up meeting was held and additional comments were provided by the Committee members. On January 24, 2007, the Committee met to discuss the final proposal. They liked the changes and approved the project. Since Mayor Campbell and Councilmember Vander Borcht were unable to attend the previous meeting, the artist presented the proposal to them on January 30, 2007. They both approved the project.

The proposed art projects have the enthusiastic support of the Site Specific Selection Committee. In addition, the Art in Public Places Committee has approved the proposal. As designed, the projects will offer a continuum of art, placed at the entrances and in the atrium of the CSB. There will be images of workers providing services, historic images, recreational images and there will be community themes. Fabrications will be created in metal, gatter board, glass and paint.

Mr. Healy will be in attendance at the Council meeting to present his proposal and answer questions.

Funds in the amount of \$150,000, including the design fee of \$15,000, have been dedicated in account number 370.CP01A.70019.0000.11915.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH WAYNE HEALY FOR THE DESIGN, FABRICATION AND INSTALLATION OF ARTWORK FOR THE COMMUNITY SERVICES BUILDING.

7. BURBANK WATER AND POWER WATER AND ELECTRIC MONTHLY OPERATIONS REPORT:

WATER UPDATE

Water Quality

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

Financial and Operations Update

Fiscal Year-To-Date 2006-07 Water Fund Financial results as of February 28, 2007:

	<u>February 2007 Year-to- Date</u>			
	<u>Actual</u>	<u>Budget</u>	<u>Variance</u>	<u>% Variance</u>
Water put into the system (CCF)	6,869,325	6,875,510	(6,186)	(0%)
Potable water sales (CCF)	6,733,443	6,548,364	185,079	3%
Recycled water sales (CCF) ^(A)	608,983	820,704	(211,721)	(26%)
Potable Revenues	\$11,538	\$12,268	(\$730)	(6%) (B)
Recycled and Power Plant Revenues	922	1,217	(295)	(24%) (C)
<u>Total Operating Revenues</u>	<u>\$12,460</u>	<u>\$13,486</u>	<u>(\$1,025)</u>	<u>(8%)</u>
WCAC	5,105	5,100	(5)	(0%)
<u>Gross Margin</u>	<u>\$7,356</u>	<u>\$8,386</u>	<u>(\$1,030)</u>	<u>(12%)</u>
Operating Expenses	5,788	6,561	772	12%
<u>Operating Income</u>	<u>\$1,567</u>	<u>\$1,825</u>	<u>(\$258)</u>	<u>(14%)</u>
Interest and Other Income	739	929	(190)	(20%)
Interest Expenses	239	247	8	3%
<u>NI before Contr. & Transfers</u>	<u>\$2,068</u>	<u>\$2,508</u>	<u>(\$440)</u>	<u>(18%)</u>
Transfers (In Lieu)	619	613	(6)	(1%)
Contributed Capital (A.I.C)	642	747	(105)	(14%)
<u>Change in Net Assets (Net Income)</u>	<u>\$2,091</u>	<u>\$2,642</u>	<u>(\$551)</u>	<u>(21%)</u>

(A) Includes Power Plant Sales, Commercial and Industrial Reclaimed Sales.

(B) WCAC adjustment decreased Potable Water Revenues by \$847k.

(C) Power Plant requirements were lower than planned.

() = Unfavorable Variance

Fiscal Year 2006-07 Water Fund Financial Reserve balances as of February 28, 2007 are summarized in the following table:

Water (\$ in thousands)	2/28/2007	Recommended Reserves
Unrestricted Cash		
General Operating Reserve	\$5,419	\$4,430
Capital Reserve	\$2,807	\$3,580
Sub-Total Unrestricted Cash	\$8,226	\$8,010
Restricted Cash		
Water Replenishment Reserve	\$1,000	\$1,000
WCAC	\$2,493	\$2,493
Distribution Main Reserve	\$1,100	\$1,100
Debt Service Fund	\$785	\$785
Parity Reserve Fund	\$576	\$576
Sub-Total Restricted Cash	\$5,954	\$5,954
Total Cash	\$14,180	\$13,964

ELECTRIC UPDATE

Electric Reliability

The following table shows the system-wide reliability statistics for Fiscal Year 2006-07 through February 28, 2007 as compared to the same time period for Fiscal Year 2005-06:

Reliability Measure	Fiscal Year 2005-06	Fiscal Year 2006-07 (through Feb. 28, 2007)
Average Outages Per Year	0.3101	0.1725
Average Outage Duration	67.86 minutes	74.28 minutes
Average Service Availability	99.9940%	99.9963%

Financial and Operations Update

Fiscal Year-To-Date 2006-07 Electric Fund Financial results as of February 28, 2007:

	February 2007 Year-to-Date			
	Actual	Budget	Variance	% Variance
NEL MWh	839,436	795,683	43,753	5%
Retail Sales MWh	823,467	761,451	62,016	8%
Retail Revenues	105,349	99,405	\$5,944	6% (A)
Other Revenues	2,628	2,453	176	7%
Retail Power Supply & Transmission Expenses	67,098	67,707	609	1% (B)
Retail Gross Margin	40,879	34,151	\$6,728	20%
Wholesale Revenues	103,006	104,000	(994)	(1%)
Wholesale Power Supply	98,756	101,725	2,969	3%
Wholesale Gross Margin	\$4,250	\$2,275	\$1,975	87%
Gross Margin	45,129	\$36,426	\$8,703	24%
Operating Expenses	25,299	25,775	476	2%
Operating Income	19,830	\$10,650	\$9,179	86%
Interest and Other Income	3,341	2,785	556	20%
Interest Expense	2,789	2,789	(0)	0%
NI before Contr. & Transfers	20,382	10,647	9,735	91%
Transfers In/(Out) - (In lieu)	6,531	6,213	(318)	(5%)
NI before Contributions	13,851	\$4,434	\$9,417	212%
Contributed Capital (A.I.C)	213	2,403	(2,190)	(91%) (C)
Change in Net Assets (Net Income)	\$14,064	\$6,837	\$7,227	106%

(A) Higher sales are attributable to record high summer temperatures and retail load growth.

(B) The favorable retail power supply expense variance is due to operational efficiencies, efficient power hedging during the summer, and the annual MPP true-up refund.

(C) To date minimal Aid-in Construction, Misc., and Work for Others revenues have been recorded; however, projects are in process that will be billed.

Variance () = Unfavorable

Fiscal Year 2006-07 Power Fund Financial Reserve balances as of February 28, 2007 are summarized in the following table:

Electric (\$ in thousands)	Balance 2/28/2007	Recommended Reserves
Unrestricted Cash		
General Operating Reserve	\$42,356	\$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	\$3,955	\$0
Sub-Total Unrestricted Cash	\$60,110	\$61,770
Debt Service Fund & other	\$7,608	\$7,608
Parity Reserve Fund	\$9,743	\$9,743
Public Benefit	\$3,692	\$0
Sub-Total Restricted Cash	\$21,043	\$17,351
Total Cash	\$81,153	\$79,121

Recommendation:

Note and file.

ADOPTION OF PROPOSED ORDINANCES:

8. SECONDHAND SMOKE CONTROL ORDINANCE:

On January 30, 2007, the Council directed staff to prepare a draft Ordinance that would control public exposure to secondhand smoke in Burbank by prohibiting smoking at certain locations. Secondhand smoke is a complex mixture of gases and particles that is emitted from the burning and use of tobacco products. Many of the substances in secondhand smoke have been identified as toxic air pollutants and carcinogens. Exposure to secondhand smoke causes adverse health effects in adults and children, including cancer. Secondhand smoke has been identified as a toxic air pollutant by the California Air Resources Board and a Group A carcinogen by the United States Environmental Protection Agency.

Studies of secondhand smoke have traditionally focused on the adverse health effects of smoke exposure in indoor spaces. The State of California addressed indoor secondhand smoke exposure through the workplace smoking law, which took effect in 1995. The law prohibits smoking in most indoor places of employment such as offices, restaurants, and stores, but does not address outdoor areas. More recently, several studies have focused on secondhand smoke in outdoor areas. The studies have found that secondhand smoke concentrations and the related health effects in outdoor areas can be comparable to those found in indoor areas under certain circumstances. A number of California cities and counties have adopted local ordinances that supplement the State workplace smoking law by prohibiting or limiting smoking in indoor and outdoor areas that are not addressed under the State law.

On March 27, 2007, the Council voted to approve the proposed secondhand smoke control ordinance, subject to several modifications. The modifications approved by the Council are as follows (grouped by area):

City Parks and Facilities

- No changes to draft ordinance

Downtown Burbank

- Allow designated smoking areas to be created in Downtown Burbank
- Reduce smoking prohibition buffer area from sidewalks and pedestrian areas in Downtown Burbank from 20 feet to 5 feet

Chandler Bikeway

- No changes to draft ordinance;

Outdoor Dining Areas

- Clarify that prohibition applies only to outdoor dining areas open to the public and not private areas not open to the public;
- Allow designated smoking areas to be created in outdoor dining areas;
- Reduce smoking prohibition buffer area from outdoor dining areas from 20 feet to 5 feet

Outdoor Service Areas

- No changes to draft ordinance

Public Transit Vehicles, Stations and Stops

- No changes to draft ordinance

Outdoor Gathering and Event Areas

- No changes to draft ordinance

Outdoor Shopping Areas and Centers

- Allow designated smoking areas to be created in outdoor shopping areas and centers

Elevators

- No changes to draft ordinance

Proximity to Buildings

For the purpose of determining from where to measure the area in which smoking is prohibited:

- Change “door” to “entrance or exit”
- Change “operable window” to “open window”
- Change “accessible to the general public” to “open to, and while open to the general public” to clarify that it only applies while building or business is actually open

Designated Non-Smoking Areas

- No changes to draft ordinance

Common Residential Areas

- No changes to draft ordinance

Designated Smoking Areas

- Reduce buffer distance from pedestrian paths, walkways, seating areas, and other areas where people congregate from 20 feet to 5 feet
- Change “any pedestrian path” to “the primary pedestrian path” for smoking prohibition buffer area purposes

Smoking Within Private Vehicles

- Allow smoking in private vehicles at all times without limitation (under the draft ordinance, smoking in private vehicles would have been prohibited under certain circumstances)

Recommendation:

Adoption of proposed ordinance entitled:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING ARTICLE 7 OF CHAPTER 17 OF THE BURBANK MUNICIPAL CODE TO CONTROL EXPOSURE TO SECONDHAND SMOKE BY PROHIBITING SMOKING AT CERTAIN LOCATIONS THROUGHOUT THE CITY.

9. PROJECT NO. 2005-87, PLANNED DEVELOPMENT AND DEVELOPMENT REVIEW, 3901 RIVERSIDE DRIVE, MIXED-USE PROJECT:

The applicant, Amitesh Damudar, requested a Planned Development and Development Review to permit construction of a three-story building consisting of 7,648 gross square feet (GSF) of street level retail space (4,620 GSF of restaurant space and 3,028 GSF of general retail space), two levels of residential units (eight-units), and two levels of subterranean parking providing a total of 63 parking spaces for the project including 12 tandem spaces. The applicant requested a Planned Development and a Development Review to approve the project with unique development standards.

The Planning Board heard the matter on November 13, 2006 and November 27, 2006, and recommended the project for approval subject to the Conditions of Approval.

This ordinance was introduced at the March 27, 2007 Council meeting.

Recommendation:

Adoption of proposed ordinance entitled:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK APPROVING PLANNED DEVELOPMENT ZONE NO. 2005-87 AND APPROVING THE DEVELOPMENT AGREEMENT FOR PLANNED DEVELOPMENT NO. 2005-87 (3901 Riverside Drive – Damudar Family Trust, Applicant).

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 Tuesday, April 17, 2007 at 5:00 p.m. in the Council Chamber, 275 East Olive Avenue, for an Infrastructure 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**