

TUESDAY, AUGUST 28, 2001

A regular meeting of the Council of the City of Burbank was held at the Fire Training Center, 1845 North Ontario Street, on the above date. The meeting was called to order at 5:01 p.m. by Mr. Kramer, Mayor.

CLOSED SESSION

Present- - - - Council Members Golonski, Laurell, Murphy (arrived at 5:05 p.m.), Ramos (arrived at 5:02 p.m.) and Kramer.
Absent - - - - Council Members None.
Also Present - Mr. Ovrom, City Manager; Ms. Scott, Chief Assistant City Attorney; and, Mrs. Cabil, Municipal Records Clerk.

Oral Communications Mayor Kramer called for oral communications on Closed Session matters at this time.

Citizen Comment Appearing to comment was David Hanson, representing Environmental Golf, on the litigation related to the golf course, and stating that the denial of their insurance carrier in the litigation is not their fault, and asking that they be allowed to continue providing contract services to the golf course.

5:06 P.M. Recess The Council recessed at this time to the Fire Training Center Conference Room to hold a Closed Session on the following:

- a. Conference with Legal Counsel – Existing Litigation:
Pursuant to Govt. Code §54956.9(a)
 - 1. **Name of Case:** In the matter of the application of Burbank-Glendale-Pasadena Airport Authority – Administrative (Variance) Hearing conducted by Cal Trans.
Case No.: OAH No. L-9701269
Brief description and nature of case: Administrative review of Airport noise variance standards.
 - 2. **Name of Case:** City of Burbank v. AIG
Case No.: EC032082
Brief description and nature of case: Golf course injury.
- b. Conference with Legal Counsel – Anticipated Litigation (City as possible plaintiff):
Pursuant to Govt. Code §54956.9(c)
Number of potential case(s): 1

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- c. Conference with Legal Counsel – Anticipated Litigation (City as potential defendant):
Pursuant to Govt. Code §54956.9(b)(1)
Number of potential case(s): 1

- d. Conference with Real Property Negotiator:
Pursuant to Govt. Code §54956.8
Agency Negotiator: Community Development Director/
Susan M. Georgino
Property: 115 E. Cedar Avenue
Party With Whom City is Negotiating: Bozho and Josipa Deranja
Terms Under Negotiation: Purchase of property.

Regular Meeting Reconvened in Council Chambers The regular meeting of the Council of the City of Burbank was reconvened at 6:33 p.m. by Mr. Kramer, Mayor.

Invocation The invocation was given by Susie Peterson, Chair of Elders, Little White Chapel.

Flag Salute The pledge of allegiance to the flag was led by Boy Scout Troop 209.

ROLL CALL

Present- - - - Council Members Golonski, Laurell, Murphy, Ramos and Kramer.

Absent - - - - Council Members None.

Also Present - Mr. Ovrom, City Manager; Ms. Scott, Chief Assistant City Attorney; and, Mrs. Sarquiz, City Clerk.

301-1 National Prostate Cancer Awareness Month Mayor Kramer presented a proclamation to Ben Marks, representing the American Cancer Society, in honor of August as National Prostate Cancer Awareness Month.

301-1 Summer Trails Program 2001 Mayor Kramer and Vida Wolfe, Administrative Analyst in charge of City Youth Employment Program, thanked and presented Certificates of Commendation to the following program leaders and students that participated in the 2001 Summer Trails Program: Summer Trails Co-coordinators Elias Uribe and Adam Barlow; Team Leaders Juan Uribe, Matt Barlow, Arin Movsessian, Lena Rathbone and Katie Keeler; Junior Team

Leaders Ara Movsessian, Artour Mansuryan, Lucine Arutyunyan, William Bonilla, and Robert Barcena; and, student workers Jorge Almendares, Nathan Brandt, Desiree Flores, Brian Galvan, Richard Gerro, Timothy Gonzales, Alberto Gonzales, Justin Gutierrez, Robert Keshishyan, Christian Larin, Vanessa Luevanos, Diana Madrigal, Raul Morales-Vallejo, Brandon Morgan, Nicole Mowery, Chris Mowery, Nicole Mullin, Eddy Paez, Diana Parrales, Jorge Ramirez, David Reyes, Shane Reynolds, Lisvet Robles, Edgar Robles, Sebastian Salinas, Daniel Vargas, Ara Vartomian, Ismael Velasquez, Karapet Zakaryan, and Vladimar Zarian.

6:55 P.M.
 Joint Public
 Hearing w/
 Redev. Agency
 1702
 1411-1
 1411-2
 1103
 AMC Theaters
 Amended and
 Restated
 Planned
 Development

Mayor Kramer stated that "this is the time and place for the joint public hearing of the Redevelopment Agency and the Council of the City of Burbank on the Burbank Entertainment Village Project for the development of the property bounded by First Street, Magnolia Boulevard, and midblock between Palm and Orange Grove. The Project involves the construction and development of a mixed-use project which will include a sixteen (16) screen movie theater; retail and restaurant space; and a health club. Additionally, two on-site parking structures will be built. The discretionary actions include City and Agency consideration of: 1) Agency and Council approval of Implementation Agreement to the Owner Participation Agreement between the Agency and Burbank Entertainment Village; 2) Council approval of an Amended and Restated Planned Development which involves the rezoning of the Property from BCC-2 to Planned Development No. 98-2; 3) Council approval of a Development Agreement; and, 4) Council approval of two resolutions extending resolutions vacating a portion of Palm Avenue and the midblock alley between Palm and Magnolia, and First Street and San Fernando. Burbank Entertainment Village is the applicant."

Notice
 Given

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

Staff
 Report

Mr. Lynch, Senior Project Manager, reported that the proposed project before the City Council and Redevelopment Agency replaces the existing AMC 14 theater on the 100 block of East Palm Avenue with a new state-of-the-art AMC 16 screen theater including full stadium style seating. He said that the existing AMC 14 has acted as the main catalyst for the revitalization of the downtown, bringing millions of visitors to

the area each year. However, he said that the theater is now 15 years old and needs to be replaced to help ensure the long-term vitality of this important anchor for the downtown.

He explained that on August 3, 1999, the City Council and Redevelopment Agency approved plans and agreements to implement the proposed replacement project, called Burbank Entertainment Village. After the project was approved in 1999, he said the Agency and the developer acquired the site, relocated the existing businesses and cleared the site for construction. He then noted that to date, the developer has spent \$10 million on the project for various activities.

Next, Mr. Lynch discussed that the developer was to have obtained financing and started construction on the project in the Fall of 2000. Unfortunately, he said that it was at that time the entire theater industry began a period of retrenchment with several theater chains filing for bankruptcy in 2000. With these changing conditions, he said the developer was unable to obtain the financing necessary to begin construction of the project. Fortunately, he said the parent company, AMC Incorporated, has remained financially sound throughout this changing period in the theater industry. As a result, he said the AMC is now proposing to finance the project directly with its own source of funds. To accomplish this, he said the 1999 Owner Participation Agreement (OPA) needs to be modified through an Implementation Agreement. He further said that because AMC has requested certain design changes to the project, an amendment to the 1999 Planned Development No. 98-2, and Development Agreement must also be made.

Mr. Lynch then stated that prior to staff presenting and analyzing the proposed modifications to the Agreements, they would like to first introduce the project applicant Mr. Chuck Stilley, President of AMC Realty, and then have his architect present the plans. Following that, he said the project planner will discuss the proposed Amended and Restated Planned Development and Development Agreement and will conclude with a summary of the main points of the Implementation Agreement.

Applicant

Mr. Chuck Stilley, AMC Realty, discussed AMC's part in revitalizing the downtown and their desire to continue to be an integral part of that area. He said the current theater is old and considered functionally obsolete in the movie industry and noted the need to construct a state-of-the-art facility.

He then discussed that AMC not only survived the 2000 industry retrenchment, they thrived and are now the highest

grossing theater circuit in the world. He said a lot of that success has to do with their assets noting they have continued to build and replace them. He noted that one of their jewel projects is Downtown Disney in Anaheim.

Mr. Stillely said that AMC is known for innovation and this project will provide Burbank with the latest and greatest technology available. He then said that AMC and Burbank have been great partners for the past 15 years and expressed their desire to jumpstart the continuation of the redevelopment process.

He then introduced Todd Stoutenborough, Stoutenborough Inc., project architect, who he said would present the modified project plans through a computer program.

Mr. Stoutenborough said this project would be the facility where the people who make the movies will see the movies. He said the main entry to the theater will be on Palm Avenue noting the street will be raised so it is the same elevation as San Fernando Road. He said this entrance design will more efficiently activate the downtown and provide an outdoor area connecting to San Fernando Road. He said this area, called Palm Court, will have kiosks, landscaping, seating and possible writings in the pavement that would give famous quotes from famous movies.

Next, he said the bottom level of the area will have retail and restaurant uses, with the theater located on the second level. He said the building has lots of movement with unique landscaping around the perimeter that is urban but very activated with plants.

Mr. Stoutenborough then discussed that there will be two entries to a two level parking structure on Magnolia Boulevard. He said that both parking levels are connected by a ramp, which is called the paseo, which is the area between the Ross Store and the new theater complex. He noted that this area is wide open to parking and will have retail uses.

He concluded by describing the theater complex as follows: state-of-the-art facility; full stadium seating; disabled access at the first 1/3 of the theater; and, the lobby will have written movie quotes. He then noted that the theater will include an Art in Public Places project that will be coordinated with the City.

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Staff Report
Continued

Mr. Garcia, Assistant Planner, said he will briefly review the project entitlements requested by the applicant as well as the actions taken by the Planning Board on August 13, 2001.

He said that the entitlements the applicant is seeking are as follows and can be found in the Amended and Restated Planned Development No. 98-2 and its related Development Agreement; project decreased by a total of 35,605 gross square feet with 885 new parking spaces; and, deviations from Burbank Municipal Code Chapter 31 (Zoning Code) in three areas - building setbacks, landscaping and number of loading spaces.

He then said that the City's traffic consultant, J.D. Douglas, Parsons Brinckerhoff, would discuss the findings of the parking study following his presentation, but noted that as a result of the study, the following three Conditions of Approval were incorporated to address the parking concerns during construction of the phases: 1) The developer shall provide a parking shuttle for off-site parking of employees during Phase One and Two construction; 2) Posting of signs indicating directions for alternative parking sites and showing slides before each movie indicating alternative parking locations; and, 3) Incorporating a smart signage system for the two new parking structures at eventually the existing AMC parking structure that indicate when a parking lot is full an alternative location(s) to park.

Lastly, Mr. Garcia said that the Planning Board met on August 13, 2001 and approved the amended project by a 4 to 0 vote with the following two recommendations to the City Council: 1) Landscaping enhancements be made within the public right of way which include planters, vine pockets, and other streetscape to soften up the west façade (Magnolia Boulevard side); and, 2) A parking Shuttle Plan be revealed by staff prior to Council approval. He said staff has looked at the possible areas for employee parking and shuttle service as required in the Conditions of Approval. He noted that while the Plan must ultimately be approved by the Traffic Engineer, the Courthouse and Orange Grove parking structures have already been identified as being under-utilized and would be ideal for employee parking.

J.D. Douglas said his company was retained by the City to evaluate the parking impacts of this project on this area of the downtown. In developing estimates of future parking demand, he said they have relied on factors in the Institute of Transportation Engineers Parking Generation Handbook and the Urban Land Institutes Evaluation of Shared Parking. He noted that in using these authoritative sources they have also made the following two important assumptions to make sure the

analysis estimates a conservatively high demand that this project could generate so that they do not underestimate the potential demand: 1) The peak demand at the movie theater would increase on a per seat basis - it is estimated that the existing theaters generate one parking space for every five seats and the future theater will generate one parking space for every four seats; and, 2) In looking at shared parking uses, they have assumed that only 20 percent of the people coming to the developments in this project are going to multiple stops.

He stated that the project is providing 885 new parking spaces, with 231 existing spaces being taken away, thus, the net increase in the supply of spaces will be 654. In looking at the future demand, he said they compared the existing uses and how much parking they generate, and determined how much additional parking would be generated by the new theater plus the proposed retail, restaurant and health club uses, and found that they need 378 additional parking spaces during the peak time (weekend evening time period). Thus, he said the project would provide a net increase of 276 parking spaces during the peak period of time.

Mr. Lynch summarized the following three major elements of the Implementation Agreement: 1) Since the project has been scaled back, the scope of development has to be modified to reflect the changes proposed in the new Planned Development; 2) The Agreement allows the assignment of the rights to develop Phase One to the AMC parent company so they can self-finance the project correctly; and, 3) The Agreement allows AMC to assign the rights to develop Phase Two to a new developer which is subject to Redevelopment Agency approval. He noted that the Agreement also has provisions to allow the Agency to purchase the Phase Two parcel if necessary. He then said that most of the remaining deal points, including the economic deal points of the Owner Participation Agreement have remained unchanged.

Lastly, he explained that that the Agency will be spending, in today's dollars, approximately \$9 million towards the project of which \$4 million is for land acquisition and \$5 million is toward public parking. He said the Agency's revenues include \$1.16 million in land sale proceeds and nearly \$8 million in tax increment, which is the new property tax generated from the project. Thus, essentially, he said the Agency breaks even as with the previous Agreement.

Mr. Lynch concluded by noting the following project benefits: state-of-the-art theater will have an even greater impact on supporting the downtown retailers and restaurants; improved parking conditions by adding 276 additional parking spaces in

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the downtown during the peak times; and, the City will see new revenue separate from the Agency in that the project will generate approximately \$30 million in sales each year of which the City receives one percent or approximately \$300,000 each year.

Citizen
Comment

Appearing to comment were Barry Kessler, Kessler Jewelers, stating his general support for the project but noting concern with the project construction beginning in the middle of December and imploring the Council to postpone the demolition of the available parking until after the Christmas Holiday, stating Redevelopment has been promising parking "smart signage" for years and has never followed through and asking that this actually implemented during this project, and suggesting the City terminate the leased parking spaces on the second level of the Municipal Services Building parking structure on Orange Grove Avenue to provide additional parking until Phase Two is complete and to send a Citywide mailer outlining the project and where parking will be made available during the construction;

Stan Hyman, asking the Council to require the developer to construct parking spaces prior to the completion of the Phase Two to assist the merchants in Downtown, and supporting the proposed shuttle service to bring employees to the AMC site but stating the shuttle should be open to all people including merchants in Downtown; Molly Hyman, on concern with the surrounding sidewalks and on the need for improved streetscape and suggesting landscape/paintings on the walls during construction; Sunder Ramani, Chamber of Commerce President, stating the Chambers support for the project but noting the need for a sophisticated parking management program in the Downtown area to maintain its vitality; Bob Etter, opposing the City's economic participation in the project, and asking that the developer be required to hire union help to hang the screens; C.L. Stack, opposing the City economic participation in the program, stating he hopes the money comes back to the City and suggesting they give Burbank residents free shows, and asking that the landscape be lush; Michael Cusumano, Downtown property owner and Chairman of Downtown Parking Management Committee, stating his support as well as the Committees support for the project, noting the increased parking to be provided by the project will more than support the new AMC project as well as the existing businesses, and supporting the other traffic mitigation plans including the shuttle, smart parking etc.;

Theresa Karam, opposing the City's economic participation in the project and on concern with the availability of parking in the Downtown area noting it should all be constructed in the First Phase; David Piroli, stating his belief the Agency should not economically participate in this project noting his belief that the theater is not old and should not be considered blight, on concern with AMC being able to use a second party developer to construct the Phase Two portion of the project, on concern with the financial problems facing the theater industry and whether or not it has the stamina to maintain the Downtown, and opposing the proposed kiosks in the Downtown; Mike Nolan, opposing the project economics, questioning AMC's motivation for building a new complex noting his belief it is not necessary particularly since the economics are not beneficial, on concern that AMC will close their other theaters in the mall, and asking the Council to reject the project; Mark Barton, supporting the project; and, James Schad, opposing the City's economic participation in the project and stating his general opposition to developers who look for financial assistance from the City.

Staff Response

Mr. Garcia addressed concerns that were raised related to the Amended and Restated Planned Development and related Development Agreement. He said the project is slated to begin in October noting staff believes this will provide ample opportunity for the public to adjust to the parking changes. Next, he said the smart signage is part of the parking management plan for the downtown and has two aspects: the first part of the program is for the smart signage in the parking structures and that will be paid for by the developer; the second part of the program is electrical signage throughout the downtown indicating where parking is and that will be paid for by the City. He said AMC will also have a shuttle program for all employees and construction employees. He also said the applicant is working with staff to incorporate more landscaping on the Palm Avenue and Magnolia Boulevard sides.

Next, Ms. Head, Keyser Marston, addressed concerns related to the project economics. First, she said it was important to understand that the project size decreased by about 32,000 square feet and some of the impacts that caused are a little bit counterintuitive which may be why some people are questioning the economics. She said the major changes to the project costs are the addition of a prevailing wage policy and the parking costs are materially higher than originally projected. She said these combined changes have increased the total project costs by \$8.6 million for a project that decreased in size by about 32,000 square feet.

On the income side of the project, she said the projected rents have increased from about \$19.25 per square foot on average for the non-theater use to \$21.15. However, she said a couple other things happened: project size decreased so there is less square footage to generate rent; and, the theater became a bigger portion of the project and they had always done the return calculation for this, with the theater taking a below typical rate of return for the developer given the developer's vested interest in maintaining market share in this market area. Thus, she said that when they looked at the original project, they estimated a 9.6 percent return and now it is a 9.3 percent return and noted that the bottom line is as follows: project rent decreased, project return decreased and the net result was the supportable private investment stayed exactly the same. She noted that the Agency assistance has not changed.

Ms. Head then discussed that a question was raised about the \$687,000 land value that was included as a revenue source in the original summary report for this project. She said that land value was derived as follows: there was a \$24 reuse value associated with the original project and that value was applied to the area that is being conveyed to the Agency to build the public parking structure. Now the value that is being conveyed to the Agency is actually a negative number so it is no longer a revenue source to the Agency. She then said those revenues were removed from the Summary Report. At the same time, given the changes in project costs that have occurred, she said the property tax increment actually went up by about \$900,000 in present value terms. Thus, she said the net revenue to the Agency is about \$200,000 higher under the currently proposed transaction than formerly.

Applicant

Mr. Stillely, AMC Realty, responded to questions regarding AMC's financial condition. He said that AMC created the megaplex concept in 1995, the current state-of-the-art in movie theaters, and since then they opened about 2,000 screens. During that time, he said they also closed some of the older theaters that were not financially sound but noted that was no indication of the overall financial condition of the company. He said that AMC is financially healthy and said the fact that they are paying cash is a sign of their condition.

Mr. Stoutenborough said the building is designed to premiere movies in Burbank and will be a highly viewed theater throughout the world. He said the entire building has been carefully designed to provide adequate access, signage and landscaping. He noted that they particularly addressed the landscaping and activity at the back side of the theater, the

Hearing Closed	corner of Magnolia Boulevard and Third Street. There being no further response to the Mayor's invitation for oral comment, the hearing was declared closed.
Motion	It was moved by Mrs. Murphy and seconded by Mr. Laurell that "the following resolutions be passed and adopted and that the ordinance be introduced and passed to the second reading:"
1702 1103 Execute Implementation Agmt. w/Redev. Agency and Burbank Entertainment Village	<u>RESOLUTION NO. 26,080:</u> A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING AND AUTHORIZING THE EXECUTION OF THE IMPLEMENTATION AGREEMENT TO THE OWNER PARTICIPATION AGREEMENT BY AND BETWEEN THE REDEVELOPMENT AGENCY AND BURBANK ENTERTAINMENT VILLAGE, L.L.C., A LIMITED LIABILITY COMPANY.
Redev. Reso. Adopted	Redevelopment Agency Resolution No. R-2011 Approving and Authorizing the Execution of the Implementation Agreement to the Owner Participation Agreement by and Between the Agency and Burbank Entertainment Village, L.L.C., a Limited Liability Company was adopted.
1702 1103 PD 98-2 Burbank Entertainment Village	AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE AMENDED AND RESTATED PLANNED DEVELOPMENT NO. 98-2 AND A DEVELOPMENT AGREEMENT RELATED THERETO (Burbank Entertainment Village)
1702 1411-2 1103 Alley Vacation First St. N. of San Fernando bet. Magnolia & Palm (V-324)	<u>RESOLUTION NO. 26,081:</u> A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING RESOLUTION NO. 25,582 ORDERING THE CONDITIONAL VACATION OF A PORTION OF THE ALLEY BOUNDED BY FIRST STREET AND NORTH SAN FERNANDO BOULEVARD, AND MAGNOLIA BOULEVARD AND PALM AVENUE (V-324).
1702 1411-1 1103 Vacation of Palm Bet. First & N. San Fernando (V-326)	<u>RESOLUTION NO. 26,082:</u> A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING RESOLUTION NO. 25,595 ORDERING THE CONDITIONAL VACATION OF A PORTION OF PALM AVENUE BETWEEN FIRST STREET AND NORTH SAN FERNANDO BOULEVARD (V-326).

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Adopted The resolutions were adopted and the ordinance was introduced by the following vote:

Ayes: Council Members Golonski, Laurell, Murphy, Ramos and Kramer.

Noes: Council Members None.

Absent: Council Members None.

8:37 P.M.
Recess of
Redevelopment
Agency Meeting The Redevelopment Agency meeting was recessed at this time to allow the City Council to continue its meeting.

Reporting on
Closed Session Ms. Scott reported on the Closed Session items considered by the City Council and Redevelopment Agency. She noted that the City Council Closed Session items were continued to 5:30 p.m. on August 30, 2001 in the Police/Fire Executive Conference Room, 200 North Third Street.

406
Airport Authority
Report Airport Commissioner Bill Wiggins reported on the items that were on the August 20, 2001 Airport Authority meeting agenda. He said the Authority approved the following matters: a Certification of a Mitigated Negative Declaration and Relocated Movie Equipment Storage Facility project related to Desmond Studios; a contract for two bid schedules related to the Residential Acoustical Treatment Program; and, the extension of Desmond Studios month-to-month lease to also include an additional 12 acres. He concluded by stating that the Authority had a Closed Session meeting on August 27, 2001.

The City Council received the report.

First Period of
Oral
Communications Mr. Kramer called for speakers for the first period of oral communications at this time.

Citizen
Comment Appearing to comment were Marc Cutter, on concern with some Burbank businesses allowing people to smoke and noting the need for the City to enforce this matter and penalize the violators; Dez Tenke, on the need for the Council to observe Veterans Day on the actual legally established day;

R. C. "Chappy" Czapiewski, stating his belief that Mr. Wiggins has a conflict in serving on the Airport Authority due to his affiliation with the Glendale Chamber of Commerce, and on concern with Mr. Wiggins actions on the new Airport Terminal; Howard Rothenbach, asking questions about the proposed uses for the Adjacent Airport property (Trust Property), and questioning the Council's discussion of the Airport Noise Variance litigation matter; Molly Hyman, inviting Council Member Laurell to talk to her and Stan regarding the Long Beach Airport curfew matter; Stan Hyman, asking that the Election PSA begin playing on channel 6, and asking questions related to the Election process; Esther Espinoza, on concern that she did not receive information she asked for related to employee demographics; Ron Vanderford, supporting the Restore Our Airport Rights (ROAR) initiative, Measure A noting the need to protect property values; Theresa Karam, supporting Measure A and asking for an explanation of the title Airport Development Measure; and David Piroli, stating his belief that the AMC project was not financially sound and noting the changes in the media industry.

Staff Response	Members of the Council and staff responded to questions raised.
Motion	<p>It was moved by Mrs. Murphy, seconded by Mrs. Ramos and carried that "the Council disclose the discussion of the Noise Variance Hearing held this evening in Closed Session."</p> <p>Mrs. Murphy then reported on the discussion from the Closed Session meeting. She said that the Council had the ability to consider having the Noise Variance Hearing conducted in closed or open session and she noted that the Council determined that the Hearing be done in open session.</p>
9:06 P.M. Recess	The Council recessed at this time. The meeting reconvened at 9:19 p.m. with all members present.
Second Period of Oral Communications	Mr. Kramer called for speakers for the second period of oral communications at this time.
Citizen Comment	Appearing to comment were Don Elsmore, on concern with the

Airport's approval of a mitigated negative declaration and on concern with the Noise Variance Hearing process; Tom Jamentz, Chair of the Burbank Water and Power (BWP) Advisory Board, stating the Board was supportive of the Energy Cost Adjustment Charge (ECAC) increase noting it was needed to meet bond covenants and operational expenses, and noting that even with the increase Burbank's rates are still competitive and only higher than the City of Los Angeles; Jerry Walls, on concern with the proposed ECAC increase, stating concern that senior citizens will not be able to pay increased costs, and opposing the planning process conducted to meet the Departments budget needs; R. C. "Chappy" Czapiewski, supporting Measure A, and playing a video tape of comments made by David Piroli related to the noise and traffic created by airports and on concern that they are not regulated; Irma Loose, supporting Measure A and questioning several Council Members actions regarding the Airport; Mark Barton, supporting the AMC project; Ron Vanderford, on his belief that the Council is using the Burbank Firefighters to oppose Measure A since they can't use taxpayer money to oppose the matter, on concern that many of the firefighters do not live in Burbank, and supporting Measure A; Howard Rothenbach, supporting Measure A, on concern with the proposed utility rate increase, suggesting City employee salaries be cut to address rate increases, and asking what type of issues will be included in the Airport Noise Variance Hearing by the City; Esther Espinoza, on concern with the AMC project regarding economics and parking; Bob Olson, BWP Advisory Board Member, stating when he first joined the Board they were discussing a 34 percent rate increase which never occurred, stating the planning process at BWP is exceptional with creative financing strategies, and stating the current rate increases are warranted and still keep Burbank competitive;

David Piroli, asking who generated the City of Burbank independence briefing paper and referring to a statement in the paper which says the Airport is a public body that was created to insulate the three cities from liabilities of the Airport operation and to maintain control over the Airport and its governing commission, and noting his belief that the Airport does not abide by these premises; Dr. Theresa Karam, supporting Measure A, asking Vice Mayor Laurell to explain the title of Measure A – Airport Development Measure - and stating her belief that the title is confusing; Mike Nolan, opposing the ECAC increase noting his belief that the Council should take action to stop the proposed increase, and stating

the Council should require BWP to return with a report in 30 days that re-addresses this issue and further discusses whether BWP capital improvements can be funded with bonds versus cash; and Eden Rosen, opposing the proposed utility rate increase noting it will hurt many people in the community who are on fixed incomes or are in the low income category and asking the Council to consider helping people in these income ranges.

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| Staff Response | Members of the Council and staff responded to questions raised. |
| 10:20 P.M.
Recess | The Council recessed to permit the Redevelopment Agency, Parking Authority, and Youth Endowment Services Fund Board to hold their meetings. The Council reconvened at 10:58 p.m. with all members present. |
| Motion | It was moved by Mrs. Murphy and seconded by Mr. Laurell that "the following items on the consent calendar be approved as recommended." |
| 204
1 st Amend. to
PSA with Martin
& Chapman | <u>RESOLUTION NO. 26,083:</u>
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING FISCAL YEAR 2001-2002 BUDGET FOR THE PURPOSE OF APPROPRIATING ADDITIONAL FUNDING FOR ELECTION SERVICES. |
| 1208-1
1108
Acquisition of
115-123 E.
Cedar Ave.
(Bozho & Josipa
Deranja) | <u>RESOLUTION NO. 26,084:</u>
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING AN ACQUISITION AGREEMENT BETWEEN THE CITY OF BURBANK AND BOZHO AND JOSIPA DERANJA (115-123 EAST CEDAR AVENUE). |
| 801
FY 2000-2001
Request for
Continuing
Appropriations | <u>RESOLUTION NO. 26,085:</u>
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING FISCAL YEAR 2001-2002 BUDGET FOR THE PURPOSE OF CONTINUING APPROPRIATIONS FROM FISCAL YEAR 2000-2001. |
| Adopted | The consent calendar was adopted by the following vote: |

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Ayes: Council Members Golonski, Laurell, Murphy, Ramos and Kramer.

Noes: Council Members None.

Absent: Council Members None.

1504

1503

BWP Electric &
Water Monthly
Operating Report

Mr. Davis, General Manager, Burbank Water and Power (BWP), presented the monthly Electric and Water Report regarding water quality and power issues for August 2001.

He began by discussing the following issues related to water quality and operations: Chromium 6 samples taken during the month of July were up slightly, ranging from 4 to 6 parts per billion. The reason for the increase is due to the fact that BWP was finally allowed to take over operation of the Operable Unit from Lockheed and ran it 96.77 percent of capacity during the month, and by operating at this level, the blend of Metropolitan Water District Water was about 60/40 rather than the typical 50/50 split; and, The American Water Works Association Research Foundation has committed to a 400,000 bench test grant for chromium 6 treatments for very low levels, similar to Burbank's. This grant is being pursued and research study through Mike McGuire and Associates (Burbank's consultant) in concert with Glendale, San Fernando and the City of Los Angeles.

Next, Mr. Davis discussed the following issues related to electric operations: Olive 2 came back on line with the new digital control system and has reduced Nox emissions by an average of 40 percent; Magnolia 4 was returned to service and ready to be used if we have reliability problems and the units capacity has been sold for next summer which has recovered all of the costs that were incurred to return it to service; licensing efforts have continued on the new Magnolia Power Project and staff is pursuing equipment discussions with General Electric and reviewing financial strategies; and, the Federal Energy Commission has issued numerous orders throughout July demanding a new right to regulate wholesale power prices that municipal utilities may charge and has further asserted such a right on a retroactive basis. BWP has filed in Federal Court against this assumption of such regulatory right and is participating in the settlements and refund process in order to protect Burbank's interest.

The City Council received the report.

10:52 P.M.
Recess

The Council recessed at this time. The meeting reconvened at 10:58 p.m. with all member present.

1503-2
BWP's Proposal
To Increase
Electric Rates

Mr. Davis, Burbank Water and Power (BWP) General Manager, reported that beginning with all electric bills rendered on or after October 1, 2001, BWP needs to increase the Energy Cost Adjustment Charge (ECAC) in order to do the following: cover the costs of providing service; operate in a financially prudent manner; and, meet the requirements of BWP's bond covenants. He noted that as a result of this ECAC increase, customers will see a 10 to 11 percent overall rate increase.

He then noted that the ECAC increase can be done administratively but noted that in the past, the Council has asked that they be notified in advance of any such changes.

He explained that the ECAC adjustment was made necessary by reduced electric demand in the Western United States and by the unfortunate timing of the Federal Energy Regulatory Commission (FERC) Order imposing price caps. He said the price caps occurred after BWP and others had to lock in higher power and fuel costs in order to assure power would be available this fiscal year. He noted that numerous FERC statements strongly opposing price caps had indicated this would not occur, and BWP reacted accordingly. He further noted that in the new price-capped market, BWP's net revenues from wholesale trading are expected to be far below earlier estimates.

Mr. Davis discussed that although BWP has been able to lower its estimated expenses by \$19.5 million, it still faces a shortfall of \$23.6 million. Assuming the use of available Rate Stabilization Fund (RSF) funds of \$14 million, he said that BWP still needs a 15 percent ECAC increase (10 to 11 percent overall rate increase) to cover the remaining \$9.6 million shortfall.

He then discussed that BWP must demonstrate that its sources of revenue enable BWP to meet its bond covenants; in other words, electric rates must be sufficient to cover costs and meet debt service obligations. He said that BWP has multiple series of bonds and the most onerous ones, staff plans to take out in a refinancing. He then noted that there are still a number of bonds that cannot be refinanced and for these, BWP needs adequate revenues to at least make the costs look equal going forward.

In the longer term, Mr. Davis said that BWP will continue its efforts to build new on-site resources that will enable it to provide reliable power and control costs in the future. He

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then briefly noted a few of the following long-term resource planning programs: conservation programs; landfill methane gas project; small-hydro project due to be operational in October, 2001; and, return of Magnolia 4 power plant.

As in the past, he said electric rates need to cover costs and with lower wholesale prices, BWP expects to be able to continue locking in lower costs through forward purchasing. He then said that based on current and future power cost forecasts, BWP electric rates for next year appear to be able to cover costs without significant reliance on wholesale revenue or reserves. He then noted that even with the increase, BWP rates are still lower than those of Edison, Glendale and Pasadena, but higher than those of Los Angeles.

Mr. Davis concluded by stating that in recent community discussions, the adequacy of current BWP reserve levels has been raised as a concern. For example, he said the funding of the City's LM 6000 project was to include up-front funding from BWP's capital reserves of \$1.3 million and from the City's Competitiveness Reserve Fund of \$6 million. In view of the current financial situation requiring a rate increase, he said that staff will be proposing to the Council that the LM 6000 financing be expanded to include reserve contributions. Hence, he noted the amounts would be treated as a loan to be repaid by the bond proceeds and would thereby be available to replenish BWP reserves.

Motion

It was moved by Mr. Golonski, seconded by Mrs. Murphy and carried that "the report be noted and ordered filed and staff was directed to return with a report which outlines the feasibility of not increasing Lifeline rates and using Public Benefit Charges funds to cover those increased expenses."

11:48 P.M.
Reconvene
Redev. Agency,
Parking
Authority, and
Youth
Endowment
Services Fund
Board Meetings

The Redevelopment Agency, Parking Authority, and Youth Endowment Services Fund Board meetings were reconvened at this time.

Third Period of
Oral

Mr. Kramer called for the speakers for the third period of oral communications at this time.

Communications

Citizen Comment	<p>Appearing to comment were Don Elmore, asking when the compact fluorescent lights are to be delivered to the Burbank ratepayers; Irma Loose, questioning the identity of a citizen who writes letters to the Burbank Leader Editor and inviting people who oppose her opinions to come to the Council Chambers and refute them publicly, and on concern with the Council's approval of the Framework for Airport Settlement Agreement; Mark Barton, thanking the Council for providing coffee to the public at meetings and asking for doughnuts; Bob Etter, questioning the identity of people who write letters to the Burbank Leader Editor, stating his belief that the utility will impose another rate increase in February, and asking what a person has to do to remove a citizen from elected office if they violated that person's constitutional rights; Eden Rosen, stating her belief that the City needs to require the Landlord Tenant Commission and local landlords to attend training to better serve the clientele, on rental rates, and advising people that they should contact Burbank License and Code Services regarding mold in a rental unit; and Mike Nolan, on the history of who can impose the ECAC and WCAC increase, asking what contributions the Redevelopment Agency (regarding redevelopment project areas) has contributed to BWP, and stating the Council should look into alternative ways to make up the utility revenues rather than impose the 10 percent increase and should also consider a cap on the in-lieu transfer similar to what was done with the Utility Users Tax.</p>
Staff Response	<p>Members of the Council and staff responded to questions raised.</p>
301-2 Memorial Adjournment	<p>There being no further business to come before the Council, the meeting was adjourned at 12:10 a.m. and in memory of Retired Burbank Police Detective Raymon L. "Mickey" McCann, and to 5:00 p.m. on Thursday, August 30, 2001 to the Police/Fire Executive Conference Room to hold a Closed Session meeting on the following:</p> <p>a. <u>Conference with Legal Counsel – Anticipated Litigation (City as possible plaintiff):</u> Pursuant to Govt. Code §54956.9(c) Number of potential case(s): 1</p>

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- b. Conference with Legal Counsel – Anticipated Litigation
(City as potential defendant):
Pursuant to Govt. Code §54956.9(b)(1)
Number of potential case(s): 1

Judie Sarquiz, City Clerk

APPROVED NOVEMBER 6, 2001

Mayor of the Council
of the City of Burbank