

TUESDAY, SEPTEMBER 25, 2001

A regular meeting of the Council of the City of Burbank was held in the Council Chamber of the City Hall, 275 East Olive Avenue, on the above date. The meeting was called to order at 5:31 p.m. by Mr. Kramer, Mayor.

CLOSED SESSION

Present- - - - Council Members Golonski, Laurell, Murphy, and Kramer.
Absent - - - - Council Member Ramos.
Also Present - Ms. Alvord, Assistant City Manager; Mr. Barlow, City Attorney; and, Mrs. Sarquiz, City Clerk.

Oral Communications There was no response to the Mayor's invitation for oral communications on Closed Session matters at this time.

5:32 P.M. Recess The Council recessed at this time to the Training Room, 1st Floor of City Hall Annex, 301 East Olive Avenue, to hold a Closed Session on the following:

- a. Conference with Legal Counsel – Existing Litigation:
Pursuant to Govt. Code §54956.9(a)
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.
- b. Conference with Legal Counsel – Anticipated Litigation (City as possible plaintiff):
Pursuant to Govt. Code §54956.9(c)
Number of potential case(s): 2
- 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: 1000 South Flower Street.
Parties With Whom City is Negotiating: Alton Jennings, as the trustee of the Gladys M. Blanchard Trust.
Terms Under Negotiation: Purchase of real property.

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- e. Conference with Labor Negotiator:
Pursuant to Govt. Code §54957.6
Name of the Agency Negotiator: Management Services Director/John Nicoll
Name of Organization Representing Employee: International Brotherhood of Electrical Workers.
Summary of Labor Issues to be Negotiated: Contract for Fiscal Year 2001-2002.

Regular Meeting Reconvened in Council Chambers The regular meeting of the Council of the City of Burbank was reconvened at 6:47 p.m. by Mr. Kramer, Mayor.

Invocation The invocation was given by Father Dave Whorten, St. Robert Bellarmine Catholic Church.

Flag Salute The pledge of allegiance to the flag was led by Mr. Davis, Burbank Water and Power General Manager.

ROLL CALL

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

Absent - - - - Council Members None.

Also Present - Ms. Alvord, Assistant City Manager; Mr. Barlow, City Attorney; and, Mrs. Sarquiz, City Clerk.

301-1
Media City
Ballet Company Daniel Roebuck, film and television actor with Disney Studios, announced the formation of a new Media City Ballet Company that will operate in the Burbank Village. He said the Board has received overwhelming support for the Company. Ms. Natasha Middleton, Artistic Director of the Company, said the Ballet Company is a non-profit organization whose goals are as follows: to establish a wide variety of dance performances; to provide exciting and challenging performance opportunities; and, to encourage appreciation for dance as an art form in Burbank. Mr. Roebuck and Ms. Middleton invited the Council and community to attend their premier fundraising performance on September 30, 2001.

301-1
Rideshare
Week Mayor Kramer presented a proclamation to Judith Johnston – Weston, Executive Director of the Burbank Transportation Management Organization, in honor of Rideshare Week.

7:02 P.M. Hearing 1701 IDCO Restricting CUP's for Second Dwelling Units	Mayor Kramer stated that "this is the time and place for the hearing on the consideration of an Interim Zoning Measure to establish interim controls on new development or use permits for second dwelling units in R-1 zones."
Notice Given	The City Clerk 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. Bowler, Assistant Planner, reported that a recent decision by the California Court of Appeals has called into question the enforceability of several provisions of Burbank Municipal Code Section 31-625 regarding second dwelling units in the R-1 zone. He said that staff was requesting and recommending that the City Council adopt an Interim Development Control Ordinance to restrict issuance of conditional use permits for such second dwelling units in order to give staff time to research the legality of these requirements, consider alternative requirements, and revise or rewrite the affected Sections of the Code as appropriate. He noted that staff is requesting that this ordinance be adopted as an urgency measure so it becomes effective immediately.
Hearing Closed	There being no response to the Mayor's invitation for oral comment, the hearing was declared closed.
Urgency Ordinance Introduced and Adopted	It was moved by Mr. Laurell and seconded by Mrs. Murphy that "the following ordinance be introduced and adopted as an urgency ordinance:"
1701 IDCO Restricting CUP's for Second Dwelling Units	<u>ORDINANCE NO. 3586:</u> AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK ADOPTING AN INTERIM DEVELOPMENT CONTROL ORDINANCE WHICH TEMPORARILY LIMITS THE ISSUANCE OF ANY PERMIT FOR USE OR DEVELOPMENT OR SECOND DWELLING UNITS IN R-1 ZONES.

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Adopted	<p>The ordinance was adopted by the following vote:</p> <p>Ayes: Council Members Golonski, Laurell, Murphy, Ramos and Kramer.</p> <p>Noes: Council Members None.</p> <p>Absent: Council Members None.</p>
Reporting on Closed Session	<p>Mr. Barlow reported on the items considered by the City Council and Redevelopment Agency during the Closed Session meetings.</p>
406 Airport Authority Meeting Report	<p>Airport Commissioner Dave Newsham reported on the items that were on the September 20, 2001 Airport Authority meeting agenda. He said the following matters were approved by the Authority: the September 4, 2001 minutes; award of a contract for the Engineered Material Arresting System in the amount of \$3,466,875; name change from Sky Sites, Inc. to JCDecaux Airport, Inc.; and, the non-scheduled charter operator agreement with Scenic Airlines. He then said that the Authority received a public briefing on the security measures put in to place at all airports following the September 11, 2001 tragedy.</p> <p>He concluded by stating that following the Closed Session meeting it was reported that a committee to look at Airport Security Measures was established and he noted that he was appointed to the committee.</p> <p>The City Council received the report.</p>
First Period of Oral Communications	<p>Mr. Kramer called for speakers for the first period of oral communications at this time.</p>
Citizen Comment	<p>Appearing to comment were Don Elsmore, on concern that the promised traffic signal at Verdugo and Clybourn Avenues is not on schedule; Esther Espinoza, on concern that she did not receive information from the City regarding employment practices; Margie Gee, asking for copies of the Airport contour maps, and stating the Burbank Commissioners have the authority to review schedule changes noting this was provided for in the Joint Powers Agreement; and Dr. Theresa Karam, on a forum held yesterday at the Joslyn Center on Measure A and complimenting the participants, particularly the</p>

Staff Response	proponents of the Measure. Members of the Council and staff responded to questions raised.
Second Period of Oral Communications	Mr. Kramer called for speakers for the second period of oral communications at this time.
Citizen Comment	<p>Appearing to comment were Don Elsmore, on the forum held yesterday at the Joslyn Center on Measure A and noting concern with statements made by the opposition of the Measure, on the importance of the initiative process, and referring to a letter to the editor in the Burbank Leader on the initiative process; Richard Duggan, on concern with the Burbank-Glendale-Pasadena Airport not having restrictions on non-stage 2 aircraft in place, and on concern that Airport Authority Commissioner Lombardo did not publicly discuss this matter when he last presented a report to the Council and noting his belief that he should resign from the Commission; Lew Stone, President of Burbank Fire Fighters Association, stating he is a lifelong resident and referring to his background related to the Airport, on concern with negative comments made by public speakers about the firefighters opposition to Measure A and stating the events of the past few weeks have shown that firefighters do not see themselves as outside of the community and that includes making wise decisions over issues such as Measure A, and noting the firefighters oppose Measure A because of the following: it will delay the implementation of any new terminal impacting the safety of the Airport; will necessitate needless expenditure of City funds; and, they have confidence in the City Council and the Airport Authority Commissioners in this matter; Irma Loose, playing a tape recording of previous statements made by Council Members on the Airport, and stating the title of Measure A is misleading; Bob Etter, on concern with the performance of the opponents of Measure A at the League of Women Voters Debate, and supporting Measure A;</p> <p>R. C. "Chappy" Czapiewski, on the importance of the initiative process and noting concern with past Council's negative attitude toward the process, and stating the City won two Airport appeal cases which gave Burbank authorization to collect court costs from the Authority noting his belief the City should have sought the money and not given up their authority to seek the costs; Esther Espinoza, on the Interim Development Control Ordinance and noting concern that the City does not follow State law, on concern with the Mullikin Medical Center in Magnolia Park and their</p>

funding of a neighborhood protection plan, and on concern with construction noise; Ron Vanderford, supporting Measure A and noting the provisions of the Measure including a mandatory curfew, cap on flights and cap on passengers, criticizing the Taxpayers Against Measure A noting they are not residents of Burbank, and on conversations he had with Lew Stone about the participation of the firefighters in Measure A and noting his belief their opinion is moot since so few of them live in Burbank; Mark Barton, stating his belief that people who live near the Airport should move if they do not like the noise, pollution and traffic, and opposing Measure A noting his belief it will not withstand a challenge from the federal government; Margie Gee, on her belief that the Measure A opponents are not well informed, on concern with the performance of the opposition at a forum yesterday at the Joslyn Center, asking that if an agreement for a curfew is already in effect between the City and the Airport as stated by the opposition, why does the City not proceed with this agreement, and supporting Measure A; Sunder Ramani, representing Taxpayers Against Measure A, on concern that people are falsely representing his organization, stating he is a property owner in the City and has supported this City through his business and volunteer work for over 20 years, stating his belief that this organization feels Measure A is not a prudent fiscal Measure, and stating his belief that Measure B is all the community needs to obtain what the community wants at the Airport;

Michael Hastings, stating concern that public speakers have made disparaging remarks about people opposing Measure A noting they are good people in this community and not deserving of such attacks, stating he opposes Measure A because it will not stand up to litigation and the authors have not been identified, stating both sides of the Measure want the same things but have different ways of getting there, and asking whether Measure A has passed any litigation tests and if the authors would be willing to defend it should it be challenged; Brett Loutensock, stating the public has the right to know who wrote Measure A noting accountability was important in this matter, and asking each Council Member to state their position on Measure A; David Pomes, stating his belief that the ballot language was not confusing, and encouraging voters to read all the material and vote based on their own opinions; David Gordon, stating he is a member of the Chamber of Commerce and noting his opinion was not requested on Measure A prior to the Chamber Board of Directors taking a position against Measure A; Howard Rothenbach, Chairman of the Committee to Restore Our Airport Rights (ROAR), stating Douglas Carstons, attorney with Chatten Brown and Associates, looked at Measure A; Dr.

Theresa Karam, supporting Measure A, stating the Federal Aviation Administration yearly states that the Airport is safe so safety is not an issue, on concern with the Airport's proposed square footage being significantly larger than needed which could accommodate more gates in the future, stating her belief that Lew Stone does not represent all firefighters, and stating the people wrote Measure A; and Mike Nolan, on concern that many of the people/organizations opposing Measure A were not players in the past when Burbank sued Lockheed over noise at the Airport, and asking the people opposing Measure A to speak up about the increased water and electric rates.

- Staff Response Members of the Council and staff responded to questions raised.
- 8:39 P.M. Recess The Council recessed to permit the Redevelopment Agency to hold its meeting. The Council reconvened at 8:44 p.m. with all members present.
- 8:44 P.M. Recess The Council recessed at this time. The meeting reconvened at 8:57 p.m. with all members present.
- 407 MWD Director's Report A report was received from Mr. Davis, Burbank Water and Power General Manager, which said that pursuant to a request from the City Council at the August 28, 2001 meeting, Mr. George Battey, Burbank's Director to the Metropolitan Water District (MWD), would be present to address the Council regarding MWD rates, tax rate reduction, and the rebate status.
- Due to unforeseen circumstances, it was noted that Mr. Battey was unable to attend the meeting.
- Motion It was moved by Mrs. Murphy, seconded by Mr. Laurell and carried that "the matter be continued to a future meeting."
- 9:01 P.M. Mr. Laurell Left The Meeting Mr. Laurell excused himself at this time due to a potential conflict with next agenda item because he lives within the vicinity of the proposed neighborhood protection plan area.
- 1703 Olive Park North Neighborhood Ms. Lazar, Principle Planner, reported on staff's intention to begin the preparation of a new neighborhood protection plan

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Protection Plan (NPP) for an area to be called Olive Park North. She said this NPP originated with the approval of the Mullikin Medical Center on Magnolia Boulevard in 1997. Inasmuch as there were concerns regarding the traffic impacts of this project on the adjacent residential neighborhoods, she said the developer was required to contribute funds to study the traffic and parking problems around the new Center. She noted that the City Council allocated additional funds to meet the projected costs of such a study.

She explained that the proposed study area is larger than the immediate area surrounding the Medical Center in recognition of the fact that traffic systems and impacts extend for a significant distance around any particular traffic source. She then noted that a kick-off meeting has been set for November, with a Citizens Advisory Committee in place by March 2002, and the proposed protections for the neighborhood in place within one year of the formation of the Committee.

The City Council, exclusive of Mr. Laurell, noted and ordered the report filed.

9:06 P.M.
Mr. Laurell
Returned to the
Meeting

Mr. Laurell returned to the meeting at this time.

1503
1504
BWP's Electric
And Water
Monthly
Operating Report

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

He began by discussing one major water quality issue. He said that a scientific panel examining the health risks of chromium 6 in water said September 7, 2001, that State officials should not toughen standards for the chemical until after a national study is completed several years from now. He noted that the panel concluded that "we found no basis in either the epidemiological or animal data published in the literature for concluding that orally ingested Chromium 6 is a carcinogen."

Next, Mr. Davis discussed the following electric operation issues: the City experienced a Citywide black-out on

September 18, 2001 due to the outage of a new transformer, and all power to the City was restored within several hours; the Magnolia Power Project Licensing Team prepared responses to the California Energy Commission (CEC) staff regarding data adequacy for the Application for Certification (AFC) and expect to receive formal determination in late September; staff is negotiating a contract with EDG Power Group of Tulsa, Oklahoma, for the engineering, procurement and construction of the combustion turbine (LM 600) project; and, staff is planning modifications to the existing Burbank Substation to accommodate a new step-up transformer associated with the LM 6000 project.

The City Council noted and ordered the report filed.

1503-1
1504-1
ECAC and
WCAC

Mr. Davis, Burbank Water and Power General Manager, reported on the request from the City Council at the August 28, 2001 meeting for staff to agendaize an opportunity for the Council to discuss whether or not they should exercise direct authority over the Energy Cost Adjustment Charge (ECAC) changes, and raised a similar issue for the Water Cost Adjustment Charge (WCAC). He noted that currently staff is authorized, per the Burbank Fee Resolution, to change the ECAC month to month.

The City Council discussed the following issues related to who should have the authority over the ECAC and WCAC changes: On the one hand, the Council said the BWP General Manager needs to maintain authority due to the need to respond quickly provided the Council is advised of the changes either before or after the change is made; and yet, on the other hand, the Council discussed the fact that the ECAC and WCAC have not been changed very often over the years and, therefore, the City Council could act quickly when needed and should be in that position since they are the body responsible/accountable directly to the ratepayers.

Motion

It was moved by Mrs. Ramos, seconded by Mr. Laurell and carried with Mrs. Murphy and Mr. Kramer voting no that "the General Manager's authority to change the Energy Cost Adjustment Charge and Water Cost Adjustment Charge be maintained with authority to make adjustments of no more than 10 percent in any given month."

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412
Joint Use of
Facilities

Mr. Flad, Park, Recreation and Community Services Director, reported on the request for City Council approval of an amendment to the Joint Use of Facilities Agreement between the City and the Burbank Unified School District. He said the Agreement, originally entered into on September 27, 2001 for a 20 year period, was entered in to so the parties would agree to jointly plan, develop and use facilities to achieve the goal of cooperative use of each party's respective recreational and educational facilities located with the City.

He explained that in spring 1999, both parties expressed an interest in proposing changes, additions and improvements to the existing 1988 Agreement. He said the interest was prompted due to additions to facilities, campus improvements and programs, as well as expanded permitted uses by the City and other organizations which have impacted facilities and maintenance since 1988. He then said that representatives from both parties met on numerous occasions and received input from the Joint Action Group which consists of members of the City Council and Board of Education Board of the Burbank Unified School District.

Mr. Flad concluded by stating that the proposed amendment to the Joint Use Agreement was negotiated with the intent that approval from both the City Council and School Board would have been obtained during the 2000-01 fiscal year. Thus, he said the amendment before the Council is reflective of the costs associated with the base year 2000-01 and it is recommended that approval be given to retroactively pay the mutually agreed costs reflected in the amendment.

Motion

It was moved by Mr. Golonski and seconded by Mrs. Murphy that "the following resolution be passed and adopted:"

412
Joint Use of
Facilities

RESOLUTION NO. 26,102:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE AGREEMENT FOR JOINT USE OF FACILITIES BETWEEN THE CITY OF BURBANK AND THE BURBANK UNIFIED SCHOOL DISTRICT.

Adopted

The resolution was adopted by the following vote:

Ayes: Council Members Golonski, Laurell, Murphy, Ramos

and Kramer.
Noes: Council Members None.
Absent: Council Members None.
Ordinance Submitted It was moved by Mrs. Murphy and seconded by Mr. Laurell that "Ordinance No. 3587 be read for the second time by title only and be passed and adopted." The title to the following ordinance was read:

1701
ZTA 2001-3
Notice and Appeals
ORDINANCE NO. 3587:
AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING VARIOUS SECTIONS OF CHAPTERS 27 AND 31 OF THE BURBANK MUNICIPAL CODE RELATING TO PUBLIC NOTICES AND APPEALS (ZONE TEXT AMENDMENT NO. 2001-3).

Adopted The ordinance was adopted by the following vote:

Ayes: Council Members Golonski, Laurell, Murphy, Ramos and Kramer.
Noes: Council Members None.
Absent: Council Members None.

Ordinance Submitted It was moved by Mrs. Murphy and seconded by Mr. Laurell that "Ordinance No. 3588 be read for the second time by title only and be passed and adopted." The title to the following ordinance was read:

1701
ZTA 2001-2
Construction Noise Control
ORDINANCE NO. 3588:
AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK REVISING THE SPECIFIC HOURS FOR CONSTRUCTION, DEMOLITION, EXCAVATION AND GRADING ACTIVITIES.

Adopted The ordinance was adopted by the following vote:

Ayes: Council Members Golonski, Laurell, Murphy, Ramos and Kramer.
Noes: Council Members None.
Absent: Council Members None.

9:54 P.M.
Reconvene
Redev. Agency Meeting
The Redevelopment Agency meeting was reconvened at this time.

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Third Period of
Oral
Communication

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

Citizen
Comment

Appearing to comment were Irma Loose, stating the Council should have collected the court costs due to them in the Airport court of appeals cases, supporting Measure A noting concern with the leadership of the Council, and opposing the ballot title stating it is misleading and as a result requesting a new election be conducted on the matter; Mark Barton, stating his support for the new Norman Rockwell Freedom of Speech print in the newly restored Council Chambers, and on concern with the Council stopping his speech during the 2nd period of oral communications; Eden Rosen, on concern with inconsiderate people in multi-family units in the City and stating the City should have the ability to deal with this type of situation and asking the Council to look into this matter; Brett Loutensock, stating at last week's meeting he attempted to make comments from the Los Angeles Times about an individual who is supportive of Measure A but was stopped, yet other public speakers can say negative things about other people, and asking if he should choose to make similar comments in the future will he be allowed to do so and if not, why; Bob Etter, on concern with the AMC project as well as the Ford dealership proposed on the Zero site, and on concern with treatment he received this day from the City Manager's Office; Ron Vanderford, stating private legal matters are not within the subject matter jurisdiction of the City, supporting Measure A and asking what alternatives to the Measure that the Council would suggest, and opposing the people who are against Measure A; and Mike Nolan, stating the Burbank Fire Fighters Association has a severability clause and so does Measure A noting they have been a tool used for many years, on concern with positions taken by the Chamber of Commerce without membership participation and stating his belief that they should be involved in the utility rates and not the Airport, and suggesting the City consider a gross sales receipt tax.

Staff
Response

Members of the Council and staff responded to questions raised.

301-2 There being no further business to come before the Council, the
Memorial meeting was adjourned at 10:32 p.m. in memory of Joseph P.
Adjournment Ulasewicz.

Judie Sarquiz, City Clerk

APPROVED NOVEMBER 6, 2001

Mayor of the Council
of the City of Burbank