

TUESDAY, OCTOBER 23, 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 5:29 p.m. by Mr. Kramer, Mayor.

CLOSED SESSION

Present- - - - Council Members Laurell, Murphy, Ramos (arrived at 5:31 p.m.) and Kramer.

Absent - - - - Council Member Golonski.

Also Present - Mr. Ovrom, City Manager; Mr. Barlow, City Attorney; and, Mrs. Moioffer, Deputy City Clerk.

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

Citizen Comment Appearing to comment was Howard Rothenbach, questioning why the Council is not discussing the lawsuit filed against Measure A and asking whether a motion to reconsider the filing of the lawsuit will be done during closed or open session, and asking for a status update on the Noise Variance case.

5:32 P.M. Recess The Council recessed at this time to the Training Room, 1<sup>st</sup> 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:** Brewer v. City of Burbank  
**Case No.:** EC030437  
**Brief description and nature of case:** Trip and fall.
- 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
- c. Conference with Real Property Negotiator:  
Pursuant to Govt. Code §54956.8  
**Agency Negotiator:** Public Works Director/Bruce Feng  
**Property:** That portion of the Metropolitan Transportation Authority (MTA) owned rail right-of-way commonly referred to as the MTA's Valley Subdivision located along both sides of the railroad tracks, with frontage on both portions of North San Fernando Boulevard lying on either side of the MTA's Valley Subdivision rail right-of-way, and lying approximately between the North Buena Vista

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Street crossing and the Hollywood Way overpass.

**Parties with Whom City is Negotiating:** Metropolitan Transportation Authority Real Estate Duncan Robb.

**Terms Under Negotiation:** Directions to negotiate for lease with the Metropolitan Transportation Authority.

Regular Meeting Reconvened in Council Chambers      The regular meeting of the Council of the City of Burbank was reconvened at 6:34 p.m. by Mr. Kramer, Mayor.

Invocation      The invocation was given by Reverend Ron Degges, Little White Chapel.

Flag Salute      The pledge of allegiance to the flag was led by Ellie Meyer and Valene Rolon, Civic Pride Committee Members.

**ROLL CALL**

Present- - - -

Council Members Laurell, Murphy, Ramos and Kramer.

Absent - - - -

Council Member Golonski.

Also Present -

Mr. Ovrom, City Manager; Mr. Barlow, City Attorney; Ms. Alvord, Assistant City Manager; and, Mrs. Sarquiz, City Clerk.

301-1  
Make a  
Difference Day

Mayor Kramer presented a proclamation to Ellie Meyer, Civic Pride Committee Chair, and Valene Rolon, Civic Pride Committee Member, in honor of Make A Difference Day, to be celebrated on Saturday, October 27, 2001. Ms. Meyer invited the Council and community to participate by donating food at one of Burbank's local grocery markets.

301-1  
Commendation  
To Justin Hess

Mayor Kramer presented a commendation to Justin Hess, Administrative Analyst in the City Manager's Office, thanking him for his service to the City Council over the past two years. He noted that Mr. Hess has accepted a position with the City's Community Development Department.

Items Removed  
From Agenda

Mr. Ovrom stated that staff was removing the following items from the agenda: Awarding a Construction Contract to Pepper Construction To Construct the Buena Vista Library and Lincoln Park Project, Bid Schedule No. 1090A (removed due to a protest from another bidder); and, Proposal to Publish a Newsletter Concerning Airport Issues.

Reporting on Closed Session	Mr. Barlow reported on the items considered by the City Council during the Closed Session meetings.
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 Ron Vanderford, thanking the Council for agendizing the reconsideration of the lawsuit filed against Measure A and reading an editorial from the Daily News on the City's filing of the lawsuit; Howard Rothenbach, asking what happens if the Airport Authority responds to the complaint filed by the City on Measure A prior to the City withdrawing the lawsuit; Esther Espinoza, on concern with the behavior of the Council; Margie Gee, asking when the Noise Variance hearing will be held, and asking what two applications have been filed by the Airport Authority; Dr. Theresa Karam, stating the City Attorney and Council should have done a preemptory challenge before Measure A was placed on the ballot if they thought it had illegal provisions; Cecil Selman, stating he heard the Governor was proposing changes to redevelopment rules specifically the definition of blight; Ralph Gee, stating he was having trouble hearing the speakers at the meeting; and R. C. "Chappy" Czapiewski, presenting an award to Mr. Ovrrom for his Airport activities.
Staff Response	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	Appearing to comment were Don Elsmore, on notices recently distributed regarding the rezoning of the B-6 property and opposing any such change; Ted McConkey, stating he will be filing a complaint with the Bar Association alleging ethical violations of Mr. Barlow and Mr. Kirsch regarding the filing of a suit against Measure A noting his belief that the suit misled the court and is bogus; Howard Rothenbach, opposing the Council publishing/distributing a newsletter regarding the lawsuit filed on Measure A, referring to the specific allegations in the lawsuit and noting concern that the people who voted for Measure A will not be represented in the lawsuit; Claudia LaFrance, on the appointment of the new City Clerk, and

thanking the current City Clerk for her service to the City; Esther Espinoza, opposing the proposal to publish a newsletter on Airport matters, on concern with the City Clerk leaving her post, and on the classification change made to the power production operations supervisor; Ron Vanderford, reading an editorial in the Daily News opposing the City's suit filed against Measure A, opposing the suit filed by the City, and on a letter from Airport Authority President Holden noting his belief that Measure A is an artificial and collusive lawsuit; R. C. "Chappy" Czapiewski, stating the City violated the Brown Act on October 9<sup>th</sup> because they changed the meeting room location for the Closed Session meeting and did not publicly report the actions taken in the Closed Session meeting that evening; Mark Barton, on the need for the City to focus on security matters at the Airport due to the September 11, 2001 Tragedy; C.L. Stack, stating he would like an application for the City Clerk unexpired term and opposing her leaving the office, and opposing the Council filing a lawsuit against Measure A; Theresa Karam, on concern with articles written by Will Rogers in the Burbank Leader, opposing the Council publishing/distributing a newsletter on Airport matters stating instead an advertisement could be taken out in the newspaper for a better cost, stating Council Member Ramos is being led astray on Airport matters, and stating her belief that a preemptory challenge on Measure A should have been done prior to it being submitted to the electorate;

David Piroli, asking for the cost to file the lawsuit on Measure A, asking why no Airport litigation matters were placed on the agenda this evening, and opposing the Council's action to file the lawsuit against Measure A and the manner in which the issue was voted upon; Mike Nolan, on concern with the cost for railroad right of way for a water line at the Zelman site, on concern with the City Attorney and City Manager interrupting speakers during oral communications, and stating Council Members have the ability to make motions whenever they want; Cecil Selman, stating the Council should temporarily replace the City Clerk and should then hold an election for the permanent replacement, and stating he was not supportive of Measure A and noting concern with the various reasons that people supported the Measure; and Margie Gee, stating concern that the lawsuit on Measure A was filed prior to the election results being certified, and on a meeting to be held this Thursday with the cities of Burbank, Glendale, Pasadena and the Airport Authority and noting concern with the agenda and Burbank's proposal to solve the dispute noting her belief it is vague.

Staff Response	Members of the Council and staff responded to questions raised.
8:19 P.M. Recess	The Council recessed at this time. The meeting reconvened at 8:34 p.m. with all members present except Mrs. Ramos who returned at 8:35 p.m.
Motion	It was moved by Mrs. Murphy and seconded by Mr. Laurell that "the following items on the consent calendar be approved as recommended."
804-3 703 Wildlife Education Program	<u>RESOLUTION NO. 26,113:</u> A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AUTHORIZING THE CITY MANAGER TO APPLY FOR GRANT FUNDS FOR URBAN RECREATIONAL AND CULTURAL CENTERS, MUSEUMS, AND FACILITIES FOR WILDLIFE OR ENVIRONMENTAL EDUCATION PROGRAM UNDER THE SAFE NEIGHBORHOOD PARKS, CLEAN WATER, CLEAN AIR, AND COASTAL PROTECTION BOND ACT OF 2000 (URCC) WITH REGARDS TO PROJECT "TRAIL OF KNOWLEDGE".
410 1505 1501-3 Agmt. w/MTA And Union Pacific Railroad	<u>RESOLUTION NO. 26,114:</u> A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE LICENSE AGREEMENTS FOR A PIPELINE CROSSING RELATING TO THE BURBANK EMPIRE CENTER.
1007-1 Revise Title of Power Production Operations Supervisor	<u>RESOLUTION NO. 26,115:</u> A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK REVISING THE SPECIFICATION OF POWER PRODUCTION OPERATIONS SUPERVISOR (CTC #0664).
204-4 Results of Special All-Mail Ballot Election	<u>RESOLUTION NO. 26,116:</u> A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK DECLARING THE RESULTS OF THE SPECIAL ALL-MAIL BALLOT MUNICIPAL ELECTION HELD ON OCTOBER 9, 2001.
Adopted	The consent calendar was adopted by the following vote: Ayes: Council Members Laurell, Murphy, Ramos and Kramer. Noes: Council Members None. Absent: Council Member Golonski.

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1503  
1504  
Water  
and Power  
Monthly Report

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

He began by discussing the following water quality and operations issues: water quality throughout the system met or exceeded State and Federal drinking water standards; and, Senate Bill 351, Ortiz, calling for a standard for a chromium 6 on or before January 1, 2004 has been signed by the Governor.

Next, he discussed the following electric operations issues: both Olive 1 and 2 are on-line and operating so that they can best perform following a system outage; the California Energy Commission accepted the application for Certification for the Magnolia Power Project as data adequate for the 6-month review process at their business meeting on September 25, 2001; and, site preparation activities for the Burbank LM 6000 project began on October 5, 2001 and should be completed early November.

Following discussion, the City Council noted and ordered the report filed and due to the reporting of low chromium levels the Council directed staff to conduct the additional chromium 6 testing every 60 days instead of the previous direction to conduct them every 30 days.

1501-1  
1212-1  
804-3  
902  
403  
Compressed  
Natural Gas  
Fuel Station and  
Natural Gas  
Fleet Vehicles

Mr. VanHazelen, Assistant Public Works Director/Fleet and Building, reported on the request for City Council approval to apply for South Coast Air Quality Management District (SCAQMD) Carl Moyer Program grant funding of \$144,270, and Mobile Source Air Pollution Reduction Review Committee (MSRC) grant funding of \$441,250, and to execute the respective agreements to use the funding for the purchase of compressed natural gas (CNG) vehicles and the construction of a CNG fuel station.

He explained that on September 18, 2001, the City Council approved resolutions to execute agreements with the California Energy Commission and the SCAQMD for \$355,000 in total grant funding for the construction of a CNG fuel station. At that time, he said staff indicated that additional grant funding might be available and should that occur, staff would return to the Council to seek authorization to apply for and execute additional grant agreements.

Mr. VanHazelen concluded by stating that the additional SCAQMD grant funding of \$144,270 will be applied toward CNG heavy truck purchases over the next two years. Of the \$441,250 in MSRC grant funding, he said that \$360,000 is earmarked for CNG vehicle purchases, with the remaining \$81,250 going toward fuel station construction. He then noted that by securing this additional grant funding, the City will be able to offset 55 percent of the estimated \$918,000 in upcharge costs for CNG vehicle purchases over the next two years, and 79 percent of the estimated \$550,000 total cost for the CNG fuel station construction

Motion It was moved by Mr. Laurell and seconded by Mrs. Murphy that "the following resolutions be passed and adopted:"

1501-1 RESOLUTION NO. 26,117:  
 1212-1 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK  
 804-3 AUTHORIZING THE CITY MANAGER TO APPLY FOR GRANT  
 902 FUNDS AND TO EXECUTE A GRANT AGREEMENT WITH THE  
 403 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT FOR  
 CNG Fuel THE PURCHASE OF HEAVY-DUTY COMPRESSED NATURAL  
 Station GAS (CNG) FLEET VEHICLES AND THE CONSTRUCTION OF A  
 CNG FUEL STATION.

1501-1 RESOLUTION NO. 26,118:  
 1212-1 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK  
 804-3 AUTHORIZING THE CITY MANAGER TO APPLY FOR GRANT  
 902 FUNDS AND TO EXECUTE A GRANT AGREEMENT WITH THE  
 403 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT FOR  
 CNG Natural Gas THE PURCHASE OF HEAVY-DUTY COMPRESSED NATURAL  
 Fleet Vehicles GAS FLEET VEHICLES.

Adopted The resolutions were adopted by the following vote:

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

1008 Mr. Nicoll, Management Services Director, reported on the  
 Amend Civil request for City Council approval of an amendment to the Civil  
 Service Rules for Service Rules to provide for salary and insurance assistance to  
 Employees called City employees called into active military duty. He explained  
 to Active that the City previously adopted Resolution No. 23,180 on  
 Military January 29, 1991, to provide this financial assistance to City

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Duty employees called to active duty in the armed forces for the Desert Storm War. He then noted that this proposed resolution would continue the same assistance to employees called to active duty from September 11, 2001, up to September 1, 2002, or through the cessation of hostilities, whichever occurs earlier.

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

1008 RESOLUTION NO. 26,119:  
Amend Civil A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK  
Service Rules for AMENDING CIVIL SERVICE RULES TO PROVIDE FOR SALARY  
Employees called ASSISTANCE TO CITY EMPLOYEES CALLED INTO ACTIVE  
to Active MILITARY DUTY.  
Military  
Duty

Adopted The resolution was adopted by the following vote:

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

201 Mr. Barlow reported that due to the resignation, effective on  
Appointment of November 1, 2001, of Judie Sarquiz as City Clerk, there will  
New City Clerk be as of that date a vacancy in the Office of the City Clerk.  
He said that Section 26 of the Charter provides in pertinent  
part as follows: "A vacancy in any elective office, from  
whatever cause arising, shall be filled by appointment by the  
Council, such appointee to hold office for the unexpired term;  
provided that if the Council fails to agree or for any other  
reason does not fill such vacancy within thirty (30) days after  
the same occurs, then such vacancy shall be filled by the  
Mayor..."

He explained that the result of the resignation is that the Council has until December 1 to fill the vacancy that is effective on November 1. He then said that the options available for the Council in appointing a new City Clerk are as follows: 1) Make an appointment immediately of an individual to take office on November 1 to provide that there is no "lag time," and that the person can have as much time as possible to work with the current City Clerk; 2) Establish a separate process and time to appoint a successor to the City Clerk, all to take place before December 1; or, 3) Choose to allow the Mayor to make the appointment following December 1, 2001.



- Motion                    It was moved by Mrs. Murphy, seconded by Mr. Laurell and carried with Mr. Golonski absent that "applications be accepted for the position and at the November 27, 2001 meeting the applicants be interviewed, with the selection made that meeting following the interviews."
- Third Period of Oral Communication    Mr. Kramer called for speakers for the third period of oral communications at this time.
- Citizen Comment            Appearing to comment were Mark Barton, on concern with security measures at the Airport, and stating the Council should take action immediately to dismiss the lawsuit filed against Measure A; Ted McConkey, on concern with his belief that there are false statements made in the City's lawsuit filed against Measure A, and on concern that he was asked by the Police Chief to not enter the Council dais to speak to a Council Member; Mike Nolan, on concern with the public being prevented from entering the Council dais to speak to a Council Member, on concern with the process for a Council Member to place an item on the agenda, and on concern with staff interjecting and debating with Council Members and the public; and David Piroli, opposing the Council taking action to file the lawsuit against Measure A prior to the ballots being counted, referring to and questioning the specifics of the lawsuit particularly related to avigation easements and the City's General Plan, and asking for the cost the City paid to file the lawsuit on Measure A.
- Staff Response            Members of the Council and staff responded to questions raised.
- Adjournment            There being no further business to come before the Council, the meeting was adjourned at 9:33 p.m. to Thursday, October 25, 2001 at 7:00 p.m. at the Burbank Airport Hilton, 2500 Hollywood Way, Burbank, to hold a joint meeting of the City Councils of Burbank, Glendale and Pasadena and the Airport Authority to discuss Airport issues.

Judie Sarquiz, City Clerk

APPROVED DECEMBER 11, 2001

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Mayor of the Council

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of the City of Burbank