

TUESDAY, FEBRUARY 19, 2002

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 4:12 p.m. by Mr. Kramer, Mayor.

CLOSED SESSION

Present- - - - Council Members Murphy, Ramos and Kramer.
Absent - - - - Council Members Golonski and Laurell.
Also Present - Mr. Ovrom, City Manager; Mr. Barlow, City Attorney; and, Mrs. Moioffer, Deputy City Clerk.

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

4:13 P.M. Recess The Council recessed at this time to the City Hall Basement Lunch Room/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. Burbank-Glendale-Pasadena Airport Authority.
Case No.: BC259852
Brief description and nature of case: Declaratory Relief.
- b. Conference with Legal Counsel – Anticipated Litigation (City as possible plaintiff):
Pursuant to Govt. Code §54956.9(c)
Number of potential case(s): 1
- 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

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- d. Conference with Real Property Negotiator:
Pursuant to Govt. Code §54956.8
Agency Negotiator: Burbank Water and Power Assistant General Manager/Fred Fletcher
Property: Various public rights-of-way
Parties with Whom City is Negotiating: Altrio Communications – Brenda Trainor
Terms Under Negotiation: Franchise terms.

Regular Meeting Reconvened in Council Chambers The regular meeting of the Council of the City of Burbank was reconvened at 6:38 p.m. by Mr. Kramer, Mayor.

Invocation The invocation was given by Thos Peterson, Elder, Little White Chapel.

Flag Salute The pledge of allegiance to the flag was led by Mr. Hess, Administrative Analyst II.

ROLL CALL

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

Absent - - - - Council Members None.

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

Reporting on Closed Session Mr. Barlow reported on the items considered by the City Council during the Closed Session meeting.

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Airport Authority Commissioner Report Commissioner Brown reported on the Airport Authority meeting of February 18, 2002 including the following items: approval of minutes; approval of the Authority's 2002 Investment Policy, which is reviewed annually and identifies the policies and procedures which govern the investments of the Authority's cash portfolio with no changes from the 2001 policy; and the award of a bid contract to E.C. Construction Company of El Monte in the amount of \$133,385 for seal coat and restriping of Parking Lot A and Taxiways A and G, a project which was included in the 2001-02 budget and which will be funded from the Airport's Capital Improvement Account. He added that work on Parking Lot A will be phased so as to minimize the impact on operations, work on the taxiways will take place on two consecutive Saturdays when aircraft is at its lightest so as to minimize the impact on operations and the project will include a 20 percent

contingency to enable staff to approve any changes in scope that should arise during the course of the construction.

The 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 Wynn Hammer, on emergency services provided by the City, inquiring if it is customary to charge for emergency services since he was transported by the Paramedics to the hospital; Don Elsmore, citing Council's comment that they liked to discuss their business in open session, and alleging negotiations taking place on the B-6 property; Kevin McCarney, on the videotape playback policy, stating it is a microcosm of free speech itself but that he doesn't want to see video commercials for Council candidates; Esther Espinosa, on the quality of Burbank water, racial discrimination, and affordable housing issues; and Ron Vanderford, inquiring as to statements made last week by Ms. Murphy and Mr. Golonski that Measure B applies only to development on escrow agreements, and not the Public Utilities Code.

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 Airport issues in general, on the City's gain on the P.U.C. 21661 authority, on Measure B and its provisions, and on changes to the Trust Agreement requiring it be put before the voters for action; Ted McConkey, on the Council not making inquiries regarding items before them, comparing Measure A and Orange County's Measure F, on the vote to fund the Intervenor, and on the ramifications of the legality of Measure A; Esther Espinosa, on the revision to the Animal Shelter Superintendent classification, supporting the selection of Mike Nolan as the Intervenor, on the various Park and Recreation Department positions, and alleging nepotism; Bill Smith, opposing the

Equestrian Center proposed mitigated negative declaration for non-equestrian events, and distributing copies of a letter to David Attaway, Los Angeles City Department of Parks and Recreation, expressing his opposition, citing the fact that the Equestrian Center is still relying on Burbank for emergency services, unreimbursed wear and tear on Burbank infrastructure, and additional traffic on Burbank streets; Kevin Muldoon, supporting the current videotape policy as videotapes can sometimes prove more effective in communicating issues, and showing a videotape of blighted properties at various locations in the City to prove his point; Irma Loose, showing a videotape of Mr. Laurell's request to review the videotape playback policy, on Will Rogers' column on the subject of videotape playback, stating that the videos serve to remind Council Members of their promises and pledges to the voters, that using videotapes are her First Amendment right, and on her opinion that the \$300,000 per year that has been spent running channel 6 is self-promotion by the Council;

Molly Hyman, supporting the Magnolia Power Plant Project, thanking staff and encouraging Council support of the project; Howard Rothenbach, supporting the current videotape playback policy, and on the \$100,000 of funding in the contract for the Intervenor and inquiring whether any funds remaining in the account can be used by the Intervenor for the appeal process; David Piroli, on the comparison of Measure A and Measure B during last week's Council meeting, reading the text of Measure B and quoting from Mr. Barlow's argument in favor of Measure B, stating the very arguments used to promote Measure B are the same as those used to discredit Measure A, and inquiring as to why the City did not apply to the Court for clarification on Measure B; Ron Vanderford, supporting the current videotape playback policy for history's sake, comparing Mr. Laurell's position on Airport development when he first came on the Council and currently, and inquiring if an agreement is reached with the Airport and submitted to the voters under the auspices of Measure B and rejected, and asking who will prevail if the Airport then sues the City because Measure B violates the governing law contained in the Public Utility Code; Ken Hoaglund, supporting the videotape playback policy, and citing the recent CUP approval of the Graciela Burbank Hotel as a prime example of the value of videotapes; Dr. Theresa Karam, supporting the videotape playback policy, on the community being deprived of information if the right to play videotapes is taken away, on Measure A and its supporters speaking out on videotapes, and on the tapes being valuable to honesty, integrity and truth; James Schad, in support of the Equestrian Center's proposed mitigated negative declaration for non-equestrian events; Mark

Barton, in support of Mike Nolan's request to serve as the Intervenor, on security at the Airport, on not caring at all about Measure A and wanting the City out of court so we can proceed with other matters; C.L. Stack, supporting the current policy on videotape playback, on Measure A being a simple quality of life issue, and urging Council to reconsider their decision on the Measure A litigation; Mike Nolan, on the recommendation for the retention of outside counsel to represent the Intervenor being incorrect on the agenda, supporting an audit of Airport legal bills and stating the appeal issue is covered; and Stan Hyman, stating Mike Nolan is not an appropriate Intervenor because he did not vote on the Measure A issue and thus would not be qualified to defend the measure, on the lack of evidence that Mr. Nolan has any insight into what the residents who supported Measure A were thinking, quoting from the Court transcript on qualifications for the Measure A Intervenor, on the Council's decision not to fund the appeal despite knowing trial decisions are unreliable and the finality of decisions made in the Appellate Court, and thus the funding for the Intervenor being a waste of taxpayers money.

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| Staff
Response | Members of the Council and staff responded to questions raised. |
| 8:06 P.M.
Recess | The Council recessed to permit the Redevelopment Agency to hold its meeting. The Council reconvened at 8:07 p.m. with all members present. |
| Motion | It was moved by Ms. Murphy and seconded by Mr. Golonski that "the following items on the consent calendar be approved as recommended." |
| 1007-1
Revise Spec. of
Recreation
Services Mgr. | <u>RESOLUTION NO. 26,183:</u>
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK REVISING THE SPECIFICATION OF RECREATION SERVICES MANAGER (CTC NO. 0715). |
| 1007-1
Revise Spec. of
Recreation
Leader | <u>RESOLUTION NO. 26,184:</u>
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK REVISING THE SPECIFICATION OF RECREATION LEADER (CTC NO. 0712). |
| 1007-1
Revise Spec. of | <u>RESOLUTION NO. 26,185:</u>
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK |

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Work Trainee I REVISING THE SPECIFICATION OF WORK TRAINEE I (CTC NO. 0944).

1007-1 RESOLUTION NO. 26,186:
1009-1 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Establish Title of ESTABLISHING THE TITLE AND CLASSIFICATION OF FOOD
Food Services SERVICES SUPERVISOR (CTC NO. 0362) AND PRESCRIBING
Supervisor CLASSIFICATION CODE NUMBER, SALARY AND
 SPECIFICATION THEREOF.

1007-1 RESOLUTION NO. 26,187:
1009-1 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Establish Title of ESTABLISHING THE TITLE AND CLASSIFICATION OF
Program PROGRAM SPECIALIST (CTC NO. 0684) AND PRESCRIBING
Specialist CLASSIFICATION CODE NUMBER, SALARY AND
 SPECIFICATION THEREOF.

1007-1 RESOLUTION NO. 26,188:
1009-1 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Establish Title of ESTABLISHING THE TITLE AND CLASSIFICATION OF
Recreation RECREATION COORDINATOR (CTC NO. 0720) AND
Coordinator PRESCRIBING CLASSIFICATION CODE NUMBER, SALARY AND
 SPECIFICATION THEREOF.

1007-1 RESOLUTION NO. 26,189:
1009-1 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Establish Title of ESTABLISHING THE TITLE AND CLASSIFICATION OF
Recreation RECREATION SUPERVISOR (CTC NO. 0721) AND
Supervisor PRESCRIBING CLASSIFICATION CODE NUMBER, SALARY AND
 SPECIFICATION THEREOF.

1007-1 RESOLUTION NO. 26,190:
1009-1 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Establish Title of ESTABLISHING THE TITLE AND CLASSIFICATION OF SENIOR
Senior RECREATION LEADER (CTC NO. 0847) AND PRESCRIBING
Recreation CLASSIFICATION CODE NUMBER, SALARY AND
Leader SPECIFICATION THEREOF.

1007-1 RESOLUTION NO. 26,191:
1009-1 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Establish Title of ESTABLISHING THE TITLE AND CLASSIFICATION OF SOCIAL
Social Services SERVICES PROGRAM SUPERVISOR – NUTRITION (CTC NO.
Program 0879) AND PRESCRIBING CLASSIFICATION CODE NUMBER,
Supervisor – SALARY AND SPECIFICATION THEREOF.
Nutrition

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which means the completion of the License Agreement with the Metropolitan Transportation Authority (MTA). She discussed that when negotiations began, there were between 30 and 40 issues which the City wanted changed or modified in the Agreement and that these have been narrowed down to two issues which involve indemnifying the City for any third parties which MTA allows on the site, and limiting the City's liability for any party leaving hazardous waste on the property.

She added that when the draft License Agreement was received by the City, many of the changes and concessions previously discussed had been left out, and the draft did not reflect concessions made on previous drafts. She added that in an effort to bring this process to successful completion, staff has contacted MTA Board Representative Frank Roberts. Mrs. Forbes stated that, as a result, staff received a telephone call from the MTA Real Estate Department indicating this project was their top priority and stating they would schedule a meeting to reach an agreement with the City immediately. She concluded by stating that staff will update the Council as soon as the meeting has taken place as to the progress, that construction is anticipated to begin in August 2002, the website has been updated to reflect this change, and residents will be notified two weeks prior to commencement of construction.

The Council noted and filed the report.

201-2
Video Playback
During Council
Meetings

Mr. McManus, Public Information Officer, reported that at the December 18, 2001 meeting, Vice Mayor Laurell requested a review of the videotape playback policy. He stated that this item was brought back on January 8, 2002 at which time Council directed staff to schedule the item for a future date for discussion and consideration. He stated the policy was originally implemented in March of 1999, and was amended in July 1999 to shorten the deadline for the public to submit tapes for presentation at Council meetings. He indicated a survey was done of 32 cities, 17 of which have no written policy, and 5 in which the subject has never come up, and outlined the findings.

Following Council discussion, staff was directed to explore the issue of restricting use of videos during oral communications for election campaigning and electioneering.

8:44 P.M.

The Council recessed at this time. The meeting reconvened at

Recess

8:57 with all members present.

201-2
FY 2001-02
Work Program
Items for BWP

Mr. Davis, General Manager, Burbank Water and Power, reported on various Work Program items pertaining to Burbank Water and Power (BWP) by highlighting items not recently covered at regular Council meetings. He began by stating that with regard to developing an undergrounding master policy and plan that will gradually eliminate overhead lines from residential areas, work was progressing slowly and the biggest issue is the cost of the project which amounts to \$100-\$250 per square foot to underground overhead lines, and that participation by the communications utilities is required due to the cost constraint. He reported BWP had focused on the goal of continuing to improve roadway lighting and reduction of visual clutter, and cited work in the Ben Mar Hills area and Burbank High School/McCambridge Park area. He stated that the turbines and related piping had been installed for the small hydro generation unit at the Valley Pumping Plant. He stated that BWP performs maintenance on 1,800 hydrants throughout the City, including painting one-third of them a year. He reported that work continues on replacing oil-filled overhead switches with air switches or electronic equipment, and that only 52 oil-filled switches remain to be replaced. Regarding the completion of four major electric pole-line rebuilds, Mr. Davis reported that some pole-lines are rebuilt every year, and this year they are working on the area bounded by Victory Boulevard to Pacific Avenue west of Hollywood Way. He stated that a new Supervisory Control and Data Acquisition computer system had been installed in the SCADA Center and BWP is converting each electric station one at a time to conform to the new system. He indicated the design of the Reclaimed Water System expansion project from the Reclamation Plant to the Burbank Empire Center had gone out to bid, and in addition they will build the line that extends the reclaimed systems from Buena Vista Street to Empire Avenue. Mr. Davis continued by stating that with some recent developments, they have passed the \$2 million mark in wholesale marketing, and hope to get to \$3 million by year-end, and despite not reaching their stated target of \$5 million substantial returns have been realized from their wholesale marketing efforts. He indicated they have begun the process of a two-year project to acquire a new customer information and billing system by issuing Requests For Proposals to 26 vendors for a modern system which will meet future needs, and expects the project to be completed by the end of Fiscal Year 2002-03. With respect to exploring the feasibility of providing customers Internet access to their municipal services accounts, he indicated that this goal is tied to the acquisition of a new customer information and billing system, BWP is

exploring the possibility of viewing static databases of accounts which is not an on-line system but would allow their customers to look at their accounts, that BWP implemented a level pay or automatic debit program from checking accounts last year and there are about 1200 customers using on-line services, and that they have begun accepting credit cards as a walk-in service. He concluded by discussing a safety goal of decreasing the incident rate to an OSHA level of 5, which means 5 hours for every 100,000 craft hours worked, and the current level is 5.3.

Mr. Golonski requested that BWP add a goal to the work program of exploring the feasibility of offering telecommunications services to the local School District through the City's fiber optic network at a substantial savings to the School District.

The Council reviewed the work program items pertaining to Burbank Water and Power.

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Agmt. to Retain
Independent
Counsel for
Intervenor in
Measure A
Litigation

Mr. Barlow reported that shortly after the litigation was filed to clarify the legality of Measure A, the Council sought an Intervenor to defend the Measure since the defendant was the Airport and the plaintiff was the City, and after it was determined such an offer would be legal, sought to fund the Intervenor. He stated that nobody came forth for several months, but a few weeks ago Ted McConkey expressed interest in intervening but a mutually satisfactory agreement could not be worked out. At the Council meeting of February 12, 2002, Mike Nolan accepted the City's offer to intervene and stated he would sign the proposed Intervention Agreement as currently set forth. Mr. Barlow indicated he has been in contact with Mr. Nolan's attorney, who is the same attorney as Mr. McConkey's, and Mr. Nolan had signed the agreement pursuant to the established deadline. He recommended that Council approve the Agreement and direct staff to find an independent firm to provide the approval process for paying expenditures. He added that staff recommends the firm of Miller, Kaplan, Arase, & Co., LLP be retained to perform this service, at a cost of approximately \$90 per hour.

Motion

It was moved by Ms. Murphy and seconded by Mrs. Ramos that "the City Council approve the Agreement and direct the City Attorney to contract with an independent firm to provide the approval process for paying the legal bills."

- Carried The motion carried by the following vote:
- Ayes: Council Members Murphy, Ramos and Kramer.
 Noes: Council Members Golonski and Laurell.
 Absent: Council Members None.
- Ordinance Submitted It was moved by Mr. Laurell and seconded by Ms. Murphy that "Ordinance No. 3594 be read for the second time by title only and be passed and adopted." The title to the following ordinance was read:
- 1701 ORDINANCE NO. 3594:
ZTA 2001-12 AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK
(Nonconforming AMENDING SECTION 31-1815 OF THE BURBANK MUNICIPAL
Uses and CODE RELATING TO THE AMORTIZATION OF CERTAIN LEGAL
Structures) NONCONFORMING USES.
- 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 Mr. Laurell and seconded by Ms. Murphy that "Ordinance No. 3595 be read for the second time by title only and be passed and adopted." The title to the following ordinance was read:
- 1503 ORDINANCE NO. 3595:
411 AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK
Magnolia Power APPROVING ENTERING INTO THE MAGNOLIA POWER
Project Power PROJECT POWER SALES AGREEMENT (PROJECT A).
Sales Agmt.
- 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.
- 9:16 P.M. The Redevelopment Agency meeting was reconvened at this
Reconvene time.

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Redev. Agency
Meeting

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 Ted McConkey, encouraging Mr. Laurell to read the original Measure F and both motions, on Measure W being on the March 5 ballot which takes out all the objections, including those of the appeal judge and is predicted to pass, on Mr. Hyman not choosing to be an intervenor, stating Mr. Hyman was incorrect in saying the judge could have called Mr. Rothenbach up to be an intervenor and that anyone who supported Measure A had status to intervene; Irma Loose, stating Will Rogers' articles were slanted and distorted, on Mr. Rogers' comments about the intentional editing of videotapes, challenging her integrity and accusing her of lying, and on an upcoming sweetheart deal for Mr. Laurell probably in the Public Information Office; Mike Nolan, on claims filed against the City due to cracked sidewalks, on the condition of Angeleno Avenue between San Fernando Boulevard and Glenoaks Boulevard, on the size of the Magnolia Park tree wells, on planting of trees which litter the sidewalks causing people to slip and fall down, and on the practice of ramping broken sidewalks rather than repairing them; Kevin Muldoon, stating he appreciated the discussion on the videotapes, stating that the City has negotiated away the right to the public access channel, and encouraging Council to negotiate for a studio and editing facility for use by the public; and Mark Barton, on not losing perspective on the issue of getting out of court, on not caring whether or not Mike Nolan voted for Measure A, on being concerned with what Mike Nolan will do for us rather than who Mike Nolan is, and on his desire that we work together with the Airport.

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 9:31 p.m.

Margarita Campos, City Clerk

APPROVED APRIL 23, 2002
Mayor of the Council
of the City of Burbank