



COUNCIL AGENDA - CITY OF BURBANK
TUESDAY, SEPTEMBER 23, 2003
5:00 P.M.

CITY COUNCIL CHAMBER – 275 EAST OLIVE AVENUE

This agenda contains a summary of each item of business which the Council may discuss or act on at this meeting. The complete staff report and all other written documentation relating to each item on this agenda are on file in the office of the City Clerk and the reference desks at the three libraries and are available for public inspection and review. If you have any question about any matter on the agenda, please call the office of the City Clerk at (818) 238-5851. This facility is disabled accessible. Auxiliary aids and services are available for individuals with speech, vision or hearing impairments (48 hour notice is required). Please contact the ADA Coordinator at (818) 238-5021 voice or (818) 238-5035 TDD with questions or concerns.

CLOSED SESSION ORAL COMMUNICATIONS IN COUNCIL CHAMBER:

Comments by the public on Closed Session items only. These comments will be limited to **three** minutes.

For this segment, a **PINK** card must be completed and presented to the City Clerk.

CLOSED SESSION IN CITY HALL BASEMENT LUNCH ROOM/CONFERENCE ROOM:

- a. Conference with Legal Counsel – Existing Litigation:
Pursuant to Govt. Code §54956.9(a)
 1. **Name of Case:** In re: Pacific Gas and Electric
Case No.: SF 01-30923 (United States Bankruptcy Court, Northern District of California).
Brief description and nature of case: Bankruptcy case related to the restructuring of the energy market.
 2. **Name of Case:** City of Burbank v. State Water Resources Board.
Case No.: Court of Appeals Case No. B150912
Brief description and nature of case: Waste Water Discharge Requirements.
- b. Conference with Legal Counsel – Anticipated Litigation (City as potential defendant):
Pursuant to Govt. Code §54956.9(b)(1)
Number of potential case(s): 3
- c. Public Employee Performance Evaluation:
Pursuant to Govt. Code §54957 and 54957.6
Title of Employee’s Position: City Attorney.
- d. Public Employee Performance Evaluation:
Pursuant to Govt. Code §54957 and 54957.6

Title of Employee's Position: City Manager.

When the Council reconvenes in open session, the Council may make any required disclosures regarding actions taken in Closed Session or adopt any appropriate resolutions concerning these matters.

6:30 P.M.

INVOCATION: Angie Zyganewicz, Intern, First Presbyterian Church.
The Courts have concluded that sectarian prayer as part of City Council meetings is not permitted under the Constitution.

FLAG SALUTE:

ROLL CALL:

ANNOUNCEMENT: WEDNESDAY NIGHT PRIME TIME PROGRAMS.

ANNOUNCEMENT: CHARTER REVIEW COMMITTEE APPLICATIONS.

PRESENTATION: FUNDRAISER FOR BURBANK ANIMAL SHELTER.

PROCLAMATION: EMBLEM CLUB WEEK.

COUNCIL COMMENTS: (Including reporting on Council Committee Assignments)

INTRODUCTION OF ADDITIONAL AGENDA ITEMS:

At this time additional items to be considered at this meeting may be introduced. As a general rule, the Council may not take action on any item which does not appear on this agenda. However, the Council may act if an emergency situation exists or if the Council finds that a need to take action arose subsequent to the posting of the agenda. Govt. Code §54954.2(b).

6:30 P.M. PUBLIC HEARING:

1. REVOCATION OF CONDITIONAL USE PERMITS NO. 98-18 AND 99-34 (GITANA):

Gitana, the nightclub/restaurant/sports bar located at 260 East Magnolia Boulevard, operates pursuant to Conditional Use Permit (CUP) No. 99-34, which amended the original CUP No. 98-18. CUP No. 98-18 was approved by the Council in 1998 and was modified at the applicant's request by CUP No. 99-34 in 2000. Both CUPs are still legally in effect. Gitana's CUPs allow for the operation of a bar and separate cigar lounge in conjunction with a full service restaurant, a nightclub with a dance floor, and a billiard parlor.

The Burbank Police Department analyzed all police incidents related to Gitana from October 2002 to July 2003 and determined that a total of 73 police calls for service that were linked to Gitana occurred during the ten-month period. The calls included incidents such as assaults with a deadly weapon, fights, and driving under the influence of alcohol. Based upon the frequency and nature of the police calls for service and the number of police officers that were often required to handle the situations, the Police Department determined that the incidents create a substantial adverse impact on the delivery of police services within the City. Based upon this determination, the Chief of Police requested that the Planning Board conduct a compliance hearing as authorized by the conditions of approval on Gitana's CUPs.

On July 28, 2003, the Planning Board held the compliance hearing and examined evidence presented by the Chief of Police. The Board members stated their opinion that the evidence presented was adequate to make a determination that Gitana is having an adverse impact on the City's police services, and voted unanimously that the matter be set for a CUP revocation hearing before the Council pursuant to the CUP conditions of approval.

Evidence presented by the Police Department demonstrates that Gitana generates a disproportionate amount of police incidents compared to other businesses, and has had more patrons arrested for driving under the influence of alcohol than any other commercial establishment in the City. Many of the incidents at Gitana require a significant dedication of Police Department resources for prolonged periods of time and jeopardize the Department's ability to respond to emergencies elsewhere in the City. Many of the incidents are also violent in nature and pose a threat to residents and patrons in the surrounding area.

The Burbank Municipal Code states that the Council may revoke a CUP based only upon one or more of three specified grounds after holding a public hearing. Staff recommends that the Council revoke CUPs No. 98-18 and 99-34 based upon the following grounds:

1. The CUPs have been exercised contrary to the terms of approval in that the business has been creating substantial adverse impacts on the Police Department.
2. The CUPs are being or have been exercised as to be detrimental to the public health or safety in that the a) residents are being deprived of police services due to the extraordinary amount of police calls responding to Gitana for alcohol related and other criminal activity; and b) residents are being deprived of police services due to the criminal activity occurring at Gitana which sometimes demands a response by a majority of the entire police force on duty in the evening.
3. The CUPs are being or have been exercised as to constitute a nuisance as evidenced by the primary and secondary effects of the operation of the business. Specifically, significant criminal activity has occurred which adversely impacts nearby commercial and residential uses; creates a magnet for illegal activities; results in excessive police service; and, results in traffic violations and police detentions and arrests.

Revocation of these CUPs would require Gitana to cease operation of its nightclub, bar, and billiards operations. Gitana could continue operating only as a restaurant with incidental alcohol.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF BURBANK REVOKING CONDITIONAL USE PERMIT NOS. 98-18 AND 99-34 (ADRD, INC., dba GITANA, 260 EAST MAGNOLIA BOULEVARD).

JOINT HEARING WITH THE REDEVELOPMENT AGENCY:

2. DISPOSITION AND DEVELOPMENT AGREEMENT FOR THE PEYTON-GRISMER REVITALIZATION PROJECT:

The purpose of this report is to provide information to the Redevelopment Agency Board (Agency) and Council to consider a Disposition and Development Agreement (DDA) between the Agency and the Burbank Housing Corporation (Nonprofit). The proposed DDA conveys via a lease, ten Agency-owned residential buildings located at 1801, 1807, 1811, 1813 and 1815 Grismer Avenue; an unimproved property at 1819 Grismer Avenue; 1729A, 1729 B and C, 1731, 1733 and 1735 Elliott Drive (Property) to be rehabilitated and operated by the Nonprofit as a mixed-income residential project with an affordability component for very low-income and lower-income persons.

The Peyton-Grismer neighborhood has been considered for a number of years as one of several blighted neighborhoods within Burbank characterized by individual buildings suffering from deferred maintenance and fluctuating rates of criminal activity. Historically, this neighborhood has been on the Police Department's top three areas for calls received. In addition, past conversations with officials from the Burbank Unified School District (BUSD) have indicated that students from this area tended not to be as engaged as the general school population. Staff speculates that the socio-economic challenges and living environment puts stress on the entire family.

This project is predicated upon a proven strategy for upgrading a neighborhood in decline. As with the Elmwood neighborhood, the approach is to acquire and rehabilitate several key distressed properties affecting the immediate neighborhood, have the Nonprofit operate the site as a mixed income project with an affordability component, and to construct an activity center from which to provide services that will integrate tenants into the community.

The proposed DDA will implement the aforementioned strategy in the Peyton-Grismer focus neighborhood. Under the DDA, the Nonprofit will mitigate the following identified problems that blight the Property:

- While probably structurally sound, the buildings are substantially deteriorated.

- Parking is significantly substandard, with a ratio of approximately one space per unit and is well below current code requirements for an R-4 zone.
- The layout of the buildings, the location of parking and the configuration of the vehicular access points to buildings and parking areas is contorted and confusing, creating a dangerous condition in the event that emergency services are required within the larger parcels.
- There is very little usable recreation space available to the tenants. Except for one swimming pool area (which is not maintained, and contains stagnant water), most of the outdoor spaces are paved for parking and driveway use.
- Bedroom sizes do not correspond to a need identified in the City’s housing needs assessment for family units affordable to very low and larger, lower-income households.

The DDA is a joint agreement between the Agency, City and the Nonprofit that describes the terms and conditions for the disposition (via a lease) of the Agency’s properties to the Nonprofit and the rehabilitation and operation of the Property. The DDA provides for financial assistance lent from Agency Low Moderate-Income (LMI) funds, establishes the conditions for disbursement of the LMI loan and sets forth the requirements for the operation of the Property. Summarized below are the salient provisions of the proposed DDA.

The Agency proposes to advance \$13.12 million in Low and Moderate-Income (LMI) funds comprised of two components:

- The Agency funds all land assemblage costs. The estimated cost to the Agency for its land assemblage is \$9.674 million (assemblage costs are anticipated to increase marginally subject to the settlement cost for 1729-1735 Elliott Drive).
- The Agency extends \$3.441 million in rehabilitation financing to the Nonprofit. This expenditure will be partially repaid when the Nonprofit takes out a permanent loan at the time of Property stabilization. A residual receipts note with a 55-year repayment term will repay the gap between the amount of rehabilitation costs and the amount of a conventional loan obtained for by the Nonprofit.

Agency funds are to be partially repaid through an Agency lease, a private loan and an Agency loan as follows:

1. Once the Property stabilizes (completion of rehabilitation), the Nonprofit is to secure a permanent loan from a commercial bank to partially repay the Agency’s \$3.441 million rehabilitation loan. The lender’s security will be based upon the Agency’s leasehold interests and precedent to the Agency’s lease and loan.

Example:

Agency’s rehabilitation Loan	\$3.441 million
Less: Funds from conventional loan	<u>\$2.322 million</u>
Balance paid through residual receipts	\$1.119 million

2. The Nonprofit leases the Property at one dollar per year until the Agency residual receipts loan is repaid, after which the lease is 100 percent of the residual receipts from the Property.
3. The balance of the Agency loan is repaid from 100 percent of the Property's residual receipts after operating expenses and permanent loan debt service payments.

Example:	2. Agency Loan <u>Payment</u>	3. Agency Loan <u>Retired</u>
Nonprofit's rental income	\$630,000	\$630,000
Less: annualized conventional loan	\$200,000	\$200,000
Less: operating expenses	\$400,000	\$400,000
Less: Agency loan	\$30,000	0
Less: Agency lease	\$ 1	\$30,001

The Nonprofit will enter into a 55-year lease with the Agency for one dollar per year plus contingent annual payments predicated on the residual receipts generated by the Property. The use of a lease instead of selling the Property to the Nonprofit would allow the Agency (and ultimately the City if the Agency ceased) to retain the Property at the end of the 55-year affordability period. Otherwise, the Agency would need to convey the Property to the Nonprofit at no cost. Given the development restrictions imposed by the Agency, the Property's residual land value (also known as reuse value) is a negative \$1.07 million, which means that the Agency would need to give the land to the Nonprofit (a 100 percent land write-down) plus \$1.07 million in additional Agency assistance.

As noted by the economic consultant for the Property, Keyser Marston Associates (KMA), the DDA imposes extraordinary controls on the Project. KMA's analysis points out that the Nonprofit must eliminate 29 units (reducing the total number of units from 99 to 70 units) and reconfigure 12 units; impose income and affordability restrictions on 33 units in the Project; construct an activities center community room to serve the Project; and to pay for resident services. The extraordinary costs associated with these requirements reduce the value of the site from \$7.66 million at the highest use allowed by the site's zoning, to the established fair reuse value of negative \$1.07 million.

KMA concluded that the Agency received "fair consideration for the interests being conveyed" to the Nonprofit, noting, "the present value of the lease payments will total \$669,000, which is \$1.74 million greater than the established fair reuse value."

Rehabilitation will include improvements and repairs that have been deferred for many years including: repairing leaks, dry rot, mold, termite damage, asbestos and lead-based paint abatement and fire protection (e.g. smoke detectors and sprinkler system). More specifically, rehabilitation will include remodeling kitchens and bathrooms with specific improvements focusing on health and safety issues and may include fixtures, cabinets and flooring, upgrading the electrical, plumbing and heating, ventilation, air conditioning (HVAC) systems, new carpeting, interior and exterior painting, new exterior doors and windows; and re-roofing. In addition, the Nonprofit is to construct a single-story activity

center (used to provide family and youth services, as well as the administrative offices of the Nonprofit) and on-site improvements.

The Nonprofit is to make available, restrict occupancy to, and rent 14 of the apartment units to very low-income households and 19 of the apartment units to lower-income households predicated upon a distribution of 20 percent of all units reserved for very low-income and 27 percent of all units reserved for lower-income households.

In summary, the DDA provides for the City and Agency in cooperation with the Nonprofit to upgrade the Property that, without public intervention, would continue to show signs of decline characterized by poorly maintained rental units and by residents disconnected from the larger community. The Peyton-Grismer Revitalization Project entails the Agency using its authority to assemble property blighting a neighborhood and expending its LMI funds to advance affordable housing. The Project accomplishes a set of housing objectives that include continuing geographical targeting of resources into focus neighborhoods and working with the Nonprofit to rehabilitate substandard units and operate them as a mixed-income project with affordable rents.

The Project also requires the building of an activity center to accommodate service-enriching programs designed to emulate the results experienced at the Elmwood Achievement Center, where deep-seated changes have occurred to the neighborhood fabric. Similar to Elmwood, the Peyton-Grismer Activity Center will offer family services intended to integrate residents into the larger community and after-school and mentoring activities for local youth.

Recommendation:

1. Adoption of proposed Redevelopment Agency resolution entitled:
A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF BURBANK AMENDING THE FY 2003-2004 ANNUAL BUDGET IN THE AMOUNT OF \$2,700,000.
2. Adoption of proposed Redevelopment Agency resolution entitled:
A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF BURBANK APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE AGENCY AND BURBANK HOUSING CORPORATION.
3. Adoption of proposed Council resolution entitled:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF BURBANK AND BURBANK HOUSING CORPORATION.

REPORTING ON CLOSED SESSION:

INITIAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS: (Two minutes on any matter concerning City Business.)

There are four segments of Oral Communications during the Council Meeting. The first precedes the Closed Session items, the second and third segments precede the main part of the City Council's business (but follow announcements and public hearings), and the fourth is at the end of the meeting following all other City business.

Closed Session Oral Communications. During this period of oral communications, the public may comment only on items listed on the Closed Session Agenda(s). A **PINK** card must be completed and presented to the City Clerk. Comments will be limited to **three** minutes.

Initial Open Public Comment Period of Oral Communications. During this period of Oral Communications, the public may comment on any matter concerning City Business. A **BLUE** card must be completed and presented to the City Clerk. NOTE: Any person speaking during this segment may not speak during the third period of Oral Communications. Comments will be limited to **two** minutes.

Agenda Item Oral Communications. This segment of Oral Communications immediately follows the first period, but is limited to comments on agenda items for this meeting. For this segment, a **YELLOW** card must be completed and presented to the City Clerk. Comments will be limited to **four** minutes.

Final Open Public Comment Period of Oral Communications. This segment of oral communications follows the conclusion of agenda items at the end of the meeting. The public may comment at this time on any matter concerning City Business. NOTE: Any member of the public speaking at the Initial Open Public Comment Period of Oral Communications may not speak during this segment. For this segment, a **GREEN** card must be completed and presented to the City Clerk. Comments will be limited to **two** minutes.

City Business. City business is defined as any matter that is under the jurisdiction of the City Council. Although other topics may be of interest to some people, if those topics are not under City Council jurisdiction, they are not City business and may not be discussed during Oral Communications.

Videotapes/Audiotapes. Videotapes or audiotapes may be presented by any member of the public at any period of Oral Communications or at any public hearing. Such tapes may not exceed the time limit of the applicable Oral Communications period or any public comment period during a public hearing. The playing time for the tape shall be counted as part of the allowed speaking time of that member of the public during that period.

Videotapes must be delivered to the Public Information Office by no later than 10:00 a.m. on

the morning of the Council meeting in a format compatible with the City's video equipment. Neither videotapes nor audiotapes will be reviewed for content or edited by the City prior to the meeting, but it is suggested that the tapes not include material that is slanderous, pornographic, demeaning to any person or group of people, an invasion of privacy of any person, or inclusive of material covered by copyright.

Printed on the videocassette cover should be the name of the speaker, the period of oral communication the tape is to be played, and the total running time of the segment. The Public Information Office is not responsible for "cueing up" tapes, rewinding tapes, or fast forwarding tapes. To prevent errors, there should be ten seconds of blank tape at the beginning and end of the segment to be played. Additionally, the speaker should provide the first sentence on the tape as the "in cue" and the last sentence as the "out cue".

As with all Oral Communications, videotapes and audiotapes are limited to the subject matter jurisdiction of the City and may be declared out of order by the Mayor.

Disruptive Conduct. The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones and pagers, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

Once an individual is requested to leave the Council Chamber by the Mayor, that individual may not return to the Council Chamber for the remainder of the meeting. BMC §2-216(b).

Individuals standing in the Council Chamber will be required to take a seat. Also, no materials shall be placed in the aisles in order to keep the aisles open and passable. BMC §2-217(b).

Your participation in City Council meetings is welcome and your courtesy will be appreciated.

COUNCIL AND STAFF RESPONSE TO INITIAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS:

AGENDA ITEM ORAL COMMUNICATIONS: (Four minutes on Agenda items only.)

COUNCIL AND STAFF RESPONSE TO AGENDA ITEM ORAL COMMUNICATIONS:

CONSENT CALENDAR: (Items 3 through 6)

The following items may be enacted by one motion. There will be no separate discussion on these items unless a Council Member so requests, in which event the item will be removed from the consent calendar and considered in its normal sequence on the agenda. A **roll call** vote is required for the consent calendar.

3. EXTENSION OF HOLDING PERIOD TO INITIATE HOUSING ACTIVITIES AT 704 – 722 SOUTH SAN FERNANDO BOULEVARD (LANCE SITE):

On October 11, 1995, the Redevelopment Agency purchased a 39,875 square foot (0.92 acres) site located at 704-722 South San Fernando Boulevard from John Lance. The total cost for acquisition, relocation and demolition was \$1,388,000 utilizing 20 Percent Housing Set-Aside funds.

Under the California Redevelopment Law (CRL), Health and Safety Code Section 33334.16 requires the Agency to initiate housing activities on sites purchased with 20 Percent Housing Set-Aside funds within five years of the date the property was purchased. The same section also permits the legislative body, by resolution, to extend the holding period to initiate housing activities for an additional period of up to five years.

If housing activities are not initiated within the first five-year period, or for the period during which the holding period was extended (up to an additional five years), the land must be sold to reimburse the 20 Percent Housing Set-Aside Fund.

The first five-year period expired on October 11, 2000, five years from the date the Lance site was purchased. On September 26, 2000, the Council approved an extension of the holding period to initiate housing activities for an additional three years in order to provide additional time for a developer to be selected and an agreement to be executed for the purchase and development of the site. This period ends on October 11, 2003. After the review and consideration of various proposals, on August 6, 2002, staff was authorized to initiate negotiations with the Olson Company to draft a Disposition and Development Agreement (DDA) to develop 33 for-sale townhome residential units. Additional time is needed to complete the DDA and entitlement process for the purchase and development of this site. Therefore, staff proposes that the Council extend the holding period for residential purposes for an additional two years which would end on October 11, 2005.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK EXTENDING THE PERIOD DURING WHICH THE REDEVELOPMENT AGENCY OF THE CITY OF BURBANK MAY RETAIN CERTAIN REAL PROPERTY.

4. REQUESTING A RESOLUTION OF THE COUNCIL TO AMEND THE FISCAL YEAR

2003-04 POLICE DEPARTMENT DRUG ASSET FORFEITURE FUND BUDGET:

Under the Federal Drug Asset Forfeiture Law, the City of Burbank has received funds from the State and Federal Government in the amount of \$192,647.71, which represents the City's share of drug cases involving the Burbank Police Department Narcotics Detail and accumulated interest for Fiscal Year 2002-03.

Recommendation:

(4/5 vote required)

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FY 2003-2004 DRUG ASSET FORFEITURE FUND BUDGET.

5. AUTHORIZING THE ACCEPTANCE OF A UNITED STATES DEPARTMENT OF JUSTICE BLOCK GRANT AND AMENDING THE FISCAL YEAR 2003-04 BUDGET:

Staff is requesting Council approval of a proposed resolution that authorizes the City Manager to accept \$51,381 in United States Department of Justice (DOJ) Block Grant funds for the Police Department, and amend the Fiscal Year 2003-04 budget by appropriating grant funds.

The purpose of the DOJ Local Law Enforcement Block Grant program is to provide funds to units of local government for projects that reduce crime and improve public safety. The City must meet two requirements before the grant funds can be appropriated. First, a local advisory board must meet to review the block grant application and its planned use of grant funds. Second, a public meeting must be convened where members of the public can attend and participate.

The advisory board met on September 3, 2003, and its recommendations, as listed below, are non-binding and serve as a one-time recommendation to the Chief of Police and the Council.

- Street Beat Cable TV Show; \$6,000
- Material Costs for Crime Prevention and Education Programs; \$10,000
- Purchase of Motor Officer Communication Equipment; \$6,000
- Purchase of Computer Equipment; \$10,000
- Special Response Team Ballistic Vests; \$5,000
- Purchase of Miscellaneous Law Enforcement Equipment; \$14,381

Accepting the grant will have no fiscal impact on the City. However, the City will be required to provide a match of \$5,709; a stipulated one-ninth of total grant funding. It is recommended that the matching funds come from the City's overtime safety salary account. There are no recurring costs associated with the block grant.

Recommendation:

Adoption of proposed resolution entitled:

(4/5 vote required)

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AUTHORIZING THE ACCEPTANCE OF A \$51,381 U.S. DEPARTMENT OF JUSTICE BLOCK GRANT AND AMENDING THE FISCAL YEAR 2003-2004 BUDGET.

6. AUTOMATIC/MUTUAL AID AGREEMENT FOR EXCHANGE OF FIRE PROTECTION, SPECIALIZED, RESCUE AND EMERGENCY MEDICAL SERVICES BETWEEN THE CITY OF LOS ANGELES AND THE CITIES OF BURBANK, GLENDALE AND PASADENA:

To provide for rapid, systematic mobilization, organization, and operation of necessary fire and rescue resources in mitigating the effects of extraordinary events, the Burbank Fire Department maintains agreements with other local fire agencies. Automatic Aid agreements provide that the closest available fire/rescue/emergency medical services resources will respond to a particular incident without regard to political boundaries. Mutual Aid agreements provide for the response to incidents in another jurisdiction upon request of the responsible agency.

The Fire Department has maintained an agreement with the City of Los Angeles providing that, in exchange for automatic response to certain areas within Los Angeles, they will respond with their resources, when requested, to Burbank incidents. The agreement has served both agencies well. While Burbank's responses to areas within Los Angeles are more frequent than their responses to Burbank incidents, when their help is needed they can, and do, rapidly respond with an unequalled level of resources, including aircraft.

Glendale has a similar agreement with the City of Los Angeles. Pasadena, however, has not previously had such an agreement. As the three Verdugo cities (Burbank, Glendale and Pasadena) have increased their cooperation, a single agreement between the three cities and Los Angeles has become important so that procedures are the same for all four agencies.

With respect to Burbank, the proposed agreement is identical to the previous agreement with respect to the City's rights and responsibilities. It does, however, allow for the Verdugo cities to be treated as one department for the purpose of assisting Los Angeles. The agreement does not affect the City's current Automatic Aid agreements with Glendale and Pasadena.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE AUTOMATIC/MUTUAL AID FIRE PROTECTION AGREEMENT FOR EXCHANGE OF FIRE PROTECTION, SPECIALIZED, RESCUE AND EMERGENCY MEDICAL SERVICES AMONG THE CITIES OF BURBANK, GLENDALE AND PASADENA (VERDUGO) AND THE CITY OF LOS ANGELES.

END OF CONSENT CALENDAR

*** *** ***

REPORTS TO COUNCIL :

7. MAGNOLIA PARK COMMUNITY ADVISORY COMMITTEE: MEMBER REPRESENTATION AND STATUS UPDATE:

The purpose of this report is to provide an update on activities within the Magnolia Park Area, to seek Council direction to fill two existing vacancies on the Magnolia Park Community Advisory Committee (CAC), and to address the issue of inactive members.

Since the re-establishment of the CAC in 2000, the Committee has worked diligently on several issues including developing criteria for the kiosks, the expansion of angle parking, and the reuse of the old Thrifty building (Conditional Use Permit (CUP) No. 2000-30).

Committee Actions

On November 2001, during its annual report to the Council, the CAC recommended that \$125,000 be earmarked from the General Fund for each of the next five years to fund the improvements and the expansion of the streetscape. The Council voted to fund the improvements over the five-year period with consideration on a recurring basis starting with Fiscal Year 2002-03. The first two phases of angle parking were completed in August 2003, and design work has started for the next four phases.

The reuse of the old Thrifty building is an ongoing issue with the Committee members. In November 2001, the CAC made a recommendation in support of CUP No. 2000-30, for a multi-tenant retail facility. The CAC has been discouraged by the inaction on the reuse of the property and has inquired about the possibility of the City buying the property. Staff is currently considering different options for the building and will be returning to the Council with recommendations at a later date.

Currently, the CAC is discussing the shared use of the Burbank Community Church Parking lot. At the September 2002 CAC meeting, subcommittee member Vander

Borght requested that staff contact the owner of the Burbank Community Church to inquire about a shared use of the parking lot. Since the Community Church only utilizes the parking lot on Wednesday evenings and on Sundays, there appears to be an opportunity to utilize the parking lot for neighborhood businesses at other times. It is anticipated that staff will return to the Council within 120 days with the proposed parameters for creating a shared-use parking lot at this location.

Committee Representation

Over the last year, the CAC has had seven meetings cancelled due to a lack of agenda items or a lack of a quorum. In addition, agenda items are increasingly becoming updates to past projects (e.g. Old Thrifty, Streetscape etc.) rather than new projects that require action by the Committee. Two committee members resigned in May 2003 (one merchant and one resident). To address the ongoing issue of member resignations, staff has reanalyzed possible options for maintaining membership. In addition, staff also considered whether the existing membership structure provides an accurate representation of the neighborhood. Staff has outlined several options to maintain and enhance neighborhood representation.

Option 1

The Council could leave the CAC intact; fill the two existing vacancies on the Committee with two new members. Seven members would be needed to achieve a quorum.

Option 2

The Council could extend an invitation for applications for all 12 seats on the Committee, consisting of six merchants and six residents.

Option 3

Alternatively, the Council could reduce the size of the Committee to 11 members, thereby reducing the number needed to achieve a quorum to six. As mentioned previously, in the past two years when a quorum was not established, the number of members attending was six, which would have allowed for a quorum to convene, if the committee had eleven members. In this alternative, staff would also recommend modifying the representation to six merchants and five residents. Since the predominant issues that the CAC has dealt with have to do with businesses along Magnolia Boulevard, such as promotions and retail vacancies, staff recommends six merchants on the Committee.

Given the lengthy term of the CAC, the lack of new agenda items, and the resignation of two committee members, staff concludes that the restructuring of the Committee might better address some of the current attendance problems facing the CAC.

Recommendation:

Staff recommends the CAC membership be reduced to a total of 11 members consisting of six merchants and five residents and the committee be directed to re-examine all of the possible ideas and issues that could help improve the Magnolia Park Area including the commercial/retail mix, parking, promotions and vacancies.

8. FOURTH AMENDMENT TO THE "GRANT OF EASEMENTS, DECLARATION OF USE RESTRICTIONS AND AGREEMENT FOR TRUST PROPERTY" TO PERMIT TEMPORARY USE OF APPROXIMATELY 4 ACRES OF THE AIRPORT ZONED PORTION OF THE TRUST PROPERTY FOR USE BY SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY (BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY, APPLICANT):

Staff requests that the Council approve the Burbank-Glendale-Pasadena Airport Authority's (Authority) request to amend the Grant of Easements, Declaration of Use Restrictions and Agreement for Trust Property (Trust Property Easements) to permit the Southern California Public Power Authority (SCPPA) to utilize approximately four acres of the Airport zoned portion of the Trust Property, a portion of the former Lockheed B-6 site, as a temporary location for storage and staging of materials used in the construction of the Magnolia Power Project. The proposed amendment to the Trust Property Easements would not permit any additional use of the Trust Property without further approval by the Council, and SCPPA's ability to use a defined portion of the Trust Property would expire the earlier of October 30, 2005 or the date that its lease with the Authority otherwise is terminated.

SCPPA is a joint powers authority consisting of 10 municipal utilities and one irrigation district. SCPPA members deliver electricity to approximately 2 million customers over an area of 7,000 square miles, with a total population of 4.8 million. SCPPA members include the municipal utilities of the cities of Anaheim, Azusa, Banning, Burbank, Colton, Glendale, Los Angeles, Pasadena, Riverside, and Vernon, and the Imperial Irrigation District, and Cerritos. SCPPA is constructing the Magnolia Power Project and its general contractor, Aker Kvaerner, requires approximately four acres to use for the staging of work and storage of piping, structural steel members, cable reels, rebar, etc. It is anticipated that the Magnolia Power Project will be completed approximately July 1, 2005. At that time, all equipment and material will be removed from the site and the staging area will be returned to its previous state. SCPPA is prepared to execute a lease with the Authority whereby the Authority agrees to lease the site subject to the Trust Property Easements.

The Authority asked the City to amend the Trust Property Easements in order to permit the temporary use of approximately four acres of the Airport zoned portion of the Trust Property by SCPPA. Access to the temporary facility would be from one location off Hollywood Way. SCPPA does not intend to grade or excavate the site; but may put gravel on the ground. No structures will be constructed. The only improvements will consist of chain-link security fencing, which will be removed when SCPPA's lease terminates, if requested by the Authority.

The site for the proposed facility is located in the Airport Zone. Pursuant to Burbank Municipal Code Section 31-502, storage or temporary construction materials during the construction is allowed for in every zone in the City. The section reads as follows: "Temporary structures and the storage of materials necessary and incidental to work

being performed on uses or structures authorized by this chapter are permitted for the duration of the work and for ten days after completion". Accordingly no zoning approval or conditional use permit is required for the proposed use.

Uses on the Trust Property are subject to easement and use restrictions pursuant to the Trust Property Easements. The Trust Property Easement was executed as part of a complex transaction among Burbank, the Authority and Lockheed that allowed the Authority to pay Lockheed for the B-6 property, but restricts the ability of the Authority to use the B-6 Property without prior approval by the City. Pursuant to those Title Transfer Documents, title to the Trust Property is held by a Trustee. The Trust Property Easements essentially prohibit any use of the Trust Property other than certain historical uses as permitted by a 1997 Stipulated Order between the Authority and the City. The proposed use of the Trust Property for the Project is not permitted pursuant to the Trust Property Easements. Accordingly, the project cannot be implemented unless and until the City, the Trustee and the Authority agree to amend the Trust Property Easements. Because the temporary use of a portion of the Trust Property for the SCPPA project would not enlarge Airport operations, and is temporary in nature, staff recommends that the Trust Property Easements be amended to allow the SCPPA project. The amendment would permit the use on a portion of the Trust Property for the earlier of: October 30, 2005 or the date that the SCPPA lease with the Authority otherwise is terminated. The proposed amendment would not permit any additional use of the Trust Property, and would not permit any use of the Trust Property not permitted in the 1999 Trust Property Easements after October 30, 2005 at the very latest.

This project is categorically exempt from California Environmental Quality Act pursuant to Guidelines Section 15301, Existing Facilities, and Section 15304, Minor Alterations to Land. Section 15301 exempts the leasing, licensing, permitting, or minor alterations of existing public or private facilities or topographical facilities, which involve negligible or no expansion of use beyond that existing at the time of the lead agency's determination. In addition, Section 15304 exempts minor public or private alterations in the condition of land which includes minor temporary use of land having no negligible or no permanent effects on the environment.

Part 77 of the Federal Aviation Regulations (14 C.F.R. Part 77) establishes imaginary surfaces that extend upward and outward from runway surfaces. Constructed and natural objects that fall within the Part 77 surfaces are considered by the Federal Aviation Administration (FAA) to be potential obstructions to air navigation. Public Utilities Commission (PUC) Section 21659 prohibits construction or natural growth in violation of Part 77 standards, unless the FAA has determined that the construction or natural growth would not constitute a hazard to, or create an unsafe condition for, air navigation.

The Airport Authority has stated that SCPPA's proposed use does not violate the height limits imposed by Part 77. Staff notes that as the Airport proprietor, the Airport Authority is responsible for complying with Part 77 and PUC Section 21659. Nothing in the City's actions under Section 21661.6 should be construed as approving a project that would be in violation of Part 77 or PUC Section 21659.

On August 20, 2002, the Council adopted Ordinance No. 3601, enacting an Interim Development Control Ordinance (IDCO) on certain development on and near the Airport requiring only ministerial approvals. On October 4, 2002, the Council extended the IDCO until August 19, 2004. The SCPA project is not subject to the IDCO because it cannot be approved as a ministerial matter. As noted above, the SCPA project requires this discretionary approval to amend the Trust Property Easements. Furthermore, the SCPA project is not subject to Measure B since it does not involve the enlargement, expansion or relocation of the Airport passenger terminal.

California Public Utilities Code §21661.6 requires, in general, that prior to acquiring an interest in land in the City, the Airport Authority must obtain Council approval of the Airport Authority's plan to use that interest. Section 21661.6 approval is not necessary for SCPA's temporary use of a portion of the Trust Property because the Airport Authority does not hold legal title to the Trust Property (the Trustee does) and would not acquire title to the Trust Property by virtue of SCPA's use of the property.

To conclude, SCPA must find a temporary staging site to assist in the construction of the Magnolia Power Plant. The current request to amend the Trust Property Easements is necessary to allow SCPA to temporarily lease Authority land on the Trust Property while constructing the Magnolia Power Plant.

Staff recommends that the Trust Property Easements should be amended to permit the temporary location of SCPA on approximately four acres of the Trust Property in order to allow SCPA to lease a portion of Authority land. The proposed Fourth Amendment to the Grant of Easements, Declaration of Use Restrictions and Agreement for Trust Property allows SCPA to use a defined portion of the Trust Property for a defined period of time for the limited purpose to store new cars. The proposed Fourth Amendment would not permit any other use of the Trust Property. Accordingly, staff concludes that the proposed Second Amendment preserves the City's control over the use of the Trust Property as contemplated in the 1999 Title Transfer Documents.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING A FOURTH AMENDMENT TO THE "GRANT OF EASEMENTS, DECLARATION OF USE RESTRICTIONS AND AGREEMENT FOR TRUST PROPERTY" TO PERMIT TEMPORARY USE OF APPROXIMATELY 4 ACRES OF THE AIRPORT ZONED PORTION OF THE TRUST PROPERTY FOR USE BY SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY (BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY, APPLICANT).

ADOPTION OF PROPOSED ORDINANCE:

9. APPROVING AN ORDINANCE ESTABLISHING THE SPECIFICATION OF DEPUTY CITY MANAGER/PUBLIC WORKS AND CAPITAL PROJECTS:

The purpose of this report is to establish the specification for the classification of Deputy City Manager/Public Works and Capital Projects (CTC No. 0268).

The establishment of this classification requires an amendment to Burbank Municipal Code Section 2-312 which discusses the composition of the Public Works Department, and states that it will be supervised and directed by the Public Works Director. Although this new classification is proposed to be established, it is intended to fully absorb the job responsibilities of the Public Works Director. The amendment to the Municipal Code provides that the Public Works Director, as established in the Charter, may, at the discretion of the City Manager, be appointed to the new position.

As with all other Executive positions, this new classification will be exempt from Civil Service, will not be subject to Fair Labor Standards Act (FLSA), and will not be represented by any bargaining group. This position will also be included in the City's Conflict of Interest Ordinance.

The Civil Service Board was advised of this establishment at their regular meeting on September 3, 2003.

There is no fiscal impact from the establishment of this specification because the capital project duties were assigned to the Public Works Director without additional compensation.

This ordinance was introduced at the September 16, 2003 Council meeting.

Recommendation:

Adoption of proposed ordinance entitled:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING CHAPTER 2 OF THE BURBANK MUNICIPAL CODE RELATING TO THE PUBLIC WORKS DEPARTMENT.

RECONVENE the Redevelopment Agency meeting for public comment.

FINAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS: (Two minutes on any matter concerning the business of the City.)

This is the time for the Final Open Public Comment Period of Oral Communications. Each speaker will be allowed a maximum of **TWO** minutes and may speak on any matter concerning the business of the City. However, any speaker that spoke during the Initial Open Public

Comment Period of Oral Communications may not speak during the Final Open Public Comment Period of Oral Communications.

For this segment, a **GREEN** card must be completed, indicating the matter to be discussed, and presented to the City Clerk.

COUNCIL AND STAFF RESPONSE TO THE FINAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS:

ADJOURNMENT.

**For a copy of the agenda and related staff reports,
please visit the
City of Burbank's Web Site:
www.ci.burbank.ca.us**