

TUESDAY, SEPTEMBER 30, 2003

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 5:02 p.m. by Ms. Murphy, Mayor.

CLOSED SESSION

Present- - - - Council Members Golonski, Vander Borgh and Murphy.
Absent - - - - Council Members Campbell and Ramos.
Also Present - Mr. Newsham, Interim Assistant City Manager; Mr. Barlow, City Attorney; and, Mrs. Campos, City Clerk.

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

5:02 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 Labor Negotiator:
Pursuant to Govt. Code §54957.6
Name of the Agency Negotiator: Management Services Director/Judie Sarquiz
Name of Organization Representing Employee:
Represented: Burbank City Employees Association, Burbank Management Association, International Brotherhood of Electrical Workers, Burbank Firefighters Association, Burbank Firefighters Chief Officers Unit, and Burbank Police Officers Association; Unrepresented, and Appointed Officials.
Summary of Labor Issues to be Negotiated: Current Contracts and Retirement Issues.
- b. Conference with Legal Counsel – Anticipated Litigation (City as potential defendant):
Pursuant to Govt. Code §54956.9(b)(1)
Number of potential case(s): 2

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

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

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Flag Salute The pledge of allegiance to the flag was led by Jonathan Curtin, John Burroughs High School.

ROLL CALL

Present- - - - Council Members Campbell, Golonski, Ramos, Vander Borcht and Murphy.

Absent - - - - Council Members None.

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

301-1
Fire Dept. Public
Education
Program Chief Davis reported the Fire Department had contacted Disney Studios to produce an animated video promoting fire safety. He added that although budgetary constraints prohibited the video production, Disney Studios offered the talent of an artist who created an exclusive character, Little Squirt, to serve as mascot for the Burbank Fire Department's Public Education Program. He then introduced Little Squirt to the Council and members of the audience.

301-1
Regional
Occupational
Fire Program
Graduates Chief Davis gave a brief background on the Regional Occupational Program (ROP) and introduced the class of 2003, the fifth graduating class of the ROP. He acknowledged several Fire Department members who were instrumental in the success of the program: Fire Marshal Dave Starr; Assistant Fire Marshal, Fire Captain Ron Bell; Fire Captain Jess Talamantes; and, Lead Instructor, Fire Fighter Kelly Chulik. A video was shown which depicted the educational experience provided to the students. Captain Talamantes recognized the services of the three Teachers Assistants for the program: Jonathan Curtin, Margie Leiva and Nick Gallyon. He then introduced the graduates who were commended by Mayor Murphy and Chief Davis: Justine Anderson, Thanasi Andrianos, Julian Korsich, Thomas McDonald, Steven Ramos, David Haft, and Joey Paysinger; as well as graduates who were not present: Cory Brownlee, Michael Garcia, Jan Figueroa, Kenneth La Perruque, Nick Gallyon and Richard Smith.

6:54 P.M.
Cont'd. Hearing
1704-3
Revocation of
CUP Nos. 98-18
and 99-34
(Gitana) Mayor Murphy stated that "this is the time and place for the continued deliberation on the revocation of Conditional Use Permit Nos. 98-18 and 99-34 related to the operation of a nightclub and full service restaurant with billiard parlor, dance floor, live entertainment, cigar lounge, and up to sixty (60) amusement games in conjunction with the on-premises sale and consumption of alcoholic beverages at 260 East Magnolia

Boulevard. The premises are operated by ADRD, Inc., doing business as Gitana.”

Gitana
Representative

Mr. Mounger, Attorney representing Gitana, stated the purpose of the meeting was to give Gitana an opportunity to review the recommendations of the Council at the September 23, 2003 public hearing. He stated there was no dispute with conditions 1 (closing the nightclub operation) and 2 (decreasing the floor area by approximately 5,000 square feet), but stated condition 3 (closing operation at 1:00 a.m.) would require the restaurant to stop serving alcohol at 12:30 a.m. to allow time for the patrons to leave by 1:00 a.m., and would effectively put the restaurant out of business since patrons would prefer other restaurants which could serve alcohol after 12:30 a.m. He also argued that, of the 201 establishments in Burbank serving liquor, Gitana would be the only one required to close operation at 1:00 a.m., and added the liquor license pertained to both Gitana and the restaurant and any restrictions would apply to both businesses.

Mr. Campbell inquired as to the number of restaurants in Burbank that operate until 2:00 a.m., and Mr. Mounger responded he was only aware of one location, but added he believed several restaurants that also serve alcohol were open until 2:00 a.m.

Regarding condition 4 (that both Conditional Use Permits (CUPs) sunset in six months), Mr. Mounger noted that since the nightclub was closed, no acts of violence have occurred. He also noted the majority of the incidents per the police report occurred in the parking structure and suggested that no parking be allowed between 10:00 p.m. and 6:00 a.m.; or, Gitana would pay for all associated costs for the security services of an off-duty Police Officer to deter potential problems. He also added that advertising for Gitana has ceased, and clarified most calls for service pertained to patrons who had been denied access to Gitana. He requested the Council provide a 30-day period to evaluate the drastic changes that have occurred at Gitana. He also stated that the Police Department conducted selective enforcement as evidenced by statistics showing that several arrests were made in the parking structure next to Gitana and other arrests were made within a few blocks. He concluded by urging the Council to re-evaluate Gitana's business practices in 30 days, and noted the possibility of being granted a new CUP seemed futile given the continued recommendation for immediate

revocation by staff, the Police Department and the Planning Board.

Mr. Golonski inquired whether the business and property owners' positions were accurately presented by Mr. Mounger, that conditions 3 and 4 were not agreed to in lieu of immediate revocation. Mr. Mounger responded his client would not agree to condition 3 as it would ultimately close both the restaurant and the cigar lounge/billiards parlor, and added the decision as to the sunset clause was at the Council's discretion.

Mr. Golonski clarified when the Council proposes amendments to CUPs the applicant decides whether he agrees to the amendments, and stated it was implicit that conditions 3 and 4 were not acceptable to the applicant.

Ms. Murphy requested clarification with regard to limiting the hours of operation for the bar and billiard parlor and not the restaurant, and Mr. Bashmakian clarified the Council's recommendation was to close the entire establishment at 1:00 a.m., but stated conditions could be modified to require separate closing hours for the restaurant.

Mr. Mounger noted the liquor license belongs to Gitana, not the restaurant, and any conditions placed on Gitana would be applicable to the restaurant as well. Mr. Bashmakian stated further research would have to be made with regard to the Alcoholic and Beverage Control Board (ABC) restrictions.

Mr. Gangi, representing Media Village Development Company, property owner, stated Gitana has a Type 47 liquor license for the entire establishment, and that the conditions imposed by ABC would be similar to the Council's restrictions. He noted any restrictions would apply to the entire establishment, and added Media Village Development Company would agree to any terms the tenant agreed to. He expressed concern regarding the language in the proposed resolution, the exiting requirements for the property if 5,000 square feet were removed, and noted since staff recommends immediate revocation, any new CUP with a similar use would be unattainable. He requested the Council reconsider the matter in 30 days.

Following Council deliberation, Mrs. Ramos stated the CUP was granted as one entity and noted the challenges in monitoring the requirement that 50 percent of gross sales be

from food. She also noted the difficulty in attributing the origin of the incidents to any specific area and indicated support for immediate revocation of both CUPs.

Mr. Golonski stated he believed conditions could be imposed on the closing time for the bar area without affecting the restaurant, and noted since the applicant was not willing to agree to the fundamental conditions, he was in favor of immediate revocation of both CUPs.

Mr. Campbell also noted the challenge of delineating the uses that caused the incidents at Gitana and expressed support for immediate revocation.

Ms. Murphy noted the difference between the clientele in the restaurant and nightclub area, and added Gitana was notified on April 29, 2003 of the magnitude of the problem but did not consider closing the nightclub until a week before the revocation hearing. She noted Gitana was provided with ample time to resolve the issues prior to the hearing.

Mr. Vander Borcht noted his prior desire to allow the business to remain viable, but recognized the difficulty in separating the different uses within the establishment. He stated that he did not consider closing at 1:00 a.m. as onerous, noting very few restaurants in Burbank operate until 2:00 a.m., and indicated the existence of a bigger problem if serving alcohol after 12:30 a.m. at Gitana was paramount to the business. He expressed support for either immediate revocation, or establishing revocation at a subsequent date which he noted would be impossible without the applicant agreeing to the conditions set by the Council.

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

1704-3
Revoking CUP's
98-18 and 99-
34 (Gitana)

RESOLUTION NO. 26,561:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
REVOKING CONDITIONAL USE PERMIT NOS. 98-18 AND 99-
34 (ADRD, INC. dba GITANA, 260 EAST MAGNOLIA
BOULEVARD).

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Adopted	The resolution was adopted by the following vote: Ayes: Council Members Campbell, Golonski, Ramos, and Vander Borcht. Noes: Council Member Murphy. Absent: Council Members None.
Reporting on Closed Session	Mr. Barlow reported on the items considered by the City Council during the Closed Session meeting.
Initial Open Public Comment Period of Oral Communications	Ms. Murphy called for speakers for the initial open public comment period of oral communications at this time.
Citizen Comment	Appearing to comment were C.L. Stack, commenting on Airport Commissioner Lombardo's letter printed in the Leader newspaper, and in opposition to naming the Airport in memory of Bob Hope; Les Hammer, in opposition to Assembly Member Dario Frommer's voting record on Senate Bill 60, Assembly Bill 522, and Assembly Bill 328; Leonard Shapiro, columnist for the Toluca Times, on issues relating to the case of Karam v. City of Burbank; R. C. "Chappy" Chapiewski, commenting on a notice of appeal filed on the Measure A litigation, requesting a copy of the answer filed by the City with the Second Appellate District Court per the Public Records Act; Esther Espinoza, commenting on institutional racism and actions by the Burbank Police Department with regard to her family; David Piroli, commending the Council on the decision to revoke the Gitana Conditional Use Permits, and on the time allowed for initial oral communications; Howard Friedman, in support of naming the Airport in memory of Bob Hope; and Theresa Karam, thanking Leonard Shapiro for writing the article regarding the case of Karam v. City of Burbank.
Staff Response	Members of the Council and staff responded to questions raised.
Agenda Item Oral Communications	Ms. Murphy called for speakers for agenda item oral communications at this time.

Citizen Comment	Appearing to comment were Leonard Shapiro, on the Stormwater Total Daily Maximum Load (TMDL) Agreement; Esther Espinoza, commenting on the acquisition of property at 700 South San Fernando Boulevard; and Mike Nolan, commending the Council for attempting to assist Gitana in maintaining a viable business through a democratic process.
Staff Response	Members of the Council and staff responded to questions raised.
7:58 P.M. Recess	The Council recessed to permit the Redevelopment Agency to hold its meeting. The Council reconvened at 7:58 p.m. with all members present.
Motion	It was moved by Mrs. Ramos and seconded by Mr. Campbell that "the following items on the consent calendar be approved as recommended."
Minutes Approved	The minutes for the regular meeting of September 16, 2003 were approved as submitted.
1500 402 License Agmt. With American Society of Composers, Authors and Publishers	<u>RESOLUTION NO. 26,562:</u> A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE LICENSE AGREEMENT BETWEEN THE CITY OF BURBANK AND THE AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS.
405-2 Traffic-Related Electrical Devices Maint. Agmt. with Glendale	<u>RESOLUTION NO. 26,563:</u> A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE BURBANK-GLENDALE TRAFFIC-RELATED ELECTRICAL DEVICES MAINTENANCE AGREEMENT BETWEEN THE CITY OF BURBANK AND THE CITY OF GLENDALE.
1504 404 TMDL Consultant Cost- Sharing and Retention Agmt.	<u>RESOLUTION NO. 26,564:</u> A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE TOTAL MAXIMUM DAILY LOAD (TMDL) CONSULTANT COST-SHARING AND RETENTION AGREEMENT.

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Adopted

The consent calendar was adopted by the following vote:

Ayes: Council Members Campbell, Golonski, Ramos, Vander Borght and Murphy.

Noes: Council Members None.

Absent: Council Members None.

202-10
Youth Board
Appointments

Mrs. Stein, Deputy Director, Park, Recreation and Community Services Department, requested the Council make appointments to the Youth Board for 2003-04. She explained the Youth Board consists of 17 members, with 11 members serving as school representatives and six at-large members. She added the 11 school representative positions are due for appointment, in addition to one at-large vacancy requiring a one-year mid-term appointment created by the resignation of a member.

Motion

It was moved by Mr. Golonski and seconded by Mrs. Ramos that "the following school representatives be appointed: Nicole Diller, Bellarmine Jefferson High School; Gladys Sarabia, Burbank High School; Sara Rebman, John Burroughs High School; Lillian Calzadilla, Monterey High School; Alex Knopper, Providence High School; Caitlin Cwik, Jordan Middle School; James Nagy, John Muir Middle School; Stephanie Farag, Luther Burbank Middle School; Cassandra Pozos, St. Finbar School; Shannon Stone, St. Francis Xavier School; and, Ashley Diller, St. Robert Bellarmine School; and, at-large members: Elisabeth Coleman; Santosh Desai; Tony Galvez; Michael Gasson and Aliza Vecchiarelli."

Carried

The motion carried by the following vote:

Ayes: Council Members Campbell, Golonski, Ramos, Vander Borght and Murphy.

Noes: Council Members None.

Absent: Council Members None.

1503
1504
BWP Monthly
Operation Report

Mr. Davis, Burbank Water and Power (BWP) General Manager, presented the BWP monthly operations report and stated that water quality met or exceeded all State, local and Federal drinking water standards. He also reported that the approval process of the changes to the Burbank Operable Unit by the Environmental Protection Agency and Lockheed Martin was underway, as well as the development of groundwater

spreading equipment in Pacoima as a cost effective alternative to acquiring ground water credits. He announced that Diamond Valley Lake in Hemet would open to the public on October 3, 2003, and added the lake was approximately 4500 acres, making it the largest fresh water body in Southern California.

On electric issues, Mr. Davis stated there were two heat-related power outages, and noted that although the electric sales were below forecast, the Net Electric Load (NEL) was above forecast and explained that, because the billing system is based on meter readings, there is always unbilled revenue from the past 30 days. He also reported that July recorded the highest electric sales for the month, and August recorded the second highest sales for the month.

Mr. Davis informed the Council that retrofitting of the Olive Units was completed and all local units were in operation. He also reported that Burbank met the new power plant standards both at the national, State, and local levels and attained Southern California Air Quality Management District (SCAQMD) certification. He added the Magnolia Power Project was in progress, and announced that a meeting would be held on October 15, 2003 at 6:30 p.m. at the Buena Vista Library for public input regarding the proposed renewable energy portfolio standard, followed by another meeting at the Central Library at 7:30 p.m. with owners of dry cleaners in Burbank to inform them about the grant opportunities for eliminating the use of Perchloroethylene (PERC).

The Council noted and filed the report.

1506
Indus Utility
Systems, Inc.
Contract for
Billing System

Mrs. Fletcher, Customer Service Manager, Burbank Water and Power (BWP), reported that at the September 16, 2003 Council meeting, staff presented a report requesting approval of a change order to acquire the necessary technical support for the implementation of the new customer information billing system. She reported staff proposed contracting with Indus Utility Systems, Inc. to provide additional technology support while training Information Technology staff on maintaining the new system. She stated that while the Council unanimously supported the outsource to insource option proposed by staff, exception was taken to the hourly blended rate of \$179 as proposed by Indus Utility Systems, Inc. She added that following further negotiations, a new blended rate of \$135

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excluding travel expenses was offered, and noted the contract was now \$245,572 less than originally proposed, and added approximately \$100,000 would be spent on travel expenses. She concluded by stating that staff believed the new rate was reasonable, and requested the Council support the amendment to the contract.

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

1506 RESOLUTION NO. 26,565:
Indus Utility A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Systems, Inc. APPROVING THE FIRST AMENDMENT TO PROFESSIONAL
Contract for SERVICES AGREEMENT BETWEEN THE CITY OF BURBANK
Billing System AND INDUS UTILITY SYSTEMS, INC.

Adopted The resolution was adopted by the following vote:

Ayes: Council Members Campbell, Golonski, Ramos, Vander
Borgh and Murphy.
Noes: Council Members None.
Absent: Council Members None.

8:16 P.M. The Redevelopment Agency meeting was reconvened at this
Reconvene time.
Redev. Agency
Meeting

Final Open Ms. Murphy called for speakers for the final open public
Public Comment comment period of oral communications at this time.
Period of Oral
Communications

Citizen There was no response to the Mayor's invitation for oral
Comment comment.

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Adjournment There being no further business to come before the Council, the meeting was adjourned at 8:17 p.m.

Margarita Campos, City Clerk