

TUESDAY, FEBRUARY 10, 2004

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 5:36 p.m. by Ms. Murphy, Mayor.

CLOSED SESSION

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.

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

5:37 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 – Anticipated Litigation (City as possible plaintiff):

Pursuant to Govt. Code §54956.9(c)

Number of potential case(s): 1

b. Conference with Labor Negotiator:

Pursuant to Govt. Code §54957.6

Name of Agency Negotiator: Management Services Director/Judie Sarquiz.

Name of Organization Representing Employee: Represented: Burbank City Employees Association and Burbank Management Association; Unrepresented, and Appointed Officials.

Summary of Labor Issues to be Negotiated: Current Contracts and Retirement Issues.

Regular Meeting Reconvened in Council Chambers The regular meeting of the Council of the City of Burbank was reconvened at 6:36 p.m. by Ms. Murphy, 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 Dennis Barlow, City Attorney.

ROLL CALL

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

Absent - - - - Council Members None.

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

Reporting on Council Liaison Committees
Mr. Vander Borght reported on the Environmental Oversight Committee which he and Mr. Campbell attended on February 5, 2004. He stated that the main focus of the meeting was the response to the Draft Environmental Impact Report prepared for the proposed Home Depot site, noting that the matter will be considered by the Planning Board in March 2004 and will not come before the Council unless appealed.

Mr. Golonski reported on the Public Information Office Subcommittee meeting which he and Mr. Vander Borght attended. He stated that the Subcommittee was considering making changes to the policy regarding the information placed on the Channel 6 Scroll, in an effort to broaden the definition of partners in the delivery of services in Burbank to include organizations such as the Red Cross. He also reported that the feasibility of broadcasting the Scroll on a separate channel is being examined and stated that the Subcommittee recommended holding the Joint Council/Board of Education meetings in the Council Chamber to minimize costs.

Mr. Campbell reported that he and Vice Mayor Ramos attended the Arroyo-Verdugo Growth Visioning Exercise and expressed concern to staff and representatives of the Southern California Association of Governments regarding their continued advocacy for density and growth.

Mrs. Ramos requested that the findings of the Arroyo-Verdugo Growth Visioning Exercise be aired on Channel 6 to provide the public with more information. She also reported on the League of California Cities Personnel and Employee Relations Seminar she attended.

Reporting on Closed Session
Mr. Barlow reported on the items considered by the City Council and the Redevelopment Agency during the Closed Session meetings.

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
Appearing to comment were Daryl Sanchez, announcing his

2/10/04

Comment candidacy as a Republican write-in candidate for the 43rd District and outlining his qualifications; Lynne Plambeck, announcing her candidacy for Supervisor of the Fifth District and outlining her qualifications; Mark Barton, alleging misconduct by a City employee; Mary Ann Sutliff, former President of the Downtown Stakeholders, requesting to honor the accomplishments of the Downtown Stakeholders, requesting that the \$7,049.43 left in the Stakeholders' account be utilized to put bronze lettering on pillars in the Downtown and presenting a check payable to the City; and, Stan Hyman, in opposition to Proposition 56.

Staff Response Members of the Council and staff responded to questions raised.

Agenda Item Oral Communications Ms. Murphy called for speakers for the agenda item oral communications at this time.

Citizen Comment Appearing to comment were Kevin McDonnell, attorney, on behalf of Ken Fisher, owner of the Old Thrifty site, expressing concern with Council consideration of appealing the Planning Board's approval of Conditional Use Permit (CUP) No. 2003-29; Mark Barton, noting neighborhood concerns with regard to multi-family development; A. Gabriel, emphasizing that there is no urgency pertaining to compatibility issues and public peace, health, safety and welfare; Stan Hyman, commenting on CUP No. 2003-29 and in support of the compatibility standards; David Piroli, requesting a written policy with regard to advertising events on the Channel 6 Scroll and in opposition to the Compact Fluorescent Light Fundraising Program to benefit the Burbank Unified School District; Mike Nolan, inquiring as to why the City contributes to the Methodfest Festival and in opposition to the City's participation in the local Sales Tax litigation; and, Howard Rothenbach, in support of the City's position with regard to the State's proposal to shift local Sales Tax and announcing an upcoming Redevelopment Abuse Conference on March 27, 2004.

Staff Response Members of the Council and staff responded to questions raised.

Jt. Mtg. With Redev. Mr. Hanway, Financial Services Director, provided the Council with a review of the City's financial status as of December 31,

Agency
801-2
Financial Status
As of December
31, 2003 and
Mid-Year
Adjustments

2003; five year financial forecast; the budget parameters for Fiscal Year (FY) 2004-05 Budget; State budget impact; and, requested Council approval of mid-year adjustments to the Fiscal Year (FY) 2003-04 Budget.

Mr. Hanway reported that based on the mid-year revenue re-estimates, staff anticipated receiving \$108,678,482 in recurring revenues, noting that this amount is lower than the adopted budget projection. He added that with projected recurring expenditures of \$109,883,908, \$1,205,426 of the Burbank Water and Power Utility Users Tax (UUT) In-Lieu will be used to balance the budget. He also discussed the Undesignated Fund Balance and the revised General Fund revenue estimates. He reported that while Sales Tax, Property Tax, UUT, Transient Parking Tax (TPT) and Transient Occupancy Tax (TOT) revenues have been revised upward, there were reductions in Service Charge, Motor Vehicle In-Lieu and Interest Use of Money revenues.

Mr. Hanway discussed that the mid-year budget adjustments included costs for: fire personnel Memorandum of Understanding increases; State mutual aid and brush fire overtime; Interagency Communications Interoperability System Joint Powers Agreement; furniture for the Emergency Operation Center; brush clearance; citywide disaster mitigation; literacy grant decrease from original estimate; new mail machine; contract service instructors; PerformArts fees to the American Society of Composers, Authors and Publishers; LiveScan charges; Roller Hockey Rink operation; the Pavelka/Campbell investigation; police personnel overtime; Pavelka memorial; spay/neuter services; veterinary emergency services; Animal Shelter supplies; parking citation contract; improvements at the Buena Vista Street/Winona Avenue/Inter State 5/ San Fernando Road intersection and the State Route 134 westbound off ramp project; Golden State reclaimed water line expansion project; Lake One Unit retrofit project; BLT, Inc. recycling contract; unanticipated litigation claims; and, the underground storage tank repairs.

Next, Mr. Hanway discussed the five year financial forecast and reported that while the City is projecting a growth in revenues, the anticipated appropriations far exceed the revenue growth. He stated that staff anticipated a \$4.5 million budgetary deficit in FY 2004-05 culminating in a \$9.7 million deficit in FY 2008-09. He explained that the deficit is a result of decreases in UUT and In-Lieu Tax revenues; escalating Public Employee Retirement System costs; the Central Library ramp-up; increase in Materials, Supplies and Services (MS&S) costs; and, capital projects and reserves costs. However, he noted that increases in revenues would be realized in Property

Tax, Sales Tax, TOT, TPT and Interest Earnings.

Mr. Hanway informed the Council that the FY 2004-05 budget parameters included: no allowable new positions or upgrades unless revenue off-set; positions frozen in FYs 2002-03 and 2003-04 would remain frozen; no allowable increases in MS&S costs unless beyond the department's control; no new capital outlay requests; and, submission of 2 percent and 4 percent budget reduction scenarios. He then discussed the potential revenue enhancements and expense reductions.

Mr. Hanway also reported that the Governor released his FY 2004-05 proposed State Budget on January 9, 2004 and stated that to the dismay of city officials across the State, the Governor proposed to use local government revenues to balance the State budget which faces a \$14 billion deficit. He noted that the total incremental loss to Burbank, should the Governor's current budget proposal be adopted, is roughly \$2.4 million with a \$1.1 million additional loss to the General Fund. He also reported that the State has suspended approximately \$1.1 billion in Proposition 42 Transportation Funds for FY 2004-05, including \$179.5 million in street and road rehabilitation funds for cities and counties. He added that an additional \$189 million in funding for traffic congestion relief is a proposed cut. He stated that staff would continue to monitor any changes and provide updates when appropriate and that the City's State legislators would be contacted to address any concerns.

Regarding the Hilton Participant Prepayment Note funds, Mr. Hanway reported that the City Attorney's opinion characterized the \$6 million as land sales and could therefore be used in any project or any valid redevelopment purpose. He concluded with staff's recommendation that the Council approve the FY 2003-04 mid-year adjustments.

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

801-2 RESOLUTION NO. 26,650:
Mid-Year A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Adjustments for AMENDING THE BUDGET OF FISCAL YEAR 2003-2004 FOR
2003-04 THE PURPOSE OF MID-YEAR ADJUSTMENTS.

Redev. Agency Redevelopment Agency Resolution No. R-2097 for Fiscal Year

Reso. Adopted 2003-2004 for the Purpose of Mid-Year Adjustments was adopted.

Adopted The resolutions were adopted by the following vote:

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

Motion It was moved by Mrs. Ramos and seconded by Mr. Campbell that "the following items on the consent calendar be approved as recommended."

1211 RESOLUTION NO. 26,651:
 Reso. of Intent A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
 For Weed DECLARING THAT WEEDS GROWING UPON AND IN FRONT
 Abatement OF, AND BRUSH, RUBBISH, REFUSE, AND DIRT UPON AND IN
 FRONT OF CERTAIN PRIVATE PROPERTY IN THE CITY ARE A
 PUBLIC NUISANCE, AND DECLARING ITS INTENTION TO
 PROVIDE FOR THE ABATEMENT THEREOF.

1204-1 RESOLUTION NO. 26,652:
 Approval of A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
 Final Tract Map APPROVING FINAL MAP OF TRACT NO. 54024 (621 East Olive
 No. 54024 Avenue).

1301-3 RESOLUTION NO. 26,653:
 Change Order A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
 for Verdugo APPROVING A CHANGE ORDER IN THE AMOUNT OF
 Rec. \$18,788.74 FOR THE VERDUGO RECREATION CENTER
 Elevator ELEVATOR PROJECT, BID SCHEDULE NO. 1118.
 (B.S. 1118)

403 RESOLUTION NO. 26,654:
 State and A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
 Federal Disaster AUTHORIZING CERTAIN INDIVIDUALS TO ACT ON BEHALF OF
 Financial Assist. THE CITY TO APPLY FOR STATE AND FEDERAL FUNDS IN
 CONNECTION WITH THE BRUSHFIRE OF OCTOBER 21, 2003.

804-3 RESOLUTION NO. 26,655:
 1102 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
 BEGIN Grant AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE
 Funding CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY
 Applications DEVELOPMENT FOR FUNDING UNDER THE BEGIN PROGRAM
 (Lance Site) FOR THE LANCE SITE PROJECT.

804-3 RESOLUTION NO. 26,656:
1102 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
BEGIN Grant AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE
Funding CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY
Applications DEVELOPMENT FOR FUNDING UNDER THE BEGIN PROGRAM
(Burbank Village FOR THE BURBANK VILLAGE WALK PROJECT AND
Walk) DELEGATING AUTHORITY TO REDEVELOPMENT AGENCY TO
RECEIVE AND ADMINISTER FUNDS.

804-5 RESOLUTION NO. 26,657:
801-2 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Local Sales Tax AMENDING THE FISCAL YEAR 2003-2004 BUDGET BY
Litigation APPROPRIATING \$16,000 FOR THE PURPOSE OF
PARTICIPATION IN THE LOCAL SALES TAX LITIGATION.

Adopted The consent calendar was adopted by the following vote:

- Ayes: Council Members Campbell, Golonski (except on Resolution No. 26,657), Ramos, Vander Borgh and Murphy.
- Noes: Council Member Golonski (on Resolution No. 26,657 only).
- Absent: Council Members None.

1702 Mr. Forbes, Senior Planner, Community Development
Emergency Ord. Department, reported that on January 20, 2004, the Council
To Amend the directed staff to return with an emergency ordinance that
DR Process for would modifying the existing Development Review (DR)
Multi-Family process to add required compatibility findings for projects in
Residential multi-family zones. He explained that the Burbank Municipal
Zones Code does not currently allow the Community Development
Director to consider a proposed multi-family project's
compatibility with the surrounding neighborhood as part of the
DR process. He added that the proposed ordinance would
amend the DR process such that any project in a multi-family
zone could not receive DR approval unless the Director finds
that the project would be compatible with existing
development in the neighborhood. He also noted that the

Planning Board and Council would also be required to make compatibility findings if the Director's decision is appealed.

Mr. Forbes noted that while compatibility review will be highly subjective until compatibility guidelines are adopted, staff attempted to create compatibility findings that focus the compatibility issues into specific aspects of the project. He

stated that staff believes that these issues have the greatest impact on compatibility and can also be practically reviewed and modified as needed for a particular project to achieve compatibility, and include; structure height, size, massing, proportions, articulation and elevations; roof style and pitch; pedestrian entry locations and circulation; parking locations, access points and vehicle circulation; landscaping design and quality; and, location and design of open space areas and amenities.

Mr. Forbes reported that the proposed ordinance would increase the process time for DR applications and the number of appeals. Also, he stated that fluctuations in the volume of DR applications and the difficulty in predicting the number of appeals that would be filed, make it difficult to estimate the actual costs of the proposed ordinance to the City. In addition, he stated that the proposed ordinance would possibly result in additional staff time being needed to review project plans; conduct fieldwork; make environmental determinations; have greater and more frequent interaction with project applicants and residents as project designs are discussed; and, prepare reports and presentations for public hearings resulting from an increased number of appeals. He also noted that appeals incur direct costs to the City in the form of printed staff reports, hearing notices and postage that would not otherwise be required.

If adopted, Mr. Forbes stated that the proposed ordinance would become effective immediately. Pursuant to Council direction, he noted that the ordinance would apply to all projects that have not yet received DR approval from the Community Development Director, and those that have received Director approval but have been appealed. He reiterated that all future applications, the 27 DR applications pending Director approval and the three projects that have been appealed following DR approval, will be subject to the ordinance's compatibility findings.

He concluded that the City Charter provides that an emergency ordinance may be adopted by a four-fifths vote of the Council upon a finding that the measure is necessary for the preservation of the public peace, health, safety or welfare. He noted that the required findings for the proposed ordinance can be made and requested that the Council adopt the proposed ordinance.

Ms. Murphy expressed opposition to the ordinance and stated that the same concerns regarding size, massing and elevations are more critical in the R-1 Zone than in multi-family zones.

2/10/04

Motion It was moved by Mrs. Ramos and seconded by Mr. Vander Borght that "the following emergency ordinance be passed and adopted:"

1702 ORDINANCE NO. 3633:
Emergency Ord. AN EMERGENCY ORDINANCE OF THE COUNCIL OF THE CITY
To Amend the OF BURBANK AMENDING DIVISION 2 OF ARTICLE 19 OF
DR Process for CHAPTER 31 OF THE BURBANK MUNICIPAL CODE
Multi-Family PERTAINING TO DEVELOPMENT REVIEW FOR PROJECTS IN
Residential MULTIPLE FAMILY RESIDENTIAL ZONES.
Zones

Adopted The ordinance was adopted by the following vote:

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

Noes: Council Member Murphy.

Absent: Council Members None.

1503 Mrs. Meyer, Marketing Manager, Burbank Water and Power
CFL Program for (BWP) reported that pursuant to the Council's request, staff
BUSD investigated possible fundraising activities that would benefit
the Burbank Unified School District (BUSD) and further BWP's
energy conservation goals. She added that working with
BUSD staff, a Compact Fluorescent Light (CFL) Fundraising
Program was created for the benefit of the community and
schools. She explained that CFLs use one-fourth the energy of
incandescent lights while producing the same amount of light
output, and burn considerably cooler which reduces the need
for air conditioning in warmer months. In addition, she stated
that CFLs last considerably longer than traditional light bulbs,
providing up to 10,000 hours of use. She noted that while
CFLs are a better economic deal compared to incandescent
lights, they carry a higher up-front price tag which poses a
challenging purchase choice for many consumers.

Mrs. Meyer informed the Council that staff worked with Claudene Bell, BUSD's Teacher on Special Assignment for Service Learning and Grants, to determine the schools interested in participating in the program and the number of CFLs each hoped to receive. She further explained that BWP proposes to purchase and donate to the 12 participating BUSD schools 9,000 CFLs for sale to the community at a discount. She stated that staff recommended that the CFLs be sold for \$3 each or two for \$5 and that all funds raised go to the individual schools to support their programs and needs.

Mrs. Meyer also reported that a bid request for CFLs was sent out on December 30, 2003, which specified mini-sized Energy Star-labeled CFLs with wattage in the range of 20 to 30 watts.

She added that staff also specified that the order be divided into separate school orders and delivered directly to the school sites. She stated that price bids along with product samples were received from nine vendors, with Niagara Conservation providing the most competitive bid with a 24-watt mini CFL priced at \$2.40 per unit, including delivery services to the schools.

Mrs. Meyer stated that the dollar benefit to the schools was estimated at \$25,000. She noted that the community would also benefit from high-quality, energy-saving CFLs being made available at discounted prices, and that BWP's goal of helping residents and businesses to conserve energy will be furthered.

Motion

It was moved by Mrs. Ramos, seconded by Mr. Campbell and carried that "the Council give approval to BWP to purchase and donate to the Burbank Unified School District 9,000 24-watt mini Energy Star-rated compact fluorescent lights from Niagara Conservation.

1503 BWP Purchase of Renewable Energy from Ameresco Chiquita Energy Project

Mr. Fletcher, Assistant General Manager, Burbank Water and Power (BWP), requested Council approval of a resolution authorizing BWP's General Manager to execute long term agreements with the Southern California Public Power Authority (SCPPA) for 2,230kW (2.23MW) of renewable energy from the Ameresco Chiquita Energy Project. He stated that the Ameresco Chiquita Energy Project is a landfill energy project located in the Chiquita Canyon Landfill in Valencia, California, near Highway 126 west of Interstate 5.

Mr. Fletcher reported that this was the first renewable project to be recommended for approval to meet the goal of the City's recently-approved Renewables Portfolio Standard (RPS). He added that in February 2002, SCPPA issued a request for proposals (RFP) for renewable energy projects on behalf of its members, including Burbank. He stated that a total of 44 proposals for various types of renewable energy projects including wind, solar, geothermal, biomass and landfill gas were received. He noted that the project was selected by SCPPA due to competitive fixed-cost pricing, appropriate size that matches member interest and project technical feasibility.

Mr. Fletcher explained that SCPPA will purchase the entire output of this facility and then resell the output to participating SCPPA members, the cities of Anaheim, Burbank,

Glendale and Pasadena. He noted that members will only pay for the energy received, thereby holding SCPA responsible for operating the plant as efficiently as possible. He also stated that the City will pay a fixed energy price of \$55.5/MWh over the 20-year contract. He elaborated that this price includes a \$1.50/MWh charge for transmission, scheduling and California Independent System Operator fees. He also noted that the contract provides SCPA an option to opt out if the project cannot be built within the projected cost, and the cities also have an option to opt out of the contract should the project not be constructed by June 30, 2005.

Mr. Fletcher informed the Council that R.W. Beck analyzed the out-of-market cost of the Ameresco contract and determined that the cost is expected to be \$300,000 to \$450,000 higher than non-renewable local market energy sources. He reported that the extra cost is expected to be covered by a subsidy from BWP's Public Benefit Funds expenditure requirement. He also noted that the proposed long term purchase is not expected to have any impact on electric rates.

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

1503 RESOLUTION NO. 26,658:
Chiquita Landfill A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Gas to Energy APPROVING AND AUTHORIZING OFFICIALS TO EXECUTE AND
Project Power DELIVER THE CHIQUITA LANDFILL GAS TO ENERGY PROJECT
Sales Agmt. POWER SALES AGREEMENT.

Adopted The resolution was adopted by the following vote:

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

1704-3 A report was received from staff stating that on January 26,
602 2004, the Planning Board voted to approve Conditional Use
Appeal of Permit No. 2003-29 to extend the hours of operation for the
Planning Board's multi-tenant building at 990 North Hollywood Way, known as
Approval of CUP the Old Thrifty Building. Pursuant to Burbank Municipal Code
No. 2003-29 Section 31-1946(c),"[t]he Council may, within fifteen (15)

days after the decision is mailed to the applicant and reported to the Council, set the matter for a public hearing and dispose of it in the same manner as on an appeal."

The report further stated that on February 3, 2004, Mayor Murphy requested the item be placed on the February 10, 2004 Council agenda for a determination on whether to set the matter for a public hearing.

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| Motion | It was moved by Mr. Golonski, seconded by Mr. Campbell and carried that "staff be directed to set the matter for a public hearing at a future date." |
| 9:40 P.M.
Reconvene
Redev. Agency
Meeting | The Redevelopment Agency meeting was reconvened at this time. |
| Final Open
Public Comment
Period of Oral
Communications | Ms. Murphy called for speakers for the final open public comment period of oral communications at this time. |
| Citizen
Comment | Appearing to comment were David Piroli, on the use of CFLs and on Mr. Barton's allegations of staff misconduct; and Mike Nolan, on the Redevelopment Agency's contribution to the Methodfest event, in opposition to the Council appropriating funds for participation in the local Sales Tax litigation and expressing concern with merchandise offered at the Urban Outfitters retail store. |
| 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 9:50 p.m. |

Margarita Campos, City Clerk