



COUNCIL AGENDA - CITY OF BURBANK
TUESDAY, MARCH 9, 2004
5:30 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 – Anticipated Litigation (City as potential defendant):
Pursuant to Govt. Code §54956.9(b)(1)
Number of potential case(s): 1

- b. 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: Contracts for Fiscal Year 2004-05.

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:

Reverend Ron White, American Lutheran 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.

PRESENTATION: POLICE DEPARTMENT PROFESSIONAL ESTEEM AWARDS.

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 HEARINGS:

1. APPEAL OF CONDITIONAL USE PERMIT NO. 2003-29 – 990 NORTH HOLLYWOOD WAY:

The Planning Board, at its January 26, 2004 meeting, adopted Planning Board Resolution No. 2918, approving Conditional Use Permit (CUP) No. 2003-29, which modified the Conditions of Approval established by CUP No. 2000-30. CUP No. 2000-30 authorized the establishment of a multi-tenant retail use at 990 North Hollywood Way (the Old Thrifty site, formerly 3614 West Magnolia Boulevard). The applicant, Kenneth Fisher, had requested that Conditions of Approval that limited the business hours to between 9:00 a.m. and 10:00 p.m. for all but one tenant be removed and that the project be subject to the same restrictions applied to other residentially-adjacent properties (6:00 a.m. to midnight). The Board modified the conditions to allow operation for the previously restricted tenants to begin at 6:30 a.m. instead of 9:00 a.m., but did not change the closing time.

On February 10, 2004, the Council voted 5-0 to hold a public hearing to review the Planning Board's decision regarding the project.

Recommendation:

Adoption of proposed resolution entitled:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AFFIRMING THE PLANNING BOARD'S DECISION AND APPROVING CONDITIONAL USE PERMIT NO. 2003-29 (990 North Hollywood Way).

2. APPEAL OF DEVELOPMENT REVIEW NO. 2003-27 – 637 NORTH FAIRVIEW STREET:

This is an appeal of the Planning Board's decision to conditionally approve Development Review No. 2003-27, a request by August Bacchetta (project architect) to construct a two-story, four-unit residential building, with a semi-subterranean garage (nine parking spaces) at 637 North Fairview Street. Bob Jones (owner of property at 631-633 North Fairview Street) and Leota Bancroft (owner of property at 641-643 North Fairview Street) are the appellants. The Community Development Director's decision to approve the project was appealed to the Planning Board by the same parties.

The subject project is proposed to be built in compliance with all City codes and regulations. It is important to note that after the project was approved by the Community Development Director, and that approval upheld by the Planning Board, the Council adopted Ordinance No. 3633 (Burbank Municipal Code Sec. 31-1912(b)), which this project is now subject to, requiring project compatibility with the surrounding neighborhood.

Conditions were placed on the project by the Planning Board to prohibit vehicular access from Fairview Street and to prohibit windows on the second habitable story facing abutting properties (unless made of opaque material or located higher than five feet above the floor level). The Planning Board denied the appeal and approved the project subject to these conditions. The applicant has submitted revised plans that incorporate these conditions, as well as additional design changes pursuant to staff's recommendations to achieve more neighborhood compatibility. Staff's recommendations were to set back the second story beyond the first story building line in order to break up the building mass, and to add façade treatments and landscaping to the front elevation in order to eliminate view of the semi-subterranean garage.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING DEVELOPMENT REVIEW NO. 2003-27 AND DENYING THE APPEAL OF THE PLANNING BOARD DECISION (637 North Fairview Street).

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: (Item 3)

The following item may be enacted by one motion. There will be no separate discussion on the item 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. APPROVING CONTRACT DOCUMENTS, AWARDING A CONSTRUCTION CONTRACT FOR BID SCHEDULE NO. 1132, 2002-2003 ASSEMBLY BILL 2928 STREET IMPROVEMENT PROJECT AND AMENDING THE FISCAL YEAR 2003-04 BUDGET:

Staff is requesting Council appropriation of Assembly Bill (AB) 2928 funds and interest allocations, approval of contract documents and award of a construction contract for Bid

Schedule (BS) No. 1132, 2002-03 AB 2928 Street Improvement Project. Under AB 2928, the State established a Traffic Congestion Relief Fund in the State Treasury for allocation of street maintenance and reconstruction funds to cities and counties. The City's Fiscal Year (FY) 2002-03 AB 2928 allocation was \$266,448.36. These funds earned interest totaling \$27,159.92 in FY 2002-03 and \$5,218.41 in FY 2003-04 to date. The City also has \$59,641.83 left over from last year's AB 2928 project, bringing the total AB 2928 funds available to \$358,468.52.

BS No. 1132 has been developed to utilize these AB 2928 funds. The original scope of work for this project included street resurfacing with asphalt-rubber hot mix (rubberized asphalt), repair of uplifted curb, gutter and driveways, and new gutter construction on Kenneth Road between Olive Avenue and Amherst Drive. By using rubberized asphalt, the City will be recycling approximately 6,600 used tires.

The bid opening for BS No. 1132, 2002-03 AB 2928 Street Improvement Project occurred on Tuesday, February 3, 2004. Ten bidders submitted proposals ranging from \$287,214.31 to \$398,509.54. E.C. Construction Co. of South El Monte, California submitted the apparent low bid, 17.9 percent under the engineer's estimate of \$350,000. This contractor has completed several projects with the City, the most recent being the Vanowen Street Improvement Project, with satisfactory results.

This project uses Traffic Congestion Relief Fund monies; therefore, funds (including accrued interest) not appropriated and spent are to be returned to the grantor (State of California) for reallocation. Staff would like to take advantage of the low unit prices and increase the project scope and total amount of the contract, thereby using the entire \$358,468.52 available to the best benefit of the City. The increase in the project scope will provide for the repair of Kenneth Road from Amherst Drive to Andover Drive, which was not originally included in BS No. 1132. Construction of this project is planned to occur between April and May 2004.

Recommendation:

Adoption of proposed resolution entitled:
(4/5 vote required)

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING AND ADOPTING CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS, AND DETERMINING THE LOWEST RESPONSIBLE BIDDER, ACCEPTING THE BID, AND AUTHORIZING EXECUTION OF A CONTRACT FOR 2002-2003 AB 2928 STREET IMPROVEMENT PROJECT, BID SCHEDULE NO. 1132 AND AMENDING THE FY 2003-2004 ANNUAL BUDGET IN THE AMOUNT OF \$298,826.69.

END OF CONSENT CALENDAR

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REPORTS TO COUNCIL:

4. RESOLUTION SUPPORTING THE LOCAL TAXPAYERS AND PUBLIC SAFETY PROTECTION ACT BALLOT INITIATIVE:

Staff is requesting Council approval of a resolution to support the proposed initiative for the November 2004 ballot entitled The Local Taxpayers and Public Safety Protection Act (Ballot Initiative). If passed, local control over local tax revenue will be increased by requiring voter approval before the Legislature can take away local government revenue.

For over ten years, the California State Legislature has been taking away increasing amounts of local tax dollars that local governments use to provide essential services such as police and fire protection, emergency and public health care, roads, parks and libraries. The aggregate net loss to Burbank from the State's diversion of Property Tax alone over the last ten years is over \$30 million dollars. The Governor's proposed Fiscal Year (FY) 2004-05 budget could take away an additional \$1.069 million from Burbank in the form of an Educational Revenue Augmentation Fund (ERAF) shift, bringing the City's total-to-date net loss to over \$34 million (excluding interest income) by the end of FY 2004-05. In addition, the current permutation of the Sales Tax for Property Tax swaps (triple flip with a twist) is now involved in litigation with the City of Cerritos taking the lead and other cities, including Burbank, joining the suit.

The Ballot Initiative is sponsored by the League of California Cities (League), the California State Association of Counties and the California Special Districts Association. Further support is expected from public safety and health advocates, taxpayer and business groups, seniors and community leaders.

Cities which have publicly endorsed the Ballot Initiative include Los Angeles, San Bernardino, Sacramento, San Diego, Fresno and Salinas. Many counties have also publicly endorsed the Ballot Initiative, including San Bernardino, Los Angeles, Monterey and Fresno.

The Ballot Initiative will provide the following:

- Require voter approval before the Legislature can reduce local government revenues or take them for State rather than local purposes;
- Ensure that local tax dollars are available to fund local services such as police and fire, emergency and trauma care, parks, roads and libraries;
- Make it absolutely clear that if the State Legislature mandates that local governments provide new or expanded programs or services, then the State would have to reimburse local agencies for the cost of those programs; and,
- Continue to provide flexibility for State budgeting decisions, but require voter approval on any future State Legislative actions that would reduce funding for essential local services.

The Ballot Initiative will not:

- Raise taxes because it protects local revenue sources from State raids;
- Increase funding to local governments;
- Reduce funding that schools receive from local Property Taxes or funding that schools receive from the State; or,
- Reduce funding for other State programs such as highways or schools.

The Ballot Initiative was filed with the State Attorney General on December 10, 2003. The Attorney General prepared the title and summary on February 4, 2004. The campaign's goal is to gather, before the April 15 submission deadline, the 1,000,000 signatures needed to qualify for the November ballot, with 300,000 signatures gathered through volunteer efforts, and the remaining 700,000 signatures collected by paid signature-gatherers.

There is no fiscal impact by adopting a resolution supporting this Ballot Initiative. This Ballot Initiative will require voter approval before the State can take away local revenue. Supporting an effort such as this is an important way in helping to prevent increasing amounts of local tax dollars being taken away by the State, where these funds could be used by the City to continue providing essential services like police and fire protection, paramedic services, improved road, parks and libraries.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK SUPPORTING A STATEWIDE BALLOT INITIATIVE TO REQUIRE VOTER APPROVAL BEFORE STATE GOVERNMENT MAY DIVERT LOCAL TAX FUNDS.

5. SANTA MONICA MOUNTAINS CONSERVANCY ADVISORY COMMITTEE VACANCY APPOINTMENT:

Staff is requesting that the Council consider making an appointment to the Santa Monica Mountains Conservancy Advisory Committee (Advisory Committee). Committee members serve without compensation but are reimbursed for expenses incurred in the performance of their duties.

On March 9, 1999, the Council authorized then Mayor Golonski to transmit letters to State Legislators expressing the City's support of Senate Bill (SB) 333 which would provide for additional membership on the Advisory Committee. SB 333 was authored by Senator Schiff (and co-authored by Assembly Member Wildman) to allow the Councils of the cities of Burbank, Pasadena, La Canada-Flintridge, Malibu and Calabasas to appoint representatives to the Advisory Committee. On July 26, 1999, Governor Davis signed

SB 333 into law, approving and increasing the membership on the Advisory Committee from 17 to 23 members.

The Advisory Committee meets monthly and works closely with the Santa Monica Mountains Conservancy Board. Advisory Committee members propose and review projects for Conservancy Board action, report on the conformity of projects with the Santa Monica Mountains Conservancy Strategic Plan and Rim of the Valley Corridor Master Plan, and review proposed amendments.

At the December 14, 1999 meeting, the Park, Recreation and Community Services staff advised the Council that since SB 333 would become effective January 1, 2000, action was necessary to appoint a representative to the Advisory Committee. Staff noted that pursuant to guidelines from the Santa Monica Mountains Conservancy Board, the Council could: 1) select a Council Member; 2) assign qualified staff; or, 3) assign a qualified citizen or member of a City Board who demonstrates an awareness of environmental issues.

The Council directed the City Clerk to advertise for applications from qualified Burbank citizens and further directed the Park, Recreation and Community Services Director or her designee to serve on the Advisory Committee until such time that an appointment was made. At the January 11, 2000 Council meeting, Mr. Terre Hirsch was appointed to a four-year term ending January 11, 2004. Following the term expiration, staff advertised for applications to fill the vacancy and the deadline to submit applications to the City Clerk's Office was Friday, February 27, 2004 at 5:00 p.m. As of the deadline, one application from Mr. Garen Yegparian was received.

Recommendation:

Staff recommends that the Council consider the application of Mr. Garen Yegparian to a four-year term on the Santa Monica Mountains Conservancy Advisory Committee expiring January 11, 2008. The City's representative to the Advisory Committee serves at the will of the Council and as such, the Council can designate a term of office for the representative.

6. BURBANK WATER AND POWER ENERGY SURVEYS AND ENERGY-EFFICIENCY RETROFIT INSTALLATIONS PROGRAM FOR BURBANK BUSINESSES:

Staff is requesting Council approval of Burbank Water and Power's (BWP) energy survey and energy-efficiency installation program, and a Professional Services Agreement (PSA) with Richard Heath and Associates, Inc. (RHA). The business energy audit and efficiency installation program would target small to medium electricity users who are less likely to take advantage of BWP's energy-efficiency rebate programs. Staff believes that smaller businesses typically do not have personnel who are knowledgeable about energy and efficiency issues, or lack the time to dedicate to this area. The reality tends to be that business owners and operators are consumed with the daily task of running the

business thereby limiting their ability to follow through on less weighty issues that might include energy consumption. Staff's research indicates that this group feels under-served by BWP and would appreciate energy conservation assistance.

Staff's proposal is to enter into a contract with an experienced and reputable company to perform energy surveys and energy-efficiency retrofit installations for eligible business customers. Burbank businesses with annual energy use in the range of 10,000 to 250,000 kilowatt-hours would be eligible to participate in this service. This energy usage range includes Burbank businesses with monthly energy costs running the gamut from just over \$100 to \$3,000.

The energy surveys would be an important service provided free of charge to eligible Burbank businesses. The surveys would be conducted at competitive and pre-determined costs to BWP. BWP's goal is not to simply provide interesting energy information and recommendations but to significantly encourage Burbank businesses to take action on those energy-saving recommendations. The most effective way to do so is by providing a turnkey energy retrofit investment component to the program. The program will provide up to \$1,000 in installations without the business having to contribute any funding. Participating businesses will select preferred options from a list of energy-saving recommendations included in the survey report. Options shown on the pre-priced list will include installation of programmable thermostats, changing incandescent lights to compact fluorescent lights, retrofitting fluorescent tube lighting from T-12 to high efficiency T-8 or T-5 models, and air conditioning and refrigeration tune-ups.

Working with the Southern California Public Power Authority in late 2002, a Request for Proposals for audit services was sent to several auditing agencies. Five proposals were received and staff met with four of the agencies, including RHA. RHA provided the most competitive pricing, however the structure of the RFP was for the involvement of multiple utilities. In December 2001, Glendale Water and Power issued a bid request for energy surveys and RHA again prevailed and was awarded the competitive bid.

With few modifications, BWP plans to offer a similar program to Glendale Water and Power's successful Smart Business Program, which RHA manages. Beyond offering competitive pricing, RHA comes highly recommended with a proven track record of working effectively with business customers and City staff. Glendale Water and Power recently extended its contract with RHA to continue managing their program through June 2006.

The proposed term of the PSA is March 1, 2004 through June 30, 2005. This 15-month time frame specifies a cost of service not to exceed \$437,500. These funds are available through BWP's Public Benefits commitment, including \$350,000 currently budgeted to support the proposed program. An estimated 250 Burbank businesses will receive service through the program during this time frame.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF BURBANK AND RICHARD HEATH AND ASSOCIATES, INC.

7. CONSIDERATION OF SETTING AN IN-LIEU OF APPEAL PUBLIC HEARING FOR CONDITIONAL USE PERMIT NO. 2002-6, SIGN VARIANCE NO. 2002-1 AND DEVELOPMENT REVIEW NO. 2002-12 FOR A PROPOSED HOME DEPOT STORE AT 1200 SOUTH FLOWER STREET:

At the March 2, 2004 Council meeting, Council Member Vander Borcht requested the Council consider appealing the decision of the Planning Board to approve Conditional Use Permit No. 2002-6, Sign Variance No. 2002-1 and Development Review No. 2002-12 for a Proposed Home Depot store at 1200 South Flower Street. The Council agreed to place the matter on the Council's agenda for March 9, 2004.

Recommendation:

Staff recommends that the Council discuss the matter and provide direction or set a date for an in-lieu of appeal hearing.

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**