TUESDAY, MARCH 16, 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 5:00 p.m. by Ms. Murphy, Mayor.

CLOSED SESSION

Present	Council Members Campbell, Golonski, Ramos, Vander Borght
	(arrived at 5:02 p.m.) and Murphy.
Absent	Council Members None.
	Ms. Alvord, City Manager; Mr. Barlow, City Attorney; and,
	Mrs. Campos, City Clerk.

Oral Mayor Murphy called for oral communications on Closed Communications Session matters at this time.

- Citizen Appearing to comment was Mike Nolan, commenting on the Comment Home Depot Closed Session item, disputing the square footage of the property in question and inquiring as to why the proposed agreement was not available at the time the Agenda was posted.
- 5:04 P.M. The Council recessed at this time to the City Hall Basement Recess Lunch Room/Conference Room to hold a Closed Session on the following:
 - a. <u>Conference with Legal Counsel Anticipated Litigation</u>: Significant exposure to litigation pursuant to Govt. Code §54956.9(b)(1) Number of potential case(s): 3
 - b. <u>Conference with Legal Counsel Anticipated Litigation</u>: Initiation of litigation pursuant to Govt. Code §54956.9(c) Number of potential case(s): 2
 - Conference with Legal Counsel Existing Litigation: Pursuant to Govt. Code §54956.9(a)
 Name of Case: Correas v. City of Burbank
 Case No.: EC037720
 Brief description and nature of case: Automobile accident involving City vehicle.
 - d. <u>Conference with Real Property Negotiator</u>: Pursuant to Govt. Code §54956.8 Agency Negotiator: Community Development Director/ Susan Georgino Property: Approximately 2,875 square feet of the northwestern corner of 1200 Flower Street. Generally located on Flower Street near the border of the City of

	Glendale. Parties with Whom City is Negotiating: Home Depot USA, Inc., 3800 West Chapman Avenue, 5 th Floor, Orange CA 92868 Name of Contact Person: Jeff Nichols, Home Depot USA, Inc. Terms Under Negotiation: Price and terms of payment of potential acquisition of easement, lease, fee grant or other transfer of property.
Regular Meeting Reconvened in Council Chambers	The regular meeting of the Council of the City of Burbank was reconvened at 6:37 p.m. by Ms. Murphy, Mayor.
Invocation	The invocation was given by Mr. Kramer, Community Assistance Coordinator.
Flag Salute	The pledge of allegiance to the flag was led by Police Captain Koch.
ROLL CALL Present Absent Also Present -	Council Members Campbell, Golonski, Ramos, Vander Borght and Murphy. Council Members None. Ms. Alvord, City Manager; Mr. Barlow, City Attorney; and, Mrs. Campos, City Clerk.
301-1 Heartfelt Thanks Luncheon	Mayor Murphy stated that the Heartfelt Thanks Luncheon was an effort to express Burbank's appreciation to officers of other jurisdictions and agencies who assisted with the Pavelka investigation. Chief Hoefel expressed appreciation to the Mayor, Council Members, City Manager, committee, donors and Chamber of Commerce for their support towards the event. Mayor Murphy recognized Sunder Ramani, Vice President, Internal Operations, Burbank Chamber of Commerce, for spearheading the fundraising effort and presented him with a plaque in commendation of his tireless efforts. She also commended City staff who helped coordinate and organize the event. Mayor Murphy recognized the sponsors of the luncheon,
	including: Gary Olson, President, Burbank Chamber of Commerce; Ernie Burger, Burbank Community Foundation; Alan Arzoian, owner, Handy Market; Vic and Sue Georgino; Roger Cusumano, Cusumano Real Estate Group; Doug Remington, JDC Security; Tim Davis, SCA Appraisal Company;

Scott Schaffer and Timmy Madirossian, City Cab Company; Lisa Rawlins, Warner Bros; and, Jim O'Neill, Crown Realty. She also recognized the following sponsors who were not present at the meeting: Shelly Anderson, Anderson Party Rentals; Jack O'Neill, NBC Studios; Lance Kuyper, B.J.'s Restaurant; and, Dave and Pat Augustine.

7:02 P.M. Mayor Murphy stated that "this is the time and place for the continuance of the hearing on the review of the Planning Board's decision approving Conditional Use Permit 2003-29, a request by Ken Fisher to modify the permitted hours of 1704-3 operation for the businesses at the property located at 990 North Hollywood Way. The subject property is zoned MPC-1, (990 N. Magnolia Park Commercial Retail. The Conditional Use Permit Hollywood Way) was approved by the Planning Board on January 26, 2004."

> "This public hearing was opened on March 9, 2004, with presentations by staff and the applicant, and comments from the public. The public comment portion of the hearing was closed and this hearing was continued to this date to allow further deliberation on the proposed CUP. A videotape of that meeting on March 9, 2004, along with the agenda packet for this matter, has been delivered to Council Members Marsha Ramos and Jef Vander Borght for their review. The Council will now continue its deliberations on the proposed application and appeal."

Council Ms. Murphy submitted photographs taken of a Dunn Edwards deliberation paint store in Glendale showing day laborers attracted by the business. She expressed opposition to extending the hours of operation of a business that will generate a lot of traffic. She noted that a Dunn Edwards store not only generates business traffic but also traffic from individuals soliciting laborers. She also noted that the property is located at an intersection which is already heavily impacted with traffic.

> Mr. Vander Borght explained that he recused himself from taking action on the matter at the March 9, 2004 Council meeting due to the fact that his company has a commercial account with Dunn Edwards Corporation. He added that since then, he has been advised by the City Attorney that no significant conflict of interest existed.

> Mrs. Ramos reported that she was not able to attend the March 9, 2004 Council meeting but had the opportunity to review the item and videotape of the discussion that ensued on the matter. She summarized the status of the project to date and stated that the evidence provided did not indicate a

Continued Hearing 602 CUP 2003-29

need to amend the existing Conditional Use Permit (CUP). She
also noted that she realized that a by-right project with a
single tenant user could occupy the property but based on her
review, she was supportive of upholding the initial CUP as it
would keep to the testimony presented. She stated that while
the mixed use component is within the parameters of the
Magnolia Park vision, a by-right project was also acceptable.
She also noted that regardless of the use on the property, lack
of adequate parking will still be an issue.

Mr. Vander Borght noted his service on the Magnolia Park Council Subcommittee with Ms. Murphy and stated that the property is a key parcel for the revitalization of the area. He noted the lack of parking for a major business immediately adjacent to the property, and the property's proximity to the neighboring R-1 properties. He also noted the type of traffic and activity which will be generated by the Dunn Edwards paint store business and stated that the noise and disruption will be substantial. He expressed opposition to modifying the hours of operation and noted the possibility of the applicant finding another business of less appeal to the neighborhood.

Mr. Campbell noted his observation of the Dunn Edwards paint store in Glendale and expressed concern with the day laborer issue. He stated that although he was not opposed to a Dunn Edwards paint store in Burbank, he was not convinced that the proposed location was suitable. He expressed his opposition to modifying the CUP.

Mr. McDonald, attorney representing the applicant, presented a letter regarding the matter and Mr. Barlow, City Attorney, informed him that the Council had already received the letter.

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

1704-3	RESOLUTION NO. 26,678:
602	A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
CUP 2003-29	REVERSING THE PLANNING BOARD'S DECISION AND
(990 N.	DENYING CONDITIONAL USE PERMIT NO. 2003-29 (900 North
Hollywood Way)	Hollywood Way).

- Adopted The resolution was adopted by the following vote:
 - Ayes: Council Members Campbell, Ramos, Vander Borght and Murphy.

Noes: Council Member Golonski. Absent: Council Members None.

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

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

- Citizen Appearing to comment were Mark Barton, expressing appreciation to Chief Hoefel for his comments regarding an investigation; and, Ron Vanderford, commenting on the case of Karam v. City of Burbank and alleged abuse of power by the Police Department and City Attorney's Office.
- StaffMembers of the Council and staff responded to questionsResponseraised.
- Agenda Item Ms. Murphy called for speakers for the agenda item oral Oral communications at this time. Communications
- Citizen Appearing to comment were Mike Nolan, commenting on the Comment Home Depot public safety mitigation fee and encouraging the Council to schedule a public hearing on the matter; David Piroli, commenting on the Home Depot public safety mitigation fee, the day laborer facility and cautioning the Council on illegal immigration as it relates to day laborers; and, Mark Barton, who did not address an agenda item.
- StaffMembers of the Council and staff responded to questionsResponseraised.
- 7:32 P.M. The Council recessed to permit the Burbank Public Financing Authority to hold its meeting. The Council reconvened at 7:33 p.m. with all members present.

3/16/04

- Motion It was moved by Mr. Vander Borght and seconded by Mrs. Ramos that "the following item on the consent calendar be approved as recommended."
- Minutes The minutes for the adjourned meeting of January 22, 2004 and the regular meeting of January 27, 2004 were approved as submitted.
- 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.

804-3 Mr. Hansen, Interim Park, Recreation and Community Services 412 Department Director, requested Council authorization to fund Middle School a continuation of the Middle School Grant Program. He Grant Program explained that the mission of the City's Middle School Grant Program is to provide, encourage and support activities that contribute to the prevention of violence, reduction of conflict, and promotion of productive and positive experiences for Burbank Unified School District (BUSD) middle school students. If approved, he stated that Jordan, Luther Burbank and John Muir middle schools will collectively receive up to \$75,000 in one-time General Fund appropriation from the previously-approved Non-Departmental Holding Account for the purpose of continuing the implementation of the programs and services.

> Mr. Hansen noted that the City places a strong emphasis on the provision of quality programs, services and facilities benefiting the youth of the community. He stated that the Council previously approved \$150,000 for the Middle School Grant Program to initiate programs and services which began in the Spring 2002-03 school year. He added that the money allocated provided the schools an opportunity to continue the programs into the 2003-04 school year. He also stated that the Council directed staff to return for additional funding when the previously-approved appropriation had been expended, and explained that the additional appropriation would allow for the current programs and services to continue through the remaining three months of the 2003-04 school year.

> He concluded with a recommendation that an additional \$75,000 be appropriated to the Middle School Grant Program

with the intent that each middle school be awarded \$25,000. He also presented a video highlighting the activities that the schools have been able to provide to the students with the aid of the middle school grants.

Daniel Hacking, Principal at John Muir Middle School, Anita Shackman, Assistant Principal at John Muir Middle School, and Wanda Armstrong, Principal at Luther Burbank Middle School, expressed appreciation to the Council for past funding and requested Council support of the additional funding.

Mr. Golonski recounted his experience with the Mayor's Youth Task Force and commented on how creative and inclusive the middle schools programs are. He recognized Warner Bros. for partnering in this program by providing free admission for the students to the Museum of Tolerance. He noted that the three schools have adopted a common anti-bullying curriculum and assemblies which have empowered the students. He emphasized that the programs were about providing activities that will bring all the students together. He also noted that the nature of the lunch period at the schools has changed because of the availability of lunchtime activities. He commended the principals for stretching the funding by providing a large number of programs.

Mr. Vander Borght commended the principals for the success of the programs but noted the fact that funding may not be available in the future due to the current budgetary constraints.

Mr. Golonski noted that some of the programs have already been adopted by the Parent Teacher Association and hoped that as the community realizes the benefits of these programs, other groups will adopt programs, and through collaborative community efforts the programs will continue.

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

804-3	RESOLUTION NO. 26,679:
412	A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Middle School	APPROVING A GRANT FROM THE CITY OF BURBANK TO THE
Grant Program	CITY OF BURBANK MIDDLE SCHOOL GRANT PROGRAM
	(PEACE COLORS PROGRAM).

Adopted The resolution was adopted by the following vote:

Ayes:	Council	Members	Campbell,	Golonski,	Ramos,
	Vander E	Borght and N	/lurphy.		
Noes:	Council N	Members No	ne.		
Absent:	Council N	Members No	one.		

1704-3 Public Safety Mitigation Fee/ Proposed Home Depot Store Mr. Garcia, Assistant City Attorney, presented a proposed agreement pertaining to additional mitigation arising out of the operation of the proposed Home Depot store. He explained that under the proposed agreement, Home Depot agreed to make an annual payment \$94,000 to provide additional mitigation for services related to operating the store. He stated that as currently proposed, the fee shall be paid on an annual basis until the City Manager and Police Chief determine that such mitigation is not warranted and that the City reserves the discretion on the use of the funds. He reiterated that the consideration of the agreement is to address concerns regarding on-going City expenses and noted that Home Depot will not have the obligation to pay the mitigation fee in the event that the Conditional Use Permit matter is appealed.

Mr. Vander Borght recounted the reason as to why he requested an appeal of the Home Depot Project. He explained that during a Closed Session meeting, the Council approved acquisition of a parcel of land that was to be developed for a day laborer center. He added that with the acceptance of the parcel of land came the responsibility of the cost of operating the day laborer center. He noted that he deemed it necessary for the Council to discuss the cost associated with running the day laborer center because he did not think it was appropriate for the City to pay for its operation. He stated that subsequently, Home Depot representatives requested that the matter be postponed. He then reported on a meeting with a Home Depot representative at which time he expressed concern with the City bearing the responsibility of the operating costs of the day laborer center and stated that he would not support the project unless there were additional mitigation measures.

Mr. Vander Borght further stated that as proposed, Home Depot is agreeing to pay a fee of \$94,000 annually to prevent the City from being responsible for the operating costs of the day laborer center. He also suggested that the agreement be modified to require Council approval prior to the mitigation fee being rescinded.

Mrs. Ramos was supportive of Mr. Vander Borght's modification to the agreement and stated that she met with a Home Depot representative as well. She indicated support of

having the day laborer center and noted that the mitigation fee was appropriate to alleviate any potential problems.

Mr. Campbell reported on a meeting with Mr. Nichols, a Home Depot representative, at which he expressed his concern with the City having to pay for the operation of the day laborer center. He expressed support of the proposed mitigation fee.

Mr. Golonski supported the concept of having a day laborer center for the project and stated that his only concern was the City having to pay for its operation. He noted that the City already has issues with day laborers and hoped that having a central place where they can gather will alleviate the situation. He expressed support for the agreement by which Home Depot will offset the cost of operating the center.

Ms. Murphy also noted that the City already has issues with day laborers and inquired whether U-Haul had been contacted regarding the day laborer issue. She was supportive of the mitigation fee that would ensure that the day laborer center is run in an efficient manner. She also suggested that staff explore enforcement options to ensure that individuals solicited workers from the day laborer center, and announced that the public had two days left to appeal the project if anyone was interested in doing so.

Motion It was moved by Mr. Golonski, seconded by Mr. Campbell and carried that "the Council approve the proposed agreement with modifications that the Council approve the termination of the mitigation fee."

1704-3Mr. Baker, Deputy City Planner, reported that this item was
continued from the March 9, 2004 Council meeting to
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.

Motion It was moved by Mr. Vander Borght, seconded by Mr. Campbell and carried that "the consideration of setting an inlieu of appeal for CUP 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 be removed from the agenda."

806 Letter of Agmt. With Official Payments Corp. For Credit Card Payment Services Ms. Anderson, City Treasurer, requested Council authorization for Official Payments Corporation to act as third-party administrator in the acceptance of credit cards by telephone and over the internet for bills and/or services owed to the City. She reported that credit card transactions for purchases of up to \$500 were approved in 1997 for the Park, Recreation and Community Services Department and expanded to all departments in 2000. She added that the approval was limited to walk-in customers only to avoid the higher costs associated with transactions by which the credit card is not presented. She informed the Council that credit card usage has increased significantly since 1997 and noted that the City paid over \$40,000 in fees associated with the acceptance of credit cards in the past year. She also stated that there is considerable business and consumer pressure to allow broader acceptance of credit card payments, including over the internet and telephone.

Ms. Anderson reported that staff researched many governmental agencies' internet sites, such as the Internal Revenue Service, State of California, Los Angeles Department of Water and Power, Los Angeles County and a few municipalities, and found that they all charge a convenience fee to accept payments by credit card on their websites, through a third-party administrator, Official Payments Corporation. She stated that a convenience fee is charged to the consumer and the amount of the fee is tiered, based on the payment amount. She added that staff from the Treasurer's Office and Burbank Water and Power (BWP) is in agreement with accepting Official Payments Corporation as the third-party credit card administrator. She also added that the City is ready to implement the acceptance of credit cards on the internet and over the telephone for utility bills at BWP with the new Banner System which will be in use this Spring. She added that other departments may also implement acceptance of credit card payments in the future with a tiered convenience fee being charged to the consumer based on the payment amount. She explained that the City will not incur any charges for payments accepted by Official Payments Corporation, resulting in a savings of approximately \$18,000 to \$24,000 per year in BWP funds alone. She also noted that additional savings may be realized if this program is implemented in other departments.

Mr. Golonski expressed concern over the convenience charge amount and requested that staff provide a status report on the

service within a ninety-day period.

Motion	It was moved by Mr. Campbell and seconded by Mrs. Ramos that "the following resolution be passed and adopted:"		
806 Letter of Agmt. With Official Payments Corp. For Credit Card Payment Services	RESOLUTION NO. 26,680: A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING AND AUTHORIZING EXECUTION OF A LETTER OF UNDERSTANDING BETWEEN THE CITY OF BURBANK AND OFFICIAL PAYMENTS CORPORATION FOR CREDIT CARD PAYMENT SERVICES.		
Adopted	The resolution was adopted by the following vote:		
	Ayes:Council Members Campbell, Golonski, Ramos, Vander Borght and Murphy.Noes:Council Members None.Absent:Council Members None.		
8:58 P.M. Reconvene Burbank Public Financing Authority Meeting	The Burbank Public Financing Authority 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 Eden Rosen, commenting on noise pollution and its negative impacts; Howard Rothenbach, requesting the Council reconsider placing restrooms at the Amtrak Station; David Piroli, inquiring as to why the City would assume the responsibility of operating the day laborer center, inquiring whether the Conditional Use Permit runs with the land or with the business; and, Mike Nolan, inquiring as to why the mitigation fee agreement was not available to the public until Tuesday and noting that one of the provisions of the agreement was that the Council would not appeal the		

Planning Board's decision.

the agreement was that the Council would not appeal the

Staff Response	Members of the Council and staff responded to questions raised.
301-2	There being no further business to come before the Council,
Memorial	the meeting was adjourned at 9:14 p.m. in memory of Casey
Adjournment	Iversen.

Margarita Campos, City Clerk