

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 Borcht (arrived at 5:02 p.m.) and Murphy.

Absent - - - - Council Members None.

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

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

Citizen Comment Appearing to comment was Mike Nolan, commenting on the 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. 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:  
Significant exposure to litigation pursuant to Govt. Code §54956.9(b)(1)  
**Number of potential case(s): 3**
- b. Conference with Legal Counsel – Anticipated Litigation:  
Initiation of litigation pursuant to Govt. Code §54956.9(c)  
**Number of potential case(s): 2**
- c. 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. Conference with Real Property Negotiator:  
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

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Glendale.

**Parties with Whom City is Negotiating:** Home Depot USA, Inc., 3800 West Chapman Avenue, 5<sup>th</sup> 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- - - -      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.

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.  
Continued  
Hearing  
1704-3  
602  
CUP 2003-29  
(990 N.  
Hollywood Way)

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 operation for the businesses at the property located at 990 North Hollywood Way. The subject property is zoned MPC-1, Magnolia Park Commercial Retail. The Conditional Use Permit 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  
deliberation

Ms. Murphy submitted photographs taken of a Dunn Edwards 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



Noes: Council Member Golonski.

Absent: Council Members None.

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| Reporting on<br>Closed Session                                     | Mr. Barlow reported on the items considered by the City Council during the Closed Session meetings.  |
| Initial Open<br>Public Comment<br>Period of Oral<br>Communications | Ms. Murphy called for speakers for the initial open public comment period of oral communications at this time.   |
| Citizen<br>Comment   | 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.  |
| Staff<br>Response  | Members of the Council and staff responded to questions raised.  |
| Agenda Item<br>Oral<br>Communications                              | Ms. Murphy called for speakers for the agenda item oral communications at this time.   |
| Citizen<br>Comment   | Appearing to comment were Mike Nolan, commenting on the 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. |
| Staff<br>Response  | Members of the Council and staff responded to questions raised.  |
| 7:32 P.M.<br>Recess  | 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.   |

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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 Approved 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  
412  
Middle School  
Grant Program

Mr. Hansen, Interim Park, Recreation and Community Services Department Director, requested Council authorization to fund a continuation of the Middle School Grant Program. He 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



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

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





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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 RESOLUTION NO. 26,680:  
Letter of Agmt. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK  
With Official APPROVING AND AUTHORIZING EXECUTION OF A LETTER OF  
Payments Corp. UNDERSTANDING BETWEEN THE CITY OF BURBANK AND  
For Credit Card OFFICIAL PAYMENTS CORPORATION FOR CREDIT CARD  
Payment PAYMENT SERVICES.  
Services

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.

8:58 P.M. The Burbank Public Financing Authority meeting was  
Reconvene reconvened at this time.  
Burbank Public  
Financing  
Authority  
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 Appearing to comment were Eden Rosen, commenting on  
Comment 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.

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Staff  
Response

Members of the Council and staff responded to questions raised.

301-2  
Memorial  
Adjournment

There being no further business to come before the Council, the meeting was adjourned at 9:14 p.m. in memory of Casey Iversen.

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Margarita Campos, City Clerk