

TUESDAY, APRIL 27, 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 5:08 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; Ms. Scott, Chief Assistant City Attorney; and, Mrs. Wilson, Deputy City Clerk.

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

5:09 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 Real Property Negotiator:
Pursuant to Govt. Code §54956.8
Agency Negotiator: Community Development Director/
Susan Georgino
Property: A new advertising sign (billboard) is being proposed on City property at the Recycling Center located at 500 South Flower Street which is bounded by Verdugo Avenue and Providencia Avenue.
Parties with Whom City is Negotiating: Ken Spiker and Associates, Inc. representing Clear Channel Outdoor, Inc.
Name of Contact Person: Ruth Davidson-Guerra
Terms Under Negotiation: Possible lease of City property to Clear Channel.

- 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, Burbank Firefighters Chief Officers Unit, and Burbank Police Officers Association; Unrepresented, and Appointed Officials.
Summary of Labor Issues to be Negotiated: Current Contracts and Retirement Issues.

Regular Meeting Reconvened in Council Chambers The regular meeting of the Council of the City of Burbank was reconvened at 6:40 p.m. by Ms. Murphy, Mayor.

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Invocation The invocation was given by Council Member Vander Borght.

Flag Salute The pledge of allegiance to the flag was led by Hagop Hergelian, Armenian National Committee.

ROLL CALL

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

Absent - - - - Council Members None.

Also Present - Ms. Alvord, City Manager; Ms. Scott, Chief Assistant City Attorney; and, Mrs. Campos, City Clerk.

301-1
2005
Tournament of
Roses Float
Rendering Teri Bastian, President of the Burbank Tournament of Roses Association, presented a photograph of the 2004 Burbank Tournament of Roses Float entitled, Moosic, Moosic, Moosic, to Mayor Murphy. Ms. Bastian then presented the 2005 Tournament of Roses Float Rendering, noting the float is entitled "Dinner's On...Fire!", depicting the tournament theme, Celebrate Family.

301-1
Commendations
to Wendy's and
Bob's Big Boy
Restaurants Police Captain Stehr expressed appreciation to Mike Cardinal, Chief Executive Officer, Wendy's Restaurant; Lee Mansel, Vice President, Wendy's Restaurant; Dave Steinberg, Director of Development, Wendy's Restaurant; and, Mike Lopez, representing Bob's Big Boy Restaurant, for their donations towards the Pavelka and Campbell memorial funds. Officer Parinello, President of the Burbank Police Officer's Association, presented commendations to the donors.

301-1
Citizen
Commendation Lieutenant Krafft presented a commendation to Maurice Stein, owner of Cinema Secrets, a local Burbank business, for his diligence and moral courage in preventing the abduction of a six-year-old child.

301-1
Kiwanis Total K-
Day Paul McKenna, President of the Burbank Sunrise Kiwanis Club, commended the John Burroughs High School Key Club for their participation at a recent community service event. Mayor Murphy presented the Key Club members with a Certificate of Recognition for their participation in the Total K-Day Clean Up of Wildwood Canyon.

301-1
Armenian Mayor Murphy presented a proclamation in memory of the Armenian Genocide to Maro Chalian-Read, Chairperson,

Genocide Memorial Armenian Relief Society, Burbank Chapter, and Sona Peltekian, member of the Armenian National Committee.

7:14 P.M.
Hearing
1704-3
602
Appeal of the Home Depot FEIR, CUP No. 2002-6, Sign Variance No. 2002-1 and DR No. 2002-12

Mayor Murphy stated that "this is the time and place for the continued April 13, 2004 hearing on the appeal of the Planning Board's decision to approve Conditional Use Permit No. 2002-6, Sign Variance No. 2002-1 and Development Review No. 2002-12, a request by Home Depot U.S.A., Inc. to construct and operate a home improvement store with 115,130 square feet of interior floor area and a 24,667 square foot outdoor garden area for selling garden supplies. Home Depot also requests a sign variance to permit one additional ground sign and temporary promotional banners not to exceed four times per year. The items for the Council's consideration are:

- A resolution certifying the Project's Final Environmental Impact Report, making findings as to each environmental effect, and adopting a Statement of Overriding Consideration and a Mitigation Monitoring Program; and
- A resolution certifying the Conditional Use Permit, Sign Variance, and Development Review."

Notice Given

The City Clerk was asked if notices had been given as required by law. She replied in the affirmative and advised that no written communications had been received.

Staff Report

Mr. Baker, Deputy City Planner, Community Development Department, introduced the project team members present, including: Mr. Garcia, Assistant City Attorney; Mr. Herrmann, Assistant Community Development Director/Transportation; Bruce Lacklow, Principal with PCR Services Corporation, the City's environmental consultant; Dr. George Linkletter, Principal with Environ, the City's special consultant on public health and safety issues; Bob Kadlec, Senior Project Manager, City of Glendale; Francis Park, Attorney with Latham & Watkins, representing Home Depot; Ron Hirsh, Crain and Associates, Home Depot's traffic consultant; Vasanthi Ramanthan, project architect, Greenberg Farrow; and, Erica Strawn, Home Depot Corporate Counsel.

Mr. Baker requested that the Council consider an appeal of the Planning Board's decision of March 1, 2004, to approve all the entitlements pertaining to the proposed Home Depot store. He added that the Burbank Municipal Code (BMC) establishes a 15-day appeal period beginning on the day a signed copy of the Planning Board's resolution approving the project is sent to

the applicant. He noted that a signed copy of the Planning Board's resolution approving the project was sent to the applicant on Wednesday, March 3, 2004, and the 15-day appeal period ended on Thursday, March 18, 2004. He added that the appeal of the Planning Board's certification of the Final Environmental Impact Report (EIR) and approval of the project was filed by Howard Rothenbach and Mike Nolan on March 18, 2004.

Mr. Baker explained that the subject site is an 11.2-acre site zoned M-2 Industrial and located at 1200 South Flower Street. He stated that the project applications were received on May 15, 2002, including a Conditional Use Permit application since the proposed use is conditionally permitted in the M-2 Zone. He added that a Sign Variance was also requested for a 95-foot pylon sign that was later reduced to 25 feet and that the request also included an exception for promotional banners, initially proposed at 12 occasions per year and reduced to four. He informed the Council that Home Depot's application was submitted with several attachments, including all necessary documentation and approvals attained from State agencies prior to filing the application. He noted that the documentation included: a soil vapor extraction system human health risk assessment; a baseline human health risk assessment; remedial action plan approved by the Regional Water Quality Control Board (RWQCB); a basis of design report providing additional details to the remedial action plan report, also approved by the RWQCB; a national pollutant discharge elimination systems permit; a human health risk assessment for offsite diesel; a permit issued by the South Coast Air Quality Management District (AQMD) approving a contaminated soil mitigation plan; an AQMD permit to construct an on-site soil vapor and dual phase extraction system; and, a traffic study prepared by Crain and Associates addressing all traffic issues, which was exhaustively reviewed by the City of Glendale and the City's Traffic Division staff and revised several times in order to meet the City's standards.

Mr. Baker then discussed the various project BMC requirements and stated that after the application was reviewed, an initial study was completed on September 27, 2002 defining the areas of concern from the environmental perspective, and a notice of preparation was also submitted to the State; thereby initiating a 30-day comment period.

Bruce Lacklow, Principal with PCR Services Corporation, reported that based on the completion of the project's initial study, it was determined that an EIR was warranted as there was potential for the project to result in significant impacts on the environment. He then discussed the basic scope and major

findings of the Draft and Final EIRs with regard to: land use; traffic; public health and safety; air quality; noise; aesthetics; water; waste water; and, energy. He reported that the Draft EIR was completed and circulated for public review for a 45-day period which started October 1, 2003 and ended November 14, 2003, pursuant to the California Environmental Quality Act. He added that following the closure of the public review period, commencement of the Final EIR proceeded. He noted that 16 comment letters were received on the Draft EIR with the key issues being raised including, a request for: a quantitative freeway analysis; conducting a weekend traffic analysis due to the different traffic peak periods generated by the use; additional mitigation measures for the Alameda Avenue and Flower Street intersection; additional mitigation measures for air quality and emission conservation; concern with the size and quantity of proposed signage; and, additional mitigation with regard to the interface of the proposed project with existing business operations. He noted that despite the numerous mitigation measures, residual significant impacts still exist with regard to public health and safety, and air quality; therefore, in order to certify the EIR, the Council would have to adopt a Statement of Overriding Considerations.

Mr. Baker added that the Draft and Final EIRs were provided to the Environmental Oversight Committee for their review. Regarding the day laborer facility, he stated that it was initially proposed as part of the application by Home Depot on March 13, 2003, and based on input from the coordinator of the Glendale Home Depot day laborer center and City departments, a determination was made that: the need would materialize; the facility needed to be functional and operational when the store begins operations; there is no off-site alternative in the immediate vicinity; the facility needed to be on-site in order to address the issue closest to the property; the facility should not interfere with patron access or other store operations; and, the facility needs to be economically viable. He added that the information was presented to Home Depot and the suggestions were incorporated into the revised project plans. He noted that the Planning Board considered the issues and approved the entitlements; however, following Council discussion on funding the operational costs of the facility, Home Depot proposed a mitigation fee agreement which was approved by the Council on March 16, 2004. He noted that the terms of the agreement have been incorporated as a Condition of Approval. He then discussed the appeal concerns, noted that staff followed all standard practices, and cited BMC sections that provide authority to the Planning Board to certify the EIR and Sign Variance. He also clarified that issues related to the day laborer center are not part of the California

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Environmental Quality Act guidelines; however, the City has the authority to impose a condition if City services are impacted, such as Police and License and Code Services, in this matter. He also noted that the annual mitigation fee proposed by Home Depot is justified and recommended that the Council approve all entitlements subject to the Conditions of Approval.

Applicant

Francis Park, Attorney with Latham & Watkins, representing Home Depot, concurred with staff's recommendations to approve the project and deny the appeal. He noted that Home Depot has been working on the project for over five years and that the project entails the clean-up of an extremely contaminated site, considered as a high priority clean-up site by the RWQCB. He also added that the project has undergone a thorough environmental review, obtained all State approvals prior to seeking local approvals, and that Home Depot has agreed to all mitigation measures and Conditions of Approval. He concluded that the applicant has determined that the appeal has no valid basis.

Appellant

Howard Rothenbach stated that he filed the appeal together with Mr. Nolan and presented a videotape of a discussion on the day laborer center at a prior Council meeting, specifying that Home Depot could not operate the center due to limitations imposed by contracts with the Federal government. He requested disclosure of the specific contracts and inquired as to whether the City's involvement with the facility would not jeopardize Federal funding. He added that according to employment law, if the City partnered with a subcontractor or charity to operate the center, both entities would be liable for the center's operations. He also stated that the approval process for the project was flawed and does not conform to the standard practices under the California Environmental Quality Act and past practices and codes of the City for the adoption of a Final EIR. He requested that the public be allowed adequate scrutiny of the project. He noted his perception of the Planning Board as an advisory body with the decision-making authority vested with the Council. He added that the appellants appealed the EIR approval to provide for appropriate mitigation in the Conditions of Approval to address all issues raised in the EIR, in addition to several other issues that the appellants believe have not been properly investigated by City staff and the Planning Board. He noted that there is no permitted land use for a day laborer center on M-2 property or any other zone in the City. He stated that although an employment agency is an allowed use, there would be no nexus with the day laborer center. He added that

if considered a temporary employment agency, the facility must be licensed by the State, required to provide workers compensation protection, benefits and make appropriate tax deductions. He noted that the facility would also require a business license, employment applications and miscellaneous forms in compliance with State and Federal employment regulations. He inquired as to what provisions contained in the City's Charter and current labor contracts would permit the City to operate an employment agency and hire temporary employees, and noted that designating other organizations to act on the City's behalf does not protect the City from any liability.

Regarding the funding of the facility's operational costs, Mr. Rothenbach cautioned that if it was illegal for Home Depot as a Federal contractor to operate such a facility or directly contribute funds to another entity to operate it, the City would be vulnerable to money laundering allegations. He also added that the issue of the impact of day laborers on the site was part of the project's EIR and that for the mitigation agreement to state that the fee was not for the Home Depot project was an error, and that the fee must run with the land as part of the Conditions of Approval and contain the appropriate successor language to protect the rights of the surrounding property owners and Burbank residents. He referenced a March 15, 2004 memorandum on the mitigation fee.

Mr. Rothenbach also raised concern with regard to crime, safety and health issues associated with individuals camping overnight to solicit work the next morning, and referenced similar incidents with Home Depot locations in the cities of San Bernardino, North Hollywood and Rialto. He also noted that businesses such as the Do It Center, Orchard Supply Hardware and Lowe's do not permit day laborer activity.

Mr. Nolan referenced prior comments made with regard to the subject site being among the State's high priority clean-up areas. He noted that since the Planning Board hearing, the cities of Burbank, Glendale and Los Angeles have jointly funded a position with the RWQCB to investigate the contamination in the water basin. He expressed concern with groundwater contamination and inquired as to why ITT Corporation was not held responsible for cleaning up the site. He also expressed disagreement with the traffic analysis.

Mr. Golonski requested clarification on the City's ability to regulate the solicitation of day laborers. Mr. Garcia, Assistant

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City Attorney, responded that State law provides that if a city enacts an ordinance to regulate day laborer activity, a viable alternate site has to be provided that allows the day laborers the opportunity to solicit employment.

Citizen
Comment

The following individuals appeared to comment in opposition to the project: David Hillberg; Don Elsmore; Les Hammer; Theresa Karam; Hal Netkin; Virginia McKinney; David DeSwert; George Stavaris; Norma Verdugo; Josephine Caputo; Carol Delis; Tami Tressel; James Beckcom; Eden Rosen; Dink O'Neal; Simon Weezer; Francine Lockett; Ron Vanderford; LaVerne Thomas; Molly Hyman; David Piroli; Pamela Ramseyer; and, Robert Bohanan. Also, Mark Barton, commenting on law enforcement issues with regard to day laborers and citing poor customer service at Home Depot; Alfred Aboulsaad, in support of the project; and, Tara Gore, expressing concern with the racial undertones by many speakers with regard to day laborers.

Hearing
Closed

There being no further response to the Mayor's invitation for oral comment, the hearing was declared closed.

Rebuttal by
Appellant

Mr. Nolan referenced information that was not made available to the appellants and requested that the consultants respond to public comment prior to the appellants' rebuttal comments.

In response to Mrs. Ramos, Mr. Lacklow informed the Council that a total of five additional air quality mitigation measures were added as a function of the Final EIR; three of which were related to construction activities and two with operation activities of the facility.

Rebuttal by
Appellant

Mr. Rothenbach requested further clarification as to whether Condition of Approval No. 1.T will run with the land and as to what Federal contracts prohibited Home Depot from operating the day laborer center. He also questioned the day laborers' work authorization status and whether appropriate tax deductions will be made. He noted that the contractors hiring the day laborers are not paying taxes either, thereby undercutting legitimate taxpayers.

Mr. Rothenbach requested that in the event the day laborer center is approved, the facility be part of the Conditions of Approval and that it complies with the law. He also requested that an ordinance banning solicitation of employment on City

streets be adopted concurrently with this project to provide adequate protection to the community. He added that based on the crime, health and safety issues associated with day laborers, supervision and restrooms should be provided 24 hours a day. He also suggested that the facility be located at the northwest corner of the parking lot adjacent to a driveway furthest away from the patrons. He commented on the oath of office taken by elected officials to support State and Federal law, and urged that the Council not approve the illegal employment center.

Mr. Nolan reiterated the need to protect the groundwater from contaminants. He acknowledged that the clean-up is a high priority and urged that the Council withhold the project's Conditional Use Permit until the results of the site clean-up are realized.

Rebuttal by
Applicants

Mr. Park noted that the environmental impact issues have been addressed and that Home Depot agreed to additional mitigation measures and Conditions of Approval.

Ms. Strawn, Home Depot Corporate Counsel, stated that Home Depot's priority perspective with regard to the day laborer center is the safety of the customers, associates and the day laborers on the site. She noted that although there is very little Home Depot could do to keep the day laborers off the site, a number of on-site management techniques such as obtaining security guards and putting up fences, will be implemented. She also noted that the day laborer issue is beyond Home Depot's control and noted that the success of the facility will largely depend upon an ordinance adopted by the City. She noted that in cities where the ordinance has been adopted and enforced, the centers have been able to address city concerns such as public safety, reduction of harassment, loitering and other health-related issues.

Council
deliberation

In response to Mr. Vander Borgh's request, Mr. Baker noted that an inquiry was made to Home Depot regarding the disclosure of the Federal contracts which preclude the company from operating the day laborer facility, but the City has neither received the documents nor the name of a point person from Home Depot to address that issue. He also reiterated that pursuant to the BMC, the Planning Board had the authority to approve the project subject to appeal. He added that the day laborer use is ancillary to the principal use and was therefore considered as part of the project but not subject to the California Environmental Quality Act guidelines. However, he stated that the issue was discussed at length by

staff from the cities of Glendale and Burbank. He also noted that the staff report outlined the public notices issued and emphasized that staff made follow-up telephone calls to ensure that the immediate property owners had the most current information, copies of the staff report and each of the notices that were given for the hearing. He noted a change in the day laborer center location since May 2003 from the northeast corner of the parking lot to the entrance, following a determination that the day laborers would naturally gravitate towards that location. He also stated that part of the project's remedial plan was to take six months or more for site remediation activities prior to obtaining building permits.

Dr. Linkletter, Principal with Environ, addressed the contamination issues and the proposed clean-up plan for the Home Depot site, and the remedial plan implemented for the Empire Center site.

Ms. Murphy expressed concern with the traffic analysis and Mr. Herrmann, Assistant Community Development Director/Transportation, discussed the various mitigation measures that will be implemented to address the additional traffic capacity to the various intersections.

Mr. Golonski clarified that Condition of Approval No. 1.T would run with the use and not the land but inquired as to its application if the business was sold. Mr. Baker responded that it would still apply to the new use.

Mr. Golonski commended his colleagues who serve on the Environmental Oversight Committee for their efforts on the project. He noted that although he had previous concerns with the installation of the slurry wall, he understood that there were no better alternatives for cleaning up the material that continues to contaminate the groundwater. He expressed his satisfaction with the environmental analysis and noted the importance of the diligence done on this property, which was similar to that undertaken for the Empire Center site. He also commented on the health risk assessment.

With regard to the day laborer center, Mr. Golonski thanked the speakers for providing their input, and specifically commended Tara Gore for articulating comments pertaining to the excessive characterization of day laborers. He stated that in his opinion, the fundamental issue was whether any aspect of the project promotes illegal immigration in any way. He noted that the day laborer employment environment already exists and the City would be remiss to ignore its existence. He

also noted that State law stipulates that in order to regulate day laborer activity, a viable location should be designated for proper employment solicitation. He acknowledged that the congregation of day laborers has the potential to have a negative impact particularly on the neighboring properties, expressed support for the day laborer center, and reiterated that the facility would not promote illegal employment or immigration but will address an issue that already exists.

Mr. Vander Borght noted that he has reviewed the EIR and is confident that it contains all the information the public is seeking. He stated that the proposed project is suitable for the site and that the proposed use will generate approximately \$300,000 in annual Sales Tax revenues. He also added that if the applicant is not required to participate in addressing the potential impacts, the City will have to spend General Fund dollars to address issues that will occur in the future. He noted that the Planning Board identified a need to provide a day laborer center at this location in order to address a highly-potential problem. He referenced public comment that day laborer centers are not effective and stated that the \$94,000 mitigation fee was not specifically for day laborer center operations, but for addressing problems that may be related to the Home Depot operation. He noted that the City has the discretion to use those funds for other strategies such as policing. He disagreed with the characterization of day laborers and noted the need to balance providing a safe environment for the citizens with the ability to allow others to make a living in a decent manner. He also noted the need to clean up the extremely-polluted site and concurred that approving the project will not encourage illegal immigration.

Mrs. Ramos commended her colleagues who serve on the Environmental Oversight Committee, Planning Board and staff who have worked on the project. She noted that several alternatives to the slurry wall were explored and concurred that it was the best remedy to pursue. She commended the rigorous assessment processes pursued for the EIR and noted that a heavily-contaminated site will be cleaned up and utilized to generate revenues for the City. Regarding the day laborer center, she expressed disappointment about the comments which stereotyped and characterized individuals seeking work and disagreed with comments that politicians facilitate illegal immigration. She stated that illegal immigration is facilitated by individuals who offer employment opportunities to undocumented individuals. She commented on several potential negative impacts and the need for mitigation measures.

Mr. Campbell also disagreed with the characterization of day

laborers and referenced previous research on day laborers which determined that 75 percent were documented workers. He requested clarification from staff as to the failure of the Van Nuys Home Depot day laborer center. Mr. Garcia, Assistant City Attorney, reported that the City of Los Angeles does not currently have an enforceable solicitation ordinance. He added that the most recent solicitation ordinance was struck down by the Court for being overbroad by banning employment solicitation citywide. He noted that if the City intends to regulate employment solicitation in the right of way, a site has to be provided for proper employment solicitation. He added that the City's solicitation ordinance will be modeled after the City of Pasadena's ordinance which prohibits soliciting employment in certain zones where it is most likely to occur. He added that the City of Pasadena allows solicitation of labor in a specific zone which also has a City-operated employment center in the vicinity. He also noted that the City of Glendale's solicitation ordinance was identical to the Los Angeles ordinance which was struck down, and that various enforcement options are being explored.

Mr. Vander Borght expressed support for adopting an employment solicitation ordinance.

Mr. Garcia suggested a revision in the language with regard to Condition of Approval No. 1.T to state that the annual mitigation payment be made until the site ceases to be used as a home improvement store.

Ms. Murphy disagreed with the characterization of day laborers as illegal immigrants and commented on the site clean-up and the installation of the slurry wall. She expressed concern with the EIR stating that the project will have no significant traffic impacts and noted the potential for the project to generate considerable traffic in the area. She also cautioned that the project may not generate as much revenue as estimated due to the proximity of several other home improvement stores. She expressed her opposition to certifying the Final EIR with regard to the traffic analysis.

Mr. Vander Borght clarified the implications of the Statement of Overriding Considerations.

Mr. Campbell suggested pursuing IBC to clean up the adjacent contaminated site. Discussion ensued on the ability to pursue ex-property owners to clean up contaminated properties.

Mr. Golonski noted that if the project is not approved, the contaminated site will not be cleaned up for sometime, thereby allowing for the compounds in the ground above the

clay layer to percolate into the groundwater. He emphasized that the slurry wall is necessary to allow for cleaning up the contaminants. With regard to traffic impacts, he stated that compared to the current traffic problems, Home Depot's traffic generation profile does not exacerbate the areas with the worst problems. He noted that if an industrial use was approved for the site, traditional work-hour traffic will be generated thereby impacting the peak morning and evening traffic periods.

Ms. Murphy noted her satisfaction with the environmental issues but stated that she would not support approving the Home Depot project for the sole purpose of cleaning up the site. She acknowledged that there are problems associated with the site and stated her preference for pursuing other means to clean up the site.

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

1704-3
602
Certifying the
Home Depot
FEIR

RESOLUTION NO. 26,706:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 2002091134) FOR THE BURBANK HOME DEPOT PROJECT, MAKING FINDINGS FOR EACH ENVIRONMENTAL EFFECT OF THE PROJECT, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING PROGRAM.

1704-3
602
Deny Appeal
And Approve
CUP No. 2002-6

RESOLUTION NO. 26,707:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK DENYING AN APPEAL OF THE PLANNING BOARD'S DECISION AND APPROVING CONDITIONAL USE PERMIT NO. 2002-6, SIGN VARIANCE NO. 2002-1, AND DEVELOPMENT REVIEW NO. 2002-12 (1200 South Flower Street) with an amendment to Condition of Approval No. 1.T that the annual mitigation fee will be made until the site ceases to be used as a home improvement store."

Adopted The resolutions were adopted by the following vote:

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

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- Motion It was moved by Mrs. Ramos, seconded by Mr. Campbell and carried that "all agenda items other than the consent calendar and second reading of the mail ballot ordinance be continued to the May 4, 2004 Council meeting."
- Reporting on Closed Session Ms. Scott, Chief Assistant City Attorney, 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 Comment Appearing to comment were Howard Rothenbach, on the Empire Interchange Design Modification item; Eden Rosen, on traffic congestion at Victory Boulevard and Clark Street and on noise pollution; David Piroli, on the legal status of day laborers; Mark Barton, on allegations that he misrepresented the City; and, LaVerne Thomas, on the solicitation ordinance.
- 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 Eden Rosen, referencing a study regarding day laborers; Mark Barton, on the day laborer center operations; Carol Delis and Les Hammer, expressing disagreement with the Council's decision on the Home Depot project; Dink O'Neal, on testimony given at the Home Depot hearing and on the Internal Revenue Service requirements with regard to day laborers; Mike Nolan, stating that the proposed Home Depot site was designated a Superfund site, inquiring as to why staff did not obligate ITT Corporation to clean up the site during the past twenty years and requesting reconsideration of the Home Depot project decision; Howard Rothenbach, on the location of the day laborer center and inquiring as to what Federal contracts preclude Home Depot from operating the day laborer center; LaVerne Thomas, commending the Mayor for voting against the Home Depot

project, on the testimony given by another speaker and on traffic mitigation measures; and, David Piroli, on the condition of the Glendale Home Depot Store.

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

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

904-2 RESOLUTION NO. 26,708:
405-2 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Household APPROVING THE AGREEMENT REGARDING USE OF THE
Hazardous GLENDALE HOUSEHOLD HAZARDOUS WASTE FACILITY
Waste Agmt. BETWEEN THE CITIES OF BURBANK AND GLENDALE AND
With Glendale AUTHORIZING RENEWAL OF THE AGREEMENT BY THE CITY
MANAGER OR HER DESIGNEE FOR ONE ADDITIONAL YEAR.

305-2 A report was received from the Park, Recreation and
2005 Rose Float Community Services Department presenting a request from
Rendering Teri Bastian, President of the Burbank Tournament of Roses
Association, to secure Council approval of the 2005
Tournament of Roses float rendering. The report stated that
the 116th Pasadena Tournament of Roses Parade theme is
"Celebrate Family" and that the Parade officials approved the
theme and conceptual design for the 2005 City of Burbank
parade float entry entitled, "Dinner's On...Fire!". The report
also stated that the float concept was submitted by Bill and
Carol Cotter and Stacia Martin.

The report indicated that in order to commence production and funding of the float, the agreement between the City and the Burbank Tournament of Roses Association calls for the approval of the parade float theme and conceptual design by the Council.

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.

Ordinance Submitted It was moved by Mrs. Ramos and seconded by Mr. Campbell that "Ordinance No. 3637 be read for the second time by title

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only and be passed and adopted." The title to the following ordinance was read:

204
Amending BMC
Relative to All
Mail Ballot
Elections

ORDINANCE NO. 3637:
AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING SECTION 1-608 OF THE BURBANK MUNICIPAL CODE TO MANDATE CONDUCTING PRIMARY NOMINATING ELECTIONS, GENERAL MUNICIPAL ELECTIONS AS WELL AS SPECIAL ELECTIONS WHOLLY BY MAIL BEGINNING IN 2005.

Adopted

The ordinance was adopted by the following vote:

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

Noes: Council Members None.

Absent: Council Members None.

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 was Mike Nolan, on Superfund sites.

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 12:43 a.m. in memory of Hank Sartoris and to Monday, May 3, 2004 at 10:00 a.m. in the Council Chamber for the Council Reorganization meeting.

Margarita Campos, City Clerk

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