

TUESDAY, AUGUST 10, 2004

A regular meeting of the Council of the City of Burbank was held in the Council Chamber of the City Hall, 275 East Olive Avenue, on the above date. The meeting was called to order at 5:06 p.m. by Mrs. Ramos, Mayor.

CLOSED SESSION

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

Absent - - - - Council Members None.

Also Present - Mr. Flad, Assistant City Manager; Mr. Barlow, City Attorney; and, Mrs. Campos, City Clerk.

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

5:06 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 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.
- b. Conference with Real Property Negotiator:
Pursuant to Govt. Code §54956.8
Agency Negotiator: Community Development Director/Susan Georgino.
Property: 111-245 East Magnolia Boulevard, 401-761 North First Street, 200 East Cypress, 601-800, 801, 805, 851, 875, 877, 891 North San Fernando Boulevard, 228 East Burbank Boulevard. The 41 acre site (excluding IKEA) generally bounded by Magnolia Boulevard, Third Street, Burbank Boulevard, and Interstate 5 (Media City Center Mall). Parcels 2460-023-045 through and including 2460-023-062.
Parties with Whom City is Negotiating: Crown Realty and Development Inc.
Name of Contact Person: Jack Lynch, Senior Redevelopment Project Manager.
Terms Under Negotiation: Negotiation for the sale of the

fee title in regards to the improvements on the above mentioned parcels.

- c. Conference with Legal Counsel – Anticipated Litigation (City as potential defendant):
Pursuant to Govt. Code §54956.9(b)(1)
Number of potential case(s): 1

Regular Meeting Reconvened in Council Chambers The regular meeting of the Council of the City of Burbank was reconvened at 6:38 p.m. by Mrs. Ramos, Mayor.

Invocation The invocation was given by Mr. Kramer, Community Assistance Coordinator.

Flag Salute The pledge of allegiance to the flag was led by Lieutenant Speirs.

ROLL CALL

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

Absent - - - - Council Members None.

Also Present - Mr. Flad, Assistant City Manager; Mr. Barlow, City Attorney; and, Mrs. Campos, City Clerk.

301-1 Animal Shelter Volunteer Lieutenant Speirs presented a commendation to Eva Sippel for her outstanding service and dedication to the Burbank community through her leadership as two-term President of the Burbank Animal Shelter Volunteers. Mayor Ramos assisted in the presentation and expressed appreciation to Ms. Sippel for her exemplary service.

Reporting on Council Liaison Committees Mr. Vander Borght reported on the Development and Community Services Building Subcommittee meeting he attended with Mr. Campbell, and on the public art festival he attended with Ms. Murphy in Colorado as members of the Magnolia Power Project Art in Public Places Committee.

Mr. Campbell commented on the halted Metropolitan Transportation Authority busway project for the San Fernando Valley which is pending a court ruling and requested Council support on the issue.

Mr. Vander Borght reported on the Transit Subcommittee meeting he attended with Mr. Campbell.
Mrs. Ramos reported on the Mobility 21 Conference she

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attended and submitted a petition from residents along East Tujunga Avenue requesting speed reducing devices.

406
Airport
Authority
Report

Commissioner Brown reported on the Airport Authority meeting of August 9, 2004. He stated that the Authority approved: contract amendments for parking management and valet parking services for a total cost of approximately \$147,000 annually; Resolution No. 393 declaring official intent to reimburse certain expenditures from proceeds of indebtedness; and, Resolution No. 394 amending Resolution No. 353, authorizing acceptance of Federal Aviation Administration (FAA) grant offers. He added that the emission reduction program was not discussed since the consultant was unable to attend the meeting. He then discussed aspects of the proposed A-1 parking lot acquisition and reported on the matters considered in the Closed Session meeting, including: extending the due diligence period in the purchase and sale agreement with Zelman Development Company for the A-1 property; an amendment to the Zelman Development Company's purchase and sale agreement to include an option on a narrow sliver of property totaling approximately 10,500 feet on the north edge of the property that would allow for the realignment of Thornton Avenue and the Airport's Avenue B at the Hollywood Way intersection, in the event that the City does not require that portion of land; and, an agreement to reimburse the FAA \$11,927,805 for the prorated share of grants received for the B-6 property acquisition, noting that the agreement permanently eliminates all FAA financial participation in either the B-6 property or a new terminal. He also discussed the airline schedule analysis and commented on citizen remarks regarding the proposed Airport Development Agreement.

7:12 P.M.
Hearing
1704-5
Appeal of VAR
No. 2004-34 –
1062 E.
Magnolia

Mayor Ramos stated that "this is the time and place for the hearing on the reconsideration of the appeal of the Planning Board's decision regarding Project No. 2004-34. The Applicant/ Appellant, Gevorg Piramzyan, initially applied for a variance to allow reduced side yard setbacks and a garage with smaller dimensions than required by the Burbank Municipal Code for a single-family home located at 1062 East Magnolia Boulevard. The variance was denied by the Planning Board at its regular meeting of May 10, 2004. The Council denied the appeal on June 22, 2004. The Applicant/Appellant has rescinded his request for a variance for the garage and seeks a variance only for reduced side yard setbacks."

Notice
Given

The City Clerk was asked if notices had been given as required by law. She replied in the affirmative and advised that the City Clerk's Office received correspondence from seven

residents, all in opposition to granting the variance. She added that all correspondence has been provided to the Council and made available at the public counter.

Staff
Report

Mrs. Forbes, Principal Planner, Community Development Department, presented a request by Gevorg Pizamzyan to construct a single-family home with substandard side yard setbacks. She noted that the home is partially constructed with rough framing nearly complete. She recounted that in October 2003, plans were approved for an addition to and remodel of an existing single-family home in accordance with the Burbank Municipal Code (Code) which allows continuing the substandard side yard setbacks and maintaining the existing substandard two-car garage. She noted that this is permitted with remodeling projects but all new construction must conform to current Code which requires five-foot setbacks. She added that the applicant began hand demolition in an effort to salvage certain portions of the building; however, the applicant's engineer noted cracks and the lack of reinforcing steel in the existing foundations and determined that the existing foundations were unsuitable for further use. She noted that the foundations and walls which the original plan indicated would remain were removed and construction continued without proper inspections which might have caught the discrepancies. She added that the applicant was informed of his options including applying for a variance.

Mrs. Forbes informed the Council that the applicant has offered a compromise which will allow him to maintain the substandard side yard setback on the first floor but have a five-foot setback on the second story, and to have a one-car garage in the front with another one-car garage at the rear of the property that will be accessed off of the alley. She stated that staff was still unable to make two of the required four findings for recommending approval of the variance, noting that there are no exceptional circumstances applicable to this property that do not apply to other properties. She explained that while many homes constructed in the 1930s have been able to add a second story, it is not unusual for the existing footings to be reinforced or to have the second story supported independent of the first floor. She also stated that other properties are able to maintain a substandard side yard if the structure remains, otherwise a five-foot setback would be required. She commented on the correspondence and phone calls received regarding the project, the majority of which were in opposition to granting the variance. She also noted that the property owner to the west of the subject property was still opposed to the project.

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Mrs. Forbes mentioned that staff provided the Council with several conditions should the variance be approved and concluded with the recommendation that the Council uphold the Planning Board's decision and deny the appeal thereby requiring that the new home be built in accordance with current Code.

Applicant Ms. Janelle Williams, representing the applicant, commended the Council for reconsidering the project and presented several findings in support of setback variance. With the aid of a chart, she illustrated the applicant's proposed revision to mitigate the effects of the setback encroachments, and displayed another chart showing what would currently be allowed by Code, noting the difference between the proposed 30 percent lot coverage versus the allowable 60 percent lot coverage. She urged the Council to grant the variance.

Citizen Comment Appearing to comment were David Piroli; Carolyn Berlin; Ron Vanderford; Aram Isaiants; Anna Nersesyan; Grigor Avedikian; Theresa Karam; and, Mike Nolan, in support of the variance. Also, Mark Barton requested clarification on the matter.

Rebuttal Mr. Piramzyan emphasized that when the foundation was approved, the old foundations and all walls had been removed and that construction should have been stopped prior to framing the second story.

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

Council Deliberations Mr. Vander Borcht requested clarification on the City of Los Angeles inspection cards and Mrs. Forbes responded that the Deputy Inspectors are hired by the applicant, his structural engineer or contractor to review the concrete strength, pour or structural observations to augment City inspections. She also noted that the permit given to the applicant was for a remodel project and that once all footings and walls were removed, the project is considered as new construction and a different permit is required. She also gave additional clarification on the inspections procedures.

Mr. Vander Borcht commented on the complexity of the construction process and also clarified the role of the Deputy Inspectors. He explained that his request to reconsider the project derived from a meeting with the applicant and his

representative at which time a compromise was presented which rescinded the garage variance in addition to the fact that one of the neighbors was now amenable to the proposed five-foot setback for the second floor. However, he noted that the applicant has been unsuccessful in garnering the support of the other neighboring property owner, noting that a variance should not negatively impact the immediate neighborhood. He also indicated support for the applicant's modified project plans as they would be permitted by current Code had the old footings remained.

Mrs. Forbes clarified that under the new Code the second story would be set back five feet but the ground floor could be extended at the same substandard setback if it meets a minor exemption clause, noting that the length of extension on the east side of the property may not have met the minor exemption clause.

Ms. Murphy clarified that under the current Code, the applicant would not have been able to demolish the structure and build the project as proposed; noting that a five-foot setback would have been required.

Mr. Vander Borcht noted that since the plans indicated that the garage was to remain, a new garage with new foundations should have caught the attention of the inspectors.

Ms. Murphy noted that the applicant called for inspection on the footings and if changes were made, the applicant should have been aware that re-inspection was necessary. She added that approving the project would definitely set a precedent.

Mr. Golonski stated that he voted for reconsidering the project because the consequences of the denial are severe; however, after reviewing the material numerous times he has failed to make the findings. He noted that the Code clearly indicated that if existing foundations remained the substandard setbacks would be maintained, otherwise five-foot setbacks would be required. He also noted a letter from the project's engineer which stated that the existing foundations were unsuitable for further use and advising the applicant to revise the existing plans and obtain approval from the City for new foundations.

Mr. Campbell commented on the applicant's desire for a safe foundation but also noted the engineer's letter dated November 27, 2003 recommending revising the plans and obtaining City approval. He stated that the new plans were not submitted until February 2, 2004 with no indication of new footings and foundations. He also expressed concern that approving the project would set a precedent.

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Mrs. Ramos commented on the chronology of events and inspections which could have possibly caused some confusion. However, she noted that the Code states that once the old footings are removed, the project must be subject to five-foot setbacks. She expressed her desire to work with the applicant but noted that she could not make the second finding regarding light conditions. She also stated that she did not believe approving the project would set a precedent.

Mr. Vander Borcht also noted that he could not make the finding that the variance would not be detrimental to the immediate vicinity since one of the immediate property owners was not supportive of the project.

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

1704-5 RESOLUTION NO. 26,763:
Appeal of VAR A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
No. 2004-34 – AFFIRMING THE DECISION OF THE PLANNING BOARD AND
1062 E. DENYING PROJECT NO. 204-34, A VARIANCE (1063 East
Magnolia Magnolia Boulevard).

Adopted The resolution was adopted by the following vote:

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

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

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

Citizen Appearing to comment were Eddie Tafoya, Field Deputy for
Comment Congresswoman Lucille Roybal-Allard, 34th Congressional

District, and a Burbank resident, on the Mobility 21 Conference; Tom Cataldo, on his proposal for vision screening of all preschool children to detect vision problems; Don Elsmore, Mark Stebbeds, Kevin Muldoon, and Ron Vanderford, in opposition to the proposed Airport Development Agreement; Mark Barton, on the downtown wayfinding signage program; Howard Rothenbach, announcing an upcoming Friends of the Burbank Public Library fundraiser; Eden Rosen, on the availability of information on the West Nile Virus; and, Theresa Karam, on the case of Karam v. City of Burbank.

Staff Response	Members of the Council and staff responded to questions raised.
Agenda Item Oral Communications	Mrs. Ramos called for speakers for the agenda item oral communications at this time.
Citizen Comment	Appearing to comment were Carolyn Berlin; Phil Berlin; Don Elsmore; Ron Vanderford; Mark Stebbeds; Mark Barton; Theresa Karam; David Piroli; Mike Nolan; Howard Rothenbach; and, Dink O'Neal, in opposition to the proposed Airport Development Agreement.
Staff Response	Members of the Council and staff responded to questions raised.
10:15 P.M. Recess	The Council recessed at this time. The meeting reconvened at 10:27 p.m. with all members present.
10:32 P.M. Recess	The Council recessed to permit the Redevelopment Agency and Youth Endowment Services Fund Board to hold their meetings. The Council reconvened at 10:33 p.m. with all members present.
Motion	It was moved by Ms. Murphy and seconded by Mr. Campbell that "the following items on the consent calendar be approved as recommended."
Minutes Approved	The minutes for the regular meeting of July 20, 2004 were approved as submitted.

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1007-1 RESOLUTION NO. 26,764:
1009-1 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Revise Salary for REVISING THE SALARY FOR POLICE RECRUIT (CTC No.
Police Recruit 0653).

1205-2 RESOLUTION NO. 26,765:
Summary A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Vacation –V-366 ORDERING THE SUMMARY VACATION OF A PUBLIC SERVICE
(701 N. Naomi, EASEMENT AT 701 NORTH NAOMI STREET, BURBANK,
J. Small) CALIFORNIA (V-366).

1205-2 RESOLUTION NO. 26,766:
Summary A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Vacation –V-363 ORDERING THE SUMMARY VACATION OF A PUBLIC SERVICE
(100 N. EASEMENT AT 100 NORTH EVERGREEN STREET, BURBANK,
Evergreen, CALIFORNIA (V-363).
Silah)

1205-2 RESOLUTION NO. 26,767:
Summary A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Vacation –V-365 ORDERING THE SUMMARY VACATION OF A PUBLIC SERVICE
(1448 N. EASEMENT AT 1448 NORTH NIAGARA STREET, BURBANK,
Niagara, CALIFORNIA (V-365).
Delbarian)

804-3 RESOLUTION NO. 26,768:
907 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
801-2 AMENDING THE FISCAL YEAR 2004-2005 BUDGET TO
Local Law APPROPRIATE UNEXPENDED FUNDS RESULTING FROM
Enforcement ACCUMULATED INTEREST FROM 2001 AND 2002 POLICE
Block Grant LOCAL LAW ENFORCEMENT BLOCK GRANTS.

801-2 RESOLUTION NO. 26,769:
Continuing A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Appropriations AMENDING THE FISCAL YEAR 2004-2005 BUDGET FOR THE
from FY 2003- PURPOSE OF CONTINUING APPROPRIATIONS FROM FISCAL
04 to 2004-05 YEAR 2003-2004.

Adopted The consent calendar was adopted by the following vote:

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

1301-3
Burbank Blvd./
Victory Blvd.
Bridge Widening
(B.S. 1046)

Mr. King, Principal Civil Engineer, Public Works Department, requested Council approval of contract documents and award of a construction contract for Bid Schedule No. 1046, Burbank Boulevard/Victory Boulevard Intersection Realignment Project, Phase 3. He stated that on June 13, 2000, the Council approved the Environmental Impact Report (EIR) for the Burbank Empire Center and Costco developments which identified several traffic improvements to mitigate impacts created by the developments. He explained that these improvements included modifying five intersections on Buena Vista Street and Empire Avenue (completed in 2002), and realigning the old Five Points intersection at Burbank Boulevard, Victory Boulevard and Victory Place into a conventional four-corner intersection.

Mr. King informed the Council that the Five Points Intersection Realignment Project consisted of three phases: Phase 1, utility relocation/replacement, property acquisition and intersection realignment design (completed in 2001); Phase 2, relocation of the West Victory Boulevard connection to Burbank Boulevard and widening the remaining four intersection legs (completed in 2001); and, Phase 3, widening the Burbank Boulevard Bridge from North Victory Boulevard to the Interstate-5 Freeway. He noted that completion of the Phase 3 bridge widening improvement will provide three additional traffic lanes on Burbank Boulevard: one east-bound lane on each side of the Victory Boulevard intersection; one west-bound lane on the bridge west of Lake Street; and, one left-turn lane pocket on each side of the Victory Boulevard intersection, which will further reduce traffic congestion in the area. He also gave an overview of other related projects in the vicinity of the Burbank Empire Center and Costco developments.

Mr. King reported that construction of Phase 3 is planned to occur between January and November 2005 and that a contract time of 300 calendar days is established for completion of all contract work, and an interim contract time of 230 calendar days for completion and opening of the additional traffic lanes designed for Burbank Boulevard. He added that the contractor has been provided an early completion incentive and disincentive should the project not be completed within the specified time. He also discussed the public outreach program that will be employed throughout the project to inform the public and businesses of the bridge widening construction, traffic delays due to lane reductions and recommended alternative routes. He noted that street and freeway signage will also be posted to notify motorists.

Mr. King also reported that on July 27, 2004, three contractors submitted bids, ranging from \$4,469,032 to \$4,826,104. He

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added that Banshee Construction Co., Inc., of Colton, California, submitted the apparent low bid of \$4,469,032, then subsequently withdrew it on July 29, 2004, due to a significant unit price error in the bid proposal. Therefore, D. W. Powell Construction, Inc. is the apparent low bidder, having submitted a bid of \$4,545,181, which is 12 percent above the engineer's estimate of \$4 million. He explained that Banshee Construction Co. Inc.'s bid withdrawal and the 12 percent cost over the engineer's estimate are considered reflective of the recent market escalation in numerous construction materials over the last six months. He added that staff has investigated the contractor's references and has received comments of satisfactory work in completing similar projects.

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

1301-3 RESOLUTION NO. 26,770:
Burbank Blvd./ A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Victory Blvd. ALLOWING WITHDRAWAL OF THE LOWEST BID AND
Bridge Widening DETERMINING THE LOWEST RESPONSIBLE BIDDER,
(B.S. 1046) ACCEPTING THE BID AND AUTHORIZING EXECUTION OF A
CONTRACT FOR THE BURBANK BOULEVARD/VICTORY
BOULEVARD INTERSECTION REALIGNMENT PROJECT –
PHASE 3 [RPSTPL-5200(019)], BID SCHEDULE NO. 1046.

Adopted The resolution was adopted by the following vote:

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

Noes: Council Members None.

Absent: Council Members None.

1600 Mr. Barlow, City Attorney, reported that the City is in receipt
Engine Idling of an opinion from the Attorney General regarding the City's
Restrictions ability to regulate engine idling in conjunction with the
implementation and enforcement of transportation control
measures. He noted that Council Member Campbell has
requested that the Council consider the adoption of an engine
idling ordinance. He added that the California Air Resources
Board (ARB) has since adopted regulations for engine idling
beyond five minutes for trucks with a gross vehicle weight of
10,000 pounds or greater, with the exception of trucks with
sleeper cabs.

Mr. Campbell noted that the Attorney General's opinion indicated that the City has the ability to regulate engine idling under three conditions: if the Air Quality Management District (AQMD) specifically gave the City the authority to do so; if the City's ordinance was more stringent than the current ordinance in place; or, idling can be regulated as a nuisance, noting that diesel exhaust is a toxic air contaminant which can be identified as a nuisance. He noted staff's concerns on the matter but stated that the City has the potential to reduce exposure of a source that is known to be a toxic through the adoption of an ordinance to reduce idling, including sleeper cabs. He also added that the ARB, AQMD and California Environmental Protection Agency have laid out a foundation of studies that will significantly reduce staff's workload. He noted that the ARB's regulations allow for greater idling time for transit and tour buses for up to 10 minutes and stated that these buses should also be subject to the five minute idling time limit.

Staff was directed to proceed with step two of the process.

201-2
Work Program –
Financial
Services, Library
Services and
City Manager

Mr. Hanway, Financial Services Director, presented the work program goals and performance indicators for the Financial Services Department.

Mrs. Cohen, Library Services Director, presented the work program goals and performance indicators for the Library Services Department.

Ms. Dolan, Administrative Analyst, and Mr. McManus, Public Information Officer, presented the work program goals and performance indicators for the City Manager's Office and the Public Information Office, respectively.

11:53 P.M.
Reconvene
Redev. Agency
And YES Fund
Board Meetings

The Redevelopment Agency and Youth Endowment Services Fund Board meetings were reconvened at this time.

Final Open
Public Comment
Period of Oral
Communications

Mrs. Ramos called for speakers for the final open public comment period of oral communications at this time.

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Citizen Comment Appearing to comment were Dink O'Neal; Mike Nolan; Carolyn Berlin; and, David Piroli, on Airport matters.

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

Adjournment There being no further business to come before the Council, the meeting was adjourned at 12:03 a.m.

Margarita Campos, City Clerk