

TUESDAY, OCTOBER 4, 2005

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 6:03 p.m. by Mr. Vander Borght, Mayor.

CLOSED SESSION

Present- - - - Council Members Golonski, Ramos and Vander Borght.  
Absent - - - - Council Member Campbell.  
Also Present - Ms. Alvord, 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.

6:03 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 (City as potential defendant):  
Pursuant to Govt. Code §54956.9(b)(1)  
**Number of potential case(s): 3**

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 Mr. Vander Borght, Mayor.

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

Flag Salute The pledge of allegiance to the flag was led by Dave Reno.

ROLL CALL

Present- - - - Council Members Campbell, Golonski, Ramos and Vander Borght.  
Absent - - - - Council Members None.  
Also Present - Ms. Alvord, City Manager; Mr. Barlow, City Attorney; and, Mrs. Campos, City Clerk.

301-1 Book Donation From BWP Mary Forrest, representing Burbank Water and Power (BWP), presented a 145-book donation from BWP to the Burbank libraries. The donation, worth \$4,000, was received by Ericka Carr, Supervising Librarian for Children's Services.

301-1  
Public Power  
Week

Mayor Vander Borcht presented a proclamation in honor of Public Power Week to Dave Reno, Power Plant Maintenance Supervisor, Burbank Water and Power. Mayor Vander Borcht recognized that the Magnolia Power Plant was selected as Platts Power Magazine's 2005 Power Plant of the Year, and received the Sweepstakes Award from the California Landscape Contractors Association, a top award for landscaping beautification throughout the greater Los Angeles area and San Gabriel Valley.

301-1  
Arts and  
Humanities  
Month

Mayor Vander Borcht presented a proclamation in honor of Arts and Humanities Month to Kim Freed, Recreation Supervisor.

301-1  
Senator Jack  
Scott, State of  
the State  
Address

Senator Jack Scott addressed the Council and gave a State of the State Address on the recently-concluded legislative session. He commented on the State budget, propositions on the upcoming Special Election ballot; new legislation he sponsored; and, invited ideas for new legislation.

Senator Scott announced and invited the public to a town hall meeting on education which he will be hosting on October 24, 2005 between 7:00 p.m. and 9:00 p.m. at Glendale Adventist Hospital.

Mr. Golonski expressed concern with the State's preemption of certain zoning regulations pertaining to affordable housing and its impacts on the R-1 neighborhoods.

Mr. Campbell expressed appreciation to Senator Scott and stated his concern with pending State legislation to streamline the California Environmental Quality Act, affordable housing strategies, and noted the need to mitigate impacts from the State's trade expansion efforts.

301-1  
Update on  
Harvard Fire  
Incident

Interim Fire Chief Pansini gave a briefing on the wildfire which broke out on Thursday, September 29, 2005 at 4:22 p.m. above the DeBell Golf Course and commented on the City's efforts in combating the fire.

406  
Airport  
Authority  
Meeting Report

Commissioner Lombardo reported on the Airport Authority meeting of October 3, 2005. He stated that the Authority approved: the acquisition of a runway sweeper; a second amendment to the month-to-month ground lease with Studio Services Inc.; and, noted the change in committee assignments whereby Commissioner Brown will serve on the Finance and

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Administration Committee and Commissioner Lombardo will serve on the Operations and Development Committee.

Commissioner Lombardo informed the Council that the Authority has submitted a report on the Part 161 Study and its limitations for City comment and suggestions, in an effort to seek a legislative change to the Part 161 process. He explained that specifically, the legislation would seek to include benefits outside an airport's 65 Community Noise Equivalent Levels contour in the benefit to cost ratio, and assign a standardized monetary value to potential late-night, early-morning sleep awakenings. He also gave an update on the July passenger capacity.

7:55 P.M.  
Hearing  
1208-2  
1702  
Castaway  
Restaurant  
Amended and  
Restated Lease  
Agmt.

Mayor Vander Borcht stated that "this is the time and place for the continued hearing on the Amended and Restated Lease Agreement between the City of Burbank and Verdugo Restaurant Corporation for the Castaway Restaurant. The public hearing was continued from September 13, 2005, for Council deliberations. Public testimony has been closed."

Staff  
Report

Ms. Arakelian, Administrative Analyst, Community Development Department, requested the Council consider the revisions made to the Amended and Restated Lease Agreement between the City and Verdugo Restaurant Corporation (VRC) for the Castaway Restaurant. She reported that on September 13, 2005, the Council held a public hearing to consider the Agreement and directed staff to make certain revisions as follows: prohibit social functions such as "raves" from taking place at the Castaway; stipulate that free self-parking and free valet service will be provided to patrons and that self-parking will be made available in the upper portion of the hilltop parking area; require the Castaway to submit a delivery plan to the City for approval, which will specify delivery hours and truck routes; modify the operating hours of the luau grounds for City-approved functions from Sunday to Thursday until 9:00 p.m. and Friday and Saturday until 11:00 p.m.; prohibit the sale of alcohol past midnight at all facilities; and, require that a security guard be provided for events that carry on beyond midnight at the banquet facilities.

Ms. Arakelian informed the Council that the Castaway has since requested two revisions to the Agreement; a request for



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Vander Borcht.

Noes: Council Members None.

Absent: Council Members None.

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

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

Citizen Comment Appearing to comment were: Eden Rosen, on the impacts of Alzheimer's disease; Mark Barton, on a public employee's performance; and, David Piroli, on the Part 161 Study.

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

Agenda Item Oral Communications Mr. Vander Borcht called for speakers for the agenda item oral communications at this time.

Citizen Comment Appearing to comment were: Eden Rosen, on Charter Communications' customer service and on reporting graffiti; Mark Barton, on combating graffiti; David Piroli, on the Charter Communications rate resolution, video surveillance to combat graffiti and the Bob Hope Airport Part 161 Study; and, Mike Nolan, on the Castaway Amended and Restated Lease Agreement, Charter Communications rate resolution and the retention of outside counsel for Civil Service Board appeals.

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

Motion It was moved by Mr. Golonski and seconded by Mrs. Ramos that "the following items on the consent calendar be approved as recommended."

Minutes Approved The minutes for the regular meetings of August 23 and August 30, 2005 were approved as submitted.

1503 The monthly Water and Electric Report regarding water quality  
 1504 and power issues for the month of September 2005 was  
 BWP Monthly Report received from Burbank Water and Power.

The Council noted and filed the report.

906 RESOLUTION NO. 27,078:  
 804-3 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK  
 HOME Operating APPROVING THE COMMUNITY HOUSING DEVELOPMENT  
 Expense Agmt. ORGANIZATION OPERATING EXPENSES AGREEMENT  
 with the BCH BETWEEN THE CITY OF BURBANK AND BURBANK HOUSING  
 CORPORATION.

1204-1 RESOLUTION NO. 27,079:  
 Final Tract Map A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK  
 No. 60402 APPROVING FINAL TRACT NO. 60402 (624 East Orange Grove  
 (624 E. Orange Avenue).  
 Grove Ave.)

1204-1 RESOLUTION NO. 27,080:  
 Final Tract Map A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK  
 No. 60504 APPROVING FINAL MAP OF TRACT NO. 60504 (220 South  
 (220 S. Seventh Seventh Street).  
 St.)

907 RESOLUTION NO. 27,081:  
 804-3 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK  
 Bulletproof Vest AMENDING FISCAL YEAR 2005-2006 BUDGET FOR THE  
 Grant PURPOSE OF RECEIVING AND APPROPRIATING BULLETPROOF  
 VEST GRANT PROGRAM FUNDS IN THE AMOUNT OF  
 \$11,112.10 FROM THE UNITED STATES DEPARTMENT OF  
 JUSTICE, BUREAU OF JUSTICE ASSISTANCE.

703 RESOLUTION NO. 27,082:  
 1108 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK  
 PSA w/State APPROVING THE PROFESSIONAL SERVICES AGREEMENT  
 Consulting & BETWEEN THE CITY OF BURBANK AND STATE CONSULTING  
 Inspection for & INSPECTION SERVICES FOR THE ROBERT R. OVRUM PARK  
 Ovrom Park PROJECT, PHASE I.

Adopted The consent calendar was adopted by the following vote:

Ayes: Council Members Campbell, Golonski, Ramos and  
 Vander Borght.

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Noes: Council Members None.  
Absent: Council Members None.

213  
Retain Outside  
Counsel for  
Civil Service  
Board Appeals

Mr. Barlow, City Attorney, requested Council approval to retain the law firm of Bannan, Green, Frank & Terzian, LLP to prosecute disciplinary appeals before the Civil Service Board. He noted that due to recent court decisions, it is necessary to retain outside counsel to avoid any appearance of conflict of interest or unfairness to the appellant in the civil service appeal hearing.

Motion

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

213  
Retain Outside  
Counsel for  
Civil Service  
Board Appeals

RESOLUTION NO. 27,082:  
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AUTHORIZING THE CITY ATTORNEY TO RETAIN OUTSIDE COUNSEL FOR CIVIL SERVICE BOARD APPEALS.

Adopted

The resolution was adopted by the following vote:

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

907  
Use of Video  
Surveillance  
Cameras to  
Combat Graffiti

Captain Lowers reported that on August 23, 2005, Council Member Golonski requested that the issue of using video surveillance to combat graffiti be agendaized. She noted that this is the first step in the two-step agenda process, and commented on the current City efforts to combat graffiti. She added that the Police Department has the capability to use video surveillance to combat graffiti including use of the pole cameras, but noted the challenge in the amount of manpower necessary to operate the program. She stated that the Department uses great discretion on the use of such equipment for critical issues in the community. She noted that graffiti in the community is not restricted to one particular area which can be focused on but occurs Citywide. She also reported that graffiti incidents are declining and the removal cost is also decreasing. She requested the Council discuss the matter and provide direction as desired.

Staff was directed to use their discretion on the use of video surveillance for graffiti removal.

907  
102-1  
Agmt. with  
Compudyne for  
Upgrade of  
Police Public  
Safety Suite  
System

Captain Lowers requested Council approval to enter into agreements with CompuDyne for the upgrade/implementation, licensing and maintenance of a Public Safety Suite to replace the existing Police Department Public Safety Computer System and add new computerized functionality. She reported that the current system is 20 years old and in much need of replacement. She stated that with the assistance of Thayer Consulting, the City has successfully negotiated the upgrade, implementation, license and support agreements with CompuDyne. She noted that the project would commence in October 2005 with an anticipated completion date of April 2007. She added that the total project cost through Fiscal Years 2011-12 has been estimated at \$2,703,251; with \$1.5 million already appropriated and additional funds accumulating in the Internal Service Funds over the duration of the project to cover the entire cost.

Motion

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

907  
102-1  
Agmt. with  
Compudyne for  
Upgrade of  
Police Public  
Safety Suite  
System

RESOLUTION NO. 27,084:  
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE AGREEMENTS BETWEEN THE CITY OF BURBANK AND COMPUTDYNE FOR THE UPGRADE OF THE POLICE PUBLIC SAFETY SUITE SYSTEM.

Adopted

The resolution was adopted by the following vote:

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

1206  
Charter  
Communications  
Stipulated Rate

Mr. Morrillo, Senior Assistant City Attorney, introduced Bill Marticorena, Rutan and Tucker, LLP, who requested Council approval of a Stipulated Rate Resolution to settle several minor issues between staff and Charter Communications (Charter)



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Resolution and  
Progress Report  
On Franchise  
Renewal

concerning rate filings submitted to the City in 2002 and 2004. He noted that this would result in a one-time \$0.25 credit on each subscriber's bill, for an overall cost of \$7,000 to Charter and adjustment of certain rates on an on-going basis. He clarified that the credit was applied pursuant to the Federal Communications Commission (FCC) guidelines which entitle the cable operator to make refunds to current subscribers.

With regard to the franchise renewal, Mr. Marticorena reported that approximately 30 months ago, Charter submitted an application for renewal of its current franchise. He added that pursuant to Federal law, the City commenced a community ascertainment process and technical audit. He requested that the Council note and file the following reports.

Dr. Tim McClarney, President of True North Research, presented the results of the community ascertainment survey which collected information with regard to Charter's quality and quantity of service, and responsiveness to consumer complaints and issues. He reported that the survey concluded that generally, overall satisfaction with cable television service was significantly low, and that customers contacted Charter multiple times to resolve service problems. He also noted that the survey revealed that Burbank and Glendale residents clearly valued Channel 6 programming.

Mr. Jonathan Kramer, Principal of Kramer.Firm, Inc., presented Charter's technical evaluation system results from the cities of Burbank and Glendale. He noted the three separate areas of inquiry, including: FCC compliance of the annual testing system; picture quality issues; and, State and local safety code compliance. He discussed his observations as follows: the annual testing was not completely compliant with FCC rules but no major problems were detected; no major problems were detected with the transmission system; minor problems were detected with channel reception; fair compliance with the State Safety Code; and, inadequate compliance with the City's Municipal Code. He then showed photographs of various types of construction and maintenance issues and discussed the recommended corrective action plan, which will require Charter to inspect all its systems in an effort to determine and cure all Code violations.

Mr. Golonski requested that a representative from Charter respond to the issues presented.

Ms. Suzie Evans, Director of Government Relations for Charter Communications, introduced Charter staff present and responded to the issues, noting Charter's commitment to providing subscribers with top quality services. In addition, she stated that maintaining the plant in excellent condition is

an integral part of that goal. She also noted that safety is Charter's highest priority and that the company is committed to ensuring that the plant is kept in excellent condition for the customers and employees. She recognized that there are issues to be addressed, but stated that the company disagrees with some of Mr. Kramer's findings and methodology. She noted that the cable plant is a large and constantly evolving system that is subject to change with a variety of factors which may be beyond the company's control, such as issues that result from cable theft, weather issues, construction and maintenance activities. She added that in addition to routine inspection and maintenance procedures, the company has and will continue to take steps to address specific issues raised by Mr. Kramer, such as: the space and separation of the Charter plant in relation to the telephone plant; missing down-guides and guards; all issues pertaining to incomplete construction to be addressed by the end of October 2005; all workmanship issues of cable drops to be corrected by the third quarter of 2006 or sooner; and, all other legitimate issues to be corrected within the third quarter of 2006 or sooner. She also reported that Charter is committed to implementing a comprehensive plan for inspection and repair of the entire plant.

Motion Following Council deliberation, it was moved by Mrs. Ramos and seconded by Mr. Golonski that "the following resolution be passed and adopted:"

1206 RESOLUTION NO. 27,085:  
 Charter A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK  
 Communications STIPULATING REGULATED CABLE RATES FOR CHARTER  
 Stipulated Rate COMMUNICATIONS.  
 Resolution

Adopted The resolution was adopted by the following vote:

Ayes: Council Members Golonski, Ramos and Vander Borght.

Noes: Council Member Campbell.

Absent: Council Members None.

Deliberations on Mr. Golonski expressed disappointment with: re-addressing  
 Charter customer service issues with Charter; the technical violations  
 Communications presented; and, specifically, the response letter which

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Franchise  
Renewal  
continued

indicated that Charter was in full compliance with Mr. Kramer's recommendations. He requested that Charter develop a more comprehensive corrective plan that will address all the issues presented in a shorter period of time, otherwise other enforcement avenues will be pursued.

Mrs. Ramos suggested that the City proceed with receiving a proposal from Charter, noting that the current agreement expires in December 2005. She added that a review will then be taken on the progress of the corrective action plan.

Mr. Campbell noted that the evidence presented does not indicate that Charter considers safety a top priority and suggested that the issue be brought back to the Council within a month with a corrective plan. He added that if the deficiencies cannot be corrected in a timely manner, another service provider should be considered.

Mrs. Ramos requested clarification with regard to the current franchise and ownership of the infrastructure in place. She also inquired as to whether another vendor has expressed an interest in providing cable service.

Mr. Vander Borcht informed the public that the City receives approximately \$1 million from Charter annually; however, he noted the need for satisfactory service. He expressed interest in pursuing another service provider.

Mr. Marticorena informed the Council that it was staff's intent to return in 30 days with a report whether or not an agreement has been reached with Charter. He expressed concern with Charter's interest in obtaining a third party engineering consultant and stated that staff will not be waiting on any third party inspection if an agreement cannot be reached.

904  
Disaster  
Proclamation  
due to the  
Hillside Fires

Mr. Barlow, City Attorney, reported that on Thursday, September 29, 2005, the Director of Emergency Services proclaimed a local emergency due to the fire in the hills of the City. He added that pursuant to Burbank Municipal Code (BMC) Section 10-106, the Director of Emergency Services, the City Manager, has the authority to proclaim a local emergency when the Council is not in session. He stated that in accordance with Government Code Section 8630, a proclamation by the Director of Emergency Services remains in effect for seven days unless ratified by the governing body. He requested the Council ratify the proclamation and noted that the Council is required to review the local emergency at least every fourteen days, unless the local emergency is terminated. He added that should the emergency be

terminated prior to the Council meeting, the resolution will be amended to include a proclamation of the termination of the local emergency.

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

904 RESOLUTION NO. 27,086:  
 Disaster Proclamation due to the Hillside Fires A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK CONFIRMING THE PROCLAMATION OF THE EXISTENCE OF A LOCAL EMERGENCY BY THE DIRECTOR OF EMERGENCY SERVICES.

Adopted The resolution was adopted by the following vote:

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

Final Open Public Comment Period of Oral Communications Mr. Vander Borgh 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 the Castaway Amended and Restated Lease provisions, particularly with regard to the security guard requirement.

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 10:38 p.m.

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Margarita Campos, CMC  
 City Clerk

APPROVED OCTOBER 25, 2005

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Mayor of the Council  
 of the City of Burbank