

TUESDAY, MARCH 7, 2006

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 5:44 p.m. by Mr. Vander Borght, Mayor.

STUDY SESSION

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

Absent - - - - Council Members None.

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

Utility Users
Tax Study
Session

Mrs. Langford, Administrative Analyst, Financial Services Department, stated that the purpose of the study session was to provide the Council with an overview of the Utility User's Tax (UUT) and the Franchise Fee; their associated revenues; and, the current status and issues that may impact the UUT and Franchise Fees. She explained that UUT is imposed on commercial and residential consumers for electric sales, natural gas sales and telephone usage, but is not applied to water, cable television, sewer or refuse collection. She reported that the UUT was approved by the Council in 1969 with a five percent tax rate, which was increased to seven percent in 1972 and has been maintained to date. She added that the UUT ordinance has been updated several times to meet the technological advancements in telecommunications; however, with the development of a variety of new services that telecom providers currently offer, language within the UUT ordinance is outdated.

Mrs. Langford also gave a background on the Franchise Fees, noting that the technological convergence issues pertain to both the UUT and Franchise Fees. She reported that Franchise Fees are collected from businesses and utility companies for the privilege of using City streets or right-of-ways. She noted that the fees are limited to five percent for cable television, and two percent of the annual gross receipts for the Southern California Gas Company. She noted that the UUT is the third largest source of revenue for the City's General Fund, contributing approximately \$17.9 million or 15 percent of the total General Fund revenue for Fiscal Year (FY) 2004-05. She added that Franchise Fees represented at least one percent of the General Fund revenues for FY 2004-05.

Donald Maynor, outside legal counsel, noted that the UUT is a very important source of revenue for the City and stated that a significant portion of it is derived from the telecommunications area. He then discussed the current status and the technological, legal and legislative issues that may impact UUT and Franchise Fees as revenue sources for the City. He gave a

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brief background on the UUT ordinances in the State since the 1960s and the technology challenges, such as: internet protocol which allows voice, video, data and internet access at the same time; multiple technologies such as DSL and cable; numerous new providers; convergence issues such as voice and video on cell phones; and, bundling services. He then noted the challenge posed by Proposition 218 which prohibits any changes to tax ordinances without a vote of the people.

Mr. Maynor commented on several pending litigation cases involving several cities and their potential implications. He also stated that there are several proposals with Congress and State legislators seeking protection from local taxes. He noted that last year, legislation was enacted to protect internet access from local taxes and anticipated that more bills will be proposed this year.

Mr. Maynor suggested several possible solutions, such as; pursuing a model ordinance that includes voice, data and video over private and public networks, and corrects the time and distance clause; taking a poll to ascertain political support for a Proposition 218 election; working towards a statewide consensus among cities; participating in legislative debates regarding taxation of communication; participating in statewide solutions; and, identifying alternative replacement revenues in the event telecom UUT is lost. He then discussed the State and Federal legislative risks and the need for tax reform.

The Council was supportive of staff's suggestions.

6:26 P.M.
Recess

The Council recessed at this time.

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 Mr. Vander Borght, Mayor.

Invocation

The invocation was given by Reverend Ron Degges, Little White Chapel.

Flag Salute
ROLL CALL

The pledge of allegiance to the flag was led by Robert Idavia.

Present- - - -

Council Members Campbell, Golonski, Gordon, 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
Plant-A-Tree
Month Mayor Vander Borght presented a proclamation in honor of Plant-A-Tree Month to Shelley Davies and Robert Idavia, representing the Civic Pride Committee.

301-1
International
Women's Day
and Zonta Rose
Day Mayor Vander Borght presented a proclamation in honor of International Women's Day and Zonta Rose Day to Donna Anderson, President, and Jennifer Wyatt, Vice President, of the Zonta Club of the Burbank Area.

301-1
Bronze Star
Medal
Recipient Mayor Vander Borght recognized Bronze Star Medal recipient Corporal Cesar O. Hernandez of the United States Marine Corps, for his heroic achievement in the rescue of fellow Marines while serving in Operation Iraqi Freedom I through VI.

406
Airport Authority
Meeting Report Commissioner Wiggins reported on the Airport Authority meeting of March 6, 2006. He stated that the Authority awarded a contract in the amount of \$244,955 for upgrades to the Airfield Lighting Control and Monitoring System, and a contract in the amount of \$92,000 for the Operations Tower Painting Project.

The Council received the report.

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

Citizen
Comment Appearing to comment were: James DiSimone, on transients residing at McCambridge Park; Carolyn Jackson, providing an update on the activities of the Charter Review Committee and in opposition to televising Charter Review Committee meetings at this time; Henry Zinniker, on an agreement reached with the applicant of Project No. 2005-67; Gary Olson, on the Chamber of Commerce's support for the south alignment of the Glendale-Burbank Interceptor Sewer (GBIS) Project; Mark Barton, on the art installation at Victory and Burbank Boulevards; Joe Davenport, on speed humps; Eden Rosen, on senior housing; Denise Sarquiz-Moore and Daniel Moore, on the agreement

pertaining to Project No. 2005-67; Molly Hyman, in opposition to the GBIS hybrid alignment; Mary Whittle, Mary Schindler and Elizabeth Montgomery, on the GBIS Project; Dr. Keith Sanneman, in support of the DeBell Clubhouse Replacement (DeBell) Project; Greg Jackson, on the appeal of Project No. 2005-67 and the appeal process in general; David Piroli, on Project No. 2005-67 and a Council member's written response to a constituent on the project; Howard Rothenbach, in support of televising the Charter Review Committee meetings; Stan Hyman, on the GBIS Project; and, Michael Scandiffio, on the GBIS Project and the new fence standards.

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: Claudia Bonis, in opposition to televising the Charter Review Committee meetings; Eric Michael Cap, in support of televising the Charter Review Committee meetings; Nizam Husaini, on the new fence standards; Stan Hyman, on the fence ordinance, installation of speed humps and in support of the DeBell Project; Phil Berlin, in support of televising the Charter Review Committee meetings and the DeBell Project; Carolyn Berlin, in support of the DeBell Project, requesting hardship provisions in the fence ordinance, in support of televising the Charter Review Committee meetings and on the NBC parking issues; Rose Prouser, in support of televising the Charter Review Committee meetings; Mark Stebbeds, in support of the DeBell Project, televising the Charter Review Committee meetings, releasing the legal opinion regarding the NBC Catalina property and on the fence ordinance; Mark Barton, on speed humps, the fence ordinance and in support of increasing the Council's compensation; Eden Rosen, on environmental issues at the Airport, in support of televising the Charter Review Committee meetings and increasing the Council's compensation, and on the fence ordinance; Michael Scandiffio, in support of televising the Charter Review Committee meetings and on maintaining the City Clerk and City Treasurer positions as elected officials, in support of the speed hump installation and on the fence ordinance; David Piroli, in support of televising the Charter Review Committee meetings; and, Howard Rothenbach, in support of televising the Charter Review Committee meetings and the DeBell Project.

Commenting in support of the DeBell Project were: Donald Pell; Marlene Sheffield; Ray Lucero; Jim Lloyd; Ana Marie Lizarraga; Gary Olson; Scott Rife; Mike Davis; and, Scott Scozzola.

- Staff Response Members of the Council and staff responded to questions raised.
- Motion It was moved by Mrs. Ramos and seconded by Dr. Gordon that "the following items on the consent calendar be approved as recommended."
- 1503 The Monthly Water and Power Operating Report for the month of February 2006 was received from Burbank Water and Power.
1504
BWP Monthly Report
The report was noted and filed.
- 1402 RESOLUTION NO. 27,188:
Speed Humps on Frederic St. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FISCAL YEAR 2005-2006 BUDGET AND APPROPRIATING FUNDS IN THE AMOUNT OF \$3,000.00 FOR THE FUNDING OF SPEED HUMPS ON FREDERIC STREET.
- Adopted The consent calendar was adopted by the following vote:

Ayes: Council Members Campbell, Golonski, Gordon, Ramos and Vander Borght.
Noes: Council Members None.
Absent: Council Members None.
- 201 Ms. Dolan, Administrative Analyst, City Manager's Office, Council and Agency Liaisons to Committees and Coalitions reported that during the Council's annual Goal Setting workshop held in May, members are appointed to serve as Council liaisons to over 30 committees and coalitions. She stated that there are currently vacancies on the following nine committees and requested the Council make appointments to fill them: Airport Subcommittee; Domestic Violence Task Force; Mag-Lev Corridor Subcommittee; Magnolia Park Citizen Advisory Committee; Opportunity Site 6B Committee; Auto Dealers/Zero Site Subcommittee; Site Specific Selection Committee for Art Projects at Burbank Water Power and Chandler Boulevard Bikeway; Treasurer's Office Subcommittee; and, Workers Compensation Subcommittee.

The Council made the following appointments: Airport Subcommittee, Dr. Gordon; Domestic Violence Task Force, Mr. Golonski; Magnolia Park Citizen Advisory Committee, Mrs. Ramos; Opportunity Site 6B Committee, Mr. Golonski; Auto Dealers/Zero Subcommittee, Mr. Vander Borgh; Treasurer's Office Subcommittee, Dr. Gordon; and, Workers Compensation Subcommittee, Dr. Gordon. Mr. Campbell remained as the sole member on the Mag-Lev Corridor Subcommittee and the Site Specific Selection Committee for Art Projects was dissolved.

1301-3
DeBell
Clubhouse
Replacement
Project – BS No.
1153

Mr. Clifford, Capital Projects Manager, Public Works Department, requested the Council accept the Schematic Design Phase Program, authorize staff to proceed with the Design Development Phase and authorize a \$1.5 million transfer from the General Fund for the DeBell Clubhouse Replacement Project – Bid Schedule No. 1153. He reported that the clubhouse was dedicated in 1970 and has since served its economic life. He further stated that the clubhouse is functionally obsolete and is not: in compliance with the Americans with Disability Act; structurally sound by the current seismic standards; compliant with current Health Department standards; protected by a fire suppression system; efficient; nor, aesthetically pleasing.

Mr. Clifford informed the Council that in December 1998, an independent Feasibility Report issued by Klages Carter Vail and Partners reported on the practicality of either remodeling and/or expanding the existing clubhouse facilities versus demolishing and building a new clubhouse. He added that an investigation into the facility's overall condition concluded that the City would be better served by a completely new clubhouse and parking lot. He stated that a properly designed new facility would provide improved golf operations, more efficient concessionaire facilities and eliminate any potential compromises from remodeling and/or expanding the existing facility. He gave a detailed explanation of the program elements and noted that the project will be energy efficient but will not pursue a Leadership in Energy and Environmental Design (LEEDS) certification. He also noted that the design team is not LEEDS-certified and if the Council's direction was to pursue LEEDS certification, another LEEDS-certified architect would have to be retained in order to obtain approval by the United States Green Building Council. He also discussed the project's schedule, with an anticipated occupancy date of July 2008.

Mr. Clifford reported that the Golf Fund has allocated \$6.5 million for the project, but an additional \$1.5 million is needed for its completion. To address this need, he requested the Council amend the City's approved budget and transfer \$1.5

million from the General Fund at the Local Agency Investment Fund rate plus a specified margin to be approved by the Council. He noted that this provides flexible, low-cost financing for the Golf Fund and provides the General Fund with additional investment return.

Mr. Mark Melzer, of Melzer, Deckert and Ruder Architects, Inc., addressed the Council and discussed the project's architectural elements.

The Council discussed the possibility of pursuing LEEDS certification but decided to proceed with the project as proposed. Staff was directed to undertake every effort to achieve energy efficiency to the extent feasible and if additional funds are necessary the matter should be brought back for Council consideration.

It was the Council's consensus that the loan be made at the Local Agency Investment Fund rate with no margin.

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

1301-3 RESOLUTION NO. 27,189:
DeBell A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
Clubhouse APPROVING THE SCHEMATIC DESIGN PROGRAM,
Replacement AUTHORIZING STAFF TO PROCEED WITH THE DESIGN
Project – BS No. DEVELOPMENT PHASE, AND AUTHORIZING THE ADVANCE
1153 OF \$1.5 MILLION FROM THE GENERAL FUND TO THE GOLF
FUND FOR THE DEBELL CLUBHOUSE REPLACEMENT PROJECT
– BID SCHEDULE NO. 1153.

Adopted The resolution was adopted by the following vote:

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

102-3 Ms. Dolan, Administrative Analyst, City Manager's Office,
Televising reported that at the February 14, 2006 meeting, Council
Charter Review Member Gordon requested that staff bring back information on
Committee televising the Charter Review Committee meetings, including
Meetings cost estimates. She reported that the Committee is comprised
of 15 community members appointed by the Council, charged
with the task of reviewing the City's Charter and making

recommendations to the Council for amendments which may be placed on the April 2007 General Election, if approved by the Council.

Ms. Dolan explained that the Committee meetings are typically held two Monday evenings per month at the Fire Training Center from 6:30 p.m. to 9:00 p.m. She noted that all Committee meetings are open to the public and subject to Brown Act requirements, and mentioned the places where the Committee's agendas, minutes and documentation can be obtained, including the City's Website.

Ms. Dolan informed the Council that staff solicited estimates for televising the Committee meetings from Studio Spectrum, a video production and fabrication company located in Burbank. She added that estimates for three options were provided, ranging from \$54,000 to \$67,500. She noted that the options include the use of the limited video production equipment currently in place at the Fire Training Center. She stated that should the Council choose to pursue televising the Charter Review Committee meetings, staff would return with an appropriation request to cover the associated cost.

Following Council deliberation, the report was noted and filed.

1705-1
NBC Parking and
Transitional
Issues

Mrs. Forbes, Deputy City Planner, Community Development Department, provided the Council with an update on the parking and transitional issues related to the NBC/Universal sale of the Catalina Property to M. David Paul. She reported that the property sale was completed in 2005 and NBC has indicated that the site will be vacated by the end of March 2006. She reported that the site is approximately 9.3 acres and currently has 102,000 square feet of permitted office space. She added that M. David Paul intends to demolish these buildings and will be permitted to remove the 308 parking spaces associated with the development. She added that 454 additional parking spaces exist on the site as indicated on the masterplan approval. She noted that staff has notified NBC that the additional spaces need to be retained or replacement parking needs to be identified as the spaces are required for existing main lot uses.

Mrs. Forbes informed the Council that NBC has indicated that the helipad on the main lot has been removed and can accommodate approximately 100 spaces, and 300 parking spaces could be leased from M. David Paul's Pinnacle development. She noted that the Pinnacle development will have to maintain Code-required parking and would only be able to lease the excess parking spaces. She reported that staff will

need to verify any proposal to lease excess spaces as part of an off-site parking agreement.

Mrs. Forbes expressed staff's concern with vacating the Catalina Property by the end of March 2006 without providing legal replacement parking. She noted that such action would render NBC in violation of the Planned Development Zone, to which both owners are now subject. She added that staff is awaiting response from NBC and M. David Paul regarding the parking situation, and recommended Council direction that staff return with a future update on the issue.

Mr. Vander Borght was not supportive of the off-site parking arrangement with M. David Paul at the Pinnacle development unless the leased spaces are in excess of Code-required parking.

Mr. Golonski expressed opposition to the short-term parking agreement with the Pinnacle development.

Dr. Gordon requested clarification on the enforcement measures that could be undertaken by the City if the parking requirement is not satisfied. He requested that the Council be notified of compliance with the parking requirement before any construction commences on the site.

Mr. Campbell expressed preference that the parking shortfall be provided on the NBC site.

Staff was directed to place this item on a future Council agenda once a revised replacement parking plan has been provided by NBC.

213
Waiver of
Confidentiality
of Legal Opinion
Regarding the
NBC Catalina
Property

A report was received from the City Attorney's Office on a request to consider the release of a confidential legal opinion regarding the NBC Catalina Property. It was stated that on November 1, 2005, the Council voted to consider the release of a confidential legal opinion prepared by the outside law firm of Shute, Mihaly & Weinberger. Staff indicated that the action failed, as the vote for this item tied at 2-2, with Mr. Vander Borght absent. Council Member Gordon requested reconsideration of the matter by a full Council.

410
Nominee to the
MTA Board

Mr. Vander Borght, Mrs. Ramos and Mr. Golonski were not supportive of waiving the confidentiality of the legal opinion due to the strong potential to undermine the City's negotiating position.

Mr. Herrmann, Assistant Community Development Director/ Planning and Transportation, requested the Council support the nomination of Glendale City Council Member Ara Najarian to

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succeed City of Lancaster Mayor Frank Roberts as the North County-San Fernando Valley representative to the Metropolitan Transportation Authority (MTA) Board of Directors. He noted that the cities of Burbank and Glendale have similar regional transportation needs, and share a history of cooperation and collaboration on regional transportation issues that affect the Sector.

Motion It was moved by Mr. Golonski, seconded by Mr. Campbell and carried with Dr. Gordon abstaining that "the Council support the nomination of Glendale City Council Member Ara Najarian to succeed City of Lancaster Mayor Frank Roberts as the North County-San Fernando Valley representative to the Metropolitan Transportation Authority (MTA) Board of Directors."

1702 Amend Ch. 31 Concerning Fences, Walls, Hedges and Other Yard Features On February 28, 2006, the Council moved the first reading of an ordinance that would create interim standards for fences, walls, hedges and other yard features in single-family and multiple-family residential zones. The ordinance was being presented for adoption.

The Council conducted additional deliberation on the ordinance, and directed that yard features be limited by number and height, subject to the minor fence exceptions permit process.

Motion It was moved by Mr. Golonski seconded by Mrs. Ramos and carried that, "yard features be limited to a maximum of six feet and a limit of two per yard, subject to the minor fence exception permit."

The Council also directed that pergolas and arbors be subject to an eight-foot limit. The Council did not place a height limit on hedges, pending consideration by the Blue Ribbon Task Force.

Ordinance Submitted It was moved by Mr. Campbell and seconded by Mr. Golonski that "Ordinance No. 3690 be read for the second time by title only and be passed and adopted as amended." The title to the following ordinance was read:

1702 Amend Ch. 31 Concerning ORDINANCE NO. 3690:
AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING VARIOUS SECTIONS OF CHAPTER 31 OF THE

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| Fences, Walls, Hedges and Other Yard Features | BURBANK MUNICIPAL CODE RELATING TO FENCES. |
| Adopted | The ordinance was adopted by the following vote: Ayes: Council Members Campbell, Golonski, Gordon, Ramos and Vander Borght. Noes: Council Members None. Absent: Council Members None. |
| Ordinance Submitted | It was moved by Mr. Campbell and seconded by Mr. Golonski that "Ordinance No. 3691 be read for the second time by title only and be passed and adopted as amended." The title to the following ordinance was read: |
| 1010 Amend BMC Relating to Council Compensation | <u>ORDINANCE NO. 3691:</u> AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING SECTION 2-202 OF THE BURBANK MUNICIPAL CODE RELATING TO COMPENSATION OF COUNCIL MEMBERS. |
| Adopted | The ordinance was adopted by the following vote: Ayes: Council Members Campbell, Golonski, Gordon, Ramos and Vander Borght. Noes: Council Members None. Absent: Council Members None. |
| Final Open Public Comment Period of Oral Communications | Mr. Vander Borght called for speakers for the final open public comment period of oral communications at this time. |
| Citizen Comment | Appearing to comment were: Frank Barneburg, on parking issues on Hollywood Way; Carolyn Berlin, on public comment; Kevin Muldoon, on the NBC parking issue; and, Rose Prouser, on the Charter review process. |
| Staff Response | Members of the Council and staff responded to questions raised. |

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Adjournment There being no further business to come before the Council, the meeting was adjourned at 12:20 a.m.

Margarita Campos, CMC
City Clerk

APPROVED MAY 2, 2006

Mayor of the Council
of the City of Burbank