

TUESDAY, SEPTEMBER 12, 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 5:38 p.m. by Mr. Campbell, Mayor.

CLOSED SESSION

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

Absent - - - - Council Members None.

Also Present - Mr. Flad, Assistant City Manager; Mr. Barlow, 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.

5:39 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:

Pursuant to Govt. Code §54956.9(c)

Number of potential case(s): 1

b. Conference with Real Property Negotiator:

Pursuant to Govt. Code §54957.6

Name of the Agency Negotiator: Management Services Director/Judie Sarquiz.

Name of Organization Representing Employee: Burbank Firefighters Association.

Summary of Labor Issues to be Negotiated: Contracts and Retirement Issues.

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

Invocation The invocation was given by Joanne Oemig, First Presbyterian Church.

Flag Salute The pledge of allegiance to the flag was led by Beth Anderson.

ROLL CALL

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

Absent - - - - Council Members None.

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

Mrs. Campos, City Clerk.

Moment of Silence	Mayor Campbell called for a Moment of Silence to reflect on the events of September 11, 2001 and to remember all the individuals who lost their lives.
301-1 Childhood Injury Prevention Week	Mayor Campbell presented a proclamation in honor of Childhood Injury Prevention Week to Sabahat Quraish, Los Angeles County Health Educator.
301-1 Prostate Cancer Awareness Month	Mayor Campbell presented a proclamation in honor of Prostate Cancer Awareness Month to Ben Marks, prostate cancer survivor and volunteer with the American Cancer Society.
301-1 Jay Tarnoff Verdugo Recreation Center Volunteer	Mayor Campbell presented a commendation to Jay Tarnoff in recognition of his many years of outstanding volunteer service at the Verdugo Recreation Center.
301-1 Military Service	Mayor Campbell introduced the families of the following members of the armed forces who are currently serving in the military and are being honored through the City's Military Banner Program: Second Lieutenant Michael Frankel, United States Army; Airman Rick Anderson, United States Navy; Lance Corporal Aaron J. Payton, United States Marines; Airman John Nelson Jennings, United States Navy; Major Timothy Slemp, United States Army; Specialist Travis Lamoureux, United States Army; Sergeant Rudy T. Saavedra, United States Army; Private First Class Lindsey Davenport, United States Marines; Private John J. Marino, III, United States Army; First Class Petty Officer Joseph W. Torrance, United States Navy; Second Class Petty Officer Vahan Manoogian, United States Marines; Specialist Andrew Dwight, United States Army; and, Private Jason Louis Zigler, United States Army.
Reporting on Council Liaison Committees	Mr. Campbell and Mr. Vander Borgh reported on the Annual League of California Cities Conference they attended in San Diego.
406 Airport Authority	Mrs. Ramos also reported on attending the Annual League of California Cities Conference and a John Burroughs High School ceremony commemorating September 11, 2001. Commissioner Wiggins reported on the Airport Authority meeting of September 11, 2006. He stated that the Authority: awarded a

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Meeting Report	contract in the amount of \$50,500 to repair the Fire Station floor; approved a second amendment to the Sunrise Ford storage agreement; retroactively approved \$63,000 in repairs to the 38-year-old elevator in the parking structure; approved a change of lease for the DreamWorks, LLC. hangar to Viacom; and, approved Resolution 412 revising the Authority Expenditure Policy to raise the amount the Executive Director could spend without Authority approval from \$50,000 to \$75,000.
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. Campbell called for speakers for the initial open public comment period of oral communications at this time.
Citizen Comment	Appearing to comment were: Rose Prouser, on construction and safety issues at the Olive Avenue and Alameda Avenue intersection; Robert Rush, on trash cans being left on the street for days after refuse collection; Esther Espinoza, on letters to the editor; and, Theresa Karam, on issues regarding the case of Karam v. City of Burbank.
Staff Response	Members of the Council and staff responded to questions raised.
Agenda Item Oral Communications	Mr. Campbell called for speakers for the Agenda Item oral communications at this time.
Citizen Comment	Appearing to comment in support of the proposed Tobacco Retailers Licensing Ordinance were: Wariesi Flores; Christine Hoosepian-Mer; Robyn Russon; Brittany Flynn; Albert Hernandez; Statrice Wilmore; Paula Wilson; Steven Gallegos; Lauren Wygle; Lizzie May; Leanne Archer; Alisha Lopez; Monty Messex; Esther Espinoza and Steven Furgeson. Also appearing to comment were: Gary Olson, on recommendations from the Chamber of Commerce regarding the proposed Transient Occupancy Tax (TOT) increase; Mike Pfeiffer, Executive Director of the Hotel Association of Los Angeles, in agreement with Burbank Chamber of Commerce's recommendations regarding the TOT; Don Elsmore, on problems

caused by bees and birds to airplanes; Bob Olson, on the proposed TOT increase; David Piroli, requesting a status update on the Airport Land Use Working Group and Noise Working Group, and on the proposed TOT increase; LaVerne Thomas, on the ordinances extending plan limits for redevelopment project areas; and, Rose Prouser, showing a videotape of various speakers with regard to Measure B and the Airport Development Agreement.

9:07 P.M. Recess The Council recessed to permit the Parking Authority to hold its meeting. The meeting reconvened at 9:10 P.M. with all members present.

Item removed from Consent The item regarding "Authorizing the Execution of a Grant Agreement, Accepting Grant Funds, and Amending the Fiscal Year 2006-07 Budget to Facilitate the Construction of a Compressed Natural Gas Time-Fill Station" was removed from the consent calendar for the purpose of discussion

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

1705-1
1202-5
Downtown Public
Parking
Structures RESOLUTION NO. 27,302:
RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FISCAL YEAR 2006-2007 BUDGET AND APPROPRIATING FUNDS IN THE AMOUNT OF \$25,000 FOR THE PARKING AUTHORITY ASSESSMENT OF THE DOWNTOWN PUBLIC PARKING STRUCTURES

804-3
804-2
701
Public Access
Computer
Hardware
Upgrade Grant
(Amending FY
Budget 2006-07) RESOLUTION NO. 27,303:
RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FISCAL YEAR 2006-07 BUDGET BY ACCEPTING THE GRANT AWARDED TO THE BURBANK PUBLIC LIBRARY FROM BILL AND MELINDA GATES FOUNDATION PUBLIC ACCESS COMPUTER HARDWARE UPGRADE GRANT (PAC HUG) OF \$10,500.00 AND APPROPRIATING THESE MONIES FOR THE UPGRADING OF PUBLIC ACCESS COMPUTERS.

903
NIMS RESOLUTION NO. 27,304:
RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ADOPTING THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS).

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1503
PSA with Orsa
Consulting
Engineers Inc.

RESOLUTION NO. 27,305:
RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE SECOND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF BURBANK AND ORSA CONSULTING ENGINEERS, INC. TO COMPLETE UTILITY RELOCATION DESIGN WORK ASSOCIATED WITH THE SR-134 RAMP PROJECT.

1602-1
Bicycle Traffic
Signal Detection

RESOLUTION NO. 27,306:
RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FISCAL YEAR 2006-2007 ANNUAL BUDGET IN THE AMOUNT OF \$35,000 FOR BICYCLE LANE STRIPING AND TRAFFIC SIGNAL BICYCLE DETECTION UPGRADES ON EAST VERDUGO AVENUE.

404
Unified
Hazardous Waste
and Materials
Management
Regulatory
Program

RESOLUTION NO. 27,307:
RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY AND THE CITY OF BURBANK FOR ADMINISTRATION OF THE UNIFIED HAZARDOUS WASTE AND MATERIALS MANAGEMENT REGULATORY PROGRAM.

404
Amending Fee
Resolution
Relating to
Hazardous
Material
Regulatory Fees

RESOLUTION NO. 27,308:
RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING SECTIONS 4 AND 6 OF ARTICLE V OF RESOLUTION NO. 27,258, THE BURBANK FEE RESOLUTION, RELATING TO THE PENALTY FOR DELINQUENT PAYMENT OF HAZARDOUS MATERIALS REGULATORY FEES.

Adopted The consent calendar was adopted by the following vote:

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

Noes: Council Members None.

Absent: Council Members None.

9:12 P.M.
Mr. Campbell
Left the Meeting

Mr. Campbell left the meeting at this time due to a potential conflict with the following item.

804-3 A report was received from the Public Works Department

804-2
902
1207
Construction of a
Compressed
Natural Gas
Time-Fill Station

requesting Council approval of a resolution: authorizing the City Manager to execute a grant agreement with the South Coast Air Quality Management District (AQMD) Clean Transportation Funding from the Mobile Source Air Pollution Reduction Review Committee (MSRC); accepting grant funds from the AQMD in the amount of \$287,700; appropriating \$403,912; and, amending the Fiscal Year (FY) 2006-07 Budget.

The report indicated that the Council appropriated \$400,000 in the FY 2005-06 Budget for the design and construction of a Time-Fill CNG fueling station at the City of Burbank Corporate Yard (Yard). The station would allow refuse trucks to fuel overnight at the Yard, rather than at the busy City-owned public access facility. It was noted that due to an increase in anticipated construction costs, an additional appropriation of \$175,000 was approved by the Council in the FY 2006-07 Budget.

Staff reported that in an effort to off-set some of the project costs, staff applied for grant funding in the amount of \$287,700 from the MSRC as part of a local government match program. On March 3, 2006 the AQMD Governing Board approved funding for the project in the amount of \$287,700, which will be paid to the City upon completion of the project.

Staff noted that preliminary engineering estimates were \$575,000; however, due to certain unknown conditions at the outset of the project, the engineer's original estimate did not encompass all costs unique to the needs of the City. In addition, due to significant increased costs of construction materials that are being experienced in all City projects, the estimated cost for the station has risen significantly. Staff indicated that the new estimated cost for the station is \$978,912; therefore, an appropriation of \$403,912 is necessary to complete the project.

Staff was directed to return at a future date with more information on the project.

9:22 P.M.
Mr. Campbell
Returned to the
Meeting
604
Tobacco
Retailers
Licensing

Mr. Campbell returned to the meeting at this time.

Mr. Hirsch, Assistant Community Development Director/License and Code Services, reported that tobacco retailer licensing is a regulatory mechanism used primarily for the purpose of trying to keep under-age youth, under 18 years, from easily acquiring tobacco products from retailers. He added that with such an ordinance, retail licensing of tobacco products by merchants would not be allowed by-right, but as a privilege granted through the acquisition of a regulatory license and subject to denial, revocation

or suspension. He added that revocation and suspension are the major tools available should the licensee repeatedly conduct certain illegal behavior such as selling tobacco products to under-age youth.

Mr. Hirsch informed the Council that the Valley Community Clinic conducted a youth purchase survey focusing on the City of Burbank in 2005 and early 2006 and determined that almost 20 percent of the retailers approached were willing to sell tobacco products to under-age persons. He added that the statewide figure for such surveys ranges from 14 to 31 percent, placing Burbank at the higher range of the survey. In addition, he reported that staff reviewed some of the data with the Burbank Police Department which revealed that in 2005 over 132 citations were issued in Burbank to under-age youth who had possession of tobacco products.

Mr. Hirsch stated that in late 2003, the Council directed staff to monitor Assembly Bill (AB) 71, pertaining to State Tobacco Retailers Licenses and to discuss the potential for a Burbank tobacco retailers ordinance with the Youth Board. He added that staff's determination of the effect of AB 71 is that the law primarily dealt with tobacco tax evasion and the smuggling of tobacco products. Consequently, it has been determined that the primary function of the law was to generate lost revenues through resale tax recovery and does very little to reduce tobacco sales to under-aged persons. He added that the issue was also considered by the Youth Board in 2004 and 2006 and the Board stated that such a licensing ordinance would not prevent the youth from acquiring tobacco products.

Mr. Hirsch reported that although the Youth Board has twice stated such an ordinance would not be effective as a deterrent for under-aged persons from acquiring and utilizing tobacco products, professional health officials, over forty California cities and counties, and code enforcement officials disagree. He stated that regulatory business licensing has traditionally been an excellent tool for discouraging illegal and unwanted business practices, and that such licensing makes it more difficult for clientele (under-aged persons) of licensed businesses to violate associated laws because of the threat of suspension or revocation of requisite licensing. He concluded with staff's recommendation for direction to return with a draft Burbank Tobacco Retailer Licensing Ordinance at a future date.

The Council expressed support for the ordinance and directed staff to proceed with developing a Tobacco Retailer Licensing Ordinance.

203
Appointment to
the Downtown
Parking
Management
Committee

Ms. Keeler, Parking Analyst, Public Works Department, requested the Council make an appointment to fill the vacant position on the Downtown Parking Management Committee (DPMC). She stated that the City Clerk's Office advertised and accepted applications for a vacancy on the DPMC created by the resignation of Stephen Chen, who relocated to another city. She added that notice of the vacancy was sent to the newspapers and placed on the City's website and the Channel 6 scroll in order to obtain qualified candidates. As of the July 2006 deadline, the City Clerk's Office received applications from two candidates: Jesse Byers and Chipper Pastron.

Ms. Keeler noted that the DPMC works with the Public Works, Community Development and Police Departments to develop recommendations to improve the effectiveness of existing parking resources and respond to the changing parking needs in the downtown area.

Motion

It was moved by Mr. Golonski, seconded by Mrs. Ramos and carried with Dr. Gordon voting no that "Mr. Chipper Pastron be appointed to serve on the Downtown Parking Management Committee".

810
1705-1
Parking Authority
Financial
Analysis

Ms. Keeler, Parking Analyst, Public Works Department, reported that the Parking Authority's operating expenses are exceeding operating revenues annually since Fiscal Year 2003-03 and as a result, the Authority relies on its fund balance to make up for the shortfall of approximately \$100,000 per year. She noted that the Authority's major revenue sources include the monthly parking permit program, structure agreements and leased spaces.

Ms. Keeler then discussed the current parking structure expenses and their associated revenues. With regard to future projections, she stated that the Authority is in the final year of a three-year maintenance contract and staff is anticipating and increase in the maintenance costs. She added that the Council recently approved new parking lease agreements and monthly parking permit increases which will provide temporary relief to the rising maintenance costs; however, the Authority will still fall below its required reserve balance in Fiscal Year 2008-09. She explained that the City's Fiscal policy requires all funds to maintain 60-days operating expenses, or approximately \$125,000 for the Parking Authority.

She requested the Council provide further direction on the financial future of the Authority and suggested several options such as decreasing maintenance services, increasing monthly permit fees or transferring parking structure maintenance responsibility to the

City or other entities that have parking structure interests.

Staff was directed to return with a report providing various options for Council consideration.

804-3
804-5
Transient
Occupancy Tax
Ballot Measure

Mr. Torrez, Financial Services Director, requested the Council consider placing a measure on the April 10, 2007 General Election ballot seeking voter approval of an increase in the City's Transient Occupancy Tax (TOT) rate. He reported that the TOT was initially adopted in 1964 at a rate of four percent, which was increased over the years to 10 percent in 1983 where it has remained to date. He added that TOT revenue was estimated at \$4.6 million for Fiscal Year 2005-06, and each one percent increase in the TOT rate was expected to generate approximately \$482,494. He explained that the tax is applied to the room rate of a hotel, inn, motel, tourist home, or other lodging facility within the City limits.

Mr. Torrez informed the Council that General Fund expenditures are outpacing ongoing revenues. In addition, the City has not been able in recent years to adequately fund infrastructure maintenance, repair and construction. He noted that an increase in the TOT rate would help offset the \$4 million gap between annual expenditures and revenues projected for Fiscal Year 2011, and could also help fund the City's growing infrastructure needs. In addition, he stated that there are legislative factors pertaining to the Utility Users Tax, Assembly Bill 2987 and House Resolution 5252 which could result in a significant loss of revenue to the City.

Mr. Torrez then discussed the following TOT rates of neighboring cities as of December 2005, including the cities of: Los Angeles at 14 percent; Pasadena at 12.1 percent and 2.5 percent Tourism Bureau Assessment for a total tax of 14.5 percent; Long Beach at 14 percent with downtown hotels imposing an additional three percent surcharge for a total tax of 15 percent; and, Glendale, Irvine and San Bernardino at 10 percent. He also stated that the average TOT rate of cities with airports is approximately 12.5 percent.

With regard to the legal requirements and restrictions, Mr. Torrez noted that while every tax increase requires voter approval, a general tax with revenues used for any purpose requires majority voter approval while a special tax, with revenues used for a specific purpose, requires a two-thirds voter approval. In addition, he stated that such tax increases can only be placed on the ballot of the City's regularly-scheduled General Election.

Mr. Torrez provided the Council with options to set the TOT at any fixed rate above the current ten percent, or set the increase as a maximum tax rate which will allow the Council to phase-in the increase over a period of time. He also noted a suggestion to dedicate up to 0.5 percent of the proceeds from the TOT rate

increase for promotion and marketing of the City and 0.25 percent of the increase being earmarked for the City's Perform Arts programs.

With regard to the ballot measure, Mr. Torrez provided the Council with the following options: a general tax increase with which proceeds could be used for general governmental purposes and requires a majority voter approval; an increase with a portion of the funds dedicated to the arts and/or promotion of the City, making it a Special Tax increase and requiring a two-thirds voter approval which is more difficult to achieve; and, a general tax increase requiring only majority voter approval, with the Council, at anytime during the budget process, allocating General Fund resources or reserves towards any program including City promotion and marketing and the arts programs.

Mr. Torrez informed the Council the some cities that have had successful ballot initiatives have retained the services of a consultant to conduct community surveys for the purpose of gauging the community's sentiment or support with regard to the tax increase. He noted that the estimated cost is approximately \$25,000 and, if approved, the surveys could be completed within a 60-day period.

Mr. Torrez also discussed the potential impact of the TOT increase to the City, ranging from \$482,494 in additional revenue for a TOT rate increase to 11 percent, to \$1,929,976 for a 14 percent increase. He noted that the impact to the average daily room rates ranged from \$1.16 for a TOT rate increase to 11 percent, to \$5.24 for an increase of up to 14 percent.

Mr. Torrez reiterated that the increase in the TOT rate was necessary to help offset the projected operating deficits, funding infrastructure needs and offsetting possible loss of the UUT and franchise fees due to State and/or Federal legislation. He also noted that the tax is not charged to citizens, but visitors who use City services and place demands on City infrastructure.

Following Council deliberation, staff was directed to proceed with an ordinance to place the Transient Occupancy Tax on the 2007 General Election ballot, seeking voter approval of an increase in the TOT rate of up to 12 percent. There was no support for retaining the services of a consultant to conduct a survey on the proposed ballot measure.

Ordinances
Submitted

It was moved by Mr. Vander Borgh and seconded by Mr. Golonski that "Ordinance Nos. 3704, 3705 and 3706 be read for the second time by title only and be passed and adopted." The titles to the following ordinances were read:

9/12/06

1103
Extend Time
Limits on the
Life of the City
Centre Redev.
Project Area

ORDINANCE NO 3704:
AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK EXTENDING THE TIME LIMITS ON THE LIFE OF THE CITY CENTRE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN AND THE TIME LIMITS TO COLLECT TAX INCREMENT FROM THE CITY CENTRE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN FOR THE PAYMENT OF INDEBTEDNESS.

1104
Extend Time
Limits on the
Life of the
Golden State
Redev.
Project Area

ORDINANCE NO 3705:
AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK EXTENDING THE TIME LIMITS ON THE LIFE OF THE GOLDEN STATE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN AND THE TIME LIMITS TO COLLECT TAX INCREMENT FROM THE GOLDEN STATE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN FOR THE PAYMENT OF INDEBTEDNESS.

1105
Extend Time
Limits on the
Life of the
West Olive
Redev.
Project Area

ORDINANCE NO 3706:
AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK EXTENDING THE TIME LIMITS ON THE LIFE OF THE WEST OLIVE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN AND THE TIME LIMITS TO COLLECT TAX INCREMENT FROM THE WEST OLIVE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN FOR THE PAYMENT OF INDEBTEDNESS.

Adopted The ordinances were adopted by the following vote:

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

Noes: Council Member Gordon.

Absent: Council Members None.

11:22 P.M.
Reconvene
Parking Authority
Meeting

The Parking Authority meeting was reconvened at this time for public comment.

Final Open
Public Comment
Period of Oral

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

Communications

Citizen Comment Appearing to comment was David Piroli, on the proposed Transient Occupancy Tax measure.

11:29 P.M. Adjournment There being no further business to come before the Council, the meeting was adjourned at 11:29 p.m. in memory of the victims of September 11, 2001.

Margarita Campos, CMC
City Clerk

APPROVED NOVEMBER 7, 2006

Mayor of the Council
Of the City of Burbank