



COUNCIL AGENDA - CITY OF BURBANK
TUESDAY, OCTOBER 10, 2006
5:00 P.M.

CITY COUNCIL CHAMBER – 275 EAST OLIVE AVENUE

This agenda contains a summary of each item of business which the Council may discuss or act on at this meeting. The complete staff report and all other written documentation relating to each item on this agenda are on file in the office of the City Clerk and the reference desks at the three libraries and are available for public inspection and review. If you have any question about any matter on the agenda, please call the office of the City Clerk at (818) 238-5851. This facility is disabled accessible. Auxiliary aids and services are available for individuals with speech, vision or hearing impairments (48-hour notice is required). Please contact the ADA Coordinator at (818) 238-5021 voice or (818) 238-5035 TDD with questions or concerns.

CLOSED SESSION ORAL COMMUNICATIONS IN COUNCIL CHAMBER:

Comments by the public on Closed Session items only. These comments will be limited to **three** minutes.

For this segment, a **PINK** card must be completed and presented to the City Clerk.

CLOSED SESSION IN CITY HALL BASEMENT LUNCH ROOM/CONFERENCE ROOM:

a. Conference with Legal Counsel – Existing Litigations:

Pursuant to Govt. Code §54956.9(a)

1. **Name of Case:** Pacific Gas and Electric Company v. Arizona Electric Power Cooperative.
Case No.: 2:06-CV-0559-MCE-KJM
Brief description and nature of case: Disputes involving sales of electrical energy in the California Energy markets during the California Energy Crisis of 2000-01.
2. **Name of Case:** Federal Energy Regulatory Commission (FERC) Refund Case Appeals (California Energy Crisis Litigation at the Ninth Circuit Court of Appeals).
Case No.: Consolidated Cases 01-71051, et. al. (Phase I), Consolidated Cases 01-71934 (Phase II) and Related Cases.
Brief description and nature of case: Disputes involving sales of electrical energy in the California Energy markets during the California Energy Crisis of 2000-01.
3. **Name of Case:** Cities of Burbank, Glendale and Pasadena v. Samuel W. Bodman, Secretary of Energy.
Case No.: 05-1514 (United States Court of Appeals for the Federal Circuit).
Brief description and nature of case: Appeal of adverse decision by the Department of Energy Board of Contract Appeals in the Cities of Burbank, Glendale and Pasadena v. Bonneville Power Administration (BPA) relating to a

contract dispute between the cities and BPA.

4. **Name of Case:** San Diego Gas and Electric Company v. Arizona Electric Power Cooperative.

Case No.: 2:06-CV-0592-MCE-KJM

Brief description and nature of case: Disputes involving sales of electrical energy in the California Energy markets during the California Energy Crisis of 2000-01.

- b. Conference with Legal Counsel – Anticipated Litigation:

Pursuant to Govt. Code §54956.95

Number of potential case(s): 1

- c. Conference with Legal Counsel – Anticipated Litigation:

Pursuant to Govt. Code §54956.9(c)

Number of potential case(s): 1

When the Council reconvenes in open session, the Council may make any required disclosures regarding actions taken in Closed Session or adopt any appropriate resolutions concerning these matters.

6:30 P.M.

INVOCATION:

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The Courts have concluded that sectarian prayer as part of City Council meetings is not permitted under the Constitution.

FLAG SALUTE:

ROLL CALL:

PROCLAMATION: CULTURAL DIVERSITY MONTH.

PROCLAMATION: DOMESTIC VIOLENCE AWARENESS MONTH.

PROCLAMATION: BREAST CANCER AWARENESS MONTH.

PROCLAMATION: FIRE PREVENTION WEEK.

PRESENTATION: SENATOR JACK SCOTT – STATE OF THE STATE ADDRESS.

COUNCIL COMMENTS: (Including reporting on Council Committee Assignments)

INTRODUCTION OF ADDITIONAL AGENDA ITEMS:

At this time additional items to be considered at this meeting may be introduced. As a general rule, the Council may not take action on any item which does not appear on this agenda. However, the Council may act if an emergency situation exists or if the Council finds that a need to take action arose subsequent to the posting of the agenda. Govt. Code §54954.2(b).

6:30 P.M. PUBLIC HEARINGS:

1. APPEAL OF PROJECT NO. 2006-1, HILLSIDE DEVELOPMENT PERMIT - 3 SKYLINE DRIVE:

Two separate appellants (Daniela Haglund and Christopher Boyce) are requesting an appeal of the Planning Board's (Board) decision to deny without prejudice the previous appeal and uphold the Community Development Director's Decision to approve a pool house and deck structures, and deny an exception to the 40 percent Floor Area Ratio (FAR) to construct an approximately 254-square foot pool house.

Appellant 1 Request: Daniela Haglund is requesting that the original project proposal for a pool, deck structures and a 254-square foot pool house be approved by the Council.

Appellant 2 Request: Christopher Boyce has requested that the Council not uphold the Board's decision, and that the entire project request be denied.

Staff recommends that the Council deny both appeals and uphold the Board's decision to approve Project No. 2006-1 Hillside Development Permit to construct a pool and deck structures and deny the exception request, subject to the conditions of approval.

Recommendation:

Adoption of proposed resolutions entitled:

1. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ADOPTING A NEGATIVE DECLARATION FOR PROJECT NO. 2006-1 (3 Skyline Drive).
2. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AFFIRMING THE DECISION OF THE PLANNING BOARD AND DENYING THE APPEAL OF PROJECT NO. 2006-1 (3 Skyline Drive).

2. APPEAL OF PROJECT NO. 2006-32 VARIANCE, 1902-1904 JACKSON STREET:

On July 24, 2006, the Planning Board (Board) denied Project No. 2006-32 Variance for the setbacks, parking and density to permit an illegal unit. The Board denied the Variance by a vote of 3-1, on the basis that they could not meet three of the four

findings to approve the Variance request.

Ruby Herrera, the property owner, is requesting that the Council reverse the Board's decision to deny the Variance and approve the project. The appellant has not proposed any modifications to the original proposal, nor does staff believe that there are any possible modifications, that would make the conversion legal under the Zoning Code.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AFFIRMING THE DECISION OF THE PLANNING BOARD AND DENYING THE APPEAL OF PROJECT NO. 2006-032, A VARIANCE (1902-1904 Jackson Street).

REPORTING ON CLOSED SESSION:

INITIAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS: (Two minutes on any matter concerning City Business.)

There are four segments of Oral Communications during the Council Meeting. The first precedes the Closed Session items, the second and third segments precede the main part of the City Council's business (but follow announcements and public hearings), and the fourth is at the end of the meeting following all other City business.

Closed Session Oral Communications. During this period of oral communications, the public may comment only on items listed on the Closed Session Agenda(s). A **PINK** card must be completed and presented to the City Clerk. Comments will be limited to **three** minutes.

Initial Open Public Comment Period of Oral Communications. During this period of Oral Communications, the public may comment on any matter concerning City Business. A **BLUE** card must be completed and presented to the City Clerk. NOTE: Any person speaking during this segment may not speak during the third period of Oral Communications. Comments will be limited to **two** minutes.

Agenda Item Oral Communications. This segment of Oral Communications immediately follows the first period, but is limited to comments on action items on the agenda for this meeting. For this segment, a **YELLOW** card must be completed and presented to the City Clerk. Comments will be limited to **four** minutes.

Final Open Public Comment Period of Oral Communications. This segment of oral communications follows the conclusion of agenda items at the end of the meeting. The public may comment at this time on any matter concerning City Business. NOTE: Any member of the public speaking at the Initial Open Public Comment Period of Oral Communications may not speak during this segment. For this segment, a **GREEN** card must be completed and presented to the City Clerk. Comments will be limited to **two**

minutes.

City Business. City business is defined as any matter that is under the jurisdiction of the City Council. Although other topics may be of interest to some people, if those topics are not under City Council jurisdiction, they are not City business and may not be discussed during Oral Communications.

Videotapes/Audiotapes. Videotapes or audiotapes may be presented by any member of the public at any period of Oral Communications or at any public hearing. Such tapes may not exceed the time limit of the applicable Oral Communications period or any public comment period during a public hearing. The playing time for the tape shall be counted as part of the allowed speaking time of that member of the public during that period.

Videotapes must be delivered to the Public Information Office by no later than 10:00 a.m. on the morning of the Council meeting in a format compatible with the City's video equipment. Neither videotapes nor audiotapes will be reviewed for content or edited by the City prior to the meeting, but it is suggested that the tapes not include material that is slanderous, pornographic, demeaning to any person or group of people, an invasion of privacy of any person, or inclusive of material covered by copyright.

Printed on the videocassette cover should be the name of the speaker, the period of oral communication the tape is to be played, and the total running time of the segment. The Public Information Office is not responsible for "cueing up" tapes, rewinding tapes, or fast forwarding tapes. To prevent errors, there should be ten seconds of blank tape at the beginning and end of the segment to be played. Additionally, the speaker should provide the first sentence on the tape as the "in cue" and the last sentence as the "out cue".

As with all Oral Communications, videotapes and audiotapes are limited to the subject matter jurisdiction of the City and may be declared out of order by the Mayor.

Disruptive Conduct. The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones and pagers, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

Once an individual is requested to leave the Council Chamber by the Mayor, that individual may not return to the Council Chamber for the remainder of the meeting. BMC §2-216(b).

Individuals standing in the Council Chamber will be required to take a seat. Also, no materials shall be placed in the aisles in order to keep the aisles open and passable. BMC §2-217(b).

Your participation in City Council meetings is welcome and your courtesy will be appreciated.

COUNCIL AND STAFF RESPONSE TO OPEN PUBLIC COMMENT AND AGENDA ITEM PERIOD OF ORAL COMMUNICATIONS:

AGENDA ITEM ORAL COMMUNICATIONS: (Four minutes on Action Agenda items only.)

COUNCIL AND STAFF RESPONSE TO AGENDA ITEM ORAL COMMUNICATIONS:

RECESS for the Parking Authority meeting.

RECONVENE for the City Council meeting.

CONSENT CALENDAR: (Items 3 and 4)

The following items may be enacted by one motion. There will be no separate discussion on these items unless a Council Member so requests, in which event the item will be removed from the consent calendar and considered in its normal sequence on the agenda. A **roll call** vote is required for the consent calendar.

3. REVISING THE SALARIES FOR THE CLASSIFICATIONS OF PRINCIPAL ELECTRICAL ENGINEER, MANAGER TRANSMISSION AND DISTRIBUTION ENGINEERING, AND POWER RESOURCES MANAGER:

In an effort to remain competitive within the utility industry, Burbank Water and Power (BWP) has made continual improvements over the past several years. To ensure future sustainability, BWP has been devoting considerable time and effort in effective succession planning as part of an ongoing initiative. The ability to recruit qualified candidates to fill critical roles within the organization is vital to both the success and sustainability of BWP. In order to effectively recruit within this highly aggressive industry, the City must offer competitive salaries to viable qualified candidates.

In response to the inability to successfully recruit qualified electrical engineering candidates, BWP consulted with Mycoff and Associates (Mycoff), a firm which specializes in recruiting management positions for public utilities. The firm stated that the current salary for Principal Electrical Engineer is so substantially below market that the firm would be unable to effectively recruit either locally or nation-wide. This firm estimated that a competitive market salary for the position of Principal Electrical Engineer would be between \$11,250 and \$12,150, which is 8.11 percent to 16.76 percent above the City's current range for this position. As such, BWP would like to increase the salary ranges for three critical positions: Principal Electrical Engineer; Manager Transmission and Distribution Engineering; and, Power Resources Manager.

BWP believes that the salary for Principal Electrical Engineer should be increased to the midpoint of Mycoff's recommendation. In addition, BWP believes that the two management positions that are benchmarked to the Principal Electrical Engineer should maintain an appropriate internal relationship with the Principal Electrical Engineer position. This is especially critical in that the Principal Electrical Engineer reports directly to the Manager Transmission and Distribution Engineering. Furthermore, the Power Resource Manager previously benched at 105 percent of the Principal Electrical Engineer should maintain parity with the Principal Electrical Engineer and be benched at 100 percent of this classification. This new internal alignment will continue to reflect the degree of judgment and responsibility required of the Power Resources Manager position, maintain internal equity, and ensure that qualified candidates are attracted for recruitment purposes. As such, salary increases are being sought for the positions of Manager Transmission and Distribution Engineering and Power Resources Manager.

The salary range for the classification of Principal Electrical Engineer will be set at \$9,630-\$11,700, an increase of 12.44 percent. The salary range for the classification of Manager Transmission and Distribution Engineering will be set at \$10,593-\$12,870, an increase of 12.44 percent. The salary range for the classification of Power Resources Manager will be set at \$9,630-\$11,700, an increase of 7.08 percent. The increases to the current fiscal year budget will be offset by salary savings. The recurring increases will be included in the Fiscal Year 2007-08 budget.

Recommendation:

Adoption of proposed resolutions entitled:

1. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK REVISING THE SALARY FOR PRINCIPAL ELECTRICAL ENGINEER (CTC No. 0790).
2. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK REVISING THE SALARY FOR MANAGER TRANSMISSION AND DISTRIBUTION ENGINEERING (CTC No. 0531).
3. A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK REVISING THE SALARY FOR POWER RESOURCES MANAGER (CTC No. 0633).
4. ADOPTION OF THE BURBANK FIREFIGHTERS MEMORANDUM OF UNDERSTANDING:

The purpose of this report is to request Council approval of the proposed resolution which would adopt a three-year Memorandum of Understanding (MOU) between the City and the Burbank Firefighters (BFF). Staff has adhered to the City's compensation policy which includes the consideration of the condition of the economy as reflected by the Consumer Price Index (CPI); capacity in the City's approved

budget; commitment to pay for performance; and, equity in the market place. Staff has been negotiating with the BFF since June, 2006. In September 2006, the City and the BFF reached a tentative agreement on a three-year package. The BFF ratified this agreement and staff is now requesting Council approval.

The negotiated package will provide all BFF members with a 4.50 percent salary increase effective July 1, 2006. In year one of the contract, it will also provide a \$15 City match to both a retiree health insurance savings account and a 401 (a) account. Effective July 1, 2007, all BFF members will be provided a four percent salary increase and up to \$42 per employee per month for an employee dental plan. In the third year, all members will be provided a four percent salary increase to be effective July 1, 2008. In addition, there is an increase in medical payments each year to keep pace with the rising cost of insurance premiums. There were also a number of non-fiscal language changes in the MOU which clarified or improved operating procedures. The total cost for this package is 15.50 percent over the three-year period from July 1, 2006 to June 30, 2009.

The proposed first year salary increases and equity adjustments were anticipated in the Fiscal Year 2006-07 budget preparation. However, the funds were not appropriated at the time of the budget adoption. As such, budget amendments are required to appropriate the necessary funds from the Unappropriated Fund Balance.

Recommendation:

Adoption of proposed resolution entitled:
(4/5 vote required)

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BURBANK AND THE BURBANK FIREFIGHTERS FOR FISCAL YEARS 2006-2009 AND AMENDING THE ANNUAL BUDGET FOR FISCAL YEAR 2006-2007.

END OF CONSENT CALENDAR *** *** ***

REPORTS TO COUNCIL:

5. APPOINTMENTS TO THE MAGNOLIA PARK PROPERTY-BASED BUSINESS IMPROVEMENT DISTRICT BOARD:

The purpose of this report is for the Council to appoint the first Property-based, Business Improvement District (P-BID) Board for the Magnolia Park P-BID from the qualified applicants.

In August 2006, staff was authorized to open the ballots as the final step to establish and form a P-BID. Over 50 percent of the ballots supported a Magnolia Park P-BID

to carry out the Management Plan (Plan) programs and improvements. The Plan which was developed and presented to the Council in February 2006, includes a parking program, increased maintenance services, promotions, advertising, events, business recruitment, and advocacy to promote business interests and allow the business community to speak with one voice. The Plan also includes the boundary, budget, assessment formula and governance of the organization. The P-BID will fund a variety of improvements in partnership with the Magnolia Park property owners.

The P-BID has a five-year plan, which is the maximum length that a P-BID may be established before a P-BID needs to be renewed. Each January, the P-BID will receive approximately \$250,000 in assessments from Magnolia Park property owners, excluding residential and nonprofit property owners.

When the P-BID was approved, the Council also approved the proposed composition of the P-BID Board. The P-BID Plan states that the Board of Directors of the organization will be comprised of an eleven-member board representing six property owners, one business owner, and two residents in the Magnolia Park area, as well as two representatives from the City. Below is a list of the applicants.

Property Owner (and Business Owner) – six positions

- Alan Arzoian (Handy Market)
- George Harwood (Johnson Properties)
- Candice Jepson (Dubbing Brothers)
- Bradley Korb (Re/Max in Action)
- Ira Lippman (Peggy Wood's Pet Emporium)
- Paul Long (Kappa Studios, Inc)
- Raul Porto (Porto's Bakery)
- Anthony Scuticchio (Monte Carlo)
- Sandra Spero (American Direct Mail)

Business Owner Only (can be chosen from list above as well) - one position

- Timothy Davis, Jr. (SCIA Enterprises)
- Anita McLendon (Burbank Community Federal Credit Union)

Resident - two positions

- Laurie Krattiger
- Nancy Winogradow

City Representative - two positions

- City Manager
- Community Development Director

Recommendation:

It is recommended that the Council appoint the eleven members to the Magnolia Park

P-BID Board.

6. RETAINING SPECIAL COUNSEL FOR THE GLENDALE-BURBANK INTERCEPTOR SEWER MATTER:

At the meeting of September 26, 2006, the Council directed the City Attorney's Office to solicit proposals for special legal counsel to review the Final Environmental Impact Report (EIR) prepared for the City of Los Angeles Integrated Resources Plan (IRP), including the Glendale-Burbank Interceptor Sewer (GBIS) and to advise the City on the steps required to challenge the environmental and project approval process conducted by the City of Los Angeles. Given the extremely tight time frame for the Final EIR, the City Attorney's Office sent an informal request for Statements of Qualifications (SOQ) and fee schedules to six law firms with known expertise in the California Environmental Quality Act (CEQA) and the development review process.

The SOQs were not available at the time the Council agenda packets were printed. Therefore, the SOQs will be provided to the Council under separate cover from the City Attorney's Office. The City Attorney's Office recommends that the Council review the SOQs and select a firm that it believes is qualified to provide advice and counsel concerning the City of Los Angeles IRP and the CEQA review process.

The City Attorney's Office also recommends the Council adopt a resolution approving a Legal Services Agreement (Agreement) with the selected firm and a budget amendment in the amount of \$40,000 to fund the Agreement.

Recommendation:

Adoption of proposed resolution entitled:
(4/5 vote required)

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING AND AUTHORIZING EXECUTION OF AN AGREEMENT FOR LEGAL SERVICES AND AMENDING THE FY 2006-2007 ANNUAL BUDGET IN THE AMOUNT OF \$40,000.

FINAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS: (Two minutes on any matter concerning the business of the City.)

This is the time for the Final Open Public Comment Period of Oral Communications. Each speaker will be allowed a maximum of **TWO** minutes and may speak on any matter concerning the business of the City. However, any speaker that spoke during the Initial Open Public Comment Period of Oral Communications may not speak during the Final Open Public Comment Period of Oral Communications.

For this segment, a **GREEN** card must be completed, indicating the matter to be discussed, and presented to the City Clerk.

COUNCIL AND STAFF RESPONSE TO THE FINAL OPEN PUBLIC COMMENT PERIOD
OF ORAL COMMUNICATIONS:

ADJOURNMENT: To Monday, October 16, 2006 at 6:30 p.m. in the City Council Chamber, 275 East Olive Avenue, for a Joint Council/School Board meeting.

**For a copy of the agenda and related staff reports,
please visit the
City of Burbank's Web Site:
www.ci.burbank.ca.us**