



## MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, FEBRUARY 11, 2014

The Council of the City of San José convened in Regular Session at 9:05 a.m. in the Council Chambers at City Hall.

Present: Council Members                      Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed.

Absent Council Members                      All Present.

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

None provided.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:06 a.m. to a Closed Session in Room W133 (A) Public Employment/Public Employee Evaluation Pursuant to Government Code Section 54957; Title: City Attorney; Name: Richard Doyle; (B) to confer with Legal Counsel pursuant to Government Code subsection (a) of Section 54956.9 with respect to anticipated litigation in one (1) matter; (C) to confer with Legal Counsel pursuant to Government Code subsection (a) of Section 54956.9(d)(1) with respect to existing litigation: (1) Marker, Mercedes v. City, Son Vu; Names of Partie(s) Involved: Mercedes Marker, City of San José and Son Vu; Court: United States District Court, Northern District of California; Case No.: C09-05956 RMW; Amount of Money or Other Relief Sought: Damages According to Proof; (2) San José Police Officers' Association v. City, et al.; Names of Partie(s) Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief; (3) San José Retired Employees Association, et al. v. City, et al.; Names of Partie(s) Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda

## CLOSED SESSION (Cont'd.)

Navarro, City of San José Does 1 through 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; Amount of Money or Other Relief Sought: Declaratory and injunctive relief; (4) Sapien, et al. v. City of San José, et al., Names of Partie(s) Involved: Robert Sapien, Mary Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1 through 15, the board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (5) Harris, et al. v. City of San José, et al.; Names of Partie(s) Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone, in her capacity as City Manager of the City of San José, the Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B; (6) Mukhar, et al., v. City of San José, et al.; Names of Partie(s) Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone, in her capacity as City Manager of the City of San José, the Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B; (7) AFSCME, et al. v. City of San José, et al., Names of Partie(s) Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, Debra Figone, in her capacity as City Manager of the City of San José, the Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B;. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local

## **CLOSED SESSION (Cont'd.)**

230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:20 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chambers.

Present: Council Members	Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo (1:42 p.m.), Nguyen, Oliverio (1:46 p.m.), Rocha; Reed.
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Absent Council Members	All Present.
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## **INVOCATION (DISTRICT 2)**

The Dazzling Divas of Southside Senior Center performed a tap-dance routine to "All My Exes Live in Texas".

## **PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance accompanied by third-grade students from Rosemary Elementary School.

## **ORDERS OF THE DAY**

Upon motion by Council Member Herrera, seconded by Council Member Khamis and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (9-0-2. Absent: Liccardo, Oliverio.)

## CONSENT CALENDAR

Upon motion by Vice Mayor Nguyen, seconded by Council Member Khamis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-2. Absent: Liccardo, Oliverio.)

### 2.1 Approval of Minutes

None.

### 2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29369 – Rezoning certain real property of approximately 0.24 acres situated on the south side of West Hedding Street, approximately 330 feet easterly of Spring Street, from CO Commercial Office Zoning District to LI Light Industrial Zoning District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29369 executed on January 31, 2014, submitted by the City Clerk.

Action: Ordinance No. 29369 was adopted. (9-0-2. Absent: Liccardo, Oliverio.)

- (b) **ORD. NO. 29370 - Rezoning certain real property situated on the easterly terminus of Skyway Drive, east of Monterey Road (Valley Christian School), from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29370 executed on January 31, 2014, submitted by the City Clerk.

Action: Ordinance No. 29370 was adopted. (9-0-2. Absent: Liccardo, Oliverio.)

- (c) **ORD. NO. 29371 - Rezoning certain real property situated on the northeast corner of Williams Road and San Tomas Expressway on a 0.294 gross-acre site (3691 Williams Road) to the R-1-8 Single Family Residence Zoning District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29371 executed on January 31, 2014, submitted by the City Clerk.

Action: Ordinance No. 29371 was adopted. (9-0-2. Absent: Liccardo, Oliverio.)

## 2.2 (Cont'd.)

- (d) **ORD. NO. 29372 - Rezoning certain real property situated on the southwest corner of Silver Creek Valley Place and Silver Creek Valley Road, approximately 450 feet easterly of the Highway 101 exit ramp, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29372 executed on January 31, 2014, submitted by the City Clerk.

Action: Ordinance No. 29372 was adopted. (9-0-2. Absent: Liccardo, Oliverio.)

- (e) **ORD. NO. 29373 - Rezoning certain real property situated on the east side of Boynton Avenue, approximately 90 feet north of Williams Road (970 and 978 Boynton Avenue), to R-M(PD) Planned Development Zoning District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29373 executed on January 31, 2014, submitted by the City Clerk.

Action: Ordinance No. 29373 was adopted. (9-0-2. Absent: Liccardo, Oliverio.)

- (f) **ORD. NO. 29374 - Amending Section 4.46.039.10 of Chapter 4.46 of Title 4 of the San José Municipal Code and Section 4.47.095 of Chapter 4.47 of Title 4 to continue the suspension of the collection of the building and structure construction tax and the Commercial-Residential-Mobilehome Park Building tax for tenant improvements to office, research and development uses, data center uses and installation of solar photovoltaic systems until March 31, 2017.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29374 executed on February 7, 2014, submitted by the City Clerk.

Action: Ordinance No. 29374 was adopted. (9-0-2. Absent: Liccardo, Oliverio.)

## 2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of January 22, 2014. (Mayor)**
- (b) **Community and Economic Development Committee Report of January 27, 2014. (Herrera)**

Documents Filed: (1) Rules and Open Government Committee Report dated January 22, 2014. (2) Community and Economic Development Committee Report dated January 27, 2014.

Action: The Committee Reports were accepted. (9-0-2. Absent: Liccardo, Oliverio.)

**2.4 Mayor and Council Excused Absence Requests.**

None.

**2.5 City Council Travel Reports.**

None.

**2.6 Report from the Council Liaison to the Retirement Boards.**

None.

**2.7 Approve a Second Amendment to the Consultant Agreement with David J. Powers & Associates, Inc. for Airport environmental analysis services, extending the term of the Agreement from June 30, 2014, to June 30, 2017, and increasing maximum compensation from \$350,000 to \$450,000. CEQA: Not a Project, File No. PP10-066(d), Consultant Services for Design/Study/Research/Inspection. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Kim Becker Aguirre, dated January 21, 2014, recommending approval of a second amendment to the Consultant Agreement.

Action: A Second Amendment to the Consultant Agreement with David J. Powers & Associates, Inc. for Airport environmental analysis services, extending the term of the Agreement from June 30, 2014, to June 30, 2017, and increasing maximum compensation from \$350,000 to \$450,000, was approved. (9-0-2. Absent: Liccardo, Oliverio.)

- 2.8 (a) Determine that a change to the term end date of the vacant District 3 position on the Senior Citizens Commission with an unexpired term is in the best interest of the Commission to realign with the City Clerk's Office recruitment schedule and realign the term end date from June 30, 2014 to June 30, 2017; and**
- (b) Appoint Mary Tucker to the District 3 Seat on the Senior Commission to an unexpired term ending June 30, 2017.**

Action: Deferred to February 25, 2014 per Administration.

**2.9 As recommended by the Rules and Open Government Committee on February 5, 2014 and outlined in the attached memo previously submitted by the Rules and Open Government Committee, pursuant to the City's streamlined bill process for responding quickly to legislative proposals, re-affirm a position in support for AB 1193 (TING). CEQA: Not a Project, File No. PP10-068(c), Code or Policy changes that involve no changes in the physical environment. (Transportation)**

Documents Filed: Memorandum from City Clerk Toni Taber, dated February 5, 2014, transmitting the recommendations of the Rules and Open Government Committee.

## 2.9 (Cont'd.)

Action: Reaffirmation of a position in support for AB 1193 (TING), as recommended by the Rules and Open Government Committee on February 5, 2014 and outlined in the attached memo previously submitted by the Rules and Open Government Committee, pursuant to the City's streamlined bill process for responding quickly to legislative proposals, was approved. (9-0-2. Absent: Liccardo, Oliverio.)

## 2.10 As recommended by the Rules and Open Government Committee on February 5, 2014:

- (a) **Approve the District 4 Priority Setting Sessions as a City Council sponsored Special Event and approve the expenditure of funds; and**
- (b) **Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project. (Chu)**

Documents Filed: Memorandum from City Clerk Toni Taber, dated February 5, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 4 Community Priority Setting Sessions as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (9-0-2. Absent: Liccardo, Oliverio.)

## END OF CONSENT CALENDAR

## STRATEGIC SUPPORT SERVICES

### 3.1 Report of the City Manager, Edward Shikada (Verbal Report)

City Manager, Ed Shikada provided a report on his participation in the League of California City Managers meeting.

- ### 3.3
- (a) **Approve the 2013-2014 Mid-Year Budget Review Report.**
  - (b) **Adopt related Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions) of the 2013-2014 Mid-Year Budget Review Report.**

**CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director Jennifer Maguire, dated January 31, 2014, providing the 2013-2014 Mid-Year Budget Review Report and recommending approval of the report and adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

### 3.3 (Cont'd.)

Budget Director Jennifer Maguire provided an overview of the Mid-Year Budget report. She and Director of Transportation Hans Larsen responded to questions from Council.

Public Comments: Blage Zelavich, San José Downtown Association, expressed enthusiasm for appropriation of funds for downtown foot patrol.

Action: Upon motion by Council Member Campos, seconded by Council Member Constant, and carried unanimously, and the Mid-Year Budget Review Report was approved, and Ordinance No. 29378, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the General Fund and Various Special and Capital Funds; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 76921, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76677 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2013-2014 to Adjust Revenues in the General Fund and Various Special and Capital Funds”, were adopted. (11-0.)

### 3.4 **Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the International Union of Operating Engineers, Local No. 3 (OE#3), and authorize the City Manager to execute an agreement for a term from July 1, 2013 to June 30, 2015. The agreement is subject to ratification by OE#3 membership. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager’s Office)**

Action: Deferred to February 25, 2014 per Administration.

- 3.5 (a) (1) **Approve appointments to the Housing and Community Development Commission; or, in the alternative**  
(2) **Approve an ordinance amending Section 2.08.090 and Part 28 of Chapter 2.08 of Title 2 of the San José Municipal Code to modify the appointment process for the Housing and Community Development Commission and to make modifications to the quorum requirements for all boards and commissions.**  
(b) **Approve an ordinance amending Part 32 of Chapter 2.08 of Title 2 of the San José Municipal Code adding the appointment process for the Library and Early Education Commission.**

**CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy change, Title 2 (Administration). (City Clerk/City Attorney)**  
**(Deferred from 1/14/14 – Item 2.7, 1/28/14 – Item 2.7 and 2/4/14 – Item 3.4)**

Documents Filed: (1) Joint memorandum from Vice Mayor Nguyen and Council Member Khamis, dated January 31, 2014, recommending approval of an ordinance including direction to the Staff. (2) Memorandum from Council Member Constant, dated February 10, 2014, recommending approval of staff recommendations with modifications. (3) Memorandum from City Clerk Toni Taber, dated December 18, 2013, with recommendations regarding Housing and Community Development Commission



### 3.5 (Cont'd.)

Documents Filed (Cont'd.): Appointments. (4) Memorandum from City Attorney Richard Doyle, dated January 23, 2014, providing recommending alternatives in the commission appointment process. (4) Supplemental memorandum from Director of Housing Leslye Corsiglia, dated February 6, 2014, providing recommendations regarding Housing and Community Development Commission Appointments.

Motion: Council Member Constant moved approval of the Staff's recommendations with modifications as outlined in the memorandum he co-signed with Council Member Herrera, dated February 10, 2014, and including the recommendations as outlined in City Attorney Richard Doyle's memorandum of January 23, 2014 as indicated below in "Action". Council Member Herrera seconded the motion.

Director of Housing Leslye Corsiglia and City Clerk Toni Taber responded to questions from Council. Council discussion followed.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 29379, entitled: "An Ordinance of the City of San José Amending Various Sections of Chapter 2.08 of Title 2 of the San José Municipal Code to Modify the Quorum Requirements of Boards, Bureaus and Commissions; and to Modify the Appointment Process for the Housing and Community Development Commission and the Library and Early Education Commission", was passed for publication, including modifications to the February 6, 2014 supplemental memorandum from Director of Housing Leslye Corsiglia as outlined in Council Member Constant's memorandum dated February 10, 2014: (1) Allow Councilmembers with vacant seats on the Housing and Community Development Commission (HCDC) to either (a) nominate a candidate for the HCDC from the existing pool of applicants, or (b) wait for a new recruitment process to be completed by the City Clerk and nominate a candidate. (2) Specify that until the HCDC is fully seated, a quorum, for the purposes of HCDC meetings, shall be two-thirds (2/3) of the currently seated members. Once the HCDC is fully seated, the quorum rules for the HCDC shall follow the revised quorum rules (a majority of all positions). Including the recommendation (b) from City Attorney Richard Doyle's supplemental memorandum dated January 23, 2014, approving "an ordinance amending Part 32 of Chapter 2.08 of Title 2 of the San José Municipal Code adding the appointment process for the Library and Early Education Committee". (11-0.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Adopt a resolution authorizing the City Manager to execute an Agreement in the amount of \$650,000 with San José Streets Team, Inc., under which San José Streets Team will serve as the Place-Based Rapid Re-Housing Program Service Administrator, providing housing, case management and employment development services to residents of a targeted homeless encampment. CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated January 21, 2014, recommending adoption of a resolution.

Housing Department Staff responded to questions from the Council.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 76922, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement in the Amount of \$650,000 with San José Streets Team, Inc. Under Which San José Streets Team Will Serve as the Place-Based Rapid Re-Housing Program Service Administrator, Providing Housing, Case Management, and Employment Development Services to Residents of a Targeted Homeless Encampment”, was adopted. (11-0.)

- 4.2 Report on bids and award of a construction contract for 5980 - Roberto Antonio Balermينو Park located on 1501 Almaden Road, to the sole bidder, Suarez & Munoz Construction, Inc., in the amount of \$1,789,000, and approve a five percent contingency in the amount of \$89,450. CEQA: Exempt, File No. PP08-166. Council District 7. (Public Works)**

Documents Filed: (1) Memorandum from Vice Mayor Nguyen, dated February 7, 2014, urging support to the staff recommendations. (2) Memorandum from Director of Public Works David Sykes, dated January 21, 2014, recommending acceptance of the report on bids and award of a construction contract.

Vice Mayor Nguyen thanked staff for their dedication to this project.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Campos, and carried unanimously, the report on bids and award of a construction contract for 5980 - Roberto Antonio Balermينو Park located on 1501 Almaden Road, to the sole bidder, Suarez & Munoz Construction, Inc., in the amount of \$1,789,000, with related contingency, was accepted. (11-0.)

## **TRANSPORTATION & AVIATION SERVICES**

- 6.1 As recommended by the Airport Competitiveness Committee on January 31, 2014, accept the Audit of Taxi Service and Regulation in San José. (City Auditor)  
[Airport Competitiveness Committee referral 1/31/14 – Item A]**

Action: Deferred to February 25, 2014 per Administration

- 6.2 As recommended by the Airport Competitiveness Committee on January 31, 2014:**
- (a) Adopt a resolution amending and restating the Airport general fee resolution to establish trip fees for all ground transportation pick-ups at the Airport and to continue a \$.50 reduced trip fee for clean fuel vehicles and vehicles with Americans with Disabilities Act compliant equipped lifts, eliminating drop-off fees and permit requirements and returning the Off-Airport parking operator fees to 10% of gross revenues plus standard per trip fee and repealing Resolution No. 76587.**
  - (b) Approve an ordinance amending Chapter 25.08 of the San José Municipal Code to eliminate permit requirements for on-demand taxi and shuttle services at the Norman Y. Mineta San José International Airport and to implement a concession management system for on-demand taxi and shuttles services at the Airport.**

**CEQA: Not a Project, File No. PP10-068(c), Municipal Code or policy change that involve no changes to the physical environment. (Airport)**

Action: Deferred to February 25, 2014 per Administration

## **ENVIRONMENTAL & UTILITY SERVICES**

- 7.1 (a) Adopt a resolution as follows with regard to the energy and utility conservation measures (“ECMs”) identified by Chevron Energy Solutions (“Chevron”) in Bundle 1A:**
- (1) Approving the ECMs identified in Bundle 1A for implementation;**
  - (2) Authorizing the Director of Public Works to do the following contingent upon the City obtaining the necessary financing and subject to the appropriation of funds:**
    - (a) Negotiate and execute a Bundle 1A Energy Services Agreement with Chevron to implement the Bundle 1A ECMs for a maximum compensation of \$2,979,320;**
    - (b) Establish a 15% contingency for the Bundle 1A Energy Services Agreement in the amount of \$424,398;**
  - (2) (c) Negotiate and execute one or more amendments to the Bundle 1A Energy Services Agreement to increase the maximum compensation by an aggregate amount not to exceed the contingency to pay for any unexpected work necessary to complete the project; and**
  - (3) Directing implementation of the ECMs in Bundle 1A without the purchase of any energy savings guarantee agreements.**

**7.1 (Cont'd.)**

- (b) Adopt a resolution authorizing the Director of Public Works to do the following with regard to ECMs identified by Chevron in Bundle 1B, contingent upon the City obtaining the necessary financing and subject to the appropriation of funds:**
  - (1) Approve for implementation the ECMs identified by Chevron in Bundle 1B if the Director concurs with Chevron's analysis that the ECMs are feasible;**
  - (2) Negotiate and execute a Bundle 1B Energy Services Agreement with Chevron to implement Bundle 1B for a maximum compensation of \$18,113,709 contingent on each of the following:**
    - (a) The Director approving the ECMs identified in draft Bundle 1B;**
    - (b) Chevron having completed implementation of Bundle 1A in accordance with the Bundle 1A Energy Services Agreement and the Director's determination that the performance of the Bundle 1A ECMs are providing the utility/energy savings set forth in the applicable investment grade audit prepared by Chevron;**
    - (c) Chevron completes Bundle 1A on schedule and at a cost that does not exceed Chevron's cost estimates, and provides quality work and customer service as determined by the Director of Public Works;**
  - (3) Establish a 15% contingency for the Bundle 1B Energy Services Agreement in the amount of \$2,717,056;**
  - (4) Negotiate and execute one or more amendments to the Bundle 1B Energy Services Agreement to increase the maximum compensation by an aggregate amount not to exceed the contingency to pay for any unexpected work necessary to complete the project;**
  - (5) Negotiate and execute the purchase of one or more energy savings guarantee agreements for some or all of the ECMs in Bundle 1B contingent on each of the following:**
    - (a) Implementation of the ECMs in Bundle 1B continue to be feasible when the additional cost of any guarantee agreement is considered;**
    - (b) The Director determines that having the guarantee is desirable for the City when the risk of actually realizing the estimated utility savings is weighed against the scope, limits and cost of the guarantee.**

**CEQA: Exempt, File Nos. PP13-111, PP13-112, PP13-113, PP13-114, PP13-115, PP13-116, PP13-117, PP14-003, PP14-004. (Public Works)**

## 7.1 (Cont'd.)

Documents Filed: (1) Joint memorandum from Mayor Reed, Vice Mayor Nguyen, and Council Members Liccardo, Rocha and Khamis, dated February 7, 2014, recommending approval of staff recommendations with modifications. (2) Memorandum from Director of Public Works David Sykes, dated January 21, 2014, recommending adoption of resolutions and approval of an agreement. (3) Supplemental memorandum from Director of Public Works David Sykes, dated February 10, 2014, providing additional information regarding cost of the utility savings “guarantees” and availability of utility rebates.

Director of Public Works David Sykes offered a presentation on the City’s Energy Service Company (ESCO). Staff discussion followed.

Public Comments: Offering support to the energy and utility conservation measures, were Sal Ventura, IBEW 332; Tim McRae, Silicon Valley Leadership Group; and Emily Douglas, Chevron Energy Solutions.

Motion: Council Member Liccardo moved approval of the Staff recommendations with changes as indicated in the memorandum he co-signed with Mayor Reed, Vice Mayor Nguyen, and Council Members Rocha and Khamis, dated February 7, 2014, including approving delegation to the Director of Public Works to negotiate and execute the guarantees. Council Member Herrera seconded the motion.

Council Member Herrera requested to amend the motion, with direction to Staff to return to Council with recommendations on zones that would most benefit due to occurrence of copper theft. The amendment to the motion was accepted by Council Member Liccardo.

Council Member Oliverio countered that he could not support the motion on the floor, that he would be more comfortable offering support knowing the rate and terms of the project.

Action: On a call for the question, the motion carried, Resolution No. 76923, entitled: “A Resolution of the Council of the City of San José Approving for Implementation the Energy and Utility Conservation Measures Identified by Chevron Energy Solutions in Bundle 1A”; and Resolution No. 76924, entitled: “A Resolution of the Council of the City of San José Approving for Implementation the Energy and Utility Conservation Measures Identified by Chevron Energy Solutions in Draft Bundle 1B”, were adopted, with modifications to Staff’s recommendations as outlined in the February 7, 2014 memorandum co-signed by Mayor Reed, Vice Mayor Nguyen, and Council Members Liccardo, Rocha and Khamis, and with direction from Council to: (1) Put packages 1A and 1B back into a single package and deliver the projects together in time to secure the 2014 PG&E rebates and reduce project delivery costs; and (2) Approve delegation to the Director of Public Works to negotiate and execute the guarantees. Staff was directed to return with an information memorandum indicating proposed targeted areas/zones most benefited due to high crime rates and occurrence of copper theft. (10-1. Noes: Oliverio.)

**REDEVELOPMENT – SUCCESSOR AGENCY**

**9.1 Discussion of and direction to staff on the Long-Range Property Management Plan. (Successor Agency)  
(Deferred from 1/14/14 – Item 9.1 and 1/28/14 – Item 9.1)**

Documents Filed: (1) Memorandum from Successor Agency Managing Director Richard A. Keit, dated December 23, 2014, recommending review and discussion of the Long-Range Property Management Plan. (2) Supplemental memorandum from Successor Agency Managing Director Richard A. Keit, dated February 10, 2014, in response to direction provided by the Oversight Board.

Staff explained the quick turn-around on this item, and pointed out that it will need to return to the Department of Finance following the Oversight Board meeting at the end of February. Successor Agency Managing Director Richard A. Keit, Senior Deputy City Attorney Tom Murtha and Director of Planning, Building and Code Enforcement Joseph Horwedel, responded to additional questions from Council.

Public Comments: Omar Chatty recommended saving SR 87 land from US 101 to SR 237.

Motion: Council Member Liccardo moved approval to direct staff to move forward with the rezonings for quasi-public property on the four sites identified by staff, including the San José State and Camera 12 sites, including California Theater and the Improv at staff’s discretion, and return to Council on February 25, 2014 for final discussion and direction. Council Member Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, and Staff was directed to move forward on zoning of the properties in question and communicate this intention to the Oversight Board and to the public. This item will return on February 25, 2014 for final discussion and direction. (11-0.)

**NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS**

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10225	Southeast corner of Mabury Road and Educational Park Drive	4	Taylor Morrison	22 Lots/ 18 Units	SFD

## **OPEN FORUM**

- (1) Shelby Brown spoke on her struggles as a homeless person in the City of San José, the long waiting list and need for affordable housing. Mayor Reed referred her to City Manager Staff for assistance.
- (2) Jeff Bedolla expressed personal views on ethics and local government.
- (3) Ross Signorino offered recognition in the passing of an American icon, Shirley Temple-Black.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 4:23 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

rmk/2-11-14MIN