



Pedro "Pete" M. Sanchez, Mayor
Mike Hudson, Mayor Pro-Tem
Jane Day
Sam Derting
Michael A. Segala

First and Third Tuesday
Every Month

A G E N D A

**REGULAR MEETING OF THE
SUISUN CITY COUNCIL, REDEVELOPMENT AGENCY
AND HOUSING AUTHORITY
TUESDAY, AUGUST 16, 2011
7:00 P.M.**

SUISUN CITY COUNCIL CHAMBERS -- 701 CIVIC CENTER BOULEVARD -- SUISUN CITY, CALIFORNIA

(Next Ord. No. - 720
(Next City Council Res. No. 2011 – 77)
(Next Redevelopment Agency Res. No. RA2011 – 26)
(Next Housing Authority Res. No. HA2011 – 05)

ROLL CALL

Council / Board Members
Pledge of Allegiance
Invocation

PRESENTATIONS/APPOINTMENTS

(Presentations, Awards, Proclamations, Appointments).

1. Presentation by Amit Pal of \$1,000 Grant from Pacific Gas and Electric to the Suisun City Fire Department for the World Trade Center Memorial Steel.
2. Presentation of Certificate of Appreciation to Retired Police Office Kevin Page.

PUBLIC COMMENT

(Requests by citizens to discuss any matter under our jurisdiction other than an item posted on this agenda per California Government Code §54954.3 allowing 3 minutes to each speaker).

CONFLICT OF INTEREST NOTIFICATION

(Any items on this agenda that might be a conflict of interest to any Councilmembers / Boardmembers should be identified at this time.)

CONSENT CALENDAR

Consent calendar items requiring little or no discussion may be acted upon with one motion.

City Council

3. Council Adoption of Resolution No. 2011-___: Authorizing the City Manager to Enter into an Addendum to an Existing License Agreement with Island Gypsy Cruises for the Operation of Vessels from the Suisun City Marina – (Wooden).

4. Council Adoption of Resolution No. 2011-___: Authorizing the City Manager to Enter into a Construction Contract on the City's Behalf with Ghilotti Construction for the Chyrl Way Rehabilitation Project – (Kasperson).
5. Council Adoption of Resolution No. 2011-___: Approving and Authorizing the City Manager to Execute Second Lease Amendment with California Marine Sports, Inc. – (Garben).
6. Council Adoption of Resolution No. 2011-___: Supporting the Submission of a Grant Application for Development of a Children's Memory Garden by the Solano County Chapter of The Compassionate Friends – (Wooden).

Joint City Council / Redevelopment Agency

7. Council/Agency Approval of the July 2011 Payroll Warrants inclusive in the amount of \$1,047,018.36; and Council Approval of the July 2011 Payable Warrants inclusive in the amount of \$991,019.50 and Agency Approval of the July 2011 Payable Warrants inclusive in the amount of \$1,037,110.11 – (Finance).

Joint City Council / Redevelopment Agency / Housing Authority

8. Council/Agency/Authority Review and Accept the Financial Officer's Investment Report for the Quarter ending June 30, 2011 – (Anderson).
9. Council/Agency/Commission Approval of the Minutes of the Regular and Special Meetings of the Suisun City Council, Redevelopment Agency Board and Housing Authority Board held on July 19, 2011 – (Hobson).

GENERAL BUSINESS

PUBLIC HEARINGS

City Council

10. PUBLIC HEARING (CONTINUED TO SEPTEMBER 6, 2011)
Council Adoption of Resolution 2011-___: Recommending Approving a Preferred Land Use Alternative for the 2035 General Plan Update – (Wooden).
11. PUBLIC HEARING
Council Consideration, Waive Reading, and Introduction of Ordinance No. ___: Determining it will Comply with the Voluntary Alternative Redevelopment Program Pursuant to Part 1.9 of Division 24 of the California Health and safety Code in Order to Permit the Continued Existence and Operation of the Suisun City Redevelopment Agency – (Garben).

REPORTS (*Informational items only.*)

12. City Manager/Executive Director/Staff –
13. Mayor/Council -Chair/Boardmembers

ADJOURNMENT

A complete packet of information containing Staff Reports and exhibits related to each item is available for public review at least 72 hours prior to a Council /Agency/authority Meeting or, in the event that it is delivered to the Council/Boardmembers less than 72 hours prior to a Council/Agency/Authority Meeting, as soon as it is so delivered. The packet is available for review in the City Manager's Office during normal business hours.

PLEASE NOTE:

1. The City Council hopes to conclude its public business by 11:00 P.M. Ordinarily, no new items will be taken up after the 11:00 P.M. cutoff and any items remaining will be agendized for the next meeting. The agendas have been prepared with the hope that all items scheduled will be discussed within the time allowed.
2. Suisun City is committed to providing full access to these proceedings; individuals with special needs may call 421-7300.
3. City Council agendas are posted at least 72 hours in advance of regular meetings at:

City Hall	Fire Station	Senior Center
701 Civic Center Boulevard	621 Pintail Drive	318 Merganser Drive

AGENDA TRANSMITTAL

MEETING DATE: August 16, 2011

CITY AGENDA ITEM: Adoption of Council Resolution No. 2011-___ Authorizing the City Manager to Enter into an Addendum to an Existing License Agreement with Island Gypsy Cruises for the Operation of Vessels from the Suisun City Marina.

FISCAL IMPACT: A license fee of 10 percent of the gross revenue from the vessels would be paid to the City's General Fund. At this point it is not possible to estimate how much revenue may be generated per year.

BACKGROUND: Since the City has undertaken extensive measures to revitalize the Suisun City Marina for improved usage by the public, the operation of a cruise vessel, tour boat, or water taxi from the Suisun City Marina would be of benefit to the City. In addition, the City intends for the Marina to be a catalyst for revitalization of downtown Suisun City. The operation of these vessels would assist the City in meeting its marketing and entertainment goals for downtown Suisun City.

STAFF REPORT: Key points of the Addendum are as follows:

- The Addendum would allow the Licensee to add the use of his boat, the River Otter, as a tourism vessel.
 - The Licensee would continue to have a non-exclusive right to operate the vessels.
 - The term of the agreement would remain month-to-month.
 - The City Council would retain the right to terminate the agreement without cause by providing to the Licensee a 30-day written notice.
 - The Licensee would pay a license fee equal to 10 percent of the gross revenue for each vessel operated.
 - The Licensee would continue to indemnify and hold the City and City property free and harmless from any and all liability, claims, loss, damages, or expenses and to provide insurance to protect the City.
-

STAFF RECOMMENDATION: It is recommended that the City Council adopt Resolution No. 2011-__: Authorizing the City Manager to Enter into an Addendum to an Existing License Agreement with Island Gypsy Cruises for the Operation of Vessels from the Suisun City Marina.

ATTACHMENTS:

1. Resolution No. 2011-__: Authorizing the City Manager to Enter into an Addendum to an Existing License Agreement with Island Gypsy Cruises for the Operation of Vessels from the Suisun City Marina.
-

PREPARED BY:

April Wooden, Community Development Director

REVIEWED/APPROVED BY:

Suzanne Bragdon, City Manager

RESOLUTION NO. 2011-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY
AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDMENT OF AN
EXISTING LICENSE AGREEMENT WITH ISLAND GYPSY CRUISES FOR THE
OPERATION OF VESSELS FROM THE SUISUN CITY MARINA**

WHEREAS, the City has taken extensive measures to revitalize the Suisun City Marina for improved usage by the public; and

WHEREAS, the City intends for the Marina to be a catalyst for revitalization of downtown Suisun City; and

WHEREAS, the operation of a cruise boat, a water taxi, or other touring vessels from within the Suisun City Marina assists the City in meeting its marketing and entertainment goals for downtown Suisun City.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Suisun City authorizes the City Manager to execute the attached Addendum to the existing License Agreement with Island Gypsy Cruises to allow the use of the Suisun Marina for operation of additional vessels in exchange for a monthly payment to the City in the amount of 10% of the gross revenue generated, and to take such further actions as are necessary or appropriate to implement this Resolution.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Suisun City, duly held on the 16th day of August, 2011 by the following vote:

AYES:	Councilmembers:	_____
NOES:	Councilmembers:	_____
ABSENT:	Councilmembers:	_____
ABSTAIN:	Councilmembers:	_____

WITNESS my hand and the seal of said City this 16th day of August, 2011.

Linda Hobson, CMC
City Clerk

AGENDA TRANSMITTAL

MEETING DATE: August 16, 2011

CITY AGENDA ITEM: Council Adoption of Resolution No. 2011-___: Authorizing the City Manager to Enter into a Construction Contract on the City’s Behalf with Ghilotti Construction for the Chyrl Way Rehabilitation Project.

FISCAL IMPACT: A total of \$855,000 has been appropriated for the Chyrl Way Rehabilitation Project in the FY 2011-2012 Capital Project Budget. This project is funded through a combination of Suisun-Solano Water Authority funds and Fairfield Suisun Sewer District funds. There would be no fiscal impact on the General Fund. Ghilotti Construction, the low bidder, submitted a construction bid of \$671,912 for the project. After a 10 percent contingency (\$67,191) and 5 percent for staff time (\$33,595), the total cost for the construction phase of the project would be \$772,698.

STAFF REPORT: In general, this project would replace water service lines; replace sanitary sewer main pipeline; reconnect the sanitary sewer laterals; and rehabilitate the street pavement including replacing curbs, gutters, and curb ramps. The street would receive a full overlay. This work would be performed on Chyrl Way bounded by Blossom Avenue to the west and Humphrey Drive to the east. Staff developed a bid package for the project based on the completion of the items listed above and advertised the project beginning on July 6, 2011.

Bids for the project were opened on August 4, 2011, at 3:00 PM, at which time seven bids were received and read aloud. Staff has reviewed the low bidder’s proposal and bid documents and has determined that the bid submitted by Ghilotti Construction is responsive and that Ghilotti Construction is a responsible bidder. The bid results were as follows:

<u>Company</u>	<u>Base Bid</u>
<i>Engineer’s Estimate</i>	\$713,800.00
Ghilotti Construction	671,912.00
G.D. Nelson Construction	679,777.00
Bay Pacific Pipeline, Inc.	716,079.50
Hess Construction Co., Inc.	736,116.00
Martin General Engineering, Inc.	755,906.25
Ghilotti Brothers, Inc.	765,272.00
Atlas Peak Construction	797,509.75

The Ghilotti Construction’s contract cost of \$671,912 is \$41,888 below the Engineer’s Estimate of \$713,800. Because the work will include trenching for utilities and a full reconstruction of the roadway, there may be significant disruption for the residents. Written notifications will be sent to all residents, a social media outreach will be undertaken, and a public meeting will be scheduled. Input from the neighborhood will be welcomed and staff will work with the contractor to minimize impacts where possible.

PREPARED BY:

Amanda Dum, Administrative Assistant I

REVIEWED/APPROVED BY:

Daniel Kasperson, Building & Public Works Director

Suzanne Bragdon, City Manager

RECOMMENDATION: It is recommended that the City Council adopt Resolution No. 2011-___: Authorizing the City Manager to Enter into a Construction Contract on the City's Behalf with Ghilotti Construction for Chyrl Way Rehabilitation Project.

ATTACHMENTS:

1. Resolution No. 2011-___: Authorizing the City Manager to Enter into a Construction Contract on the City's Behalf with Ghilotti Construction for the Chyrl Way Rehabilitation Project.

RESOLUTION NO. 2011-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY
AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION
CONTRACT ON THE CITY'S BEHALF WITH GHILOTTI CONSTRUCTION
FOR THE CHYRL WAY REHABILITATION PROJECT**

WHEREAS, staff has prepared plans, specifications and an estimate for bidding the Project; and

WHEREAS, seven bid proposals were received by the City by 3:00 pm on the August 4, 2011, and were opened and read aloud; and

WHEREAS, Ghilotti Construction Company provided the lowest responsive and responsible bid of \$671,912 for a total contract price of \$671,912.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Suisun City authorizes the City Manager to enter into a Construction Contract on behalf of the City with Ghilotti Construction Company for the Chyrl Way Rehabilitation Project in the amount of \$671,912, and to take any and all necessary and appropriate actions to implement this contract. The City Council further authorizes the City Manager to approve charges for contingencies not to exceed \$67,191.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Suisun City duly held on Tuesday, the 16th day of August 2011, by the following vote:

AYES:	Councilmembers:	_____
NOES:	Councilmembers:	_____
ABSENT:	Councilmembers:	_____
ABSTAIN:	Councilmembers:	_____

WITNESS my hand and the seal of said City this 16th day of August 2011.

Donna Pock, CMC
Deputy City Clerk

AGENDA TRANSMITTAL

MEETING DATE: August 16, 2011

CITY AGENDA ITEM: Council Resolution No. 2011-__: Approving and Authorizing the City Manager to Execute Second Lease Amendment with California Marine Sports, Inc.

FISCAL IMPACT: The lease amendment would provide for a revised rent structure from July 2011 through March 2013. The rent would be revised to a payment of \$3,500 per month through 2013. The aggregate rent payments during the first five-term of the lease would decrease to approximately \$192,375, which would be approximately \$43,000 (or 18.3%) less than the rent terms of the original lease.

BACKGROUND: California Marine Sports, Inc. entered into a lease agreement on March 25, 2008, for the operation of a boating sale and repair service center located at 1240 Kellogg Street, adjacent to the Suisun City Marina Boat Launch. At the time, the facility had been vacant for quite some time, and the City was fortunate to find a marine sales and service operator to sustain a successful waterfront business district and marina facility. Due to the current business climate, California Marine Sports has requested a rent reduction to offset a significant decline in its revenue, largely driven by a lack of retail sales.

STAFF REPORT: The boating industry has been hit especially hard by the economic recession. Many boat dealerships located in Northern California have closed over the past couple years. In order for California Marine Sports to weather this economic downturn and to ensure that marine sales and service operations continue to be available in Suisun City, California Marine Sports, Inc. has requested a modification of the base rent payment schedule for the period of July 2011 through March 2013 (March 2013 is the end of the first term of the lease agreement).

A lease amendment with a revised base rent schedule has been prepared, and it is attached to the resolution as Attachment 1. Thus, as previously mentioned, the aggregate rent scheduled to be paid to the Agency during the first five-year term would be approximately \$43,000 (or 18.3%) less than the aggregate rent that would be due pursuant to the original lease terms. Given the desire of the City to continue to offer a full-service marina that includes a marine sales and service facility, staff recommends amending the lease agreement with California Marine Sports.

STAFF RECOMMENDATION: Staff recommends the following adopt Resolution No. 2011-__: Approving and Authorizing the City Manager to Execute Second Lease Amendment with California Marine Sports, Inc.

ATTACHMENTS:

1. Resolution No. 2011-__: Approving and Authorizing the City Manager to Execute Second Lease Amendment with California Marine Sports, Inc.

PREPARED BY:

Jason D. Garben, Economic Development Director

APPROVED BY:

Suzanne Bragdon, City Manager

RESOLUTION NO. 2011-__

**A RESOLUTION OF THE CITY OF SUISUN CITY COUNCIL APPROVING
AND AUTHORIZING THE CITY MANAGER TO EXECUTE SECOND LEASE
AMENDMENT WITH CALIFORNIA MARINE SPORTS, INC**

WHEREAS, the Suisun City Redevelopment Agency (“Agency”) entered into a lease agreement with California Marine Sports, Inc. (“Lessee”) dated as of March 25, 2008; and

WHEREAS, the Agency and Lessee entered into an amendment to the original lease dated April 8, 2009 to restructure rent payments; and

WHEREAS, the City of Suisun City took title to the California Marine Sports Property in March 2011; and

WHEREAS, the Lessee has most recently expressed rent payment hardship to the Agency due a continued declined boating industry; and

WHEREAS, the City of Suisun City and Lessee desire to modify the Original Lease by entering into the proposed amendment attached hereto as Attachment 1.

NOW THEREFORE be it resolved that the City of Suisun City Council hereby approves and authorizes the City Manager to execute the Second Amendment to the Original Lease Agreement with California Marine Sports, Inc.

PASSED AND ADOPTED at a regular meeting of the Suisun City Council meeting held on August 16, 2011, by the following vote:

AYES: Councilmembers: _____
NOES: Councilmembers: _____
ABSENT: Councilmembers: _____
ABSTAIN: Councilmembers: _____

WITNESS my hand and seal of said Agency this 16th day of August, 2011.

Linda Hobson
City Clerk

ATTACHMENT 1

SECOND AMENDMENT TO LEASE AGREEMENT

This Amendment to Lease Agreement (this “**Second Amendment**”) dated as of August __, 2011, is executed by and between the City of Suisun City, a public body corporate and politic (“**Landlord**”) and California Marine Sports, Inc., a California (“**Tenant**”).

RECITALS

WHEREAS, the City of Suisun City Redevelopment Agency (the “**Agency**”) and Tenant entered into a Lease Agreement dated as of March 25, 2008 (the “**Original Lease**”); and

WHEREAS, Agency and Tenant entered into an Amendment to the Original Lease dated April 8, 2009 (the “**First Amendment**”) to modify the rent schedule; and

WHEREAS, pursuant to Section 15.4 of the Original Lease, the City of Suisun City became the Landlord upon title to the Property transferring from the Redevelopment Agency of the City of Suisun City to the City of Suisun City; and

WHEREAS, Landlord and Tenant desire to modify the Original Lease, as amended, by entering into this Second Amendment.

NOW THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, Landlord and Tenant agree as follows:

1. Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Original Lease.
2. Exhibit A of the First Amendment (Base Rent Schedule) is hereby amended to provide that Base Rent for the period July 2011 through March 2013 shall be the amount shown in Exhibit A attached hereto and incorporated herein by reference.
3. Except as set forth in this Amendment, the Original Lease remains unchanged and in full force and effect. Without limiting the generality of the foregoing, the Base Rent chargeable for Years 6 through 20 of the term of the Lease shall be established pursuant to Exhibit C of the Original Lease.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the date first set forth above.

CITY OF SUISUN CITY

CALIFORNIA MARINE SPORTS, INC.,

By: _____
Suzanne Bragdon, City Manager

By: _____
Grant Fulford, President

Attest:

APPROVED AS TO FORM:

By: _____
Linda Hobson, City Clerk

By: _____
Anthony Taylor, City Attorney

Exhibit A
Revised Base Rent Schedule

Apr-08	\$0	Apr-09	\$0	Apr-10	\$2,500	Apr-11	\$3,500	Apr-12	\$3,500
May-08	\$0	May-09	\$0	May-10	\$6,000	May-11	\$6,000	May-12	\$3,500
Jun-08	\$0	Jun-09	\$0	Jun-10	\$6,000	Jun-11	\$6,000	Jun-12	\$3,500
Jul-08	\$2,375	Jul-09	\$3,750	Jul-10	\$6,000	Jul-11	\$3,500	Jul-12	\$3,500
Aug-08	\$2,375	Aug-09	\$3,750	Aug-10	\$6,000	Aug-11	\$3,500	Aug-12	\$3,500
Sep-08	\$2,375	Sep-09	\$3,750	Sep-10	\$6,000	Sep-11	\$3,500	Sep-12	\$3,500
Oct-08	\$2,375	Oct-09	\$3,750	Oct-10	\$4,500	Oct-11	\$3,500	Oct-12	\$3,500
Nov-08	\$2,375	Nov-09	\$2,500	Nov-10	\$3,500	Nov-11	\$3,500	Nov-12	\$3,500
Dec-08	\$2,375	Dec-09	\$2,500	Dec-10	\$3,500	Dec-11	\$3,500	Dec-12	\$3,500
Jan-09	\$2,375	Jan-10	\$2,500	Jan-11	\$3,500	Jan-12	\$3,500	Jan-13	\$3,500
Feb-09	\$2,375	Feb-10	\$2,500	Feb-11	\$3,500	Feb-12	\$3,500	Feb-13	\$3,500
Mar-09	\$2,375	Mar-10	\$2,500	Mar-11	\$3,500	Mar-12	\$3,500	Mar-13	\$3,500

Exhibit A
Revised Base Rent Schedule

Apr-08	\$0	Apr-09	\$0	Apr-10	\$2,500	Apr-11	\$3,500	Apr-12	\$3,500
May-08	\$0	May-09	\$0	May-10	\$6,000	May-11	\$6,000	May-12	\$3,500
Jun-08	\$0	Jun-09	\$0	Jun-10	\$6,000	Jun-11	\$6,000	Jun-12	\$3,500
Jul-08	\$2,375	Jul-09	\$3,750	Jul-10	\$6,000	Jul-11	\$3,500	Jul-12	\$3,500
Aug-08	\$2,375	Aug-09	\$3,750	Aug-10	\$6,000	Aug-11	\$3,500	Aug-12	\$3,500
Sep-08	\$2,375	Sep-09	\$3,750	Sep-10	\$6,000	Sep-11	\$3,500	Sep-12	\$3,500
Oct-08	\$2,375	Oct-09	\$3,750	Oct-10	\$4,500	Oct-11	\$3,500	Oct-12	\$3,500
Nov-08	\$2,375	Nov-09	\$2,500	Nov-10	\$3,500	Nov-11	\$3,500	Nov-12	\$3,500
Dec-08	\$2,375	Dec-09	\$2,500	Dec-10	\$3,500	Dec-11	\$3,500	Dec-12	\$3,500
Jan-09	\$2,375	Jan-10	\$2,500	Jan-11	\$3,500	Jan-12	\$3,500	Jan-13	\$3,500
Feb-09	\$2,375	Feb-10	\$2,500	Feb-11	\$3,500	Feb-12	\$3,500	Feb-13	\$3,500
Mar-09	\$2,375	Mar-10	\$2,500	Mar-11	\$3,500	Mar-12	\$3,500	Mar-13	\$3,500

At the beginning of year 6 (April 2013), 11 (April 2018), and 16 (April 2023), should the Tenant exercise the option to extend the Term of this Agreement, the rent shall increase by the cumulative increase in the San Francisco-Oakland MSA Consumer Price Index ("CPI") percentage rate for the preceding five-year term, however in no event shall the rent increase exceed fifteen percent (15%) every five (5) years.

AGENDA TRANSMITTAL

MEETING DATE: August 16, 2011

CITY AGENDA ITEM: Council Adoption of Resolution No. 2011___: Supporting the Submission of a Grant Application for Development of a Children's Memorial Garden by the Solano County Chapter of The Compassionate Friends.

FISCAL IMPACT: There would be no fiscal impact on the City associated with the adoption of the attached resolution.

BACKGROUND: For several years, Vesta Thompson and her family have planted a tree near the Suisun City waterfront in memory of her son. She also serves as the Chapter Leader of the Solano County Chapter of The Compassionate Friends. The Compassionate Friends is a national nonprofit, self-help support organization which offers friendship and understanding to families who are grieving the death of a child of any age, from any cause. There is no religious affiliation. There are no membership fees or dues. The Solano County chapter has, for over twenty years, been helping families toward the positive resolution of their grief following the death of a child.

STAFF REPORT: The Solano County Chapter of The Compassionate Friends has the opportunity to submit a grant application for funds in the amount of \$10,000 to develop a Children's Memorial Garden in Suisun City. The Chapter has suggested a location near where the memorial trees have been planted, but is open to other locations as well. The funds would be used to provide additional landscaping, perhaps a path of DG, and the placement of a large rock which has been donated as a memorial. The group is seeking support from the City Council in the submission of the grant application.

The Marin County Chapter has developed a Children's Memorial Garden (photo attached). While the Suisun City site would be much more modest, it would reflect the same general idea to provide a memorial to children lost too soon located in a place that is visited often by the public.

RECOMMENDATION: It is recommended that the City Council adopt Resolution No. 2011___: Supporting the Submission of a Grant Application for Development of a Children's Memorial Garden by the Solano County Chapter of The Compassionate Friends.

ATTACHMENTS:

1. Resolution No. 2011-___: Supporting the Submission of a Grant Application for Development of a Children's Memorial Garden by the Solano County Chapter of The Compassionate Friends.
2. Marin County Chapter Children's Memorial Garden Photo.

PREPARED BY:

April Wooden, Community Development Director

REVIEWED/APPROVED BY:

Suzanne Bragdon, City Manager

RESOLUTION NO. 2011-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY TO
SUPPORT THE SUBMISSION OF A GRANT APPLICATION FOR THE
DEVELOPMENT OF A CHILDREN’S MEMORIAL GARDEN BY THE SOLANO
COUNTY CHAPTER OF THE COMPASSIONATE FRIENDS**

WHEREAS, The Compassionate Friends is a national nonprofit, self-help support organization which offers friendship and understanding to families who are grieving the death of a child of any age, from any cause, with no religious affiliation or membership fees or dues; and

WHEREAS, The Solano County Chapter of The Compassionate Friends has, for over twenty years, been helping families toward the positive resolution of their grief following the death of a child; and

WHEREAS, The Solano County Chapter of The Compassionate Friends has the opportunity to submit a grant application to provide funding for the development of a Children’s Memorial Garden in Suisun City; and

WHEREAS, Suisun City desires to encourage the efforts of this organization.

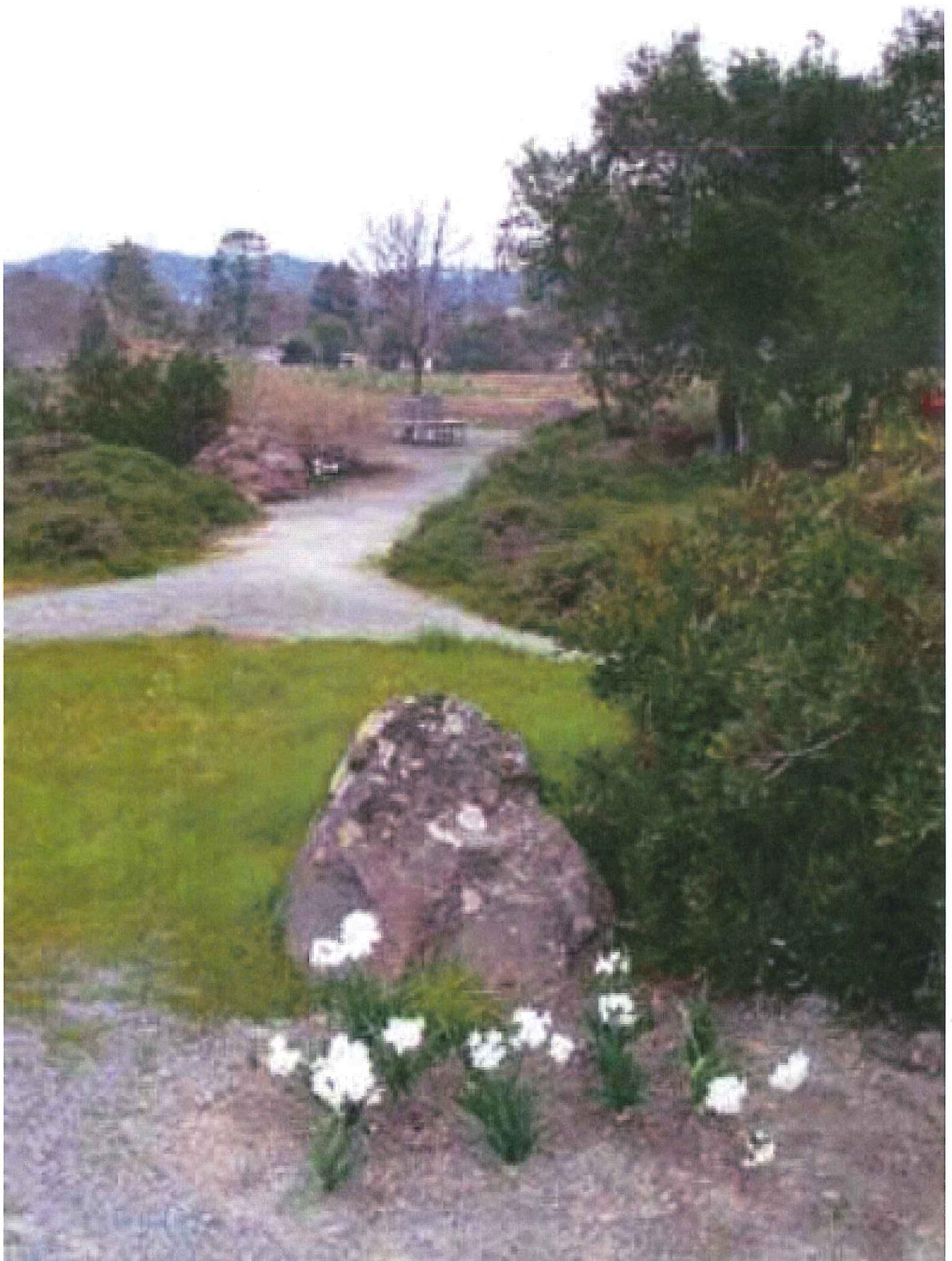
NOW, THEREFORE, BE IT RESOLVED that the Suisun City Council hereby adopts this resolution in support of the submission of a grant application for the development of a Children’s Memorial Garden by the Solano County Chapter of The Compassionate Friends.

PASSED AND ADOPTED at a regular meeting of the Suisun City Council held on Tuesday, the 16th of August 2011, by the following vote:

AYES:	Councilmembers:	_____
NOES:	Councilmembers:	_____
ABSTAIN:	Councilmembers:	_____
ABSENT:	Councilmembers:	_____

WITNESS my hand and the seal this 16th of August 2011.

Linda Hobson, CMC
City Clerk



AGENDA TRANSMITTAL

MEETING DATE: August 16, 2011

JOINT AGENDA ITEM: Accept the Investment Report for the Quarter Ending June 30, 2011.

FISCAL IMPACT: None as this item is for information only.

BACKGROUND: Each quarter we are required to prepare an Investment Report that shows how all the City's/Agency's/Authority's available cash is invested. This report must indicate the type of investment, what institution it is invested in, current value and interest earnings, etc.

STAFF REPORT: The City's and Agency's total cash and investments (par amount) equaled \$43,296,363 for the period ending June 30, 2011.

In terms of return on our investment, we earned 1.44% for the quarter. This compares very favorably with the LAIF return of only 0.48%. As can be seen in the pie chart in the attached report, most of the City's/Agency's/Authority's money is invested in federally insured CD's, US Treasuries, or Agency Notes, all of which generate higher yields than LAIF. The large balance in our Checking Account is necessary to keep our banking fees and charges down (the interest earned is used to offset these costs).

RECOMMENDATION: It is recommended that the Council/Agency/Authority accept the Fourth Quarter Financial Officer's Investment Report.

ATTACHMENTS:

1. Financial Officer's Investment Report, June 30, 2011.

PREPARED BY:

Mark Joseph, Financial Services Manager

REVIEWED/APPROVED BY:

Ronald C. Anderson, Jr., Assistant City Manager

Suzanne Bragdon, City Manager

City of Suisun City
Suisun City Redevelopment Agency
FINANCIAL OFFICER'S INVESTMENT REPORT

June 30, 2011

<u>Category of Investment</u>	<u>Name of Institution</u>	<u>Maturity Date</u>	<u>Par Amount</u>	<u>Market Value*</u>	<u>Amortized Cost</u>	<u>Curr Yield At Market</u>	<u>Est Annual Income</u>
Checking Account	West America Bank	Demand Deposit	\$ 8,421,344	\$ 8,421,344	\$ 8,421,344	-	-
Certificate of Deposit	Travis Credit Union	6/17/2014	\$ 185,000	\$ 185,000	\$ 185,000	2.52%	4,662
Certificate of Deposit	Cathay Bank	7/20/2011	\$ 247,000	\$ 247,000	\$ 247,000	1.10%	2,717
Certificate of Deposit	First Commercial Bank	7/21/2011	\$ 247,000	\$ 247,000	\$ 247,000	1.10%	2,717
Certificate of Deposit	BMW North America	3/16/2012	\$ 247,000	\$ 247,000	\$ 247,000	2.20%	5,434
Certificate of Deposit	American Express-Centurion	9/24/2012	\$ 247,000	\$ 247,000	\$ 247,000	2.35%	5,805
Certificate of Deposit	Barclays Bank	10/9/2012	\$ 247,000	\$ 247,000	\$ 247,000	2.40%	5,928
Certificate of Deposit	GE Money Bank	10/9/2012	\$ 247,000	\$ 247,000	\$ 247,000	2.40%	5,928
Certificate of Deposit	Discover Bank	11/13/2012	\$ 247,000	\$ 247,000	\$ 247,000	2.40%	5,928
Certificate of Deposit	CIT Bank	12/12/2012	\$ 247,000	\$ 247,000	\$ 247,000	2.40%	5,928
Total CD's			\$ 2,161,000	\$ 2,161,000	\$ 2,161,000	2.08%	45,047
State Investment-CITY	LAIF	Demand Deposit	\$ 5,626,684	\$ 5,626,684	\$ 5,626,684	0.49%	31,508
First Amer Treas Oblig Fd	First Amer #31846V203	Demand Deposit	\$ 51,523	\$ 51,523	\$ 51,523	0.00%	-
Federal Agency/Bond Note	FFCB #31331GNQ8	4/24/2012	\$ 980,000	\$ 995,213	\$ 979,991	2.22%	22,050
Federal Agency/Bond Note	FHLB #3133MTZL5	11/15/2012	\$ 260,000	\$ 274,311	\$ 266,295	4.27%	11,700
Federal Agency/Bond Note	FHLB #313373JR4	5/28/2014	\$ 690,000	\$ 699,176	\$ 689,140	1.36%	9,488
Federal Agency/Bond Note	FHLMC #3137EACM9	9/10/2015	\$ 1,100,000	\$ 1,104,573	\$ 1,107,151	1.74%	19,250
Federal Agency/Bond Note	FHLMC #3137EACH0	2/9/2015	\$ 500,000	\$ 526,508	\$ 500,077	2.73%	14,375
Federal Agency/Bond Note	FNMA #3135G0BJ1	6/27/2014	\$ 990,000	\$ 995,495	\$ 995,499	1.12%	11,138
Federal Agency/Bond Note	FNMA #3137EACJ6	4/15/2013	\$ 1,900,000	\$ 1,939,229	\$ 1,898,448	1.59%	30,875
Federal Agency/Global Refer Note	FHLMC #3137EABMO	6/28/2013	\$ 850,000	\$ 905,921	\$ 896,479	3.52%	31,875
Federal Agency/Floating Note	FNMA #31398A6R8	11/23/2012	\$ 1,000,000	\$ 1,001,085	\$ 999,591	0.39%	3,900
Federal Agency/Bond Note	FNMA #31398A2Y7	8/26/2014	\$ 1,000,000	\$ 1,001,957	\$ 1,000,000	1.50%	15,000
Federal Agency/Bond Note	FNMA #31398AU34	7/28/2015	\$ 500,000	\$ 514,766	\$ 513,531	2.31%	11,875
Federal Agency/Bond Note	FNMA #31398AE24	2/22/2013	\$ 475,000	\$ 484,905	\$ 474,632	1.71%	8,313
Federal Agency/Bond Note	FNMA #31398AHZ8	11/19/2012	\$ 300,000	\$ 318,049	\$ 302,298	4.48%	14,250
Total Federal Agency Bond/Note			\$ 10,596,523	\$ 10,812,710	\$ 10,674,656	1.89%	204,089
US Treasury Notes	#912828QZ6	5/31/2011	\$ 350,000	\$ 350,369	\$ 350,092	0.50%	1,750
US Treasury Notes	#912828FU9	9/30/2011	\$ 750,000	\$ 758,321	\$ 749,944	4.45%	33,750
US Treasury Notes	#912828MM9	11/30/2011	\$ 230,000	\$ 230,620	\$ 229,865	0.75%	1,725
US Treasury Notes	#912828MM9	11/30/2011	\$ 2,725,000	\$ 2,732,344	\$ 2,724,028	0.75%	20,438
US Treasury Notes	#912828NE6	5/31/2012	\$ 300,000	\$ 301,452	\$ 300,055	0.75%	2,250
US Treasury Notes	#912828NS5	6/30/2012	\$ 505,000	\$ 506,975	\$ 506,523	0.62%	3,158
US Treasury Notes	#912828NS5	6/30/2012	\$ 510,000	\$ 511,994	\$ 511,446	0.62%	3,188
US Treasury Notes	#912828PR5	1/31/2013	\$ 1,000,000	\$ 1,003,945	\$ 1,000,405	0.62%	6,250
US Treasury Notes	#912828KN9	4/30/2014	\$ 400,000	\$ 412,500	\$ 396,083	1.82%	7,500
US Treasury Notes	#912828LZ1	11/30/2014	\$ 925,000	\$ 959,399	\$ 911,736	2.05%	19,656
US Treasury Notes	#912828PE4	10/31/2015	\$ 700,000	\$ 694,093	\$ 691,542	1.26%	8,750
US Treasury Notes	#912828PE4	10/31/2015	\$ 1,050,000	\$ 1,041,140	\$ 1,053,751	1.26%	13,125
US Treasury Notes	#912828PJ3	11/30/2015	\$ 450,000	\$ 447,785	\$ 447,131	1.38%	6,188
Total US Treasury Bond/Note			\$ 9,895,000	\$ 9,950,937	\$ 9,872,601	1.28%	127,726
				\$ -	-	-	-
TOTAL POOLED INVESTMENTS			\$ 36,700,551	\$ 36,972,675	\$ 36,756,285	1.11%	\$ 408,370

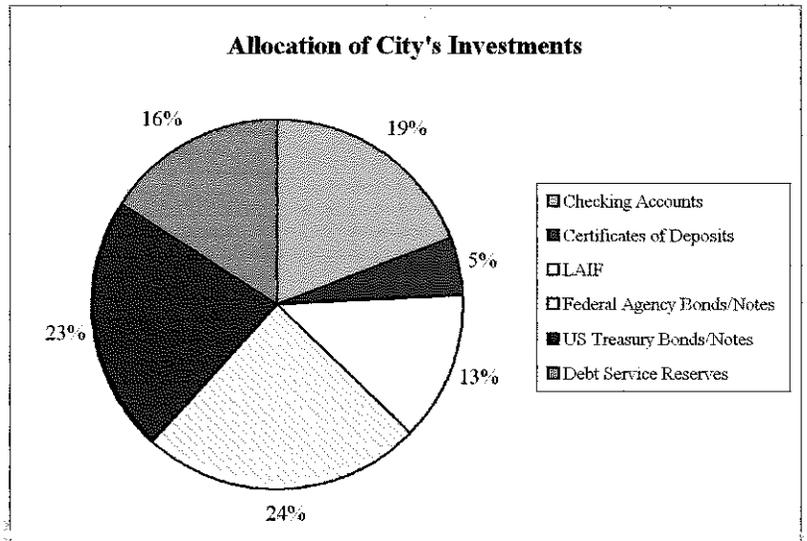
CITY OF
Suisun City Redevelopment Agency
FINANCIAL OFFICER'S INVESTMENT REPORT

June 30, 2011

<u>Category of Investment</u>	<u>Name of Issuer</u>	<u>Maturity</u>	<u>Balance</u>	<u>Market</u>	<u>Amortized</u>	<u>Curr Yield</u>	<u>Est Annual</u>
Reserved for Bond/Debt Service							
Govt Sec Money Market-SSWA 1993	First Amer Treas Oblig Fd	Demand Deposit	34,176	34,176	34,176	0.00%	-
Govt Sec Money Market-SSWA 1993	First Amer Treas Oblig Fd	Demand Deposit	59,380	59,380	59,380	0.00%	-
Govt Sec Money Market-SSWA 1993	Federal Home Loan Bks	11/18/2011	335,000	341,046	341,046	4.79%	16,331
Govt Sec Money Market-SSWA 1993	Federal Home Loan Bks	11/15/2012	335,000	353,438	353,438	4.26%	15,075
Govt Sec Money Market-2004 CVCC	First Amer Treas Oblig Fd	Demand Deposit	19,000	19,000	19,000	0.00%	-
Govt Sec Money Market-2004 CVCC	U.S. Bank Term C/D	Demand Deposit	230,000	230,000	230,000	3.13%	7,199
Govt Sec Money Market- RDA 1998	First Amer Treas Oblig Fd	Demand Deposit	8,543	8,543	8,543	0.00%	-
Govt Sec Money Market- RDA 1998	First Amer Treas Oblig Fd	10/31/2014	740,468	740,468	740,468	2.27%	16,815
Gov Sec Money Market - RDA 2003-A	First Amer Treas Oblig Fd	Demand Deposit	25,283	25,283	25,283	0.00%	-
Govt Sec Money Market- RDA 2003-A	Federal Home Loan Bks	11/18/2011	225,000	229,061	244,029	4.79%	10,969
Govt Sec Money Market- RDA 2003-A	Federal Home Loan Bks	11/15/2012	225,000	237,384	245,064	4.26%	10,125
Gov Sec Money Market - RDA 2003-A	First Amer Treas Oblig Fd	Demand Deposit	0	0	0	0.00%	-
Govt Sec Money Market-RDA 2003-B	First Amer Treas Oblig Fd	Demand Deposit	136,293	136,293	136,293	0.00%	-
Govt Sec Money Market-RDA 2003-B	Federal Home Loan Bks	11/18/2011	1,470,000	1,496,533	1,594,321	4.79%	71,663
Govt Sec Money Market-RDA 2003-B	Federal Home Loan Bks	11/15/2012	1,465,000	1,545,633	1,595,638	4.26%	65,925
Savings Acct-RDA Marina	West America Bank	Demand Deposit	487,668	487,668	487,668	0.40%	867
Marina Debt Service #912828Q26	US Treasury Notes	5/31/2013	800,000	800,844	800,210	0.50%	4,001
Total Debt Service Reserve Funds			\$ 6,585,812	\$ 6,744,751	\$ 6,914,557	3.17%	\$ 218,969
Grand Total			\$ 43,296,363	\$ 43,717,426	\$ 43,670,842	1.44%	\$ 627,339

Summary of Pooled Investments

	<u>Amount</u>	<u>Pct.</u>
Checking Accounts	\$ 8,421,344	19.3%
Certificates of Deposits	\$ 2,161,000	4.9%
LAIF	\$ 5,626,684	12.9%
Federal Agency Bonds/Notes	\$ 10,674,656	24.4%
US Treasury Bonds/Notes	\$ 9,872,601	22.6%
Debt Service Reserves	\$ 6,914,557	15.8%
Total	\$ 43,670,842	100.0%



* Market Valuation for Federal Agency Bonds/Notes and US Treasury Bonds/Notes is from City's Investment Advisor, PFM. Valuation for Debt Service Reserve funds is from the City's Trustee, US Bank.

City Treasurer's Statement:

I hereby certify that I have examined the records and find this report to be correct, that all investments are made in accordance with the investment policy, and the City will be able to meet its obligations for the next six months.

Attest by:

Jeanie F. McMurry 8/10/11
 Jeanie F. McMurry, City Treasurer Date

Submitted by:

Elizabeth Luna 7/29/2011
 Elizabeth Luna, Senior Accountant Date

MINUTES

REGULAR MEETING OF THE SUISUN CITY COUNCIL, REDEVELOPMENT AGENCY AND HOUSING AUTHORITY

TUESDAY, JULY 19, 2011

7:00 P.M.

SUISUN CITY COUNCIL CHAMBERS -- 701 CIVIC CENTER BOULEVARD -- SUISUN CITY, CALIFORNIA

ROLL CALL

Mayor / Chairman Sanchez called the meeting to order at 7:00 PM with Council / Board Members Day, Derting, Hudson, and Segala.

Pledge of Allegiance was led by Council Member Segala.

Invocation was given by City Manager Bragdon.

PRESENTATIONS/APPOINTMENTS

(Presentations, Awards, Proclamations, Appointments).

1. Appointment of Voting Delegate and Alternate(s) for the League of California Cities Annual Conference.

Motioned by Mayor Sanchez and seconded by Council / Board Member Hudson to appoint Council / Board Member Hudson voting delegate and Mayor Sanchez to be the alternate delegate for the League of California Cities Annual Conference. Motion carried unanimously.

2. Presentation of Certificates of Appreciation for Participation in the Fourth of July Activities.

Council Member Segala presented Certificates to:

Herbert Brown, Gemma Geluz, Rowland Roberts, Gus Barkas, Linda Taylor, Kelly Welding, Scott Corey, Brian Kermoade, Alan Knopp, Michael O'Brien, Michael Provencher, Randall Webster, and Pamela Greenwood

3. Presentation of a Proclamation to the Police Department Proclaiming August 2, 2011 as "National Night Out".

Mayor Sanchez read and Council Member Hudson presented the proclamation to Code Enforcement Pamela Greenwood.

7:26 PM – Mayor Sanchez recessed the meeting for refreshments.

7:36 PM – Mayor Sanchez reconvened the Meeting.

PUBLIC COMMENT

(Requests by citizens to discuss any matter under our jurisdiction other than an item posted on this agenda per California Government Code §54954.3 allowing 3 minutes to each speaker).

George Guynn expressed concern about Brown Act rules, selling police dog for \$1, and council salaries.

CONFLICT OF INTEREST NOTIFICATION - None

(Any items on this agenda that might be a conflict of interest to any Councilmembers / Boardmembers should be identified at this time.)

CONSENT CALENDAR

Consent calendar items requiring little or no discussion may be acted upon with one motion.

City Council

4. Council Adoption of Resolution No. **2011-69**: Acting as the Legislative Body of Community Facilities District No. 1, Peterson Ranch, Providing for the Levy and Collection of Special Taxes for Fiscal Year 2011-12 – (Kasperson).
5. Community Facilities District (CFD) No. 2 and CFD Tax Zones 1, 2, 3, and 5 Tax Levy – (Kasperson).
 - a. Council Adoption of Resolution No. **2011-70**: Providing for the Levy and Collection of Special Taxes for Community Facilities District (CFD) No. 2 for Fiscal Year 2011-12.
 - b. Council Adoption of Resolution No. **2011-71**: Adopting the Second Amendment to the Annual Appropriation resolution No. 2011-62 to Appropriate Funds for Capital Improvements in the CFD No. 2 Tax Zone 1 (Amberwood) Fund, and Operating Expenditures in CFD No. 2 Tax Zone 3 (Peterson Ranch) Fund.
6. Setting Ad Valorem Tax Rates for Voter-Approved Debt Service Issues – (Anderson).
 - a. Council Adoption of Resolution No. **2011-72**: Approving the Debt Service Rate for the North Bay Aqueduct Bond Issue for Fiscal Year 2011-12.
 - b. Council Adoption of Resolution No. **2011-73**: Approving the Debt Service Rate for the Highway 12 Bond Issue for Fiscal Year 2011-12.
7. Council Adoption of Resolution No. **2011-74**: Accepting the Landscape along Bikeway on Main Street Project as Completed and Authorizing the City Manager to Record the Notice of Completion for the Construction Contract on the City's Behalf with Parker Landscape Development for the Project – (Kasperson).
8. Council Adoption of Resolution No. **2011-75**: Authorizing the Recruitment of a Police Officer – (Dadisho).

Joint City Council / Redevelopment Agency / Housing Authority

9. Council/Agency/Commission Approval of the Minutes of the Regular and Special Meetings of the Suisun City Council, Redevelopment Agency Board and Housing Authority Board held on June 21, 2011 and July 5, 2011 – (Hobson).

Joint City Council / Redevelopment Agency

10. Council / Agency Approval of the June 2011 Payroll Warrants inclusive in the amount of \$573,350.07; and Council Approval of the June 2011 Payable Warrants inclusive in the amount of \$861,996.62 and Agency Approval of the June 2011 Payable Warrants inclusive in the amount of \$61,918.83 – (Finance).

Council Member Segala requested Item 7 be pulled from Consent Calendar.

Motioned by Council / Board Member Day and seconded by Council/ Board Member Derting to approve the Consent Calendar Items 4-6 and 8-10. Motion carried unanimously.

Motioned by Council / Board Member Segala and seconded by Council/ Board Member Derting to approve Consent Calendar Item 7. Motion carried unanimously.

GENERAL BUSINESS

City Council

11. Council Adoption of Resolution No. 2011-76: Authorizing the City Manager to Enter into a Construction Contract on the City's Behalf with Ghilotti Construction Company for the Pintail Drive Resurfacing Project – (Kasperson).

Motioned by Council Member Day and seconded by Council Member Segala to adopt Council Resolution No. 2011-76. Motion carried unanimously.

PUBLIC HEARINGS: None

REPORTS: (Informational items only.)

12. City Manager/Executive Director/Staff – None

13. Mayor/Council -Chair/Boardmembers

Council / Board Member Segala expressed concern about the vote at the last meeting regarding Solano EDC and asked if the purpose was to reduce an expense in the budget. Mayor Sanchez replied yes.

Council / Board Member Hudson reported would be attending the League of California Cities' Civic Leadership Institute next week.

ADJOURNMENT

There being no further business, Mayor Sanchez adjourned the City Council meeting at 7:49 PM.

Linda Hobson, CMC
City Clerk

AGENDA TRANSMITTAL

MEETING DATE: August 16, 2011

CITY AGENDA ITEM:

PUBLIC HEARING (CONTINUED TO SEPTEMBER 6, 2011)

Council Adoption of Resolution 2011-__; A Resolution of the City Council of the City of Suisun City Recommending Approving a Preferred Land Use Alternative for the 2035 General Plan Update – (Wooden).

STAFF REPORT: Given the urgency of addressing issues tied to the State’s proposed action to eliminate Redevelopment Agencies unless a “ransom” payment is made to the State, this item on the General Plan Update is continued to September 6, 2011.

PREPARED BY:

April Wooden, Community Development Director

REVIEWED/APPROVED BY:

Suzanne Bragdon, City Manager

AGENDA TRANSMITTAL

MEETING DATE: August 16, 2011

CITY AGENDA ITEM: Council Consideration, Introduction of, and Waiver of the Reading of Ordinance No. __: Determining that it Will Comply with the Voluntary Alternative Redevelopment Program Pursuant to Part 1.9 of Division 24 of the California Health and Safety Code in Order to Permit the Continued Existence and Operation of the Suisun City Redevelopment Agency.

FISCAL IMPACT: Pursuant to state law, the City Council has two alternatives: 1) Pay to Play, or 2) Dissolve. The fiscal impacts of these two alternatives for this year and next year would be:

Fiscal Impact	FY 2011-12		FY 2012-13	
	Pay to Play	Dissolution	Pay to Play	Dissolution
Operating Budget	\$1,800,000	\$1,800,000	\$1,800,000	\$1,800,000
New General Fund Property Taxes	\$0	(\$380,000)	\$0	(\$380,000)
Ransom Payment to the State	\$0	\$0	\$1,057,852	\$0
Net Tax Increment	(\$1,000,000)	\$0	(\$1,000,000)	\$0
Housing Set-Aside contribution	(\$500,000)	\$0	(\$500,000)	\$0
Use of one-time reserves	(\$300,000)	\$0	\$0	\$0
NET COSTS	\$0	\$1,420,000	\$1,357,852	\$1,420,000

In addition, it would cost \$4.5 million in FY 2011-12 to Pay to Play, which would avoid the loss of \$12.7 million in RDA assets. (Attachments 2 and 3.)

BACKGROUND: As part of the State's budget bills, the California Legislature has adopted, and the Governor has signed, AB X1 26 (AB 26) and AB X1 27 (AB 27) into law.

AB 26 Dissolves the Redevelopment Agency

This is the first half of a two-part scheme to circumvent the will of the voters. Its impact is as follows:

- Has suspended all activities (except enforceable obligations) of the Suisun City Redevelopment Agency as of June 29, 2011.
- Dissolves the Agency as of October 1, 2011.
- Requires the liquidation of Agency assets subsequent to dissolution estimated to be \$12.7 million (Attachment 2).

AB 26 provides that Agency assets will be liquidated in an expeditious manner, and proceeds would be distributed to other taxing entities by the County Auditor-Controller as property tax proceeds.

PREPARED BY:
APPROVED BY:

Jason D. Garben, Economic Development Director
Suzanne Bragdon, City Manager

AB 27 Provides an Alternative Voluntary Redevelopment Program

The second half of the two-part scheme would do the following:

- Establish an Alternative Voluntary Redevelopment Program that essentially allows the Agency to continue normal operations if the City adopts an "opt-in" Ordinance that requires the City to divert local tax increment revenues to the State.
- If the City fails to adopt an "opt-in" ordinance and to make the payments required pursuant to AB 27, the Agency will be subject AB 26, which, in addition to dissolving the Agency on October 1, 2011, provides for a successor agency to take control of the Agency's assets and obligations under the direction of an Oversight Board comprised primarily of members appointed by the County, School District and Community College District.

At this time, AB 27 requires the City to make payments of \$4,480,454 in FY 2011-12, as published by the State Department of Finance on August 1, 2011. In subsequent years, the payments would be calculated based on the Agency's share of the statewide total of \$400,000,000, with adjustments based on the growth or decline of tax increment revenue, along with additional payments if the Agency were to incur additional debt. Staff estimates the payment based on current information for FY 2012-13 would be \$1,050,000. All subsequent payments would be subject to audit by the State Department of Finance.

Pursuant to AB 27, staff is appealing the payment amounts provided by the State, since the percentage of tax increment necessary to pay debt service on bonds has increased more than 10% over the percentage of tax increment used to pay debt service on bonds during the FY 2008-09. This appeal must be submitted to the State by August 15, 2011. The exact amount of the payment for FY 2011-12, if the appeal is successful, is not known due to vague language in the bill that makes the determining the exact calculation for the appeal amount impossible, however staff estimates that it could be in the neighborhood of \$152,600.

Writ Filed by LCC and CRA Seeking Stay and Challenging Validity of AB 26 and AB 27

The League California of Cities (LCC) and the California Redevelopment Association (CRA) have hired special legal counsel that has essentially opined that AB 26 and AB 27, violate Proposition 22 and the State Constitution, and are invalid and unenforceable. A petition for writ of mandate filed by the CRA, the LCC, the cities of San Jose and Union City, and John Shirey, challenging the legality of AB 26 and AB 27 and requesting a stay of the legislation.

On August 11, 2011, the Supreme Court issued a stay that does the following:

- Stays the implementation of AB 26, *except* the provisions of that legislation that preclude the Agency from: incurring new indebtedness, transferring assets, acquiring real property, entering into new contracts or modifying existing contracts, entering into new partnerships, adopting or amending redevelopment plans, etc.
- Stays the implementation of AB 27 in its entirety.

Staff will continue to closely monitor the litigation and legislative developments.

Maximum Flexibility

It is important to note the City may decide at any time in the future to rescind the “opt-in” Ordinance and allow the Agency to dissolve pursuant to AB 26. There is no additional penalty associated with adopting the Ordinance and subsequently deciding to rescind the ordinance, as long as the Agency acts in good faith and within the current laws. The provisions of AB 26 and its timelines would then apply. In addition, the one-year “look-back” provision would apply at the time of dissolution.

STAFF REPORT: Staff was asked to analyze the impacts of the two alternatives: 1) the Dissolution Alternative or 2) the Pay-to-Play Alternative. Each alternative has been analyzed based on the impacts on the following criteria: operating budget, impact on current projects, RDA assets, ability to pay ransom, future growth in tax revenues, litigation, “clean-up” legislation, appeal of ransom amount, what other cities are choosing to do, etc.

- **Operating Budget** – As shown in the worksheet provided as Attachment 1, if the City Council adopts the “opt-in” ordinance, the City’s budget will need to be cut by \$1.4 million starting in FY 2012-13. If the City decides to allow the Agency to dissolve pursuant to AB 26, \$1.4 million in cuts to the *current* fiscal year budget (FY 2011-12) will need to occur. *Thus, from an ongoing operating budget perspective (assuming that neither revenues nor expenditures change dramatically), the ongoing operating budget impacts of Dissolution versus Pay to Play are virtually identical.*
- **Impact on Current Projects** – The Agency has several projects that are at different stages of completeness. If an “opt-in” ordinance is not adopted, the Agency’s ability to complete any project that has not progressed to a point that has resulted in an “enforceable obligation” would expire. *Thus, projects such as the 30-acre ENA could be lost if the Dissolution alternative is selected.*
- **Agency Assets** – The Agency currently has assets valued at approximately \$12,700,000 (Attachment 2). If the Agency were to dissolve pursuant to AB 26, many of these assets would be liquidated in an expeditious manner pursuant to the direction of an Oversight Board comprised primarily of members appointed by the County, School District and Community College District. For example, real property would be sold and the proceeds would be distributed to the various property tax entities. If these properties could be disposed of at book value, the General Fund would receive about \$1.9 million in one-time moneys. If the City adopts the “opt-in” ordinance, the Agency has an opportunity to maintain control of these assets and use them in the best interest of the City of Suisun City. *Under the Dissolution alternative, the City might gain \$1.9 million at a loss of \$12.7 million in assets, so the Pay-to-Play alternative would appear to be preferable with regard to Agency assets. Further, the City/Agency would retain control of the property to ensure its highest and best use for the community.*
- **Initial Ransom Payment** – Most of the funds used to make the initial “opt-in” (ransom) payment of approximately \$4.5 million would be one-time moneys that are at risk of being lost to the state in the event that the Agency were to dissolve pursuant to AB 26 (Attachment 3). *Thus, the City would lose a very significant portion of this \$4.5 million in either case.*

- **Future Growth in Tax Revenues** – If the City adopts an “opt-in” ordinance, future growth in assessed value due to the ability of the Agency to stay in business will eventually offset the impact of the \$1.4 million in operating reductions. For example, if the assessed values were to grow (through market value increases of existing property and by increases due to new development) by only half of the reduction that has occurred in the past four years, there would be *no fiscal impact* to the City’s budget. Under the Dissolution alternative, the impact in the growth in assessed value would result in about one-fifth the property tax revenue compared with tax increment revenue, and the growth in new development may not be as vigorous without the leverage of the Agency. *Thus, under the Pay-to-Play alternative, the City would enhance its ability to increase future tax revenues.*
- **Ongoing Affordable Housing Program** – By adopting the “opt-in” ordinance, the Agency would retain the ongoing revenue stream of about \$2.2 million per year for senior and affordable housing, such as the Lotz Way and Post Office site projects. *Thus, under the Pay-to-Play alternative, the Agency would continue to have ongoing resources to leverage the creation of affordable and senior housing.*
- **Lawsuit Filed Against State** – As previously mentioned, the petition for writ of mandate filed by the California Redevelopment Association, *et al.* challenging the legality of AB 26 and AB 27 and requesting a stay of the legislation, is currently pending before the California Supreme Court. The Supreme Court has granted the stay, but it is not known how long it will be before the decision is made on the writ. *Keeping the Agency in place until the Supreme Court takes action would be prudent, because attempting to resurrect the Agency in the event of a favorable court ruling after the Agency has been dissolved pursuant to AB 26 would be problematic. The first payment to the State is not due until January 15, 2012, and the City Council could decide to rescind the ordinance prior to making the first payment.*
- **Impact of “Clean-Up” or “Reform” Legislation** – If the law changes through “clean-up” legislation (which is anticipated), if “reform” bills are enacted that are detrimental to the City’s or Agency’s situation, or if other issues surface that compromise the City’s fiscal health as a result of retaining the Agency, as previously mentioned, the City can rescind the “opt-in” ordinance at *any* time in the future and dissolve the Agency pursuant to AB 26 at a later date without additional penalty, if new legislation dramatically alters the impact of paying to play. *Thus, there would be no negative impact associated with the Pay-to Play alternative regarding new legislation.*
- **Appeal of State’s Determination of Ransom Payments** – As directed by Council, staff is submitting an appeal on the payment calculations provided by the State Department of Finance. Due to ambiguous language in AB 27 outlining the calculation of the appeal, it is not possible for the City to determine with certainty the exact amount of the payments due to the State. Estimates calculated by staff indicate the appeal could reduce the figure provided by the State Department of Finance by as much as \$152,600. Pursuant to AB 27, the Department of Finance has until September 15, 2011, to issue a decision on the appeal. However, the Director of the State Department of Finance may extend the appeal decision deadline to October 15, 2011, in which case the date by which the “opt-in” ordinance must be adopted is extended to December 1, 2011 (as opposed to October 1, 2011). *Thus, adopting an “opt-in” ordinance may assist in the effort to minimize the ransom payment.*

- **Look-Back Provision Impacts** – Under AB 26, the state would have the ability to review and reverse actions of the Agency that have occurred within the previous fiscal year. Under the Pay-to-Play alternative, the state would not be able to reverse any Agency actions unless and until the City decides to rescind its “opt-in” ordinance. At that time the state could look back one year. *Thus, under the Pay-to-Play alternative, the Agency could control what actions the state could review, by controlling when and if the Agency chooses to rescind the “opt-in” ordinance.*
- **Survey of Other Cities** – Staff has surveyed a number of cities throughout the state to determine how most cities are proceeding in light of AB 26 and AB 27. Of 32 cities where information was available, 29 intend to adopt the “opt-in” ordinance, two have not yet decided, and one is dissolving its Agency (Attachment 4). *Thus, the Pay-to-Play alternative is what the vast majority of cities are planning to do.*

It should be noted the attached ordinance provides language reflecting the fact that the City understands an action challenging the constitutionality of AB 26 and AB 27 has been filed on behalf of cities, counties and redevelopment agencies, and that although the City currently intends to make “opt-in” payments, **they would be made under protest and without prejudice to the City’s right to recover such amounts and interest thereon, to the extent there is a final determination by the California Supreme Court that AB 26 and AB 27 are unconstitutional.**

Based on the foregoing, staff recommends that the City Council: open the public hearing and receive testimony from the public, consider the item, waive the first reading, and introduce the ordinance. Staff is recommending the City Council introduce the “opt-in” ordinance based on the current legislation and the information available. The language in AB 27 requires that an ordinance be adopted (second reading) by October 1, 2011, if a City desires to retain the activities of the Redevelopment Agency. Attachment 6 provides an outline of the Pay-to-Play process. The dates will change due to the stay issued by the California Supreme Court. The City Attorney’s Office has advised that we should continue to follow the process in spite of the stay, if it is the City Council’s desire to select the Pay-to-Play alternative.

An alternative course of action would be to dissolve the Agency pursuant to AB 26. Attachment 5 provides an outline of the dissolution process. It should be noted that these dates will change due to the stay issued by the California Supreme Court. If the City were to select this alternative, up to \$450,000 in the first year and up to \$250,000 each year thereafter would be available to the Oversight Committee to wind down the affairs of the Agency. The language is vague, but it is anticipated that such expenditures would include: property appraisals, audits, attorneys fees, and other costs associated with the liquidation of assets.

RECOMMENDATION: It is recommended that the City Council:

1. Conduct a Public Hearing; and
2. Introduce and waive first reading of Ordinance No.____: Determining that it Will Comply with the Voluntary Alternative Redevelopment Program Pursuant to Part 1.9 of Division 24 of the California Health and Safety Code in Order to Permit the Continued Existence and Operation of the Suisun City Redevelopment Agency.

ATTACHMENTS:

1. Agency Pay-to-Play vs. Agency Dissolution Analysis.
2. Agency Asset List.
3. Sources of One-Time Funds for FY 2011-12 Ransom Payment.
4. Survey of Cities.
5. Timeline for Actions Pursuant to ABX1 26 (Dissolution Alternative).
6. Timeline for Actions Pursuant to ABX1 27 (Pay-to-Play Alternative).
7. Ordinance No.____: Determining that it Will Comply with the Voluntary Alternative Redevelopment Program Pursuant to Part 1.9 of Division 24 of the California Health and Safety Code in Order to Permit the Continued Existence and Operation of the Suisun City Redevelopment Agency.

Attachment 1

Fiscal Impact	FY 2011-12		FY 2012-13	
	Pay to Play	Dissolution	Pay to Play	Dissolution
Operating Budget	\$1,800,000	\$1,800,000	\$1,800,000	\$1,800,000
New General Fund Property Taxes	\$0	(\$380,000)	\$0	(\$380,000)
Ransom Payment to the State	\$0	\$0	\$1,057,852	\$0
Net Tax Increment	(\$1,000,000)	\$0	(\$1,000,000)	\$0
Housing Set-Aside contribution	(\$500,000)	\$0	(\$500,000)	\$0
Use of one-time reserves	(\$300,000)	\$0	\$0	\$0
NET COSTS	\$0	\$1,420,000	\$1,357,852	\$1,420,000

The table above illustrates the effects of AB 26 or AB27 to ongoing operations for FY 11-12 and FY 12-13.

The **operating budget** line item consists of ongoing expenditures funded by the Agency (excludes any one-time capital project costs). For FY 2011-12 the amount is based on the adopted budget. For FY 2012-13 the amount is based on the adopted budget for FY 2011-12 assuming no increase in expenditures. These expenditures include personnel costs (across seven different City departments), services and supplies (includes costs like phone and internet service, copying, etc), cost allocation charges (that pay for services provided to the Agency by other City departments) contingency, and funds transferred to the General Fund from the Agency.

The new **General Fund property tax** line item represents the additional property tax revenue to the City if the Agency were to dissolve. Based on current assessed value figures, staff estimates \$380,000 of revenue to the City's General Fund if the Agency is dissolved. This revenue would be offset by a loss of \$1,500,000 in revenue to the Agency from tax increment and housing set-aside dollars utilized to pay ongoing administrative costs (see below).

The **ransom payment to the state** line item is the "opt-in" payment in the event the City Council wished to adopt the AB 27 "opt-in" ordinance. No ongoing monies would be used to make the payment in FY 2011-12, thus the \$4.5 million payment is not reflected in this analysis for FY 2011-12.

The **net tax increment** line item is the amount of tax increment the Agency would receive based on current assessed value estimates. If the Agency were dissolved, this revenue would be replaced by the \$380,000 in new property tax revenue.

The **housing set-aside contribution** line item is additional tax increment dedicated to administrative uses associate with low and moderate income housing. This includes personnel costs across four City departments, services and supplies, and cost allocation charges.

The **use of one-time reserves** line item represents carryover amounts and one-time monies utilized to balance the FY 2011-12 budget for the Agency's component of ongoing operations.

This table illustrates that cuts of approximately \$1,420,000 would be necessary *this fiscal year* if the Agency is dissolved.

If the "opt-in" ordinance is adopted, and one-time funds are used to make the FY 2011-12 "opt-in" payment of \$4.5 million, not cuts are necessary this fiscal year.

Looking ahead to next fiscal year, in the event of the dissolution of the Agency, the cuts of \$1,420,000 would need to be maintained.

If the "opt-in" ordinance is adopted, and if the estimated "opt-in" (or ransom) payment is made from ongoing revenues, cuts of approximately \$1,350,000 would be necessary to balance the budget.

Attachment 2

Agency Assets at Risk	"Book Value"
Cash and Deposits	\$ 1,490,000
710 Kellogg Note	\$ 75,000
One Harbor Center Equity Participation	\$ 500,000
Library Advance Repayment from County	\$ 1,000,000
Cal Marine Building	\$ 500,000
SW corner of Lotz and Civic Center*	\$ 135,000
Almond Gardens*	\$ 2,000,000
707 Main Street*	\$ 220,000
30-Acre Site NW Corner Hwy 12 and Marina	\$ 4,950,000
9-Acre Site behind Post Office	\$ 1,805,600
Total "Book Value"	<u>\$ 12,675,600</u>

The list above is a representative list of assets that are at risk of being liquidated or controlled by the successor agency in the event of Agency dissolution.

* It is possible that these assets could stay with the Housing Authority for future affordable housing development activities.

Attachment 3

Initial Ransom Note Funding Sources	Balance Available	Less: Ransom	Residual Balance	Program/Budget Impacts
Net Housing Set-Aside	\$2,200,000	\$1,200,000	\$1,000,000	First-time homebuyer/Neighborhood Reinvestment programs will be suspended for at least FY 2011-12.
Railroad Ave. Extension Project (50%)	\$1,047,100	\$1,047,100	\$0	Project will be delayed; or costs could be transferred to developer of 30-acre site.
Available balance in Almond Gardens	\$1,000,000	\$800,000	\$200,000	20% cash reserve remains for renovations.
Iconic Sign	\$208,000	\$208,000	\$0	Opportunity lost to attract visitors downtown.
Residual Event Funds	\$50,000	\$50,000	\$0	No Christmas events on the Waterfront.
Reverse some of the Civic Center D/S payment	\$2,936,000	\$2,000,000	\$936,000	Loan to Fac. Impact Fund will be paid back over time.
Total	\$7,441,100	\$5,305,100	\$2,136,000	

The table above illustrates approximately \$5,305,100 in one-time funds are available for payment to the State. It is important to note that adopting the ordinance does not lock in how the payment would be made. A decision on how to make the payment must be made by the first City Council meeting in December (December 6, 2011).

Attachment 4

Continuing Agency	Dissolving Agency	Undecided
Bakersfield	Lemore	Concord
Baldwin Park		Vallejo
Banning		
Bellflower		
Carson		
Cypress		
Davis		
Fairfield		
Glendale		
Hesperia		
Irwindale		
Lawndale		
Lemon Grove		
Lompoc		
Long Beach		
Lynwood		
Millbrae		
Napa		
Oceanside		
Palmdale		
Perris		
Placerville		
Rio Vista		
Sacramento		
Santa Monica		
Sea Side		
Signal Hill		
Town of Yucca Valley		
Vacaville		

The above table represents a sampling of what other cities in California are doing with regard to AB 26 and AB 27.

ATTACHMENT 5: TIMELINE FOR ACTIONS PURSUANT TO ABX1 26

ACTION	DATE
Suspension of RDA powers	6/29/2011
RDA adopts an Enforceable Obligation Payment Schedule for payments due through December 2011 (transmit schedule to County Auditor-Controller, State Controller and Department of Finance, which consist of identifying internet web site location of the posted schedule)	On or before August 28, 2011
No payments may be made by RDA for obligations not listed on an adopted enforceable obligation payment schedule (other than payments required to meet obligations with respect to bonded indebtedness)	The earlier of August 28, 2011 or adoption of enforceable obligation payment schedule
If city will not be successor agency, adopt a resolution so stating	9/1/2011
Determine allowed administrative costs, including staffing	9/1/2011
RDA prepares preliminary draft of the initial Recognized Obligation Payment Schedule and provides it to successor agency	On or before 9/30/2011
MOUs with labor organizations representing RDA employees expire (unless a new agreement is reached prior to deadline)	After 9/30/2011
RDA is dissolved (unless ordinance stating payments will be made pursuant to ABX1 27 has been adopted)	10/1/2011
Determine whether city will retain housing responsibilities or transfer those responsibilities to housing authority	10/1/2011
Successor agency takes over responsibility for payment of enforceable obligations; only payments on a Recognized Obligation Payment Schedule may be made after this date	10/1/2011
Successor agency becomes employer of all RDA employee and is deemed successor employer under labor agreements	10/1/2011
All RDA assets (including cash and cash equivalents and accounts receivable), properties, contracts, leases, books and records, buildings and equipment are transferred by law to the successor agency	10/11/2011

<p>Successor agency creates a Redevelopment Obligation Payment Fund</p>	<p>10/1/2011 (no date specified in legislation, but this deadline applies as a practical matter due to other provisions)</p>
<p>Successor agency to remit unencumbered balances of RDA funds to the County Auditor-Controller, including unencumbered balance of Low and Moderate Income Housing Fund</p>	<p>After 10/1/2011</p>
<p>Successor agency to:</p> <ul style="list-style-type: none"> • Dispose of assets and properties as directed by the oversight board • Enforce all former RDA rights for the benefit of taxing entities (collect loans, rents, other revenues that were due to the RDA) • Effectuate transfer of housing functions and assets to entity designated to accept those functions (city or housing authority) • Wind down the affairs of the RDA pursuant to the legislation and in accordance with the direction of the oversight board • Continue to oversee developer of properties until work has been completed or contractual obligations of RDA can be transferred to other parties • Continue to use bond proceeds until the purposes for which bonds were sold have been achieved; use bond proceeds to defease the bonds if purposes can no longer be achieved 	<p>After 10/1/2011</p>
<p>Successor agency prepared first draft Recognized Obligation Payment Schedule</p>	<p>On or before 11/1/2011</p>
<p>Successor agency submits first Recognized Obligation Payment Schedule to State Controller and Department of Finance for period from 1/1/12 to 6/30/12</p>	<p>On or before 12/15/2011</p>
<p>Successor agency to prepare a proposed administrative budget and submit it to the oversight board for its approval. Budget is to include:</p>	<p>For every six-month fiscal period after 10/1/2011</p>

<p>Estimated amounts for successor agency administrative costs for the upcoming six-month fiscal period</p> <p>Proposed sources of payment for administrative costs</p> <p>Proposals for arrangements for administrative and operations services provided by city, county or other entity</p>	
<p>Successor agency to provide administrative cost estimates that are to be paid from property tax revenues deposited in the Redevelopment Property Tax Trust Fund to the County Auditor-Controller</p>	<p>For every six-month fiscal period after 10/1/2011</p>
<p>Successor agency to prepare a Recognized Obligation Payment Schedule, which must identify a source of payment for each obligation from the following sources:</p> <ul style="list-style-type: none"> • Low and Moderate Income Housing Fund • Bond proceeds • Reserve balances • Administrative cost allowance • Redevelopment Property Tax Trust Fund, but only when no other funding source is available or when payment from property tax revenues is required by an enforceable obligation or other provisions of the legislation 	<p>For every six-month fiscal period after 10/1/2011</p>
<p>Statement of indebtedness no longer has any effect and is superseded by the Recognized Obligation Payment Schedule</p>	<p>1/1/2012</p>
<p>Successor agency has no authority to accelerate payments under Recognized Obligation Payment Schedule to prepay loans unless such accelerated payments were required prior to 10/1/11</p>	<p>1/1/2011 through 7/1/2012</p>

ATTACHMENT 6: TIMELINE/PROCESS PURSUANT TO AB 27

ACTION	DATE
Suspension of RDA powers	Signing of bills by Governor (the "Effective Date")
Department of Finance calculates payment amounts and gives notice to all RDAs	On or before 8/1/2011
RDAs may appeal amount of payment only if: <ul style="list-style-type: none"> • Report submitted to State Controller for 2008-2009 fiscal years was wrong, or • The RDA's debt service on bonded indebtedness has increased by more than 10% since 2008-2009 fiscal year 	On or before 8/15/2011
Prepare Enforceable Obligation Schedule (only necessary if ordinance electing to make AB1X 27 payments has not been adopted yet)	8/28/2011
Department of Finance rules on appeals of payment amounts	On or before 9/15/2011, but Department may extend to 10/15/2011
City adopts non-binding resolution saying it will make payments; notify Department of Finance; dissolution of agency is stayed to November 1, 2011 (optional)	On or before 10/1/2011
City adopts ordinance saying it will make payments; prevents dissolution of agency	On or before 10/1/2011; extended to 12/1/2011 if Department of Finance extends time for ruling on appeal of amount of payments
City gives notice of Department of Finance that it has adopted ordinance saying it will make payments	On or before 10/1/2011; presumably extended to 12/1/2011 if Department of Finance extends time for ruling on appeal of amounts of payments
Prepare Statement of Indebtedness	On or before 10/1/2011
City that adopted non-binding resolution adopts ordinance saying it will make payments; notify Department of	On or before 11/1/2011; extended to 12/1/2011 if Department of

Finance; prevents dissolution of agency	Finance extends time for ruling on appeal of amount of payments
City makes first payment due – ½ of amount due (for 2011-2012 and subsequent years)	On or before January 15, (2012)
City makes second payment due – ½ of amount due (for 2011-2012 and subsequent years)	On or before May 15, (2012)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY, CALIFORNIA, DETERMINING IT WILL COMPLY WITH THE VOLUNTARY ALTERNATIVE REDEVELOPMENT PROGRAM PURSUANT TO PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE IN ORDER TO PERMIT THE CONTINUED EXISTENCE AND OPERATION OF THE SUISUN CITY REDEVELOPMENT AGENCY

WHEREAS, the City Council of the City of Suisun City (“City”) approved and adopted the Redevelopment Plan for the Suisun City Redevelopment Project (“Redevelopment Plan”) covering certain properties within the City (the “Project Area”); and

WHEREAS, the Redevelopment Agency of the City of Suisun City (“Agency”) is engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, *et seq.*) (“CRL”); and

WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy; and

WHEREAS, over the next few years, the Agency hopes to implement a variety of redevelopment projects and programs to continue to eliminate and prevent blight, stimulate and expand the Project Area’s economic growth, create and develop local job opportunities and alleviate deficiencies in public infrastructure, to name a few; and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature has recently enacted and the Governor has signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to making certain payments; and

WHEREAS, specifically, AB 1X 26 prohibits agencies from taking numerous actions, effective immediately and purportedly retroactively, and additionally provides that agencies are deemed to be dissolved as of October 1, 2011; and

WHEREAS, AB 1X 27 provides that a community may participate in an “Alternative Voluntary Redevelopment Program,” in order to enable a redevelopment agency within that community to remain in existence and carry out the provisions of the CRL, by enacting an ordinance agreeing to comply with Part 1.9 of Division 24 of the Health and Safety Code; and

WHEREAS, the Alternative Voluntary Redevelopment Program requires that the community agree by ordinance to remit specified annual amounts to the county auditor-controller; and

WHEREAS, under the threat of dissolution pursuant to AB 1X 26, and upon the contingencies and reservations set forth herein, the City shall make the Fiscal Year 2011-2012 community remittance, currently estimated to be Four Million Four Hundred Eighty Thousand Four Hundred Fifty Four Dollars (\$4,480,454), as well as the subsequent annual community remittances as set forth in the CRL; and

WHEREAS, the City reserves the right to appeal the California Director of Finance's determination of the Fiscal Year 2011-12 community remittance, as provided in Health and Safety Code Section 34194; and

WHEREAS, City understands an action challenging the constitutionality of AB 1X 26 and AB 1X 27 has been filed on behalf of cities, counties and redevelopment agencies; and

WHEREAS, while the City currently intends to make these community remittances, they shall be made under protest and without prejudice to the City's right to recover such amounts and interest thereon, to the extent there is a final determination that AB 1X 26 and AB 1X 27 are unconstitutional; and

WHEREAS, the City reserves the right, regardless of any community remittance made pursuant to this Ordinance, to challenge the legality of AB 1X 26 and AB 1X 27; and

WHEREAS, to the extent a court of competent jurisdiction enjoins, restrains, or grants a stay on the effectiveness of the Alternative Voluntary Redevelopment Program's payment obligation of AB 1X 26 and AB 1X 27, the City shall not be obligated to make any community remittance for the duration of such injunction, restraint, or stay; and

WHEREAS, all other legal prerequisites to the adoption of this Ordinance have occurred.

THE CITY COUNCIL OF THE CITY OF SUISUN CITY, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

Section 1. **Recitals.** The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. **Participation in the Alternative Voluntary Redevelopment Program.** In accordance with Health and Safety Code Section 34193, and based on the Recitals set forth above, the City Council hereby determines that the City shall, to the extent required by law, comply with the provisions of Part 1.9 of Division 24 of the Health and Safety Code, as enacted by AB 1X 27.

Section 3. **Payment Under Protest.** Except as set forth in Section 4, below, the City Council hereby determines that the City shall make the community remittances set forth in Health and Safety Code section 34194 *et seq.*

Section 4. Effect of Stay or Determination of Invalidity. City shall not make any community remittance in the event a court of competent jurisdiction either grants a stay on the enforcement of AB 1X 26 and AB 1X 27 or determines that AB 1X 26 and AB 1X 27 are unconstitutional and therefore invalid, and all appeals therefrom are exhausted or unsuccessful, or time for filing an appeal therefrom has lapsed. Any community remittance shall be made under protest and without prejudice to the City's right to recover such amount and interest thereon in the event that there is a final determination that AB 1X 26 and AB 1X 27 are unconstitutional. If there is a final determination that AB 1X 26 and AB 1X 27 are invalid, this Ordinance shall be deemed to be null and void and of no further force or effect. This Ordinance shall not effect or give rise to any waiver of rights or remedies that the City may have, whether in law or in equity, to challenge ABX1 26 or ABX1 27. This Ordinance shall not be construed as the City's willing acceptance of, or concurrence with, either ABX1 26 or ABX1 27; nor does this Ordinance evidence any assertion or belief whatsoever on the part of the City that said bills are constitutional or lawful.

Section 5. Implementation. The City Council hereby authorizes and directs the City Manager to take any action and execute any documents necessary to implement this Ordinance, including but not limited to notifying the Solano County Auditor-Controller, the Controller of the State of California, and the California Department of Finance of the adoption of this Ordinance and the City's agreement to comply with the provisions of Part 1.9 of Division 24 of the Health and Safety Code, as set forth in AB 1X 27.

Section 6. Additional Understandings and Intent. It is the understanding and intent of the City Council that, once the Agency is again authorized to enter into agreements under the CRL, the City will enter into an agreement with the Agency as authorized pursuant to Section 34194.2, whereby the Agency will transfer annual portions of its tax increment to the City in amounts not to exceed the annual community remittance payments to enable the City, directly or indirectly, to make the annual remittance payments. The City Council does not intend, by enactment of this Ordinance, to pledge any of its general fund revenues or assets to make the remittance payments. The City reserves the right to withdraw from making the payments required by ABX1 27 should the amount of such payments (as will be determined by the State Department of Finance) prove to be in excess of the City's available funds not otherwise obligated for other uses.

Section 7. CEQA. The City Council finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") in that it is not a "project," but instead consists of the creation and continuation of a governmental funding mechanism for potential future projects and programs, and does not commit funds to any specific project or program. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Solano in accordance with CEQA Guidelines.

Section 8. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings are based are located at the City Clerk's office located at 701 Civic Center Boulevard, Suisun City, California. The custodian for these records is Donna Pock.

Section 9. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

Section 10. Certification; Publication. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the City of Suisun City, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with Government Code § 36933.

Section 11. Effective Date. This Ordinance shall become effective thirty (30) days from its adoption.

PASSED AND ADOPTED at a regular meeting of the City Council on the ____ day of _____ 2011, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____, Mayor

ATTEST:

_____, City Clerk