



Pedro "Pete" M. Sanchez, Mayor  
Lori Wilson, Mayor Pro-Tem  
Jane Day  
Michael J. Hudson  
Michael A. Segala

First and Third Tuesday  
Every Month

**A G E N D A**

**REGULAR MEETING OF THE  
SUISUN CITY COUNCIL  
SUISUN CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO THE  
REDEVELOPMENT AGENCY OF THE CITY OF SUISUN CITY,  
AND HOUSING AUTHORITY  
TUESDAY, DECEMBER 3, 2013  
7:00 P.M.**

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

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**TELECONFERENCE NOTICE**

*Pursuant to Government Code Section 54953, Subdivision (b), the following Council/Successor Agency/Housing Authority meeting will include teleconference participation by Councilmember Jane Day from: 301 Morgan Street, Suisun City, CA 94585. This Notice and Agenda will be posted at the teleconference location.*

(Next Ord. No. – 725)  
(Next City Council Res. No. 2013 – 69)  
Next Suisun City Council Acting as Successor Agency Res. No. SA2013 – 04  
(Next Housing Authority Res. No. HA2013 – 04)

**ROLL CALL**

Council / Board Members  
Pledge of Allegiance  
Invocation

**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).*

**REPORTS: (Informational items only.)**

1. Mayor/Council -Chair/Boardmembers
  - Chamber Membership – (Councilmember Segala)
2. City Manager/Executive Director/Staff

**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.)*

**PRESENTATIONS/APPOINTMENTS**

*(Presentations, Awards, Proclamations, Appointments).*

3. Introduction and Swearing-in of new Suisun City Police Sergeant Jeff Henderson.

**CONSENT CALENDAR****City Council**

4. Council Adoption of Resolution No. 2013 - \_\_: Authorizing the City Manager to Recruit and Appoint two Communications & Records Technician (CRT's) I/II – (Dadisho).
5. Council Adoption of Resolution No. 2013 - \_\_: Approving a Side Letter with the Suisun City Employees' Association (SCEA) to Extend the Memorandum of Understanding (MOU) to June 30, 2014 – (Anderson).

**Joint City Council / Suisun City Council Acting as Successor Agency / Housing Authority**

6. Council/Agency Approval of the Minutes of the Regular and/or Special Meetings of the Suisun City Council, Suisun City Council Acting as Successor Agency, and Housing Authority held on November 19, 2013 – (Hobson).

**GENERAL BUSINESS****City Council**

7. Council Adoption of Resolution No. 2013-\_\_: Updating Gaming Restrictions in Suisun City Municipal Code Section 15.10.160 F– (Wooden).

**PUBLIC HEARINGS****Suisun City Council Acting as Successor Agency**

8. PUBLIC HEARING - (Continued from November 19, 2013)  
Amending the Main Street West Disposition and Development Agreement (DDA) – (Garben).
  - a. Agency Adoption of Resolution No. SA 2013-\_\_: Approving and Authorizing the Execution of the Fourth Amendment to other Disposition and Development Agreement with Main Street West Partners, LLC.

**ADJOURNMENT**

A complete packet of information containing staff reports and exhibits related to each item for the open session of this meeting, and provided to the City Council, are available for public review at least 72 hours prior to a Council /Agency/Authority Meeting at Suisun City Hall 701 Civic Center Blvd., Suisun City. Agenda related writings or documents provided to a majority of the Council/Board/Commissioners less than 72 hours prior to a Council/Agency/Authority meeting related to an agenda item for the open session of this meeting will be made available for public inspection during normal business hours. An agenda packet is also located at the entrance to the Council Chambers during the meeting for public review. The City may charge photocopying charges for requested copies of such documents. Assistive listening devices may be obtained at the meeting

**PLEASE NOTE:**

1. The City Council/Agency/Authority 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. Agendas are posted at least 72 hours in advance of regular meetings at Suisun City Hall, 701 Civic Center Boulevard, Suisun City, CA. Agendas may be posted at other Suisun City locations including the Suisun City Fire Station, 621 Pintail Drive, Suisun City, CA, and the Suisun City Senior Center, 318 Merganser Drive, Suisun City, CA

## AGENDA TRANSMITTAL

**MEETING DATE:** December 3, 2013

**CITY AGENDA ITEM:** Council Adoption of Resolution No. 2013 - \_\_: Authorizing the City Manager to Recruit and Appoint two Communications & Records Technicians (CRT's) I/II.

**FISCAL IMPACT:** The filling of the open vacancies will save the General Fund approximately \$6,000 for the remainder of this FY, and over \$12,000 for next FY13/14. The savings are a net result in hiring a new CRT at "A" Step, replacing a CRT who was at "D" step.

**BACKGROUND:** With the adoption of the FY 2011-12 Annual Budget, the City Council established a policy of having the Council review and approve any requests to fill vacant positions. With the departure of two of our seasoned Comm Tech's, the Department will be at a critical staffing level. Therefore, staff is requesting Council authorize to fill these two positions.

**STAFF REPORT:** One of our veteran Communications & Records Technicians (CRTs), Danielle Nelson, has notified the Police Chief that she is accepting a Dispatching position with the City of Benicia with an effective date of December 3, 2013. Additionally, the Police Chief learned that another veteran CRT's, Jennifer Crombie, is in the background process with the Solano County Sheriff's Department for a dispatching position. We are anticipating that she will be leaving sometime in February. Recognizing that the recruitment and hiring process usually takes 2-3 months, the department is seeking Council's approval to hire Comm Tech Crombie's replacement as soon as possible, but not prior to her leaving.

With CRT I Nelson's resignation and CRT I Crombie's anticipated departure, the Dispatch/Records Division will only have five fully trained dispatchers. As a result, there would be a minimum of approximately ten hours mandatory Overtime assigned throughout each workweek in order to maintain minimum staffing if these positions are not filled. Furthermore, the CRTs would also be working a large percentage of their shifts alone, which will add more stress and fatigue with the added overtime.

Recruiting for both dispatchers at this time would minimize the number of weeks the Communications/Records Division would be required to work below minimum staffing levels. Primarily because we would hire for Nelson's vacant position immediately and recruit then hire for Crombie's position the day after she leaves, rather than conducting a recruitment after she leaves service. This would ultimately reduce the number of mandatory Overtime hours required by the Department to maintain staffing levels.

**RECOMMENDATION:** It is recommended that the City Council adopt Resolution No. 2013 - \_\_: Authorizing the City Manager to Recruit and Appoint two Communications & Records Technicians (CRT's) I/II.

**PREPARED BY:**

**REVIEWED/APPROVED BY:**

Ed Dadisho, Police Chief  
Suzanne Bragdon, City Manager

**ATTACHMENTS:**

1. Council Adoption of Resolution No. 2013 - \_\_: Authorizing the City Manager to Recruit and Appoint two Communications & Records Technicians (CRT's) I/II.

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RESOLUTION NO. 2013-\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY  
AUTHORIZING THE CITY MANAGER TO RECRUIT AND  
APPOINT TWO COMMUNICATIONS & RECORDS TECHNICIANS (CRT'S) I/II

WHEREAS, with the resignation of Comm Tech I Danielle Nelson, the Police Department will have a Comm Tech I vacancy effective on December 3, 2013; and

WHEREAS, the anticipated resignation of Comm Tech I Jennifer Crombie sometime in February 2014;

WHEREAS, the Police Department will only have five trained Dispatchers due to the resignation of Comm Tech I Danielle Nelson on December 3, 2013 and anticipated resignation of Comm Tech I Jennifer Crombie sometime in February 2014; and

WHEREAS, the Department will have to use Overtime to backfill the Comm Tech vacancy if unfilled, increasing the potential for dispatcher fatigue; and

WHEREAS, filling these vacancies permanently would enable the Department to continue to provide the current level of services to the community.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby authorizes the City Manager to recruit for and to fill two Communications & Records Technicians (CRT's) I/II for one opening and one anticipated opening in Communications Technician

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Suisun City duly held on Tuesday, the 3<sup>rd</sup> day of December 2013, by the following vote:

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

WITNESS my hand and the seal of said City this 3<sup>rd</sup> day of December 2013.

\_\_\_\_\_  
Donna Pock, CMC  
Deputy City Clerk



## AGENDA TRANSMITTAL

**MEETING DATE:** December 3, 2013

**CITY AGENDA ITEM:** Council Consideration of the Adoption of Resolution No. 2013-\_\_ : Approving a Side Letter with the Suisun City Employees' Association (SCEA) to Extend the Memorandum of Understanding (MOU) to June 30, 2014.

**FISCAL IMPACT:** The Side Letter includes a provision that would allow the employees covered by this MOU receive benefits comparable to employees covered by other MOUs regarding the buyback of 32.0 hours of Paid Leave. This provision would cost the City up to \$10,200 this year.

**BACKGROUND:** On July 17, 2012, the City entered into an 18-month MOU with SCEA, which will expire on December 31, 2013.

**STAFF REPORT:** The Parties have met and conferred in good faith on a successor agreement to the current MOU. Due to significant fiscal uncertainties such as when Walmart will be operating, and whether the California State Department of Finance will be successful in its attempt divert \$1,750,000 away from the City, the Parties have agreed to extend the current MOU for six months with the following modifications:

- **Eligible Paid Leave Buyback** – In order to provide the same access to the cashing out of up to 32 hours of Paid Leave per year that employees covered by other MOUs enjoy, employees covered by the SCEA MOU would be allowed to use Paid Leave balances other than Compensatory Time Off (CTO). The use of such other balances would be offset by any Overtime earned during the calendar year.
- **Reopeners for Changes in the City's Fiscal Condition** – During the term of the MOU contract extension, any changes (positive or negative) in the City's fiscal condition would trigger the need to meet and confer in good faith on the consequences of the changes on the MOU.

The MOU would continue to reflect that it is the intent of the Parties to discontinue the Temporary Measures as soon as it is fiscally prudent to do so.

**RECOMMENDATION:** It is recommended that the City Council adopt Resolution No. 2013-\_\_ : Approving a Side Letter with the Suisun City Employees' Association (SCEA) to Extend the Memorandum of Understanding (MOU) to June 30, 2014.

**ATTACHMENTS:**

1. Resolution No. 2013-\_\_ : Approving a Side Letter with the Suisun City Employees' Association (SCEA) to Extend the Memorandum of Understanding (MOU) to June 30, 2014, including the Side Letter as an attachment.

**PREPARED BY:**

Ronald C. Anderson, Jr., Assistant City Manager

**REVIEWED/APPROVED BY:**

Suzanne Bragdon, City Manager

**RESOLUTION NO. 2013 - \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY  
APPROVING A SIDE LETTER WITH THE SUISUN CITY EMPLOYEES'  
ASSOCIATION (SCEA) TO EXTEND THE MEMORANDUM OF UNDERSTANDING  
TO JUNE 30, 2014**

**WHEREAS**, the MOU with SCEA will expire on December 31, 2013; and

**WHEREAS**, the Parties have met and conferred in good faith on a successor agreement;  
and

**WHEREAS**, in the course of said discussions it became clear that employees represented by SCEA may not enjoy the same benefits as employees represented by other bargaining groups;  
and

**WHEREAS**, the City does not desire to have different treatment of its employees with regard to the ability to buyback Eligible Paid Leave; and

**WHEREAS**, the Parties have tentatively agreed to extend the agreement for six months provided that it may be reopened due to changes in the City's fiscal condition; and

**WHEREAS**, on November 19, 2013, the City Council met in closed session to review this tentative agreement, and directed staff to prepare the attached Side Letter.

**NOW, THEREFORE BE IT RESOLVED**, that the City Council hereby approves the attached Side Letter with the Suisun City Employees' Association, and authorizes the City Manager and Assistant City Manager to execute it on the City's behalf.

**PASSED AND ADOPTED** at a Regular Meeting of the City Council of the City of Suisun City duly held on Tuesday, the 3<sup>rd</sup> of December, 2013, by the following vote:

<b>AYES:</b>	Councilmembers:	_____
<b>NOES:</b>	Councilmembers:	_____
<b>ABSENT:</b>	Councilmembers:	_____
<b>ABSTAIN:</b>	Councilmembers:	_____

**WITNESS** my hand and the seal of the City of Suisun City this 3<sup>rd</sup> day of December, 2013.

\_\_\_\_\_  
Linda Hobson, CMC  
City Clerk

**SIDE LETTER AMENDMENT TO THE  
MEMORANDUM OF UNDERSTANDING (MOU)  
BETWEEN THE CITY OF SUISUN CITY AND  
THE SUISUN CITY EMPLOYEES' ASSOCIATION  
SEIU LOCAL 1021**

The Parties entered into the current MOU on July 17, 2012, as modified by Side Letter dated October 25, 2013. The Parties have met and conferred on extending the term of the MOU. The Parties have concluded this process with the following agreement:

**Section 1** – Article XVII Section 7 is hereby amended to read as follows:

7. CTO Buyback. Two alternatives exist for Employees to buyback (cash out) their CTO balances: Subsection A below applies to the buyback of CTO balances, and Subsection B below provides an alternative to Subsection A for the buyback of Eligible Paid Leave balances. Employees may only select one alternative.

- A. Employees are allowed to buyback a maximum of 32.0 hours of CTO in December. The Administrative Services Department (ASD) will send out a request form that includes written verification of each Employee's current CTO balance. Employees may request buyback of CTO by filling out and signing the form provided by ASD. The form must be submitted to ASD by the date provided on the form. With the exception of the December buyback, Employees may not cash out CTO except upon leaving City Service or in the case of an emergency with City Manager approval. No CTO buyback will be allowed for any Employee for a period of four months following the last day of a suspension from duty for disciplinary reasons.
- B. Employees are allowed to cash out a maximum of 32.0 hours of Eligible Paid Leave in December. The Administrative Services Department (ASD) will send out a request form that includes written verification of each Employee's current Eligible Paid Leave balances. Employees may request a buyback of Eligible Paid Leave by filling out and signing the form provided by ASD. The form must be submitted to ASD by the date provided on the form. With the exception of the December buyback, Employees may not cash out Eligible Paid Leave except upon leaving City Service or in the case of an emergency with City Manager approval. No Eligible Paid Leave buyback will be allowed for any Employee for a period of four months following the last day of a suspension from duty for disciplinary reasons.

With respect to this Section, Eligible Paid Leave includes CTO, Holiday Leave, and/or Vacation Leave (in that order of usage). The buyback of Eligible Paid Leave is limited to the difference between the buyback limit of 32.0 hours less the number of Overtime hours earned during the calendar year to date. An example is provided below:

Assuming that the Employee has the following situation

- Earned 8.0 hours of Overtime during the calendar year.
- Has a balance of 12.0 hours of CTO.
- Has a balance of 8.0 hours of Holiday Leave.
- Has a balance of 42.0 hours of Vacation Leave.

Calculation of Eligible Paid Leave

Buyback Limit	32.0 hours
Less: Overtime Earned	<u>8.0 hours</u>
Eligible Paid Leave	24.0 hours

Buyback of Eligible Paid Leave

CTO balance	12.0 hours
Holiday Leave balance	8.0 hours
Vacation Leave balance	<u>4.0 hours</u>
Total Buyback	24.0 hours

**Section 2** – Article XLVII Section 4 is hereby amended to read as follows:

4. Reopener. Upon the written request of the City Manager, the Parties agree to reopen negotiations during the term of this Agreement for any one of the following situations:
  - A. A Declaration of a Fiscal Emergency by the City Council which could result in Layoffs if the Parties do not meet and confer on alternatives.
  - B. If any other bargaining group has an employment contract with the City of Suisun City that contains Temporary Measures that are more advantageous for the Employees than this Agreement, the Parties agree to meet and confer on the modification of Article XLVI of this Agreement.
  - C. A positive or negative change occurs in the City's fiscal status that would affect the availability of funding for services provided in whole or in part by Employees represented by SCEA.

**Section 3** – Article XLVII Section 7 is hereby amended to read as follows:

7. Successor Agreement. This Agreement shall expire on June 30, 2014. Except as provided Section 4 of this Article, meet-and-confer negotiations for a successor agreement shall commence no earlier than March 1, 2014. Either Party may serve upon the other its written request to commence negotiations, as well as its initial written proposals for such successor Agreement. Upon receipt of such written notice and proposals, negotiations shall commence no later than 30 days thereafter. The Parties hereby declare that it is their mutual interest to negotiate a multi-year successor agreement that implements the Class and

Compensation Study consistent with City Council policy direction within the limitations of the City's ability to pay.

**Section 3** – The effective date of this Agreement shall be December 3, 2013.

CITY OF SUISUN CITY

SUISUN CITY EMPLOYEES' ASSOCIATION

\_\_\_\_\_  
Suzanne Bragdon, City Manager      Date

\_\_\_\_\_  
Amber Kent, President      Date

\_\_\_\_\_  
Ronald C. Anderson, Jr., Assist. C. M.      Date

\_\_\_\_\_  
Stephen Cutty, Field Representative      Date



## MINUTES

### REGULAR MEETING OF THE SUISUN CITY COUNCIL

SUISUN CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO THE  
REDEVELOPMENT AGENCY OF THE CITY OF SUISUN CITY,

AND HOUSING AUTHORITY

TUESDAY, NOVEMBER 19, 2013

7:00 P.M.

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

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#### **TELECONFERENCE NOTICE**

*Pursuant to Government Code Section 54953, Subdivision (b), the following Council/Successor Agency/Housing Authority meeting will include teleconference participation by Councilmember Jane Day from: 301 Morgan Street, Suisun City, CA 94585. This Notice and Agenda will be posted at the teleconference location.*

(Next Ord. No. – 724)

(Next City Council Res. No. 2013 – 63)

Next Suisun City Council Acting as Successor Agency Res. No. SA2013 – 04)

(Next Housing Authority Res. No. HA2013 – 04)

#### **ROLL CALL**

Mayor Sanchez called the City Council to order at 7:00 PM with Council / Board Members Day (by teleconference), Hudson, Segala, Wilson, and Sanchez.

Pledge of Allegiance was led by Council / Board Member Segala.

Invocation was given by Evangelist Evelyn Naga of Cornerstone Gospel Four Square Church

#### **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 asked about the status of WalMart. City Manager Bragdon reported WalMart would be rebidding the project next week, should be awarded in January and breaking ground in March.

Jan Davenport thanked the City and Amanda Dum, Management Analyst, who has kept her informed about the bus stop on Merganser.

#### **REPORTS: (Informational items only.)**

##### 1. Mayor/Council -Chair/Boardmembers

Council / Board Member Day stated the invocation was wonderful and reported there were three new businesses down town.

Council / Board Member Hudson reported participating in the Veterans Day parade and as part of the Veterans Days celebration attended the open house of Veterans Express; attended

a Solano College ad hoc committee, and expressed concern about shopping carts around town.

Council / Board Member Segala reported serving as MC at the Veterans Day Ceremonies at the Downtown Theater in Fairfield which was sponsored by the American Legion Reams Post 182, Suisun City on 11/11; attending Alzheimer's Walk on the Waterfront on 10/26; Bicycle Advisory Committee meeting on 11/7; groundbreaking of Fisher House II at Travis AFB on 11/13; Solano Transportation Authority awards event where Suisun City was recognized for Grizzly Island project on 11/13; the Wildlife Rehabilitation Center dedication of the new education wing on 11/16; and monthly Travis Regional Armed Forces Committee meeting on Travis AFB on 11/18. He asked traffic committee to give a written response regarding the all-way stop on Woodlark.

Mayor / Chairman Sanchez reported attending with Council Member Segala the National Safe Routes Day at Crescent School; American Red Cross Hero's Awards at the North Bay Conference Center on 10/9, officiating a wedding on 10/18, Sister Cities Conference on 10/26, along with all council members the Suisun-Solano Water Authority meeting approving water rate increases for the next five years on 10/29, along with Council Member Hudson the opening of the American Cancer office near Cast Iron Grill on 10/30, and STA awards where Suisun City won the Project of the Year Award for our safe routes to school that connects the two schools in Suisun City.

## 2. City Manager/Executive Director/Staff

### **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.)*

Council / Board Member Day reported conflict with Item 16

### **PRESENTATIONS/APPOINTMENTS**

*(Presentations, Awards, Proclamations, Appointments).*

3. Presentation of a Proclamation to Lorraine Hargrave, CEO, Children in Need of Hugs, Proclaiming November 2013 as "*Homeless and Runaway Youth Awareness Month*".

**Mayor Sanchez read and Council Member Segala presented the proclamation to Gabriel Gallareed.**

4. Presentation of a Proclamation to Leadership Volunteer Rick Siefke, American Cancer Society, Inc., Proclaiming October 29 – November 12, 2013 as "*American Cancer Society Weeks*".

**Mayor Sanchez read and Council Member Hudson presented the proclamation to Mr. Siefke.**

5. Presentation of a Proclamation to Senior Police Officer Ronald Aiello in Memory of Suisun City Police Department Search and Drug Detection Police Canine Rex.

**Mayor Sanchez read and Council Member Hudson presented the proclamation to Officer Aiello.**

6. Approving Appointment of Council Member Segala to the Main Street West Ad Hoc Committee.

**Motioned by Council Member Wilson and seconded by Mayor Sanchez to appoint Council Member Segala to the Main Street West Ad Hoc Committee passed with the following roll call vote:**

**AYES: Council Members Day, Segala, Wilson, Sanchez**

**NOES: Council Member Hudson**

7. Approving Appointment of Mayor Pro Tem Wilson to the Agenda Review Committee.

**Motioned by Council Member Day and seconded by Council Member Segala to appoint Council Member Wilson to the Agenda Review Committee passed by the following roll call vote:**

**AYES: Council Members Day, Hudson, Segala, Wilson, Sanchez**

**NOES: Council Member None**

### **CONSENT CALENDAR**

8. Council Adoption of Resolution No. 2013-\_\_\_: Approval of the Sobriety Checkpoint Grant Program – (Dadisho).
- a. Council Adoption of Resolution No. 2013-63: Authorizing the Police Chief to Accept and Administer a Sobriety Checkpoint Grant Program from the State of California, Office of Traffic Safety.
- b. Council Adoption of Resolution No. 2013-64: Adopting the Third Amendment to the Annual Appropriation Resolution No. 2013-31 to Appropriate the Sobriety Checkpoint Grant Program.
9. Council Adoption of Resolution No. 2013-65: Supporting the Renewal of the Designation of a Segment of State Highway Route 12 as a Safety Enhancement Double-Fine Zone beginning January 1, 2014 and ending January 1, 2016 – (Dadisho).

### **Joint City Council / Suisun City Council Acting as Successor Agency / Housing Authority**

10. Council/Agency/Authority Review and Accept the Investment Report for the Quarter Ending September 30, 2013 – (Anderson).
11. Council/Agency Approval of the Minutes of the Regular and/or Special Meetings of the Suisun City Council, Suisun City Council Acting as Successor Agency, and Housing Authority held on October 1, 2013 and October 15, 2013 – (Hobson).

### **Joint City Council / Suisun City Council Acting as Successor Agency**

12. Council/Agency Approval of the October 2013 Payroll Warrants in the amount of \$396,805.02. Council/Agency Approval of the October 2013 Payable Warrants in the amount of \$955,607.48 – (Finance).

**Council / Board Member Hudson requested Item 9 be removed from Consent Calendar.**

**Motioned by Council / Board Member Day and seconded by Mayor / Chairman**

**Sanchez to approve Consent Calendar Items 8, 10, 11, and 12 passed by the following roll call vote:**

**AYES: Council / Board Member Day, Hudson, Segala, Wilson, Sanchez**

**NOES: Council / Board Member None**

**Motioned by Council / Board Member Day and seconded by Council / Board Member Segala to approve Consent Calendar Item 9 passed by the following roll call vote:**

**AYES: Council / Board Member Day, Segala, Wilson, Sanchez**

**NOES: Council / Board Member Hudson**

**7:42 PM – Mayor Sanchez recessed the City Council for a short break.**

**7:53 PM – Mayor Sanchez reconvened the City Council.**

### **GENERAL BUSINESS**

Joint City Council / Suisun City Council Acting as Successor Agency / Housing Authority

13. FY 2013-14 First-Quarter Fiscal Review – (Anderson/Garben).

- a. Review of FY 2012-13 Actual General Fund Budget.
- b. Council Adoption of Resolution No. 2013-66: Adopting the Sixth Amendment to the Annual Appropriation Resolution No. 2012-53 to Appropriate Funding in Various Programs Citywide to Meet Actual Obligations.
- c. Presentation of the FY 2013-14 First-Quarter Fiscal Review.

**Motioned by Council Hudson and seconded by Mayor Sanchez to adopt Council Resolution No. 2013-66 passed by the following roll call vote:**

**AYES: Council / Board Member Day, Hudson, Segala, Wilson, Sanchez**

**NOES: Council / Board Member None**

City Council

14. Council Reauthorization and Continuation of the Suisun City Historic Waterfront Business Improvement District – (Garben/Corey).

- a. Council Adoption of Resolution No. 2013-67: Reauthorizing and Continuing the Suisun City Historic Waterfront Business Improvement District and the Assessment Levy for the District.
- b. Council Adoption of Resolution No. 2013-68: Accepting the 2013 Annual Report, and Approving the Proposed Calendar Year 2014 Operating Budget for the Suisun City Historic Waterfront Business Improvement District.

**Motioned by Council Hudson and seconded by Mayor Sanchez to adopt Council Resolutions No. 2013-67 and No. 2013-68 passed by the following roll call vote:**

**AYES: Council Day, Hudson, Segala, Wilson, Sanchez**

**NOES: Council / Board Member None**

### **PUBLIC HEARINGS**

City Council

## 15. PUBLIC HEARING

Council Conduct Public Hearing, Consider Introduction and Waive Reading of Ordinance No. 724: Amending Chapter 15.04 of Title 15 of the Suisun City Municipal Code, Which Adopts by Reference the 2013 California Building Code, the 2013 California Residential Code, the 2013 California Electrical Code, the 2013 California Plumbing Code, the 2013 California Mechanical Code, the 2013 California Fire Code, the 2013 California Building Standards Administrative Code, the 2013 California Green Building Standards Code and the 2013 California Reference Standards Code – (Kasperson).

**Mayor Sanchez opened the public hearing.**

**George Guynn commented that the BID should be independent and receive no financial support from the City.**

**Motioned by Council Member Segala and seconded by Council Member Wilson to waive the reading of the ordinance and to introduce Ordinance No. 724. Motion carried by the following roll call vote:**

**AYES: Council Day, Hudson, Segala, Wilson, Sanchez**

**NOES: Council / Board Member None**

Suisun City Council Acting as Successor Agency

## 16. PUBLIC HEARING - (Continued to December 3, 2013)

Amending the Main Street West Disposition and Development Agreement (DDA) – (Garben).

- a. Agency Adoption of Resolution No. SA 2013-\_\_\_: Approving and Authorizing the Execution of the Fourth amendment to other Disposition and Development Agreement with Main Street West Partners, LLC.

**Mayor Sanchez opened the public hearing; hearing no comments Mayor Sanchez continued the hearing to December 3, 2013.**

ADJOURNMENT

There being no further business, Mayor Sanchez adjourned the Council at 8:40 PM.

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Linda Hobson, CMC  
City Clerk



## AGENDA TRANSMITTAL

**MEETING DATE:** December 3, 2013

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**CITY AGENDA ITEM:** Council Adoption of Resolution No. 2013-\_\_\_: Updating Gaming Restrictions in Suisun City Municipal Code Section 5.10.160 F.

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**FISCAL IMPACT:** None.

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**BACKGROUND:** City staff has become aware of nearby communities that are considering enacting or have enacted regulations to prohibit “cyber cafes” or “internet cafes” in order to address potential threats to public health and safety, including loitering, drug sales, vandalism, and assaults. Currently, as far as staff is aware, there are no businesses of this type in the City. Staff is bringing forward this resolution for Council consideration to address potential concerns.

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**STAFF REPORT:** Businesses self-described as “cyber cafes” or “internet cafes” have, with increasing frequency, been operating throughout the state. Some of these businesses, including those operating in neighboring communities, offer “sweepstakes games”, along with computer gaming and/or internet access. These “sweepstakes games” are allegedly intended to promote the sale of phone cards or Internet time. Based on the amount of phone time or Internet time purchased, or some other determination, customers receive “credits” to play games on computers or to earn “sweepstakes credit” to redeem for prizes or cash. Frequently, these games have the appearance of Las Vegas-style games of chance, thus creating a casino-like atmosphere at these businesses. The phone time or Internet time purchased is not lost or used in “playing” these games.

### **Experiences of Other Communities**

Staff’s research regarding impacts in other communities established that threats to public health and safety have increased in proximity to some of these businesses. The Fairfield Police Department experienced an increase in calls for service, with 35 incidents occurring in a 6-month period. Most of these calls were for thefts and fights (assaults). Additionally, crime statistics in the area of these businesses was dramatically higher than the previous year – a 49% increase in one of the areas.

Nearby cities such as Vacaville, Antioch, and Pittsburg have also experienced increased criminal activity at these “cyber cafes”, including robberies, illegal drug use and sales, loitering, burglary, assaults, and public intoxication.

### **Other Regulatory Approaches**

Research regarding the regulatory approaches these and other cities have used, along with a review of current case law in California regarding the regulation of such uses, identified that moratoriums and regulation by conditional use permit have resulted in legal challenges. In particular, the City of Hayward is embroiled in litigation in federal court due to its attempt at

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**PREPARED BY:**

April Wooden, Community Development Director *AW*

**REVIEWED/APPROVED BY:**

Suzanne Bragdon, City Manager *SB*

regulation of these businesses. Since the First Amendment provides protection for communication, and that regulation of First Amendment rights is subject to strict scrutiny, a level of review afforded to fundamental rights, any regulation must be narrowly-tailored to be legal.

In December 2012 the California Bureau of Gambling Control (Bureau) issued an Advisory from Kamala Harris, Attorney General, and Wayne J. Quint Jr., Bureau Chief, regarding "internet cafes".

The advisory states:

*With increasing frequency, so-called "Internet cafes" that sell Internet time or phone cards in conjunction with a "promotional sweepstakes", are operating throughout California. The "sweepstakes aspect" of the Internet cafes permits customers to play gambling-themed games on computers to win cash prizes. The Bureau of Gambling Control (Bureau) considers Internet cafes that offer these types of sweepstakes to be illegal gambling operations.*

The advisory explains that, generally, internet cafes are located in storefront strip malls and numerous computer terminals are located inside each business. Customers generally purchase Internet time or phone time using a magnetic striped card provided by the business. The customer swipes the card through a card reader at a computer terminal or station to play gambling-themed games. Along with the Internet time or phone time purchased, customers receive sweepstakes "entries" or "credits" based on the amount spent. Cash prizes ranging from \$1.00 to as much as \$4,000 are paid out daily. The Advisory states that computers that offer the sweepstakes described above are illegal devices prohibited by the Penal Code.

### **Recommended Approach**

Staff recommends that the City take this step to update its code to conform to recent updates in gaming laws and regulations that the State has adopted. This is being done so there is consistency between the City's code and State law. The attached resolution is intended to avoid any confusion over whether the City's code includes the prohibitions in recent State law on gaming. In adopting this resolution to make this clarification, the City is not prohibiting uses that are currently allowed by law and the City is not taking any action to bar any other uses beyond those prohibited uses per State law.

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**RECOMMENDATION:** It is recommended that the:

1. Council Adopt Resolution No. 2013-\_\_\_: Updating Gaming Restrictions in Suisun City Municipal Code Section 5.10.160 F.

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### **ATTACHMENTS:**

1. Resolution No. 2013-\_\_\_: Updating Gaming Restrictions in Suisun City Municipal Code Section 5.10.160 F.
2. Bureau of Gambling Control Law Enforcement Advisory, December 5, 2012

RESOLUTION NO. 2013 - \_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY  
UPDATING GAMING RESTRICTIONS IN SUISUN CITY MUNICIPAL CODE  
SECTION 15.10.160 F.

WHEREAS, the City of Suisun City Municipal Code, Section 15.10 provides that the City Council, by resolution, may adopt regulations to augment or clarify the regulations in Section 5.10.160; and

WHEREAS, regulations in Section 5.10.160 set forth certain illegal gaming and gambling activities that are prohibited by the California Penal Code; and

WHEREAS, the California Bureau of Gambling Control issued a Law Enforcement Advisory December 5, 2012 identifying activities and devices that they have determined are illegal under California Penal Code sections: 330b, subdivision (d); 330a, subdivision (a); and 330.1; which includes so-called "Internet cafes" that sell Internet time or phone cards in conjunction with a "promotional sweepstakes" that permits customers to play gambling-themed games on computers to win cash prize; and

WHEREAS, the City Council desires in the Municipal Code to augment and clarify the prohibition of illegal gambling activities and devices identified as prohibited by the California Penal Code in the Law Enforcement Advisory, *supra*.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves Resolution No. 2013-\_\_\_\_ by adding the following underscored text to the existing Municipal Code Section 15.10.160 F.:

Nothing herein contained in this chapter shall be construed to permit the licensing of any gambling declared illegal by the California Penal Code, including but not limited to Penal Code Section 330.1; Section 330a, subdivision (a); Section 330b, subdivision (b); or any other relevant Penal Code section, whether in a card room, via the use of an electronic device or computer, or through any other means, at any location within the City of Suisun City.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Suisun City duly held on Tuesday, the 3rd day of December 2013, by the following vote:

AYES: Councilmembers: \_\_\_\_\_  
NOES: Councilmembers: \_\_\_\_\_  
ABSENT: Councilmembers: \_\_\_\_\_  
ABSTAIN: Councilmembers: \_\_\_\_\_

WITNESS my hand and the seal of said City this 3rd day of December 2013.

\_\_\_\_\_  
Linda Hobson, CMC  
City Clerk

	<b>BUREAU OF GAMBLING CONTROL</b>	<b>KAMALA D. HARRIS</b> Attorney General
		<b>WAYNE J. QUINT JR.</b> Bureau Chief
<b>NUMBER 11</b>	<b>LAW ENFORCEMENT ADVISORY</b>	<b>DECEMBER 5, 2012</b>

## Internet Cafés

With increasing frequency, so-called “Internet cafés” that sell Internet time or phone cards in conjunction with a “promotional sweepstakes,” are operating throughout California. The “sweepstakes aspect” of the Internet cafés permits customers to play gambling-themed games on computers to win cash prizes. The Bureau of Gambling Control (Bureau) considers Internet cafés that offer these types of sweepstakes to be illegal gambling operations.

### Method of Operation:

In general, Internet cafés are located in storefront strip malls, though they can also be standalone establishments. Numerous computer terminals or stations are located inside each Internet café. Customers generally purchase Internet time or phone time using a magnetic striped card provided by the Internet café. After making a purchase of Internet time or phone time, customers swipe the magnetic card through a card reader at a computer terminal or station inside the Internet café to play gambling-themed games. Along with the Internet time or phone time, customers receive sweepstakes “entries” or “credits” based upon the amount spent (e.g., 100 sweepstakes entries for \$1.00 of Internet time purchased). The sweepstakes entries are displayed on the computer screens as “credits.” The customer then has the option to select one of several gambling-themed games and makes bets with the credits. Customers who win prizes can cash in any winnings, or use the winnings to purchase additional internet time and sweepstakes entries. Cash prizes ranging from \$1.00 to as much as \$4,000 are paid out daily. Customers may be able to receive and play 100 credits per 24-hour period for free, but must purchase Internet time or phone card time to obtain additional sweepstakes credits to play the games once they have played the free credits.

In addition to the onsite computers, a server running the sweepstakes software will typically be present, although a remote location server might also be used. The software operates and controls the game play and pay outs at the computer terminals and maintains customer information. The software is most often provided by out-of-state companies and is designed with the intent of circumventing state gambling laws. It can reasonably be anticipated that this software will be continuously modified to avoid detection and analysis in an attempt to prevent prosecution.

**Existing Law:**

Computers that offer the sweepstakes generally described above are illegal “slot machine[s] or device[s]” prohibited by Penal Code section 330b, subdivision (d). (See also *People ex rel. Lockyer v. Pacific Gaming Technologies* (2000) 82 Cal.App.4th 699 [a vending machine dispensing pre-paid telephone cards with “a sweepstakes feature” and prizes determined by a pre-set computer program is an unlawful gambling device under Penal Code section 330b].) Penal Code section 330a, subdivision (a), describes as prohibited “any slot or card machine, contrivance, appliance or mechanical device” on “which money or other valuable thing is staked or hazarded.” (See also Pen. Code, § 330.1.) Business and Professions Code sections 17200, et seq., and 17500, et seq., provide for civil penalties and other remedies against these Internet café operations for unlawful business practices and false advertising. Penal Code section 335a states, “Any and all money seized in or in connection with such machine or device shall, immediately after such a machine or device has been so destroyed, be paid into the treasury of the city or county.” The operator may sue for recovery of the devices within 30 days after issuance of the notice of intended destruction under Penal Code section 335a.

**Assistance:**

The Bureau will assist California law enforcement agencies working toward prosecution or pursuing civil or administrative actions in connection with Internet café gambling operations. Assistance may encompass advice, Bureau personnel and equipment, search and arrest warrant examples, and other experienced assistance with enforcement operations. The local law enforcement agency will retain the lead role and be responsible for evidence retention, seizure of funds, and prosecution, or civil or administrative action against the establishment.

*This advisory is for informational purposes only and is not intended to be legal advice.*

*For more information regarding this advisory, contact the California Department of Justice, Bureau of Gambling Control at (916)227-3584*

