



CITY COUNCIL AGENDA

NOVEMBER 10, 2009

AMENDED AGENDA

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
ROSE HERRERA
JUDY CHIRCO, VICE MAYOR
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:30 a.m. - Closed Session, Call to Order in Council Chambers
Adjourn to Closed Session in Council Chambers Conference Room, W133
[See Separate Agenda](#) [See RDA Agenda](#)
1:30 p.m. - Regular Session, Council Chambers, City Hall
- * 7:00 p.m. - Continue RDA Budget Public Hearing, Council Chambers, City Hall

- **Invocation (District 10)**
- **Pledge of Allegiance**
- **Orders of the Day**

* Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

JOINT COUNCIL/SAN JOSÉ FINANCING AUTHORITY MEETING TO BE HEARD IMMEDIATELY AFTER CONSENT CALENDAR.

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

* **PLEASE NOTE: THE REDEVELOPMENT AGENCY BOARD BUDGET PUBLIC HEARING WILL OPEN IN THE AFTERNOON SESSION AND CONTINUE TO THE EVENING SESSION.**

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Xactly Corporation for their innovative approach in optimizing sales performance for small and large companies. (Economic Development)
- 1.2 Presentation of a proclamation declaring November 14th, 2009 as “World Diabetes Day” in the City of San José. (Liccardo)

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

Recommendation: Approval of minutes:

- (a) [Regular Minutes of September 1, 2009.](#)
- (b) [Greenprint 2009 Update Study Session Minutes of September 8, 2009.](#)
- (c) [Regular Minutes of September 15, 2009](#)
- (d) [Regular Minutes of September 22, 2009](#)
- (e) [Regular Minutes of September 29, 2009](#)
- (f) [Joint City/RDA/County Minutes of September 30, 2009](#)

2.2 Final adoption of ordinances.

2.3 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) [Request for an excused absence for Vice Mayor Chirco from the Closed Session Meeting of the City Council on October 27, 2009 due to illness – medical appointment. \(Chirco\)](#)
(Rules Committee referral 10/28/09)
- (b) [Request for an excused absence for Vice Mayor Chirco from the Regular Meeting of the Rules and Open Government Committee on October 28, 2009 due to illness – medical appointment. \(Chirco\)](#)
(Rules Committee referral 10/28/09)

2. CONSENT CALENDAR

2.4 [Proposed Revisions to Title 12 of the San José Municipal Code relating to Advice from the City Attorney.](#)

Recommendation: As recommended by the Elections Commission, approve an [ordinance](#) amending Chapters 12.05 and 12.12 of Title 12 of the San José Municipal Code permitting persons subject to elections, campaign and lobbying provisions to request written advice from the City Attorney. (City Attorney's Office/City Clerk)

2.5 **Proposed Revisions to Resolution 72547, Regulations and Procedures for the San José Elections Commission Investigations and Hearings.**

Recommendation: As recommended by the Elections Commission, approve a resolution making various revisions to City Council Resolution No. 72547 which sets forth the regulations and procedures for the Commission's investigations and hearings. (City Attorney's Office/City Clerk)

* **RECOMMEND DEFERRAL TO 11/17/09 PER CITY ATTORNEY'S OFFICE**

2.6 [Agreement with RTKL Associates for Wireless Reinforcement Design Project.](#)

Recommendation: Approve the second amendment to the consultant [agreement](#) with RTKL Associates, Inc. for engineering design services for the New City Hall In-Building Wireless Reinforcement Design Project extending the term of the agreement from December 31, 2009 to December 31, 2010, at no cost to the City. CEQA: Not a Project. (Public Works/Information Technology)

2.7 [Downtown San José Property-Based Business Improvement District Financial Report for FY 2008-09.](#)

Recommendation: Accept the Downtown San José Property-Based Business Improvement District Financial Report for FY 2008-09. CEQA: Exempt: File No. PP08-095. Council District 3. (Public Works/Transportation)

3. STRATEGIC SUPPORT SERVICES

3.1 **Report of the City Manager, Debra Figone (Verbal Report)**

3.2 **Report of the Rules and Open Government Committee – [October 21, 2009](#) Mayor Reed, Chair**

- (a) City Council (City Clerk)
 - (1) Review October 27, 2009 Final Agenda
 - (a) Add new items to final agenda
 - (b) Assign "Time Certain" to Agenda items if needed
 - (c) Review of Items that Meet Exception Rules (if needed)

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules and Open Government Committee – October 21, 2009

Mayor Reed, Chair (Cont'd.)

- (a) City Council (Cont'd.)
 - (2) Review November 3, 2009 Draft Agenda
 - (a) Add new items to draft agenda
 - (b) Assign “Time Certain” to Agenda items if needed
 - (c) Review of Items that Meet Exception Rules (if needed)
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Review of upcoming Study Session Agendas
- (d) Legislative Update
 - (1) State
 - (2) Federal
 - (a) Support the legislative objective of extending the federal alternative fuels excise tax credit provisions in H.R. 1835 and S. 1408. (Airport)

HEARD BY COUNCIL ON 10/27/09

- (e) Meeting Schedules
 - (1) Approval to set a Special City Council meeting regarding the 2010-2011 Budget Planning Process on November 5, 2009 in the City Council Chambers from 9:00 a.m. – 12:30 p.m.. (City Manager’s Office)
 - (f) The Public Record
 - (g) Appointments to Boards, Commissions and Committee
 - (h) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approve the proposed designation of Councilmember Kansen Chu as the voting delegate at the November 14, 2009 Annual Business Meeting for the Nation League of Cities (NLC). A one-week turnaround to Council is requested in order to inform the NLC of the City’s Representative. (City Manager’s Office)
- ##### **HEARD BY COUNCIL ON 10/27/09**
- (i) Review of Additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee
 - (j) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (3) Significant Public Record Act Requests
 - (4) Council Policy Manual Update
 - (k) Open Forum
 - (l) Adjournment

3.3 Report of the Public Safety, Finance and Strategic Support Committee Councilmember Nguyen, Chair – *No Report.*

3. STRATEGIC SUPPORT SERVICES

3.4 [Proposed Revisions to the San José Municipal Code relating to conflicts of interest in the Office of Independent Police Auditor.](#)

Recommendation: Approve an [ordinance](#) amending Chapter 8.04 of Title 8 of the San José Municipal Code to add a new Section 8.04.030 allowing and granting the Independent Police Auditor (IPA) the limited contract authority to appoint an alternate IPA to assume the IPA's duties and responsibilities related to the auditing of Internal Affairs investigations of complaints when the IPA has a conflict of interest warranting disqualification of the IPA's Office. (City Attorney's Office)

3.5 Independent Police Auditor Recruitment.

Recommendation:

- (a) Accept the draft profile of the Independent Police Auditor position, and approve the draft conflict of interest form and timeline for the recruitment.
- (b) Direct staff and Consultant on next steps for posting the position and beginning to accept applicants.

CEQA: Not a Project. (Human Resources)

* **RECOMMEND DEFERRAL TO 11/17/09 PER ADMINISTRATION**

3.6 Report of the Rules and Open Government Committee – [October 14, 2009](#) Mayor Reed, Chair

- (a) City Council (City Clerk)
 - (1) Review October 20, 2009 Final Agenda
 - (a) Add new items to final agenda
 - (1) Approve travel to New York City on November 9-10, 2009 for Madison Nguyen to participate in Changing the Odds: Learning from the Harlem Children's Zone Model. (Nguyen)
 - (b) Assign "Time Certain" to Agenda items if needed
 - (c) Review of Items that Meet Exception Rules (if needed)
 - (2) Review October 27, 2009 Draft Agenda
 - (a) Add new items to draft agenda
 - (b) Assign "Time Certain" to Agenda items if needed
 - (c) Review of Items that Meet Exception Rules (if needed)
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Review of upcoming Study Session Agendas
- (d) Legislative Update
 - (1) State
 - (2) Federal
- (e) Meeting Schedules
 - (1) Set a Special City Council Meeting for Thursday, December 3, 2009 from 9:00 a.m. until 12:00 Noon in the Committee Rooms (W119-120) for the purpose of conducting interviews and making appointments to the Appeals Hearing Board, the Civil Service Commission, the Police & Fire Retirement Board and the Federated Retirement Board. (City Clerk)

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.6 Report of the Rules and Open Government Committee – October 14, 2009

Mayor Reed, Chair (Cont'd.)

- (f) The Public Record
 - (g) Appointments to Boards, Commissions and Committee
 - (1) Approve appointment of Donna Cox to the Mobilehome Advisory Commission (Resident) for an unexpired term ending December 31, 2011. (Chu)
 - (h) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approve the City Auditor's Monthly Report of Activities for September 2009. (Auditor)
 - (2) Accept the Administration's request to defer the discussion of consideration of an amendment to sections 4.04.020A.3 (b) (c) and (e) of the San Jose Municipal Code regarding contract authority to the October 28, 2009 Rules and Open Government Committee meeting. (Finance)
 - (3) Approval of the designation of the Youth Job Fair as a City Council sponsored special event and authorization to accept donations of materials and services for the event. (Clerk)
 - (4) Approval of District 2 Edenvale Technology Park Resource Fair as a City and Redevelopment Agency sponsored special event, to expend City and Agency funds and authorization to accept donations of materials and services for the event. (City Clerk)
 - (5) Approval of District 4 Mid Autumn Festival as a City sponsored special event, to expend City funds and authorization to accept donations of materials and services for the event. (City Clerk)
 - (6) Approval of the designation of the District 5 Christmas Toy Drive as a City Council sponsored special event and authorization to accept donations of materials and services for the event. (City Clerk)
 - (i) Review of Additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (a) Refer to T&E Committee a proposal regarding taxicab driver permits. (Mayor Reed/Liccardo/Kalra)
 - (4) Public Safety, Finance and Strategic Support Committee
 - (j) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (3) Significant Public Record Act Requests
 - (4) Council Policy Manual Update
 - (k) Open Forum
 - (1) Adjournment
- * (Deferred from 11/3/09 – Item 3.2)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – [October 26, 2009](#) Councilmember Pyle, Chair

- (a) Call to Order and Roll Call
- (b) Review of Work Plan
- (c) Consent Calendar
 - (1) Review of Relevant 2010 Legislative Guiding Principles.
 - (2) Review of the City’s Policy Exempting Affordable Housing from Payment of Parkland Dedication/Park Impact Fees.
 - (3) Catalyst Fund.
- (d) Reports to Committee
 - (1) Chief Development Officer’s Monthly Verbal Report. (City Manager’s Office)
 - (2) Catalyst Fund.
 - (3) Major League Baseball Stadium Development. (Economic Development/Redevelopment Agency)
 - (4) Downtown Retail Update. (Redevelopment Agency)
 - (5) Downtown Office Recruitment Update. (Redevelopment Agency)
 - (6) San José Medical Center. (Economic Development/Redevelopment Agency)
 - (7) 1stACT “Small Wonders” Workplan/Year Three. (Economic Development)
 - (8) Mexican Heritage Plaza Update. (General Services)
- (e) Open Forum
- (f) Adjournment

4.2 [First Amendment to the Development Agreement with Novellus Systems, Inc.](#) [Presentation](#)

[Attachment – Memo from Councilmember Chu](#)

- * **Recommendation:** Consider an [ordinance](#) to approve a First Amendment to the Development Agreement with Novellus Systems, Inc. and Vista Montana as approved by Ordinance No. 28154 and entered into on December 20, 2007 to extend the reservation of the residential unit capacity under the North San José Area Development Policy an additional two years relative to the development of certain real properties located in North San José. CEQA: Addendum to the North San José Area Development Policy Update Final Environmental Impact Report. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).

[DA - Novellus](#) – District 4

(Continued from 10/20/09 – Item 11.3 and 11/3/09 – Item 4.2)

4.3 [Actions related to the Multi-Family Housing at Belovida at Newbury Park.](#) [Supplemental – Memo from the Departments of Finance and Housing](#)

Recommendation: Adopt a [resolution](#):

- (a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as “City of San José Multifamily Housing Revenue Bonds (Belovida at Newbury Park Senior Apartments), Series 2009A” in an aggregate principal amount not to exceed \$26,200,000 (the “Bonds”);

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Actions related to the Multi-Family Housing at Belovida at Newbury Park.

Recommendation: Adopt a resolution:

- (b) Approving a loan of Bond proceeds to Belovida at Newbury Park, L.P., a California limited partnership created by CORE Affordable Housing, LLC and EAH, Inc., to finance the construction of the Belovida at Newbury Park Senior Apartments located at 1777 Newbury Park Drive in San José;
- (c) Approving in substantially final form the Bonds, [Trust Indenture](#), [Loan Agreement](#), and [Regulatory Agreement and Declaration of Restrictive Covenants; Attachment – Contract for Subordination Agreement](#)
- (d) Authorizing the City Manager, Director of Finance, Assistant Director of Finance, Treasury Division Manager, Debt Administrator, and Director of Housing, or their designees, to execute and, as appropriate, to negotiate, execute and deliver these Bond documents and other related Bond documents as necessary; and
- (e) Approving a change in the project’s income restrictions, related to units restricted to extremely low-income and very low-income households, to 48 units restricted to households at or below 30% of Area Median Income (“AMI”), 136 units restricted to households at or below 50% of AMI, and one unrestricted manager’s unit.

CEQA: Mitigated Negative Declaration, File No. PDC07-015. Council District 3.
(Housing/Finance)

* (Deferred from 10/27/09 – Item 4.2 and 11/3/09 – Item 4.3)

4.4 [Report on RFP for Multi-Family Loan Portfolio Management System.](#)

Recommendation:

- (a) Accept report on Request for Proposal for the purchase of a Multi-Family Loan Portfolio Management System and adoption of a resolution authorizing the Director of Finance to:
 - (1) Execute an [agreement](#) with MK Partners, Inc. (Encino, CA) for the implementation of the Multi-Family Loan Portfolio Management System in an amount not to exceed \$246,700 including all professional and technical support services required to implement the system as well as hosting services that will be provided by Salesforce.com Inc. (San Francisco, CA) under a separate subscription agreement.
 - (2) Execute change orders not to exceed a contingency amount of \$40,000 to cover any unanticipated changes in the system design and implementation.
 - (3) Execute ten one-year options to renew the agreements for continued technical support and hosting services subject to annual appropriation of funding.
- (b) Adopt the following Appropriation Ordinance amendments in the Low and Moderate Income Housing Fund (Fund 443) for 2009-2010:
 - (1) Decrease the Ending Fund Balance by \$286,700; and
 - (2) Increase the Housing Department’s Non-Personal/Equipment Appropriation in the amount of \$286,700.

CEQA: Not a Project. (Finance/City Manager’s Office)

* (Deferred from 11/3/09 – Item 2.5)

* **RECOMMEND DEFERRAL TO 11/17/09 PER ADMINISTRATION**

5. NEIGHBORHOOD SERVICES

5.1 **Report of the Neighborhood Services and Education Committee**
Councilmember Campos, Chair – *No Report.*

5.2 **[Report on RFP for Retail Concessions for Happy Hollow Park and Zoo.](#)**

[Supplemental Memo from the Director of Parks, Recreation and Neighborhood Services](#)

Recommendation: Accept report on Request for Proposal for the outsourcing of Happy Hollow Park and Zoo Retail Concessions and adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute a Retail Concession Agreement with Urban Park Concessionaires to provide retail services at Happy Hollow Park and Zoo inside the newly constructed “Explore & More Store,” effective from the date of execution by the City Manager through five (5) years, with fifteen percent (15%) of gross sales from the Retail Store to be paid to the City, with a Minimum Annual Guarantee of \$6,300 per month.
- (b) Execute two additional one-year options to extend the agreement after the initial term of the Retail Concession Agreement.

CEQA: Mitigated Negative Declaration, File No. PP05-142, dated April, 2007. (Parks, Recreation and Neighborhood Services)

* (Deferred from 11/3/09 – Item 5.2)

* **RECOMMEND DEFERRAL TO 11/17/09 PER ADMINISTRATION**

6. TRANSPORTATION & AVIATION SERVICES

6.1 **Report of the Transportation and Environment Committee**
Councilmember Liccardo, Chair – *No Report.*

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 **[2009 Special Event and Venue Recycling Report.](#)**

[Supplemental – Memo from the Director of Environmental Services](#)

Recommendation: As recommended by the Transportation and Environment Committee on October 5, 2009:

- (a) Accept this staff report on key special event recycling accomplishments and opportunities for improvement
- (b) Effective May 1, 2010, require special events with over 1,000 attendees, as a condition of their Event Authorization to do the following:
 - (1) Ban Styrofoam™ use by food vendors;
 - (2) Require the use of use # 1 Polyethylene terephthalate plastic recyclable beverage containers for cups 7oz and greater, and paper cups for less than 7 oz.; and
 - (3) Collect, at minimum, plastics, glass, metals, and cardboard for recycling.

(Item continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 2009 Special Event and Venue Recycling Report. (Cont'd.)

Recommendation:

(c) Establish a Green Events Grants Program to help off-set additional costs associated with producing green events in San José.

(Environmental Services)

[Transportation and Environment Committee referral 10/5/09 – Item C(1)]

(Deferred from 10/20/09 – Item 6.3)

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

* *See Item 8.1 “Public Hearing on the Agency’s FY 2009-10 Revised Capital and Operating Budgets and 2010-2015 CIP” on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.*

- Notice of City Engineer’s Pending Decision on Final Maps
- Notice of City Engineer’s Award of Construction Projects
Open Forum
Members of the Public are invited to speak on any item that does not appear on today’s Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board.
- Council will recess until 7:00 p.m.
- Continue Redevelopment Agency Board Meeting
- Adjournment

**JOINT CITY OF SAN JOSÉ
CITY COUNCIL/FINANCING AUTHORITY
AGENDA**

1:30 P.M.

TUESDAY, NOVEMBER 10, 2009

CHAMBERS

1. Call to Order

2. [Actions Related to the Brookwood Family Apartments.](#)

[Supplemental – Memo from the Departments of Finance and Housing](#)

Recommendation:

- (a) Adopt a [resolution](#) of the City Council:
- (1) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Brookwood Terrace Family Apartments), Series 2009B" in the principal amount not to exceed \$13,600,000 (the "Bonds");
 - (2) Approving a loan of Bond proceeds to Brookwood Terrace Family Apartments, L.P., a California limited partnership, for financing a portion of the costs of constructing the Brookwood Terrace Family Apartments (the "Project") located at 1338-1350 E. San Antonio Street in San José;
 - (3) Approving in substantially final form the Bonds, [Trust Indenture](#), [Financing Agreement](#), [Regulatory Agreement](#), [Declaration of Restrictive Covenants](#), the [Intercreditor Agreement](#), [Bond Purchase Agreement](#) and [Official Statement](#);
 - (4) Authorizing the City Manager, Assistant Finance Director, Director of Housing or their designees to execute and, as appropriate, to negotiate, execute and deliver these bond documents and other related bond documents as necessary.
 - (5) Authorizing the Director of Housing, to negotiate and execute an agreement with The City of San José Financing Authority related to the Ground Lease revenues of the Project and ultimate disposition of the Project Improvements and the Site.

(Item continued on the next page)

**JOINT CITY OF SAN JOSÉ
CITY COUNCIL/FINANCING AUTHORITY
AGENDA (CONT'D.)**

1:30 P.M.

TUESDAY, NOVEMBER 10, 2009

CHAMBERS

2. Actions Related to the Brookwood Family Apartments. (Cont'd.)

Recommendation:

- (b) Adopt a [resolution](#) of the City of San José Financing Authority Board:
- (1) Authorizing the Executive Director of The City of San José Financing Authority, or designee, to acquire the Project site (the "Site") from the Borrower and negotiate and execute a Ground Lease of the Site back to the Borrower for a term of up to 75 years with an annual rent of \$1.00 for the first 55 years, to be increased at the time of repayment of the City's construction/permanent loan.
 - (2) Authorizing the Executive Director of The City of San José Financing Authority to negotiate and execute an agreement with the City of San José related to the Ground Lease revenues from the Project and the ultimate disposition of the Project Improvements and the Site.

CEQA: Mitigated Negative Declaration, File No. PDC08-038. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Finance/Housing)

3. [Actions Related to the Orvieto Family Apartments.](#)

[Supplemental – Memo from the Departments of Finance and Housing](#)

Recommendation:

- (a) Adopt a resolution of the City Council:
- (1) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Orvieto Family Apartments), Series 2009C" in the principal amount not to exceed \$14,200,000 (the "Bonds");
 - (2) Approving a loan of Bond proceeds to Orvieto Family Apartments, L.P., a California limited partnership, for financing a portion of the costs of constructing the Orvieto Family Apartments (the "Project") located at 80 Montecito Vista Drive in San José;

(Item continued on the next page)

**JOINT CITY OF SAN JOSÉ
CITY COUNCIL/FINANCING AUTHORITY
AGENDA (CONT'D.)**

1:30 P.M.

TUESDAY, NOVEMBER 10, 2009

CHAMBERS

3. Actions Related to the Orvioto Family Apartments. (Cont'd.)

Recommendation:

- (a) Adopt a [resolution](#) of the City Council: (Cont'd.)
 - (3) Approving in substantially final form the Bonds, [Trust Indenture](#), [Financing Agreement](#), [Regulatory Agreement](#), [Declaration of Restrictive Covenants](#), the [Intercreditor Agreement](#), [Bond Purchase Agreement](#), and [Official Statement](#); and
 - (4) Authorizing the City Manager, Assistant Finance Director, Director of Housing or their designees to execute and, as appropriate, to negotiate, execute and deliver these bond documents and other related bond documents as necessary.
 - (5) Authorizing the Director of Housing, to negotiate and execute an agreement with The City of San José Financing Authority related to the Ground Lease revenues of the Project and ultimate disposition of the Project Improvements and the Site.
- (b) Adopt a [resolution](#) of the City of San José Financing Authority Board:
 - (1) Authorizing the Executive Director of The City of San José Financing Authority, or designee, to acquire the Project site (the "Site") from the Borrower and negotiate and execute a Ground Lease of the Site back to the Borrower for a term of up to 75 years with an annual rent of \$1.00 for the first 55 years, to be increased at the time of repayment of the City's construction/permanent loan.
 - (2) Authorizing the Executive Director of The City of San José Financing Authority to negotiate and execute an agreement with the City of San José related to the Ground Lease revenues from the Project and the ultimate disposition of the Project Improvements and the Site.

CEQA: Exempt. Council District 7. (Finance/Housing)

4. Adjourn the San José Financing Authority.

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:
- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
 - b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
 - c) Speakers should discuss topics related to City business on the agenda.
 - d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
 - e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
 - f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
 - g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.