



AGENDA OF THE CUPERTINO CITY COUNCIL

Tuesday, December 5, 2023

Televised Special Meeting (5:00) and
Regular City Council Meeting (6:45)

CITY COUNCIL

HUNG WEI, MAYOR

SHEILA MOHAN, VICE MAYOR

LIANG CHAO, COUNCILMEMBER

J.R. FRUEN, COUNCILMEMBER

KITTY MOORE, COUNCILMEMBER

IN PERSON AND TELECONFERENCE MEETING

For more information:
(408) 777-3200 | www.cupertino.org

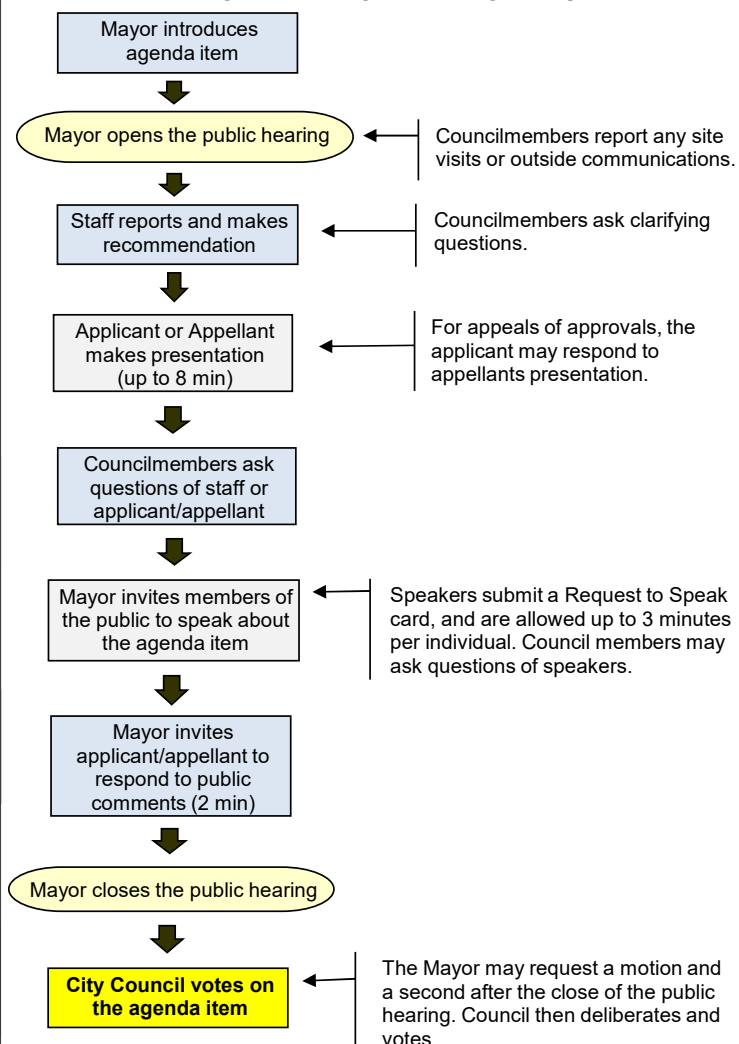
CONDUCT OF BUSINESS

The Mayor is the presiding officer of the City Council. Any member of the public may speak on any item on the agenda for up to three minutes. All statements and questions must be addressed to the Mayor.

City Council hearings serve as a venue for the discussion of sometimes divergent points of view. Please respect the opinions of others and refrain from cheering or clapping. That may delay the meeting or intimidate other persons wishing to express alternate views. Actions that disrupt the meeting will result in a warning, followed by removal if disruption continues.

Oral public comments will be accepted during the meeting. Comments may be made during "oral communications" for matters not on the agenda, and during the public comment period for each agenda item. Identifying yourself is voluntary and not required to attend the meeting or provide comments.

FLOWCHART FOR HEARING ITEMS:



PUBLIC HEARINGS

The City Council is required by law to hold public hearings on certain matters prior to making its decision. Notice to interested parties is given by legal advertisement in the local newspaper of general circulation at least 10 calendar days preceding the hearing date. Applications requiring public hearings include change of zoning, variances, use permits, and tentative maps.

COUNCIL MEETINGS

The City Council regularly meets the first and third Tuesdays of each month. These meetings are held at 6:45 p.m. Closed sessions, when needed, are normally held at 6:00 p.m. Closed sessions cover items such as personnel, litigation, or the sale, purchase, or lease of property. The law requires certain actions taken in closed session to be reported in open session.

Urgent business, holidays, or election days may trigger special or adjourned meetings. These meetings will be noticed beforehand.

AGENDAS, MINUTES, AND PACKETS AVAILABLE ON THE WEB

Agendas, minutes, and packets for current and prior City Council and Planning Commission meetings are available at www.cupertino.org, or you can purchase the items on CD.

CITY COUNCIL DECISION IS FINAL

Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to [www.http://www.cupertino.org/index.aspx?page=125](http://www.cupertino.org/index.aspx?page=125) for a reconsideration petition form.



CITY OF CUPERTINO

AGENDA

CITY COUNCIL

10350 Torre Avenue, Council Chamber and via Teleconference

Tuesday, December 5, 2023

5:00 PM

Televised Special Meeting (5:00) and Regular City Council Meeting (6:45)

IN-PERSON AND TELECONFERENCE / PUBLIC PARTICIPATION INFORMATION

Members of the public wishing to observe the meeting may do so in one of the following ways:

- 1) Attend in person at Cupertino Community Hall, 10350 Torre Avenue.
- 2) Tune to Comcast Channel 26 and AT&T U-Verse Channel 99 on your TV.
- 3) The meeting will also be streamed live on and online at www.Cupertino.org/youtube and www.Cupertino.org/webcast

Members of the public wishing to comment on an item on the agenda may do so in the following ways:

- 1) Appear in person at Cupertino Community Hall.
- 2) E-mail comments by 4:00 p.m. on Tuesday, December 5 to the Council at citycouncil@cupertino.org. These e-mail comments will also be forwarded to Councilmembers by the City Clerk's office before the meeting and posted to the City's website after the meeting.

Members of the public may provide oral public comments during the Meeting as follows:

Oral public comments will be accepted during the meeting. Comments may be made during "oral communications" for matters not on the agenda, and during the public comment period for each agenda item.

Oral public comments may be made during the public comment period for each agenda item.

Members of the audience who address the City Council must come to the lectern/microphone, and are requested to complete a Speaker Card and identify themselves.

Completion of Speaker Cards and identifying yourself is voluntary and not required to attend the meeting or provide comments.

3) Teleconferencing Instructions

To address the City Council, click on the link below to register in advance and access the meeting:

Online

Register in advance for this webinar:

https://cityofcupertino.zoom.us/webinar/register/WN_1qDtPC31RsmLVc4WXjeYxw

Phone

Dial: 669-900-6833 and enter Webinar ID: 938 7738 4168 (Type *9 to raise hand to speak, *6 to unmute yourself). Unregistered participants will be called on by the last four digits of their phone number.

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)

162.255.36.11 (US East)

Meeting ID: 938 7738 4168

SIP: 93877384168@zoomcrc.com

After registering, you will receive a confirmation email containing information about joining the webinar.

Please read the following instructions carefully:

1. You can directly download the teleconference software or connect to the meeting in your internet browser. If you are using your browser, make sure you are using a current and up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers, including Internet Explorer.
2. You will be asked to enter an email address and a name, followed by an email with instructions on how to connect to the meeting. Your email address will not be disclosed to the public. If you wish to make an oral public comment but do not wish to provide your name, you may enter "Cupertino Resident" or similar designation.
3. When the Mayor calls for the item on which you wish to speak, click on "raise hand," or, if you are calling in, press *9. Speakers will be notified shortly before they are called to

peak.

4. When called, please limit your remarks to the time allotted and the specific agenda topic.

5. Members of the public that wish to share a document must email cityclerk@cupertino.org prior to speaking. These documents will be posted to the City's website after the meeting.

NOTICE AND CALL FOR A SPECIAL MEETING OF THE CUPERTINO CITY COUNCIL

NOTICE IS HEREBY GIVEN that a special meeting of the Cupertino City Council is hereby called for Tuesday, December 05, 2023, commencing at 5:00 p.m. in Community Hall Council Chamber, 10350 Torre Avenue, Cupertino, California 95014 and via teleconference. Said special meeting shall be for the purpose of conducting business on the subject matters listed below under the heading, "Special Meeting."

SPECIAL MEETING

ROLL CALL - 5:00 PM

STUDY SESSION

1. Subject: Receive presentation regarding revenue tax measure options for the City's General Fund and provide direction to staff on which revenue tax measure(s), if any, to explore for feasibility through opinion research for the November 2024 election
Recommended Action: Provide direction to staff regarding exploring the feasibility of one or more potential revenue tax measures-Transaction and Use Tax, Transient Occupancy Tax, Parcel Tax, and/or Business Operations Tax-through opinion research for the November 2024 election
Presenter: Kristina Alfaro, Director of Administrative Services
[Staff Report](#)
[A - Presentation](#)

ADJOURNMENT

REGULAR MEETING

CALL TO ORDER - 6:45 PM

PLEDGE OF ALLEGIANCE

ROLL CALL

CLOSED SESSION REPORT

CEREMONIAL ITEMS

1. Subject: Certificates of appreciation to volunteers at the Silicon Valley Korean School (SVKS)
Recommended Action: Present certificates of appreciation to volunteers at the Silicon Valley Korean School (SVKS)
[A - Certificates of Appreciation](#)
2. Subject: Recognition of Manny Barragan as the City of Cupertino's longest serving employee
Recommended Action: Present certificate of recognition recognizing Manny Barragan as the City of Cupertino's longest serving employee
[A - Certificate of Recognition](#)
3. Subject: Recognition of Cupertino Sister City relationships
Recommended Action: Present certificates of recognition to Cupertino Sister Cities representing Cupertino, Italy; Toyokawa, Japan; Hsinchu, Taiwan; and Bhubaneswar, India
[A - Certificates of Recognition](#)

POSTPONEMENTS AND ORDERS OF THE DAY**ORAL COMMUNICATIONS**

This portion of the meeting is reserved for persons wishing to address the Council on any matter within the jurisdiction of the Council and not on the agenda for discussion, including informational items. The total time for Oral Communications will ordinarily be limited to one hour. Individual speakers are limited to three (3) minutes. As necessary, the Chair may further limit the time allowed to individual speakers, or reschedule remaining comments to the end of the meeting on a first come first heard basis, with priority given to students. In most cases, State law will prohibit the Council from discussing or making any decisions with respect to a matter not listed on the agenda. A councilmember may, however, briefly respond to statements made or questions posed by speakers. A councilmember may also ask a question for clarification, provide a reference for factual information, request staff to report back concerning a matter, or request that an item be added to a future City Council agenda in response to public comment.

CONSENT CALENDAR (Items 4-9)

Items appearing on the Consent Calendar are considered routine City business and may be approved by one motion. Typical items may include meeting minutes, awards of contracts, the ratification of accounts payable, and second readings of ordinances. Any member of the Council may request to have an item removed from the Consent Calendar based on the rules set forth in the City Council Procedures Manual. Members of the public may provide input on one or more consent calendar items when the

Mayor asks for public comments on the Consent Calendar.

4. Subject: Approval of the November 14 City Council minutes
Recommended Action: Approve the November 14 City Council minutes
[A - Draft Minutes](#)
5. Subject: Approval of the November 21 City Council minutes
Recommended Action: Approve the November 21 City Council minutes
[A - Draft Minutes](#)
6. Subject: Adopt a maximum rate schedule for Rate Period Four for Recology to provide recycling, organics, and solid waste collection, recycling and organics processing services, and transport for disposal as calculated using the allowed and approved methodology in the Franchise Agreement
Recommended Action: Adopt Resolution No. 23-131 (Attachment A) to:
 1. Adopt a maximum rate schedule for Rate Period Four for Recology to provide recycling, organics, and solid waste collection, recycling and organics processing services, and transport for disposal pursuant to the franchise agreement (Attachment B; (FA Exhibit E2)); and
 2. Authorize the use of \$547,800 of restricted-use enterprise funds to smooth and mitigate the Rate Period Four adjustment[Staff Report](#)
[A - Draft Resolution](#)
[B - Recology Franchise Agreement](#)
[C - HF&H Report - Review of RP 4 Application](#)
7. Subject: Adopt the OPEB and Pension Trust Investment Policies
Recommended Action: 1. Adopt Resolution No. 23-132 for the OPEB Trust Investment Policy; and
2. Adopt Resolution No. 23-133 for the Pension Trust Investment Policy
[Staff Report](#)
[A - OPEB Trust Investment Policy \(Clean\)](#)
[B - OPEB Trust Investment Policy \(Redline\)](#)
[C - OPEB Investment Policy Draft Resolution](#)
[D - Pension Trust Investment Policy \(Clean\)](#)
[E - Pension Trust Investment Policy \(Redline\)](#)
[F - Pension Investment Policy Draft Resolution](#)
8. Subject: Accept Silicon Valley Clean Energy Community Resilience Grant in the amount of up to \$233,963 to purchase two (2) Electric Vehicle Autonomous Renewable Charger (EV ARC) portable solar-powered charging systems

Recommended Action: 1. Adopt Resolution No. 23-134 accepting up to \$233,963 in Community Resilience Grant funding from Silicon Valley Clean Energy and approving budget modification #2324-316 increasing appropriation and estimated revenues by \$233,963 in 100-87-829 900-990 for procurement of Electric Vehicle Autonomous Renewable Charger units;

2. Authorize the City Manager to execute all documentation necessary to accept the grant funding; and

3. Authorize the purchase the two (2) Electric Vehicle Autonomous Renewable Charger units, trailer and additional support and maintenance for a total cost of \$233,963 from Beam Global

[Staff Report](#)

[A - Draft Resolution](#)

[B - Grant Agreement](#)

[C - Beam EV ARC Price Quote](#)

[D - BEAM EV ARC Product Informaiton](#)

[E - State of California Agreement](#)

9. Subject: Cancellation of the December 19, 2023 City Council meeting

Recommended Action: Cancel the December 19, 2023 City Council meeting

[Staff Report](#)

PUBLIC HEARINGS

Effective January 1, 2023, Government Code Section 65103.5 (SB 1214) limits the distribution of copyrighted material associated with the review of development projects. Members of the public wishing to view plans that cannot otherwise be distributed under SB 1214 may make an appointment with the Planning Division to view them at City Hall by sending an email to planning@cupertino.org. Plans will also be made available digitally during the hearing to consider the proposal.

10. Subject: Municipal Code Amendment to Chapter 19.76 and a Conditional Use Permit and Parking Exception for the use of a former public school site by a pre-kindergarten through 9th grade private educational facility and associated Categorical Exemption under CEQA. (Application No.: MCA-2023-003; U-2023-002; EXC-2023-009 Applicant: City of Cupertino; Grace Stanat on behalf of Tessellations; Location: BA-zoned (Public Building) properties in Cupertino; 1170 Yorkshire Drive; APN# 362-08-001)

Recommended Action: That the City Council:

1. Find the proposed actions exempt from the California Environmental Quality Act (CEQA) and CEQA Guidelines;
2. Conduct the first reading of Ordinance No. 23-2253: "An Ordinance of the City Council of the City of Cupertino amending Cupertino Municipal Code Chapter 19.76 (Table 19.76.030) to allow privately operated educational uses and privately operated public serving uses in the BA zoning district ";
3. Adopt Resolution No. 23-135 approving the Conditional Use Permit (U-2023-002); and
4. Adopt Resolution No. 23-136 approving the Parking Exception (EXC-2023-009)

Presenter: Emi Sugiyama, Associate Planner

[Staff Report](#)

[A - Draft Ordinance for MCA-2023-003](#)

[B - Draft Resolution for U-2023-002](#)

[C - Draft Resolution for EXC-2023-009](#)

[D - Plan Set \(Abridged Pursuant to SB1214\)](#)

[E - Applicant's Project Description](#)

[F - Planning Commission Resolution 2023-14](#)

[G - Planning Commission Resolution 2023-15](#)

[H - Planning Commission Resolution 2023-16](#)

ACTION CALENDAR

11. Subject: Proposed amendments to Municipal Code Chapter 19.12, Chapter 19.28 and Chapter 19.112 regarding Two-Story Permit and Accessory Dwelling Unit (ADU) laws. (Application No. MCA-2023-002; Applicant: City of Cupertino; Location: City-wide)
- Recommended Action: That the City Council conduct the public hearing and conduct the first reading of Ordinance No. 23-2254: "An Ordinance of The City Council of the City of Cupertino to amend Municipal Code Chapter 19.12, Chapter 19.28 and Chapter 19.112 Regarding Two-Story Permit and Accessory Dwelling Unit (ADU) Laws" (Attachment A) to amend the following:
- a. Chapter 19.12, Administration, and
 - b. Chapter 19.28 Single-Family Residential (R-1) Zones.
 - c. Chapter 19.112, Accessory Dwelling Units (ADU)

Presenter: Gian Martire, Senior Planner

[Staff Report](#)

[A - Draft Ordinance \(Clean\)](#)

[B - Draft Ordinance \(Redline\)](#)

[C - Planning Commission Resolution No. 2023-17](#)

[D - Gov. Code Sections 65852.2 and 65852.22](#)

[E - Public Comment](#)

COUNCIL REPORTS AND COMMENTS

12. Subject: Councilmember Reports[A - Council Reports, Fruen](#)[B - Council Reports, Mohan](#)[C - Council Reports, Moore](#)[D - Council Reports, Wei](#)**CITY MANAGER REPORT****ORAL COMMUNICATIONS - CONTINUED****INFORMATIONAL ITEMS**

Information items are intended to provide background information and routine reports to Councilmembers and the public, without discussion by Council. Members of the public wishing to comment on informational items should do so during oral communications.

13. Subject: Update regarding Vallco's SB 35 project approval**Recommended Action:** Receive the update regarding Vallco's SB 35 project approval[Informational Memorandum](#)[A – Email from Reed Moulds, Managing Director, Sand Hill Property Company, dated 11/29/2023](#)**14. Subject: Update on Main Street****Recommended Action:** Receive the update on Main Street[Informational Memorandum](#)[A – November 14 Planning Commission staff report](#)[B – Director's Decision / Main Street Note to File](#)**COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS****ADJOURNMENT**

Lobbyist Registration and Reporting Requirements: Individuals who influence or attempt to influence legislative or administrative action may be required by the City of Cupertino's lobbying ordinance (Cupertino Municipal Code Chapter 2.100) to register and report lobbying activity. Persons whose communications regarding any legislative or administrative are solely limited to appearing at or submitting testimony for any public meeting held by the City are not required to register as lobbyists. For more information about the lobbying ordinance, please contact the City Clerk's Office at 10300 Torre Avenue, Cupertino, CA 94107; telephone (408) 777-3223; email cityclerk@cupertino.org; and website: www.cupertino.org/lobbyist.

The City of Cupertino has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a final decision of the City Council must be brought within 90 days after a decision is announced unless a shorter time is required by State or Federal law.

Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to <http://www.cupertino.org/cityclerk> for a reconsideration petition form.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 48 hours in advance of the meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.

Any writings or documents provided to a majority of the Cupertino City Council after publication of the packet will be made available for public inspection in the City Clerk's Office located at City Hall, 10300 Torre Avenue, Cupertino, California 95014, during normal business hours; and in Council packet archives linked from the agenda/minutes page on the Cupertino web site.

IMPORTANT NOTICE: Please be advised that pursuant to Cupertino Municipal Code section 2.08.100 written communications sent to the Cupertino City Council, Commissioners or City staff concerning a matter on the agenda are included as supplemental material to the agenda item. These written communications are accessible to the public through the City's website and kept in packet archives. Do not include any personal or private information in written communications to the City that you do not wish to make public, as written communications are considered public records and will be made publicly available on the City website.

THE CITY COUNCIL AND STAFF

CITY COUNCIL

Cupertino is a General Law city organized under and subject to statutes of the State of California. It is governed by the five-member City Council with the Mayor as the presiding officer. City Council members are elected at-large to four-year, overlapping terms. Each November a mayor and a vice-mayor are selected by the City Council for a one-year term.

The City Council receives advice and assistance from eleven advisory bodies, which are appointed by the Council. These are the Audit Committee, Bicycle Pedestrian Commission, Fine Arts Commission, Housing Commission, Library Commission, Parks and Recreation Commission, Planning Commission, Public Safety Commission, Sustainability Commission, Teen Commission, and Technology, Information, and Communications Commission.

Council members also serve on a variety of regional bodies, including:

- Association of Bay Area Governments
- League of California Cities
- Santa Clara County (SCC) Cities Association
- SCC Emergency Preparedness Council
- SCC Library District
- SCC Emergency Preparedness Commission
- Santa Clara Valley Water Commission and Water District
- SCC Transportation Authority
- West Valley Mayors and Managers

STAFF

The City Manager and the City Attorney are appointed by the Council. The City Manager is responsible for interpreting and carrying out Council policies and direction, and as the chief administrative officer, the City Manager coordinates the many activities of the city and appoints the professional and technical staff. The City Attorney is the advisor to the City Council as a whole.

TYPES OF COUNCIL ACTIONS

ORDINANCES

Ordinances are the means by which the City enacts its local laws. Unless an urgent situation exists, ordinances will first be presented at a Council meeting as a "first reading." At a subsequent Council meeting, there will be a "second reading and adoption." Ordinances go into effect after a waiting period of thirty days, in most cases, during which time the summary of the ordinance is published in a local newspaper approved for this purpose.

RESOLUTIONS

Resolutions and minute orders are the means by which the City Council formally adopts policies or approves specific actions. These go into effect when adopted.

APPEALS

Any interested person, including a Council member, may appeal a Planning Commission or Director of Community Development decision to the City Council. An appeal must be submitted in writing to the City Clerk within 14 calendar days of the mailing of the notice of the decision.

RECONSIDERATION

Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to [www.http://www.cupertino.org/index.aspx?page=125](http://www.cupertino.org/index.aspx?page=125) for a reconsideration petition form.

COMMUNICATING WITH COUNCIL

All Council members: citycouncil@cupertino.org

Hung Wei	HWei@cupertino.org	(408) 777-3139
Sheila Mohan	SMohan@cupertino.org	(408) 777-1326
Liang Chao	LiangChao@cupertino.org	(408) 777-3192
J.R. Fruen	JRFruen@cupertino.org	(408) 777-1316
Kitty Moore	KMoore@cupertino.org	(408) 777-1389
Executive Assistant	Debran@cupertino.org	(408) 777-3212
City Hall	www.cupertino.org	(408) 777-CITY

Please note: the City Council discourages submission of written materials on the day of the meeting as this does not provide enough time to give the materials fair evaluation. If you must provide written materials on the day of the meeting, as least one copy must be given to the City Clerk for the permanent record, and ten copies are preferred.

NEWS AND NOTICES FROM CITY HALL

EMAIL

Sign up for e-notification of agendas, elections, and other news on the city website at www.cupertino.org/notify

TELEVISION

The City Channel broadcasts City Council and Planning Commission meetings, as well as agenda previews, public service announcements, and other programs of community interest, on Channel 26 in Cupertino. The meetings are shown at these times:

Tuesday (live)	6:45 p.m.	Friday (replay)	10:00 a.m.
Thursday (replay)	7:00 p.m.	Saturday (replay)	9:00 a.m.

INTERNET

City Council and Planning Commission videos are available on demand at www.cupertino.org. Select "I Want To, View City Council meetings".

News and community information can also be found at:

<https://www.facebook.com/cityofcupertino/>

<https://twitter.com/CityofCupertino>

<https://www.instagram.com/cityofcupertino>

AUDIO

Tune into Radio Cupertino, 1670 AM, for meeting announcements, public service messages, and emergency announcements.

USEFUL TELEPHONE NUMBERS

City of Cupertino (City Hall)	General Information and Comments	(408) 777-CITY
Fire (Emergency)	Santa Clara County Fire Dept. dispatch	911
Fire (Non-Emergency)	Santa Clara County Fire Dept.	(408) 378-4010
Garbage	Recology South Bay	(408) 725-4020
Gas & Electricity	Pacific Gas & Electric (PG&E)	1-800-743-5000
Recreation & Community Services	Quinlan Community Center	(408) 777-3120
Police (Emergency)	Santa Clara County Sheriff dispatch	911
Police (Non-Emergency)	Santa Clara County Sheriff	(408) 868-6600
Public Health	Santa Clara County Public Health	(408) 732-3720
Sanitary Sewers	Cupertino Sanitary District	(408) 253-7071
Water	San Jose Water	(408) 279-7900
	California Water	(650) 917-0152