



AGENDA OF THE CUPERTINO CITY COUNCIL

Thursday, July 6, 2023

Special Meeting Non-Televised Closed Session (5:00)
and Televised City Council Meeting (8:00)

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.

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.

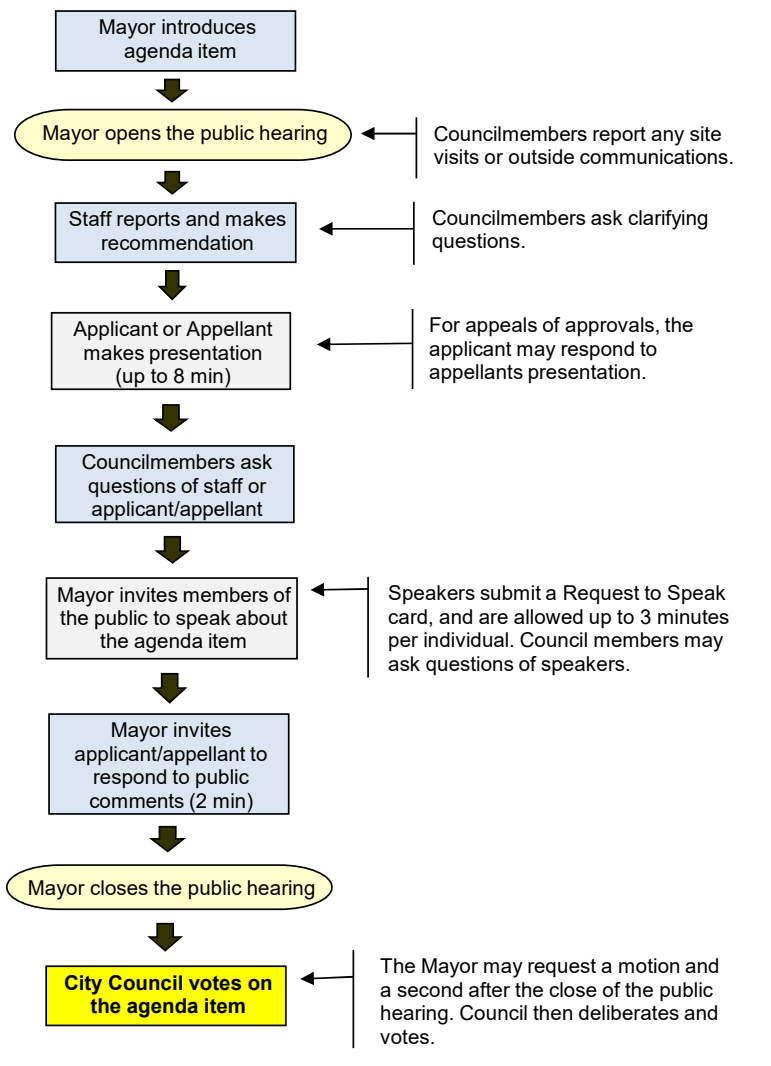
AGENDAS, MINUTES, AND PACKETS AVAILABLE ON THE WEB

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.

FLOWCHART FOR HEARING ITEMS:





CITY OF CUPERTINO

AGENDA

CITY COUNCIL

10300 Torre Avenue and 10350 Torre Avenue and via Teleconference

Thursday, July 6, 2023

5:00 PM

REGULAR BUSINESS ITEMS WILL BE HEARD BEGINNING AT 8:00 PM

Special Meeting Non-Televised Closed Session (5:00) and Televised City Council Meeting (8:00)

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 for Closed Session in City Hall, Conference Room C or for Open Session in Cupertino Community Hall. Members of the public may provide oral public comments pertaining to the agenda prior to the beginning of Closed Session and after Roll Call.

Members of the public may provide oral public comments during the Open Session 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.

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.

- 2) E-mail comments for Closed Session or Open Session by 4:00 p.m. on Thursday, July 6 to

the Council at citycouncil@cupertino.org. These e-mail comments will also be posted to the City's website before and after the meeting.

3) Open Session 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_7xgB_IIRSxetH6tquSq74Q

Phone

Dial: 669-900-6833 and enter Webinar ID: 971 7240 5483 (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: 971 7240 5483

SIP: 97172405483@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

Speak.

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 Thursday, July 06, 2023, commencing at 5:00 p.m. for Closed Session in 10300 Torre Avenue, Conference Room C and at 8:00 p.m. for Open Session regular business items in 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

10300 Torre Avenue, Conference Room C

CLOSED SESSION

1. Subject: Conference with Labor Negotiators pursuant to Government Code § 54957.6 (Kristina Alfaro and Christopher Boucher)
2. Subject: Public Employee Performance Evaluation (Gov. Code § 54957(b)(1)); Title: City Attorney
3. Subject: Public Employee Performance Evaluation (Gov. Code § 54957(b)(1)); Title: City Manager

RECESS

OPEN SESSION

CALL TO ORDER - 8:00 PM

10350 Torre Avenue, Community Hall and via Teleconference

PLEDGE OF ALLEGIANCE

ROLL CALL

CLOSED SESSION REPORT

CEREMONIAL ITEMS

4. Subject: Presentation from Midpeninsula Open Space Regional District ("Midpen")
Recommended Action: Receive presentation from Midpen Board member Craig Gleason on district activities update
[A - Presentation](#)

POSTPONEMENTS AND ORDERS OF THE DAY

5. Subject: Brush abatement for public nuisance and potential fire hazard pursuant to Cupertino Municipal Code (Section 16.40.200) regarding defensible space (brush) and Resolution No. 23-053
Recommended Action: Remove this item from the agenda since there are no properties reported as being non-compliant in removing brush
[Staff Report](#)
[A - 2023 WUI Enforced Safety Regulations List of Non-Compliant Properties](#)
[B – Approved Resolution No. 23-053](#)

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 6-12)

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.

6. Subject: Consider approval of the June 12 City Council minutes
Recommended Action: Approve the June 12 City Council minutes

[A - Minutes](#)

7. Subject: Consider approval of the June 21 City Council minutes
Recommended Action: Approve the June 21 City Council minutes
[A - Minutes](#)
8. Subject: Consider the adoption of City Council Grant Policy
Recommended Action: Adopt Resolution No. 23-081 approving the City Council Grant Policy
[Staff Report](#)
[A – City Council Grant Policy](#)
[B - Grant Authority and Reporting Matrix](#)
[C - Draft Resolution](#)
9. Subject: Consider awarding a contract to Grassroots Ecology for the maintenance of McClellan Ranch Preserve and Stevens Creek Corridor.
Recommended Action: 1. Award a contract to Grassroots Ecology for work related to maintenance of McClellan Ranch Preserve and Stevens Creek Corridor in the amount not to exceed \$104,240 per year for three years, totaling \$312,720; and
2. Authorize the City Manager to execute the contract with Grassroots Ecology when all contractual obligations have been met; and
3. Authorize the City Manager to extend the contract for up to two additional years, totaling \$208,480, for a five-year total of \$521,200, provided pricing and services remain acceptable.
[Staff Report](#)
[A - Draft Agreement](#)
10. Subject: Consider rejection of all bids received for the Bridge Preventative Maintenance Program.
Recommended Action: Authorize the Director of Public Works to reject all bids received for the Bridge Preventative Maintenance Program.
[Staff Report](#)
11. Subject: Award a construction contract for the Regnart Road Improvements Phase 1 Project to Brannon Corporation for road reconstruction to mitigate roadway embankment failure.

Recommended Action: 1. Award a construction contract for the Regnart Road Improvements Phase 1 Project (Project No. 2019-08) in the amount of \$1,290,120 to Brannon Corporation;

2. Authorize the City Manager to execute the contract;

3. Authorize the Director of Public Works to execute any necessary construction change orders up to a construction contingency amount of \$129,012 (10%) for a total authorized contract amount of \$1,419,132; and

4. Adopt Resolution No. 23-082 approving budget modification #2324-285, increasing appropriations in the Capital Improvement Program Capital Projects Fund (420-99-068) and the Capital Reserve (429-90-001) by \$876,765.99, and transferring said funds from the Capital Reserve to Capital Improvement Program Capital Projects Fund (420-99-068).

[Staff Report](#)

[A - Draft Resolution](#)

[B - Draft Contract](#)

[C - Project Manual](#)

[D - Project Drawings](#)

[E - Project Addendum 1](#)

[F - Project Addendum 2](#)

12. Subject: Award a contract for the Creekside Park School Age Play Area to Ross Recreation Equipment, Inc. for the purchase and installation of themed playground equipment.

Recommended Action: 1. Award an equipment procurement and installation contract for the Creekside Park School Age Play Area (Budget Unit 420-99-085) in the amount of \$283,873.50 to Ross Recreation Equipment, Inc. using pricing established through the National Purchasing Partners;

2. Authorize the City Manager to execute an equipment procurement and installation contract when all conditions have been met; and

3. Authorize the Director of Public Works to execute any necessary change orders up to a contingency amount of \$28,388 (10%) for a total contract amount of \$312,261.50.

[Staff Report](#)

[A - Representation of Proposed Playground Equipment](#)

[B - Draft Contract](#)

PUBLIC HEARINGS - None

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.

ACTION CALENDAR

13. Subject: Introduction of Ordinance No. 23-2249, amending Municipal Code Chapter 2.100 (Regulation of Lobbying Activities)
Recommended Action: Conduct a first reading of Ordinance No. 23-2249; "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CITY CODE CHAPTER 2.100," (Regulation of Lobbying Activities)
[Staff Report](#)
[A –Draft Ordinance Amending Chapter 2.100 \(clean\)](#)
[B – Draft Ordinance Amending Chapter 2.100 \(blackline\)](#)
14. Subject: Consider actions for the surplus determination and disposal of 10301 Byrne Avenue, Assessor Parcel Number (APN) 357-11-020
Recommended Action: 1. Authorize the City Manager to record a Roadway Dedication (Attachment A) for a portion of 10301 Byrne Avenue, APN 357-11-020 (Property); and
2. Adopt Resolution No. 23-083 (Attachment B) declaring the remaining property at 10301 Byrne Ave, APN 357-11-020 surplus to the needs of the City and direct the City Manager to proceed with outreach as required by the Surplus Land Act; and
3. Authorize the City Manager to offer the Property for sale subsequent to completion of the requirements of the Surplus Land Act
[Staff Report](#)
[A - 10301 Byrne Ave - Plat And Legal Description](#)
[B - Resolution Byrne Surplus](#)
[C - 10301 Byrne Ave Aerial](#)
15. Subject: Consideration of a resolution amending the established City Council meeting calendar through January 2, 2024
Recommended Action: Adopt Resolution 23-084 amending the established City Council meeting calendar through January 2, 2024
[Staff Report](#)
[A - Draft Resolution](#)

COUNCIL REPORTS AND COMMENTS

16. Subject: Councilmember Reports
[Council Report, Fruen](#)
[Council Report, Moore](#)
[Council Report, Mohan](#)
[Council Report, Wei](#)

CITY MANAGER REPORT**ORAL COMMUNICATIONS - CONTINUED**

INFORMATIONAL ITEMS - None

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.

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