



# AGENDA OF THE CUPERTINO CITY COUNCIL

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**Tuesday, September 19, 2023**

Televised Special 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](http://www.cupertino.org)

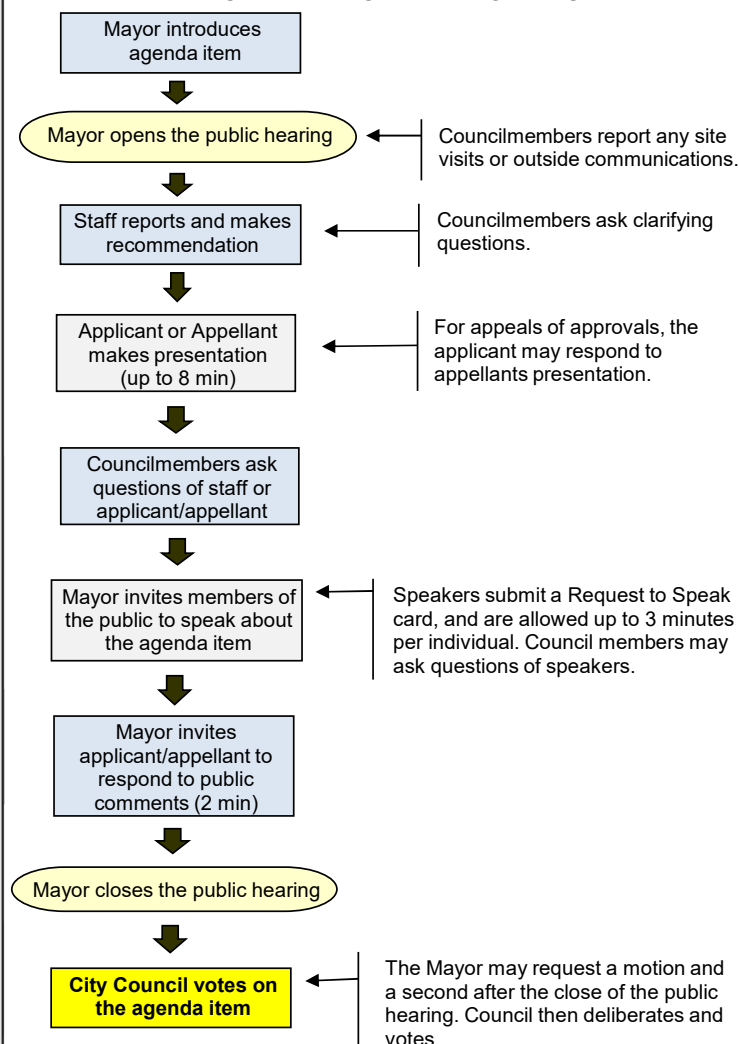
## CONDUCT OF BUSINESS

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](http://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, September 19, 2023

6:45 PM

Regular Meeting

#### 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](http://www.Cupertino.org/youtube) and [www.Cupertino.org/webcast](http://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, September 19 to the Council at [citycouncil@cupertino.org](mailto: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\\_rw9IhyVaT8KG5vHYoPl8xg](https://cityofcupertino.zoom.us/webinar/register/WN_rw9IhyVaT8KG5vHYoPl8xg)

#### Phone

Dial: 669-900-6833 and enter Webinar ID: 931 0851 0691 (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: 931 0851 0691

SIP: 93108510691@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](mailto:cityclerk@cupertino.org) prior to speaking. These documents will be posted to the City's website after the meeting.

## CALL TO ORDER

## PLEDGE OF ALLEGIANCE

## ROLL CALL

## CLOSED SESSION REPORT

## CEREMONIAL ITEMS

1. Subject: Recognize National Hispanic Heritage Month September 15-October 15  
Recommended Action: Recognize National Hispanic Heritage Month September 15-October 15
2. Subject: Recognize September as National Preparedness Month  
Recommended Action: Recognize September as National Preparedness Month

## 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 3-7)

*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.*

3. Subject: Approve the July 18 City Council minutes (continued from September 6, 2023)  
Recommended Action: Approve the July 18 City Council minutes  
[A - Draft Minutes](#)
4. Subject: Approve the September 6 City Council minutes  
Recommended Action: Approve the September 6 City Council minutes  
[A - Draft Minutes](#)
5. Subject: Ratifying Accounts Payable for the periods ending August 4, 2023; August 11, 2023; August 18, 2023; and August 25, 2023  
Recommended Action: A. Adopt Resolution No. 23-099 ratifying Accounts Payable for the Period ending August 4, 2023;  
B. Adopt Resolution No. 23-100 ratifying Accounts Payable for the Period ending August 11, 2023;  
C. Adopt Resolution No. 23-101 ratifying Accounts Payable for the Period ending August 18, 2023; and  
D. Adopt Resolution No. 23-102 ratifying Accounts Payable for the Period ending August 25, 2023.  
[Staff report](#)  
[A – Draft Resolution 8.4.23](#)  
[B – Weekly AP Payment Register for the Period Ending 8.4.23](#)  
[C – Draft Resolution 8.11.23](#)  
[D – Weekly AP Payment Register for the Period Ending 8.11.23](#)  
[E – Draft Resolution 8.18.23](#)  
[F – Weekly AP Payment Register for the Period Ending 8.18.23](#)  
[G – Draft Resolution 8.25.23](#)  
[H – Weekly AP Payment Register for the Period Ending 8.25.23](#)
6. Subject: Award a Software-as-a Service (SaaS) agreement to Avolve Software Corporation, for Migration, Deployment and Subscription Services of ProjectDox from on-premises environment to Cloud Services, for a total cost of \$488,680.50, including 10% contingency over five years.  
Recommended Action: 1. Find under Municipal Code section 3.22.060(B). that the formal competitive bidding procedures are impractical for procurement.  
2. Authorize the City Manager to execute a Software-as-a Service (SaaS) agreement to Avolve Software Corporation, for Migration, Deployment, and Subscription Services of ProjectDox from on-premises environment to Cloud Services, for a total cost of \$488,680.50 including 10% contingency over five years.

[Staff Report](#)[A – Avolve Software Corporation Software-as-a-Service Agreement](#)

7. Subject: Award a Cooperative Services Agreement to ReDesign Group, for City's server and storage infrastructure, for a total cost of \$389,692.60, including 10% contingency over five years.

Recommended Action: 1. Find under Municipal Code section 3.22.070(C) that this procurement from the National Association of State Procurement Officials is exempt from formal competitive bidding procedures.

2. Authorize the City Manager to execute a Cooperative Services Agreement with ReDesign Group, for Technology Refresh of the City's server and storage infrastructure, for a total cost of \$389,692.60, including 10% contingency over five years.

[Staff Report](#)[A – Cooperative Agreement NASPO MNWNC-109](#)[B - Amendments No. 1 to 6 to NASPO MNWNC-109](#)[C - California Participating Addendum](#)[D - Amendments No. 1 & 2 to CA Participating Addendum](#)[E - Data Center Refresh Proposal](#)[F - Disaster Recovery Site \(Phoenix\) 5 Year quote](#)[G - Production Site 5 Year quote](#)[H - Insurance for Consultants Contracts](#)[I - Proof of Insurance](#)

## **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](mailto:planning@cupertino.org). Plans will also be made available digitally during the hearing to consider the proposal.*

## **ACTION CALENDAR**

8. Subject: FY 2023-24 Internal Audit Program

Recommended Action: Approve the FY 2023-24 Internal Audit Program

Presenter: Jonathan Orozco, Finance Manager

[Staff Report](#)[A – FY 23-24 Internal Audit Program](#)

9. Subject: Adoption of amendments to the Cupertino Municipal Code, Chapter 9.22, expanding existing property maintenance requirements in accordance with California Health and Safety Code 17970.5

Recommended Action: Conduct the first reading of Ordinance No. 23-2250: "An Ordinance of the City Council of the City of Cupertino Amending City Code Chapter 9.22 of Title 9 (Health and Sanitation) to Prohibit Substandard Housing Conditions."

Presenter: Monica Diaz, Senior Code Enforcement Officer

[Staff Report](#)

[A - Draft Ordinance](#)

[B - Assembly Bill 838](#)

[C - California Health and Safety Code section 17970.5](#)

[D - California Health and Safety Code section 17920.3](#)

[E - California Health and Safety Code section 17920.10](#)

10. Subject: Amendments to the Cupertino Municipal Code Chapter 5.50 of Title 5 (Business Licenses and Regulations), regulating the sale of tobacco products

Recommended Action: Conduct the first reading of Ordinance No. 23-2251: "An Ordinance of the City Council of the City of Cupertino Amending Chapter 5.50 to Title 5 (Business Licenses and Regulations) to Regulate the Sale of Tobacco Products"

Presenter: Christopher Jensen, City Attorney

[Staff Report](#)

[A – Agreement Between the County and Cupertino for a Tobacco Retail Permit Program](#)

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

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

[D – Letter to Tobacco Retailers in Cupertino](#)

11. Subject: Revisions to City of Cupertino Ethics Policy

Recommended Action: Direct the City Attorney to revise the City of Cupertino Ethics Policy to incorporate the provisions of the 2018 City's Ethics Code, as amended to ensure consistency with the City Council Procedures Manual and to address recommendations of the City's internal auditor, and provide direction on any additional Ethics Policy revisions

Presenter: Christopher Jensen, City Attorney

[Staff Report](#)

[A – Resolution No. 20-011 \(Adopting the City of Cupertino Ethics Policy\)](#)

[B – Resolution No. 18-115 \(Adopting the City of Cupertino Code of Ethics and Conduct for Elected and Appointed Officials\)](#)

[C – Civil Grand Jury Report, "A House Divided: Cupertino City Council and Staff"](#)

[D – Fact-Finding Report](#)

[E – Enterprise Leadership Assessment](#)

[F – Ethics Code Menu/Worksheet](#)

[G - Survey Results](#)

## COUNCIL REPORTS AND COMMENTS

12. Subject: Councilmember Reports



[A - Council Reports Fruen](#)

[B - Council Reports Mohan](#)

[C - 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: Receive the Monthly Treasurer's Report for August 2023

Recommended Action: Receive the Monthly Treasurer's Report for August 2023

[Staff Report](#)

[A – Report of City-wide Receipts, Disbursements, and Cash Balances August 2023](#)

[B – Report of City-wide Fund Balances Net Position August 2023](#)

14. Subject: Receive the Monthly Treasurer's Investment Report for August 2023

Recommended Action: Receive the Monthly Treasurer's Investment Report for August 2023

[A - Chandler Investment Report August 2023](#)

## 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](mailto:cityclerk@cupertino.org); and website: [www.cupertino.org/lobbyist](http://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](mailto:citycouncil@cupertino.org)

Hung Wei	<a href="mailto:HWei@cupertino.org">HWei@cupertino.org</a>	(408) 777-3139
Sheila Mohan	<a href="mailto:SMohan@cupertino.org">SMohan@cupertino.org</a>	(408) 777-1326
Liang Chao	<a href="mailto:LiangChao@cupertino.org">LiangChao@cupertino.org</a>	(408) 777-3192
J.R. Fruen	<a href="mailto:JRFruen@cupertino.org">JRFruen@cupertino.org</a>	(408) 777-1316
Kitty Moore	<a href="mailto:KMoore@cupertino.org">KMoore@cupertino.org</a>	(408) 777-1389
Executive Assistant	<a href="mailto:Debran@cupertino.org">Debran@cupertino.org</a>	(408) 777-3212
City Hall	<a href="http://www.cupertino.org">www.cupertino.org</a>	(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](http://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](http://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