



AGENDA OF THE CUPERTINO CITY COUNCIL

Tuesday, November 21, 2023

Televised Regular 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.

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.

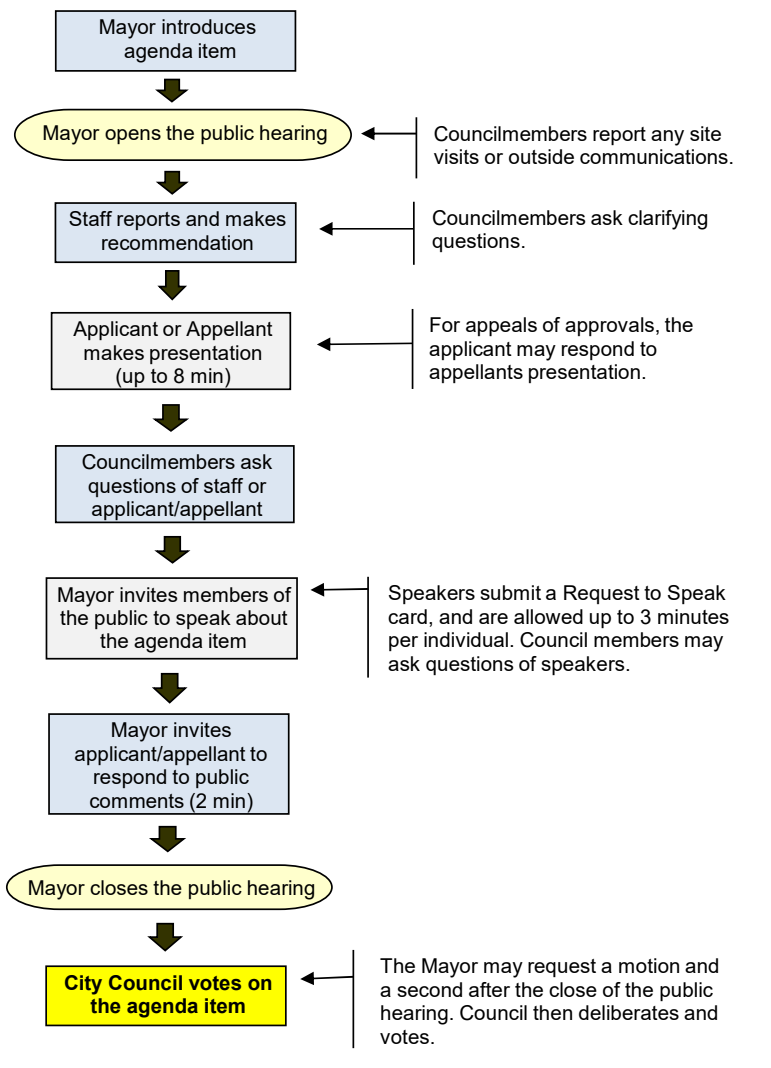
AGENDAS, MINUTES, AND PACKETS AVAILABLE ON THE WEB

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

10350 Torre Avenue, Council Chamber and via Teleconference
Tuesday, November 21, 2023
6:45 PM

Televised 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, November 21 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_gpOXwBWbTfy5GHlooj-smQ

Phone

Dial: 669-900-6833 and enter Webinar ID: 954 8300 1333 (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: 954 8300 1333

SIP: 95483001333@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.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CLOSED SESSION REPORT

CEREMONIAL ITEMS

1. Subject: Recognition of November 25, 2023 as Small Business Saturday
Recommended Action: Recognize November 25, 2023 as Small Business Saturday

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 2-10)

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.

2. Subject: Mitigation Fee Act - the Annual & Five-Year Report for Fiscal Year (FY) 2022-2023. (Continued from November 7, 2023)
Recommended Action: Adopt Resolution No. 23-121 entitled "A Resolution of the City of Cupertino City Council approving the Annual & Five -Year Mitigation Fee Report for Fiscal Year ending June 30, 2023, and making required findings" to:
 1. Make the required findings; and
 2. Approve the Annual & Five-Year Mitigation Fee Report for the Fiscal Year ending June 30, 2023, as required by Government Code Section 66000 et seq.[Staff Report](#)
[A - Annual & Five-Year Report for FY 2023](#)
[B - Draft Resolution](#)

 3. Subject: First Amendment to Employment Agreement for the City Manager
Recommended Action: Adopt Resolution No. 23-120 approving the First Amendment to Employment Agreement with the City Manager for the City of Cupertino and authorize the Mayor to execute the Agreement.
[Staff Report](#)
[A – First Amendment to City Manager Employment Agreement](#)
[B - Draft Resolution](#)

 4. Subject: Approval of the November 7 City Council minutes
Recommended Action: Approve the November 7 City Council minutes
[A - Draft Minutes](#)

 5. Subject: Second reading of an ordinance to make minor amendments to Cupertino Municipal Code Chapter 1.18 (Claims Against the City), Chapter 9.15 (Prohibition of Expanded Polystyrene (EPS) Foam Food Service Ware), 9.18 (Stormwater Pollution Prevention and Watershed Protection), Chapter 15.04 (Waterworks System-Rates and Charges), and Chapter 16.72 (Recycling and Diversion of Construction and Demolition Waste)
Recommended Action: Conduct the second reading and enact Ordinance No. 23-2252 "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CITY CODE CHAPTERS 1.18, 9.15, 9.18, 15.04, AND 16.72".
[A - Draft Ordinance](#)

 6. Subject: Adopt a resolution increasing the employer's contribution for medical and hospitalization insurance consistent with the Public Employees' Medical and Hospital Care Act ("PEMHCA" or the "Act") for retired annuitants hired with the City of Cupertino prior to August 2004.
Recommended Action: Adopt Resolution No. 23-123 increasing the employer's contribution for medical and hospitalization insurance for retired annuitants hired with the City of Cupertino prior to August 2004.
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[Staff Report](#)[A – Draft Resolution Employees and Annuitants Hired Prior to August 1, 2004](#)

7. Subject: Ratifying Accounts Payable for the periods ending October 6, 2023; October 13, 2023; October 20, 2023; and October 27, 2023

Recommended Action: A. Adopt Resolution No. 23-124 ratifying Accounts Payable for the Period ending October 6, 2023;

B. Adopt Resolution No. 23-125 ratifying Accounts Payable for the Period ending October 13, 2023;

C. Adopt Resolution No. 23-126 ratifying Accounts Payable for the Period ending October 20, 2023; and

D. Adopt Resolution No. 23-127 ratifying Accounts Payable for the Period ending October 27, 2023

[Staff report](#)[A – Draft Resolution 10.6.23](#)[B – Weekly AP Payment Register for the Period Ending 10.6.23](#)[C – Draft Resolution 10.13.23](#)[D – Weekly AP Payment Register for the Period Ending 10.13.23](#)[E – Draft Resolution 10.20.23](#)[F – Weekly AP Payment Register for the Period Ending 10.20.23](#)[G – Draft Resolution 10.27.23](#)[H – Weekly AP Payment Register for the Period Ending 10.27.23](#)

8. Subject: Approve a Second Amendment with Acuity Brands, LLC, for continued use of the BuildingOS Energy Management Platform.

Recommended Action: Authorize the City Manager to execute a Second Amendment with Acuity Brands, LLC, for continued use of the BuildingOS Energy Management Platform, increasing the contract amount by \$45,500 for a new total not-to-exceed contract amount of \$227,500 and extending the term of the agreement to December 9, 2024.

[Staff Report](#)[A - Draft Second Amendment](#)[B - First Amendment](#)[C - Base Agreement with Acuity Brands Technology Services, Inc.](#)

9. Subject: Microsoft Enterprise Software Licensing Agreement with SoftwareONE, Inc., for licensing of Microsoft programs, systems, and databases.

Recommended Action: 1. Authorize the City Manager to execute a Microsoft Enterprise Software Licensing Agreement with SoftwareONE, Inc., utilizing Riverside County's statewide competitively awarded Microsoft Enterprise Agreement for licensing of Microsoft programs, systems, and databases for a total amount not to exceed \$342,729.23, including a 10% contingency in the amount \$31,157.20.

2. Find under Municipal Code section 3.22.070(C) that this procurement from Riverside County is exempt from formal competitive bidding procedures.

[Staff Report](#)[A - Licensing Solution Provider Agreement No. PSA-0001530](#)[B - Amendment No. 1 to Agreement No. PSA-0001530](#)[C - Microsoft Volume Licensing Program Agreement](#)[D - SoftwareONE, Inc., Year 2 & 3 Quotes](#)[E - Insurance Requirements](#)[F - Proof of Insurance](#)

10. **Subject:** Approve master agreements with CSG Consultants, Inc. and 4Leaf, Inc., to provide construction management services on various Capital Improvement Program (CIP) projects.

Recommended Action: 1. Authorize the City Manager to execute a master agreement with CSG Consultants, Inc. (CSG) in the amount not to exceed \$500,000 for contract period of two years.

2. Authorize the City Manager to execute a master agreement with 4Leaf, Inc. (4Leaf) in the amount not to exceed \$500,000 for a contract period of two years.

[Staff Report](#)[A - Draft Master Agreement CSG Consultants Inc.](#)[B - Draft Master Agreement 4Leaf Inc.](#)**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

11. **Subject:** Accept the City Manager's First Quarter Financial Report for Fiscal Year 2023-24

- Recommended Action: 1. Accept the City Manager's First Quarter Financial Report for Fiscal Year 2023-24
2. Adopt Resolution No. 23-128 approving Budget Modification No. 2324-314, increasing appropriations by \$464,384 and revenues by \$540,141
3. Adopt Resolution No. 23-129 amending Cupertino City Employees' Association /IFPTE Local 21 Classification Plan and Salary Schedule
4. Adopt Resolution No. 23-130 amending the Unrepresented Employees' Compensation Program
5. Approve new Senior Housing Coordinator and Communications and Marketing Coordinator classifications
6. Receive FY 2023-24 First Quarter City Work Program Dashboard Update
7. Provide direction on potential service level reductions for FY 2024-25
- a. Defunding the 4th of July Event in FY 2024-25
- b. Defunding Community Grant Funding Program in FY 2024-25
- c. Defunding Weed Abatement subsidy of \$8,600 annually.
- Presenters: Kristina Alfaro, Director of Administrative Services and Thomas Leung, Budget Manager

Staff Report

[A - FY 2023-24 First Quarter Financial Report](#)

[B - Draft Resolution](#)

[C - Description of Carryovers and Adjustments through September 30, 2023](#)

[D - Description of Budget Transfers through September 30, 2023](#)

[E - First Quarter Recommended Budget Adjustments](#)

[F - FY 2022-23 Special Projects Update](#)

[G - FY 2023-24 First Quarter Special Projects Update](#)

[H - FY 2023-24 First Quarter Competitive and Non-Competitive Grants](#)

[I - CIP Projects Status FY 2023-24 First Quarter](#)

[J - FY 2023-24 City Work Program First Quarter Update](#)

[K - Sr. Housing Coordinator 11-2023](#)

[L - Communication and Marketing Coordinator 11-2023](#)

[M - Draft Resolution Amending the CEA Local 21 Classification and Salary Plan](#)

[N - Draft Resolution Amending the Unrepresented Employees' Compensation Program](#)

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: Receive the Treasurer's Investment Report for the Quarter Ending September 30, 2023
Recommended Action: Receive the Treasurer's Investment Report for the Quarter Ending September 30, 2023
[Staff Report](#)
[A – Chandler Investment Report September 2023](#)
[B – Chandler Custodial Statement September 2023](#)
[C – PARS Pension and OPEB Account Statement September 2023](#)
[D – LAIF Account Statement September 2023](#)

14. Subject: Receive the Monthly Treasurer's Investment Report for October 2023
Recommended Action: Receive the Monthly Treasurer's Investment Report for October 2023
[A - Chandler Investment Report October 2023](#)

15. Subject: Receive the Monthly Treasurer's Report for October 2023
Recommended Action: Receive the Monthly Treasurer's Report for October 2023
[Staff Report](#)
[A – Report of City-wide Receipts, Disbursements, and Cash Balances October 2023](#)
[B – Report of City-wide Fund Balances/Net Position October 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; 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