



# AGENDA OF THE CUPERTINO CITY COUNCIL

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**Tuesday, May 2, 2023**

Non-Televised Closed Session (6:00) and  
Televised Open Session 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](http://www.cupertino.org)

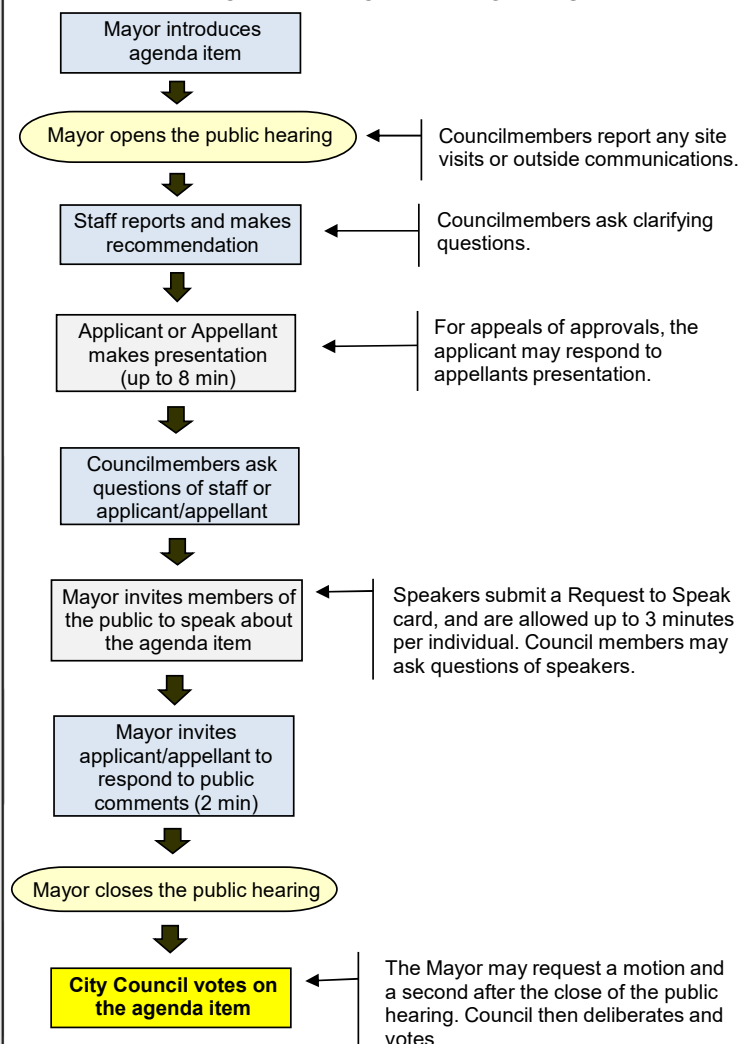
## CONDUCT OF BUSINESS

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

10300 Torre Avenue and 10350 Torre Avenue and via Teleconference

Tuesday, May 2, 2023

6:00 PM

Non-Televised Closed Session (6:00) and Televised Open Session Regular 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](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 for Closed Session in City Hall, Conference Room C or for Regular Meeting 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 Regular 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.

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 Regular Meeting by 4:00 p.m. on Tuesday, May 2 to the Council at [citycouncil@cupertino.org](mailto:citycouncil@cupertino.org). These e-mail comments will also be posted to

the City's website before and after the meeting.

### Regular Meeting 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\\_t4Ir7G2zS4eSDDR\\_Q4qGcg](https://cityofcupertino.zoom.us/webinar/register/WN_t4Ir7G2zS4eSDDR_Q4qGcg)

#### Phone

Dial: 669-900-6833 and enter Webinar ID: 956 4395 8302 (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: 956 4395 8302

SIP: 95643958302@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.

**ROLL CALL - 6:00 PM**

10300 Torre Avenue, Conference Room C

**CLOSED SESSION**

1. Subject: Conference with legal counsel - existing litigation pursuant to Government Code § 54956.9(a): Harshit Shrama & Poonam Salekar v. City of Cupertino et al., Santa Clara County Superior Court Case No. 22CV392971
2. Subject: Conference with legal counsel - initiation of litigation pursuant to Government Code § 54956.9(c) (one case)

**RECESS****OPEN SESSION****CALL TO ORDER - 6:45 PM**

10350 Torre Avenue, Community Hall and via Teleconference

**PLEDGE OF ALLEGIANCE****ROLL CALL****CLOSED SESSION REPORT****CEREMONIAL ITEMS**

3. Subject: Proclamation declaring May as Affordable Housing Month  
Recommended Action: Present proclamation declaring May as Affordable Housing Month  
[A - Proclamation](#)

**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 4-11)**

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: Consider approval of the April 13 City Council minutes  
Recommended Action: Approve the April 13 City Council minutes  
[A - Draft Minutes](#)
5. Subject: Fiscal Year (FY) 2023-24 recommended funding allocations for the Community Development Block Grant (CDBG) Program, the Below Market Rate (BMR) Affordable Housing Fund (AHF), and the General Fund Human Services Grant (HSG)  
Recommended Action: Authorize the City Manager to execute FY 2023-24 CDBG, BMR AHF, and General Fund HSG funding agreements  
[Staff Report](#)  
[A - FY 2023-24 NOFA RFP](#)  
[B - Housing Commission Resolution 17-02 \(CDBG Contingency Plan\)](#)  
[C - FY 2023-24 CDBG, BMR AHF, HSG Funding Application Summary](#)
6. Subject: Consider approval of the second amendment to the Countywide Household Hazardous Waste (HHW) Collection Program agreement between the City of Cupertino and the County of Santa Clara (County) to augment funding up to an additional \$90,705 to the Countywide HHW Program during Fiscal Year (FY) 2023/24 using earmarked funds within the Resource Recovery Fund 520.  
Recommended Action: Authorize the City Manager to execute the second amendment to the Countywide HHW Collection Program agreement between the City of Cupertino and the County of Santa Clara to augment funding up to an additional \$90,705 to the Countywide HHW Program during FY 2023/24 for the purpose of attaining or increasing household participation, raising the not to exceed amount of the three-year 2022-2024 agreement to \$198,885.

[Staff Report](#)[A - Agreement for Countywide AB939 Implementation Fee](#)[B - Agreement for Countywide HHW Collection Program with 1st Amdmt](#)[C - 2nd Amendment for Countywide HHW Collection Program](#)

7. Subject: Consider a cost-sharing agreement between the City of Santa Clara and the City of Cupertino for the Via on-demand shuttle expansion.

Recommended Action: Authorize the City Manager to enter into a cost-sharing agreement between City of Santa Clara and the City of Cupertino for the Via on-demand shuttle expansion.

[Staff Report](#)[A - Silicon Valley Hopper Cost-Share Agreement](#)

8. Subject: Consider approving the use of funds from the Art In-Lieu Fees for the Jollyman All-Inclusive Playground (AIPG) Capital Improvement Programs (CIP) project.

Recommended Action: 1. Approve the use of appropriations of \$338,146.86 from the Art In-Lieu Fee in the General Fund, for artwork within the Jollyman AIPG CIP project; 2. Adopt Resolution No. 23-050 (Attachment A) approving budget modification no. 2223-274 increasing appropriations and revenue by \$338,146.86 in the Capital Improvement Program Capital Projects Fund and increasing appropriations in the General Fund to transfer out restricted funds for the Jollyman All-Inclusive Playground Project (420-99-051, PVAR 007); and

3. Authorize the City Manager to execute any necessary contract amendments for a contingency of \$100,489 for a total contract amount of \$490,000 on the professional design services agreement between the City of Cupertino and MIG, Inc. for the Jollyman AIPG Project (Project 2019-15).

[Staff Report](#)[A- Draft Resolution](#)[B- Art Concept Options](#)

9. Subject: Consider award of a construction contract for the Service Center Security Gate Project (Project No. 2023-103) for the construction of a new motorized security gate, including associated improvements.

Recommended Action: 1. Award a construction contract for the Service Center Security Gate Project and authorize the City Manager to execute a contract in the amount of \$365,750 with VNH Builders;

2. Authorize the Director of Public Works to execute any necessary change orders up to a construction contingency amount of \$36,575 (10%) for a total authorized contract amount of \$402,325; and

3. Adopt Resolution No. 23-051 approving budget modification #2223-266 increasing appropriations in the General Fund Service Center Facilities Maintenance Fund (budget unit 100-87-829) by \$249,001.

[Staff Report](#)

[A - Draft Contract](#)

[B - Draft Resolution](#)

[C - Bid Document Project Manual](#)

[D - Bid Documents Project Drawings](#)

[E - Bid Document Addendum 1](#)

10. Subject: Consider award of a construction contract for the 2023 Concrete Reconstruction Project (Project No. 2023-104) for the reconstruction of curbs, gutters, sidewalks and Americans with Disabilities Act (ADA) ramps at various locations throughout the City of Cupertino.

Recommended Action: 1. Award a construction contract for the 2023 Concrete Reconstruction Project and authorize the City Manager to execute a contract amount of \$1,378,793.40 with R&S Construction Management, Inc.; and

2. Authorize the Director of Public Works to execute any necessary change orders up to a construction contingency amount of \$137,879 (10%) for a total authorized contract amount of \$1,516,672.40.

[Staff Report](#)

[A - Draft Contract](#)

11. Subject: Consider approval of a Semi-Rural Designation, eliminating the requirement for sidewalks on the east side of Carmen Road, between Scenic Boulevard and Stevens Creek Boulevard, pursuant to Ordinance No. 1925.

Recommended Action: Adopt Resolution No. 23-052 designating the east side of Carmen Road, between Scenic Boulevard and Stevens Creek Boulevard, as semi-rural.

[Staff Report](#)

[A - Petition Area & Proposed Semi-Rural Designation Areas](#)

[B - Draft Resolution](#)

## **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**

12. Subject: Consider a Request for Proposals (RFP) for garbage and construction and demolition (C&D) debris disposition services, including solicitation of options to process garbage for recovery of organic and other recyclables.



Recommended Action: Approve the staff recommendation regarding the forthcoming Request for Proposals for garbage and construction and demolition debris disposition services, by incorporating the solicitation of options to process garbage for recovery of organic and other recyclable materials.

Presenter: Ursula Syrova, Environmental Programs Manager

[Staff Report](#)

13. Subject: Consider a report regarding the review of potential violations of the City of Cupertino Municipal Code and City policies regarding Council- and commissioner-staff relations.

Staff and Commissioner-Staff Relations ("Report").

Recommended Action: Receive confidential Report; consider waiving attorney-client privilege to allow for the public release of the Report; and consider further responses to Report.

Presenter: Christopher Jensen, City Attorney

[Staff Report](#)

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

[B – City of Cupertino Response to Grand Jury Report](#)

## COUNCIL REPORTS AND COMMENTS

14. Subject: Councilmember Reports

[A - Council Report, Chao](#)

[B - Council Report, Fruen](#)

[C - Council Report, Mohan](#)

[D - 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](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