



# AGENDA OF THE CUPERTINO CITY COUNCIL

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**Wednesday, April 3, 2024**

Televised Special Meeting (5:15)

**CITY COUNCIL**

SHEILA MOHAN, MAYOR

J.R. FRUEN, VICE MAYOR

LIANG CHAO, COUNCILMEMBER

KITTY MOORE COUNCILMEMBER

HUNG WEI, COUNCILMEMBER

**IN PERSON AND TELECONFERENCE MEETING**

For more information:

(408) 777-3200 | [www.cupertino.gov](http://www.cupertino.gov)

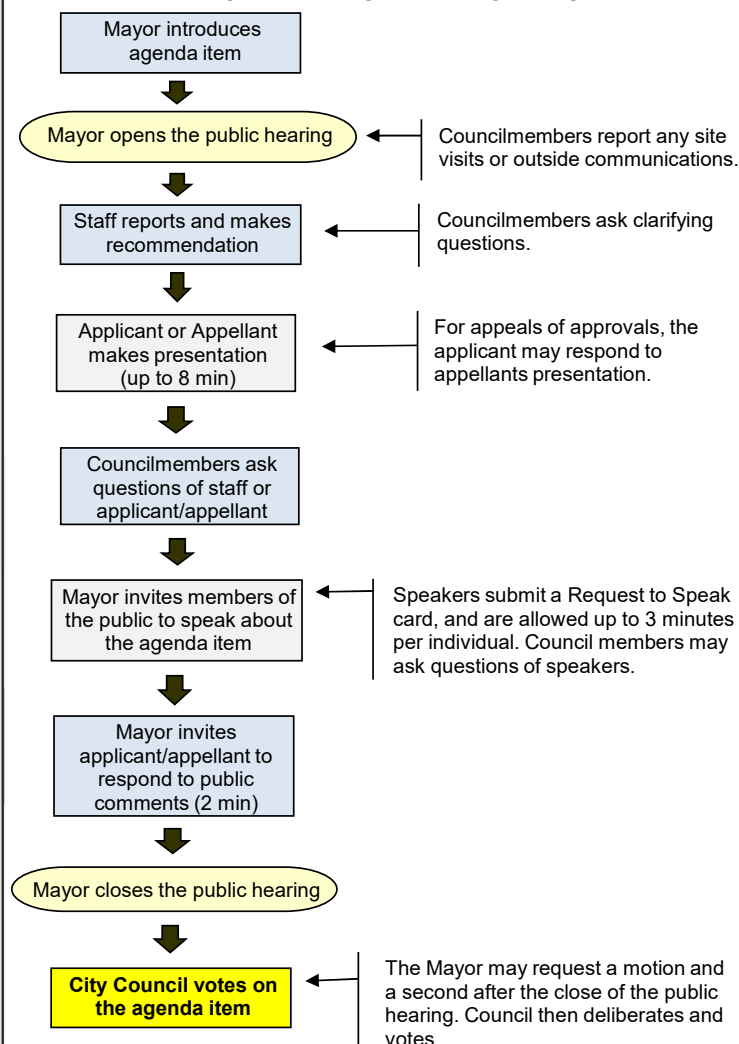
## CONDUCT OF BUSINESS

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

Wednesday, April 3, 2024

5:15 PM

PUBLIC HEARINGS WILL NOT BEGIN EARLIER THAN 6:45 PM

Televised Special 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 Wednesday, April 3 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 that wish to share a document must email [cityclerk@cupertino.org](mailto:cityclerk@cupertino.org) prior to 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\\_KJseLO5KQSCilGmv8v-i\\_w](https://cityofcupertino.zoom.us/webinar/register/WN_KJseLO5KQSCilGmv8v-i_w)

#### Phone

Dial: 669-900-6833 and enter Webinar ID: 929 7031 4784 (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: 929 7031 4784

SIP: 92970314784@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 the meeting. 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 Wednesday, April 03, 2024, commencing at 5:15 p.m. in Community Hall Council Chamber, 10350 Torre Avenue, Cupertino, California 95014 and via teleconference. Said special meeting shall be for the purpose of conducting business on the subject matters listed below under the heading, "Special Meeting."

#### SPECIAL MEETING

##### CALL TO ORDER

##### PLEDGE OF ALLEGIANCE

##### ROLL CALL

##### STUDY SESSION

- Subject: Two-year FY 2023-2025 City Work Program  
Recommended Action: Reaffirm and accept minor modifications to the two-year FY 2023-2025 City Work Program  
Presenters: Matt Morley, Assistant City Manager and Astrid Robles, Senior Management Analyst  
[Staff Report](#)  
[A - FY 2023-2025 City Work Program as Adopted April 2023 and Status Updates](#)  
[B - Commission Proposals](#)  
[C - Proposed FY 2024-2025 City Work Program](#)

##### RECESS

##### CLOSED SESSION REPORT

##### CEREMONIAL ITEMS

- Subject: Recognition of April as Fair Housing Month  
Recommended Action: Recognize April as Fair Housing Month

[A - Proclamation](#)

3. Subject: Recognition of April 1 as Odisha Day in the City of Cupertino  
Recommended Action: Recognize April 1 as Odisha Day in the City of Cupertino  
[A - Certificate of Recognition](#)

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

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

**CONSENT CALENDAR (Items 4-6)**

*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: Approve the March 19 City Council minutes  
Recommended Action: Approve the March 19 City Council minutes  
[A - Draft Minutes](#)
5. Subject: Approve a First Amendment to the contract with PlaceWorks for an increase of \$164,520 to prepare Residential and Mixed-Use Residential Objective Design Standards (FY 2020-21 WP Item) for a total not-to-exceed amount of \$1,261,277 and associated budget modification

Recommended Action: That the City Council adopt Resolution No. 24-029 (Attachment A) to:

1. Authorize the City Manager to execute a first amendment to the existing consultant agreement with PlaceWorks to prepare the Residential and Mixed-Use Residential Objective Design Standards, increasing the contract amount by \$164,520 for a new total not-to-exceed contract amount of \$1,261,277;
2. Find that there are valid reasons to waive the competitive procurement procedures for selection of Placeworks;
3. Approve Budget Modification #2324-335 to:
  - a. Transfer existing appropriations in Special Projects CWP Residential/Mixed-Use Design GL 100-71-702 750-090 to Special Project CWP RHNA and GP update GL 100-71-702 750-101
  - b. Increase the appropriations in Special Projects CWP RHNA and GP update GL 100-71-702 750-101 by \$20,000 for the Residential and Mixed-Use Residential Design Standards, all necessary environmental review and incidentals for the fiscal year 2023-24

[Staff Report](#)

[A - Draft Resolution](#)

[B - Scope of Work, Fee Estimates and Timeline](#)

[C - Draft First Amendment to Agreement](#)

6. Subject: Amendments to Municipal Code Chapter 5.50 (Regulating the Sale of Tobacco Products) and to the Memorandum of Understanding (“MOU”) with the County of Santa Clara to enforce Chapter 5.50

Recommended Action: 1. Conduct a first reading of and introduce Ordinance No. 24-2257, entitled “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CHAPTER 5.50 OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) TO REGULATE THE SALE OF TOBACCO PRODUCTS”

2. Authorize the City Manager to amend the Memorandum of Understanding (“MOU”) with the County of Santa Clara to administer, implement, and enforce Municipal Code Chapter 5.50 (Tobacco Retailer Permit Ordinance)

[Staff Report Tobacco Ordinance and MOU update 4.3.24](#)

[A – Draft Ordinance No. 24-2257 \(Amending Municipal Code Chapter 5.50\)](#)

[B – Draft Ordinance No. 24-2257 \(redline\)](#)

[C – Letter to Tobacco Retailers](#)

[D – Amended Memorandum of Understanding \(Clean\)](#)

[E – Amended Memorandum of Understanding \(Redline\)](#)

## PUBLIC HEARINGS

*Effective January 1, 2023, Government Code Section 65103.5 (SB 1214) limits the distribution of copyrighted material associated with the review of development projects. Members of the public wishing to view plans that cannot otherwise be distributed under SB 1214 may make an appointment with the*

*Planning Division to view them at City Hall by sending an email to [planning@cupertino.org](mailto:planning@cupertino.org). Plans will also be made available digitally during the hearing to consider the proposal.*

7. Subject: Amendment to a Development Agreement for the Cupertino Village Boutique Hotel Project from five to eight years and associated environmental review. (Application No(s): DA-2023-002; Applicant(s): KIMCO (Sunil Plaha); Location: 10801 and 10805 N. Wolfe Rd.; APN: 316 45 017, 316 05 056)

Recommended Action: That the City Council conduct the public hearing and conduct the first reading of Ordinance No. 24-2258, entitled: "APPROVING AN AMENDMENT TO A DEVELOPMENT AGREEMENT FOR THE CUPERTINO VILLAGE BOUTIQUE HOTEL" (Attachment A):

1. Find the amendment to the existing development agreement consistent with the project's Mitigated Negative Declaration (State Clearinghouse No. 2018112025) and
2. Adopt the ordinance to amend the existing Development Agreement (DA-2023-002).

Presenter: Gian Martire, Senior Planner

[Staff Report](#)

[A - Draft Ordinance No. 24-2258](#)

[B - Planning Commission Resolution No. 2024-03](#)

[C - Ordinance No. 19-2186](#)

[D- Justification Letter](#)

[E - Public Comments](#)

8. Subject: Amendment to a Development Agreement (DA-2018-01) for the De Anza Hotel Project from five to eight years and associated environmental review. (Application No(s): DA-2023-003; Applicant(s): De Anza Properties (John Vidovich); Location: 10931 N De Anza Blvd.; APN: 326-10-061)

Recommended Action: That the City Council conduct the public hearing and conduct the first reading of Ordinance No. 24-2259, entitled: "APPROVING AN AMENDMENT TO A DEVELOPMENT AGREEMENT FOR THE DE ANZA HOTEL PROJECT" (Attachment A):

1. Find the amendment to the existing development agreement consistent with the project's Mitigated Negative Declaration (State Clearinghouse No. 2019079010) and
2. Adopt the ordinance to amend the existing Development Agreement (DA-2023-003).

Presenter: Gian Martire, Senior Planner

[Staff Report](#)

[A - Draft Ordinance No. 24-2259](#)

[B - Planning Commission Resolution No. 2024-03](#)

[C- Ordinance No. 20-2195](#)

[D- Justification Letter](#)

[E - Public Comments](#)

## ACTION CALENDAR



9. Subject: Memorial Park Specific Plan Design and the Parks and Recreation System Master Plan Initial Study/Mitigated Negative Declaration Addendum.  
Recommended Action: 1. Adopt Resolution No. 24-030, Addendum to the Parks and Recreation System Master Plan Initial Study/Mitigated Negative Declaration; and  
2. Approve the Memorial Park Specific Plan Design.  
Presenter: Susan Michael, Capital Improvement Programs Manager  
[Staff Report](#)  
[A - MPSP Report](#)  
[B - MPSP Report Appendices](#)  
[C - PRSMP IS-MND Addendum-MPSP](#)  
[D - PRSMP IS-MND Addendum-MPSP Appendices B-F](#)  
[E - Draft Resolution](#)

## ITEMS REMOVED FROM THE CONSENT CALENDAR

## CITY MANAGER REPORT

## ORAL COMMUNICATIONS - CONTINUED

## COUNCILMEMBER REPORTS

10. Subject: Councilmember Reports  
[A - Council Reports, Chao](#)  
[B - Council Reports, Fruen](#)  
[C - Council Reports, Mohan](#)  
[D - Council Reports, Moore](#)  
[E - Council Reports, Wei](#)

## 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 95014; 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.gov](mailto:citycouncil@cupertino.gov)

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