



AGENDA OF THE CUPERTINO CITY COUNCIL

Tuesday, May 4, 2021

Televised Special Meeting Study Session (5:30) and
Regular City Council Meeting (6:45)

CITY COUNCIL

DARCY PAUL, MAYOR

LIANG CHAO, VICE MAYOR

KITTY MOORE, COUNCILMEMBER

HUNG WEI, COUNCILMEMBER

JON ROBERT WILLEY, COUNCILMEMBER

TELECONFERENCE MEETING WITHOUT A PHYSICAL LOCATION

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 teleconference 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.

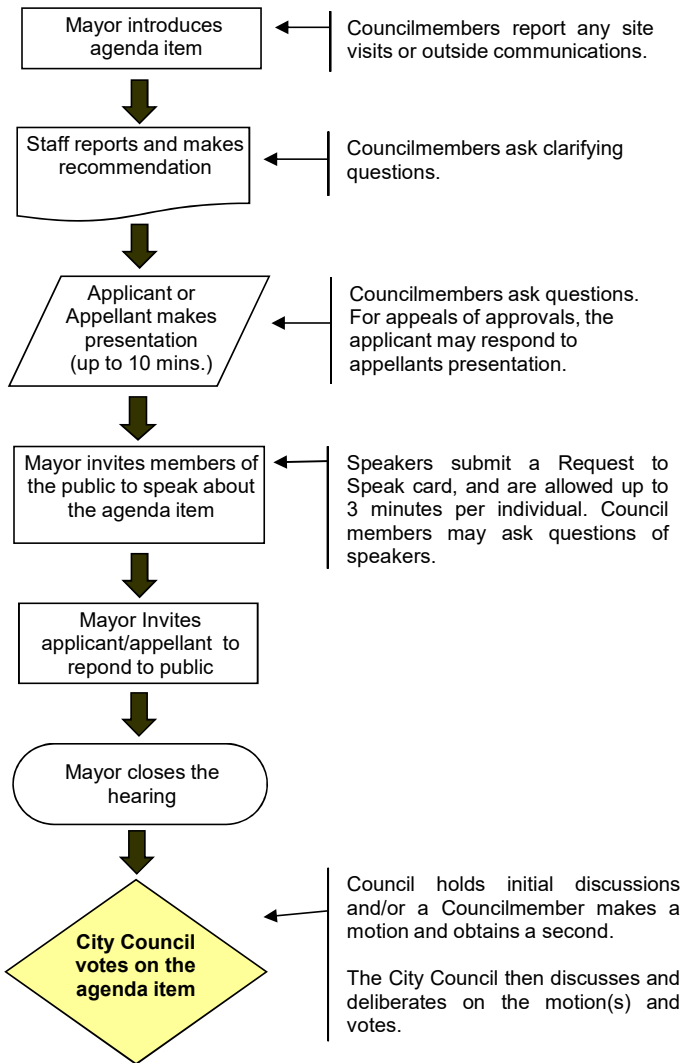
AGENDAS, MINUTES, AND PACKETS AVAILABLE ON THE WEB

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

This will be a teleconference meeting without a physical location.

Tuesday, May 4, 2021

5:30 PM

Televised Special Meeting Study Session (5:30) and Regular City Council Meeting (6:45)

TELECONFERENCE / PUBLIC PARTICIPATION INFORMATION TO HELP STOP THE SPREAD OF COVID-19

In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location to help stop the spread of COVID-19.

Members of the public wishing to observe the meeting may do so in one of the following ways:

- 1) Tune to Comcast Channel 26 and AT&T U-Verse Channel 99 on your TV.**
- 2) 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 comment on an item on the agenda may do so in the following ways:

- 1) E-mail comments by 4:30 p.m. on Tuesday, May 4 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.**

- 2) E-mail comments during the times for public comment during the meeting to the City Clerk at cityclerk@cupertino.org. The City Clerk will read the emails into the record, and display any attachments on the screen, for up to 3 minutes (subject to the Mayor's discretion to shorten time for public comments). Members of the public that wish to share a document must email cityclerk@cupertino.org prior to speaking.**

3) Teleconferencing Instructions

Members of the public may provide oral public comments during the teleconference meeting as follows:

Oral public comments will be accepted during the teleconference meeting. Comments may be made during “oral communications” for matters not on the agenda, and during the public comment period for each agenda item.

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_4BTh7W2XTmG_92YXzIEvkQ

Phone

Dial: 669-900-6833 and enter Webinar ID: 977 4081 0385 (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)

Meeting ID: 977 4081 0385

SIP: 97740810385@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.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this teleconference City Council 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 Council meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, City Council meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.

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 Tuesday, May 04, 2021, commencing at 5:30 p.m. In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location. Said special meeting shall be for the purpose of conducting business on the subject matters listed below under the heading, "Special Meeting."

SPECIAL MEETING

ROLL CALL - 5:30 PM

STUDY SESSION

1. Subject: Study Session on the Capital Improvement Programs (CIP): Review of Projects Proposed for Fiscal Year (FY) 21/22.
Recommended Action: Receive the Report on Projects Proposed for FY 21-22 and Provide Comments.
[Staff Report](#)
[A - Proposed FY21-22 CIP Projects](#)
[B - Proposed FY21-22 CIP Project Narratives](#)
[C - Proposed Existing FY21-22 CIP Project Table](#)

ADJOURNMENT

REGULAR MEETING

PLEDGE OF ALLEGIANCE - 6:45 PM

ROLL CALL

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Proclamation for Public Works Week, May 16-22, 2021
Recommended Action: Present Proclamation for Public Works Week, May 16-22, 2021
[A - Proclamation](#)

2. Subject: Presentation from Midpeninsula Regional Open Space District ("Midpen") Board members Yoriko Kishimoto and Pete Siemens for an introduction to Midpen and to provide an update on activities
Recommended Action: Receive presentation from Midpeninsula Regional Open Space District ("Midpen") Board members Yoriko Kishimoto and Pete Siemens for an introduction to Midpen and to provide an update on activities

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. 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.

REPORTS BY COUNCIL AND STAFF (10 minutes)

3. Subject: Brief reports on councilmember activities and brief announcements
Recommended Action: Receive brief reports on councilmember activities and brief announcements
4. Subject: City Manager update on emergency response efforts
Recommended Action: Receive City Manager update on emergency response efforts
5. Subject: Report on Committee assignments
Recommended Action: Report on Committee assignments

CONSENT CALENDAR

Unless there are separate discussions and/or actions requested by council, staff or a member of the public, it is requested that items under the Consent Calendar be acted on simultaneously.

6. Subject: Approve the April 12 City Council minutes
Recommended Action: Approve the April 12 City Council minutes
[A - Draft Minutes](#)

7. Subject: Approve the April 20 City Council minutes
Recommended Action: Approve the April 20 City Council minutes
[A - Draft Minutes](#)
8. Subject: Consider Authorizing the City Manager to Execute a Lease Agreement with the Library Joint Powers Authority of Santa Clara County for the Cupertino Library Located at 10800 Torre Avenue, Cupertino, Ca 95014.
Recommended Action: Authorize the City Manager to Execute a Lease Agreement with the Library Joint Powers Authority of Santa Clara County for the Cupertino Library Located at 10800 Torre Avenue, Cupertino, CA 95014, for a 25-year Term Starting January 1, 2019. (Attachment A).
[Staff Report](#)
[A - Draft Library Lease Agreement for Cupertino Library](#)
[B - 1996 Library Lease Agreement](#)
9. Subject: Consider Fiscal Year 2021-22 projects proposed to receive \$1,170,317 in funding from the Road Maintenance and Rehabilitation Account (RMRA), created by Senate Bill 1 (SB 1).
Recommended Action: Adopt Resolution No. 21-024 establishing a list of projects proposed to be funded by \$1,170,317 of RMRA (SB1) revenues, estimated to be received in FY 2021-22.
[Staff Report](#)
[A - Draft Resolution](#)
10. Subject: Consideration of Resolution, allowing the City of Cupertino to accept \$177,952 in per capita grant funds from the State of California, to be used for the implementation of a full-size outdoor basketball court.
Recommended Action: Adopt Resolution No. 21-035, allowing the City of Cupertino to enter into a contract(s) with the State of California to accept \$177,952 in per capita grant funds under Proposition 68, to be used for the implementation of a full-size outdoor basketball court.
[Staff Report](#)
[A - Draft Resolution](#)

SECOND READING OF ORDINANCES

11. Subject: Consider and act on Ordinance No. 21-2226 "An Ordinance of the City Council of the City of Cupertino to adopt changes to Chapter 19.56, Density Bonus, of the Cupertino Municipal Code to allow increased density bonuses for projects providing higher percentages of affordable units in a housing development project." Application No(s): MCA-2021-002; Applicant(s): City of Cupertino; Location: citywide

Recommended Action: Conduct the second reading and enact Ordinance No. 21-2226, "An Ordinance of the City Council of the City of Cupertino to adopt changes to Chapter 19.56, Density Bonus, of the Cupertino Municipal Code to allow increased density bonuses for projects providing higher percentages of affordable units in a housing development project," which includes a finding that adoption of the ordinance is exempt from the California Environmental Quality Act.

[A - Draft Ordinance No. 21-2226](#)

PUBLIC HEARINGS

12. Subject: Consideration of Municipal Code Amendments to the Cupertino Municipal Code, Chapter 10.90, expanding existing policies to reduce exposure to secondhand smoke, including in multi-unit housing, entryways, public events, service areas, and outdoor worksites. (Postponed from April 20)

Recommended Action: 1. Reintroduce with amendments and conduct the first reading of Ordinance No. 21-2227: "An Ordinance of the City Council of the City of Cupertino amending City Code Chapter 10.90 of Title 10 (Public Peace, Safety, and Morals) to prohibit smoking in multi-unit housing and certain outdoor areas," which adds setback requirements for designated smoking areas and includes detached ADUs and JADUs in the regulations, and which includes a finding that the Ordinance is exempt from CEQA; or

2. Conduct the second reading and enact Ordinance No. 21-2224 "An Ordinance of the City Council of the City of Cupertino amending City Code Chapter 10.90 of Title 10 (Public Peace, Safety, and Morals) to prohibit smoking in multi-unit housing and certain outdoor areas," which includes a finding that the Ordinance is exempt from CEQA.

[Staff Report](#)

[A - Draft Ordinance 21-2224 to Regulate Smoking \(First Reading Approved on 3/2/21\) Clean](#)

[B - Draft Ordinance 21-2224 to Regulate Smoking \(First Reading Approved on 3.2.21\) Redline](#)

[C - Revised Draft Ordinance to Regulate Smoking Clean](#)

[D - Revised Draft Ordinance to Regulate Smoking Redline](#)

[E - March 2, 2021 Staff Report](#)

[F - Tobacco Free Communities Policies in Santa Clara County](#)

13. Subject: Consideration of proposed Fiscal Year (FY) 2021-22 Fee Schedule Update. (Postponed from April 20)

Recommended Action: Consider proposed Fiscal Year (FY) 2021-22 Fee Schedule Update.

1. Adopt Resolution No. 21-033 amending FY 2020-21 Fee Schedule E to add a community garden fee effective May 5, 2021.

2. Adopt Resolution No. 21-034 approving FY 2021-22 Fee Schedules A, B, C, D, and E effective July 3, 2021.

[Staff Report](#)[A. FY2021-22 Fee Schedule A - General Fees \(redline\)](#)[B. FY2021-22 Fee Schedule B - Engineering Fees \(redline\)](#)[C. FY2021-22 Fee Schedule C - Planning Fees \(redline\)](#)[D. FY2021-22 Fee Schedule D - Building Fees \(redline\)](#)[E. FY2021-22 Fee Schedule E - Recreation \(redline\)](#)[F. FY2021-22 Fee Schedule A - General Fees \(clean\)](#)[G. FY2021-22 Fee Schedule B - Engineering Fees \(clean\)](#)[H. FY2021-22 Fee Schedule C - Planning Fees \(clean\)](#)[I. FY2021-22 Fee Schedule D - Building Fees \(clean\)](#)[J. FY2021-22 Fee Schedule E - Recreation \(clean\)](#)[K. FY2020-21 Fee Schedule E - Recreation \(redline\)](#)[L. FY2020-21 Fee Schedule E - Recreation \(clean\)](#)[M. Community Garden Fee Calculator](#)[N. Field Use Fees and Comparison](#)[O. Senior Center Membership Comparison](#)[P. User Fee Study 2016](#)[Q. Draft Resolution amending FY 20-21 Fee Schedule E](#)[R. Draft Resolution approving FY 21-22 Fee Schedule A, B, C, D, & E](#)**ORDINANCES AND ACTION ITEMS**

14. Subject: Consider approving the updated Athletic Field Use Policy. (Continued from April 20. The public comment has been closed and remains closed).

Recommended Action: Approve the updated Athletic Field Use Policy and provide any input

[Staff Report](#)[A - Proposed City of Cupertino Athletic Field Use Policy](#)[B - Sunday Field Use and Annual Field Closure Survey Results](#)[C - Comparison of Other Cities](#)[D - Fee Comparison and Cost Recovery Chart](#)[E - Current City of Cupertino Athletic Field Use Policy](#)[F - Policy Comparison Chart](#)

15. Subject: Consideration of a City Council summer recess and cancellation of meeting(s).
Recommended Action: Consider a City Council summer recess and cancel suggested July 6 and/or August 3 meeting(s) or provide direction to staff.

[Staff Report](#)[A – Council Upcoming Draft Agenda Items](#)**ORAL COMMUNICATIONS - CONTINUED (As necessary)****COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS****ADJOURNMENT**

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 teleconference 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, 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 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 agendized item. These written communications are accessible to the public through the City's website and kept in packet archives. You are hereby admonished not to include any personal or private information in written communications to the City that you do not wish to make public; doing so shall constitute a waiver of any privacy rights you may have on the information provided to the City.*

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	
Darcy Paul	DPaul@cupertino.org	(408) 777-3195
Liang Chao	LiangChao@cupertino.org	(408) 777-3192
Kitty Moore	Kmoore@cupertino.org	(408) 777-1398
Hung Wei	HWei@cupertino.org	(408) 777-3139
Jon Robert Willey	JWilley@cupertino.org	(408) 777-3193
Executive Assistant	AshleyS@cupertino.org	(408) 777-8204
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