

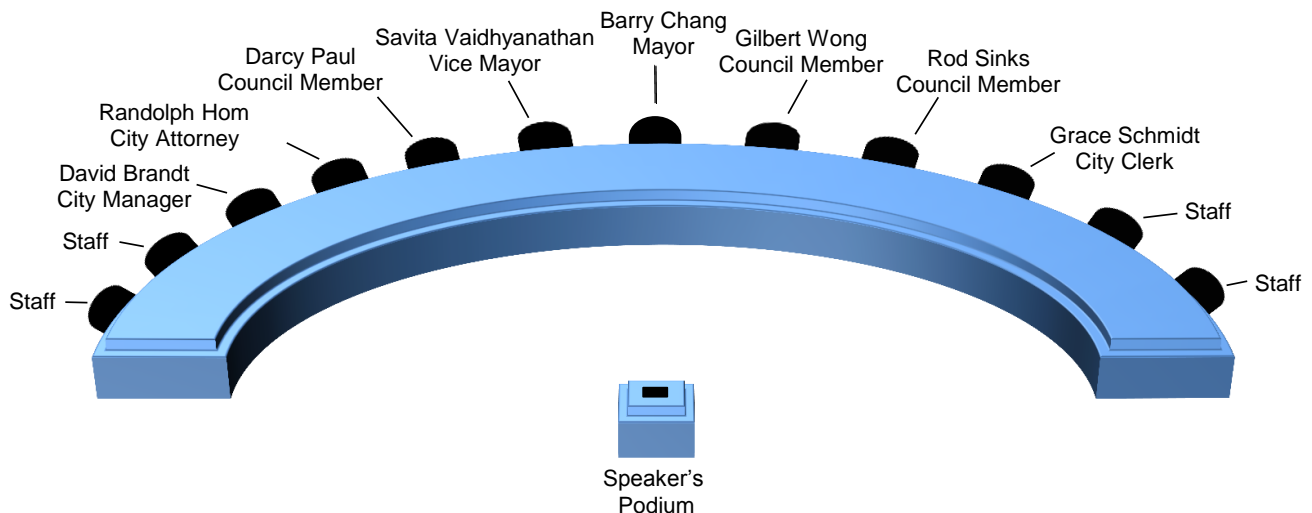


AGENDA OF THE CITY COUNCIL

Tuesday, September 6, 2016

Non-televised Closed Session (6:00)

Televised Regular Meeting (6:45)



COMMUNITY HALL COUNCIL CHAMBER

10350 TORRE AVENUE • CUPERTINO, CA 95014

TELEPHONE: (408) 777-3220 (CITY HALL)

WEBSITE: www.cupertino.org

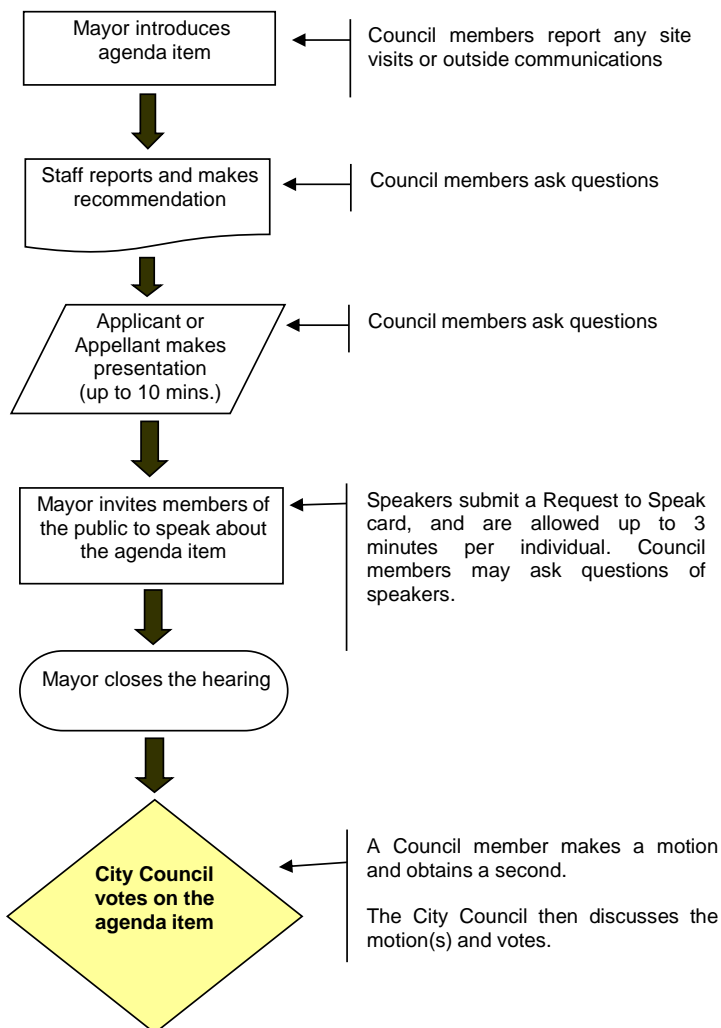
CONDUCT OF BUSINESS

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 outward expressions of emotions such as cheering or clapping. Such behavior delays the meeting and may intimidate other persons wishing to express alternate views. Loud, unruly outbursts will result in removal from the meeting.

The proceedings of the meeting are recorded on audiotape and videotape; therefore, 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.

FLOWCHART FOR AGENDA 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 in the Council Chamber of the Cupertino Community Hall, 10350 Torre Avenue, 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. Actions taken in closed sessions are not final until acted upon in public 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.cupertino.org/index.aspx?page=125 for a reconsideration petition form.



CITY OF CUPERTINO

AGENDA

CITY COUNCIL

10300 Torre Avenue and 10350 Torre Avenue

Tuesday, September 6, 2016

6:00 PM

Non-televised Closed Session (6:00); Followed by Televised Regular Meeting (6:45)

CLOSED SESSION - 6:00 PM

10300 Torre Avenue, City Hall Conference Room A

1. Subject: Conference with legal counsel - Existing Litigation pursuant to Paragraph (1) of subdivision (d) of Gov't Code 54956.9; City of Cupertino v. Siemens Industry, Inc. et al, Case #1-14-CV-272838

PLEDGE OF ALLEGIANCE - 6:45 PM

10350 Torre Avenue, Community Hall Council Chamber

ROLL CALL

CEREMONIAL MATTERS AND PRESENTATIONS

2. Subject: Present proclamation to Cupertino resident Rajee Shah in recognition of performing community service
Recommended Action: Present proclamation to Cupertino resident Rajee Shah in recognition of performing community service
3. Subject: Present Certificates of Recognition to Cupertino Staff Members Frank Villa and Pete Arnst for responding quickly to aid an injured bicyclist
Recommended Action: Present Certificates to Cupertino Staff Members Frank Villa and Pete Arnst for responding quickly to aid an injured bicyclist
4. Subject: Cupertino Transit Video II
Recommended Action: Present Cupertino Transit Video II

POSTPONEMENTS

5. Subject: Continue Item No. 21 Appeal of Kimberly Sandstrom Appeal Regarding Eligibility to Purchase Below Market Rate (BMR) Unit to September 20, 2016

Recommended Action: Continue Item No. 21 Appeal of Kimberly Sandstrom Appeal Regarding Eligibility to Purchase Below Market Rate (BMR) Unit to September 20, 2016

ORAL COMMUNICATIONS

This portion of the meeting is reserved for persons wishing to address the council on any matter not on the agenda. Speakers are limited to three (3) minutes. In most cases, State law will prohibit the council from making any decisions with respect to a matter not listed on the agenda.

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 August 2 City Council minutes
Recommended Action: Approve the August 2 City Council minutes
[A - Draft Minutes](#)
7. Subject: Accept Accounts Payable for the period ending July 1, 2016
Recommended Action: Adopt Resolution No. 16-085 accepting Accounts Payable for the period ending July 1, 2016
[A - Draft Resolution](#)
[B - AP Report](#)
8. Subject: Accept Accounts Payable for the period ending July 8, 2016
Recommended Action: Adopt Resolution No. 16-086 accepting Accounts Payable for the period ending July 8, 2016
[A - Draft Resolution](#)
[B - AP Report](#)
9. Subject: Accept Accounts Payable for the period ending July 15, 2016
Recommended Action: Adopt Resolution No. 16-087 accepting Accounts Payable for the period ending July 15, 2016
[A - Draft Resolution](#)
[B - AP Report](#)
10. Subject: Accept Accounts Payable for the period ending July 22, 2016
Recommended Action: Adopt Resolution No. 16-088 accepting Accounts Payable for the period ending July 22, 2016
[A - Draft Resolution](#)
[B - AP Report](#)

11. Subject: Accept Accounts Payable for the period ending July 29, 2016
Recommended Action: Adopt Resolution No. 16-089 accepting Accounts Payable for the period ending July 29, 2016
[A - Draft Resolution](#)
[B - AP Report](#)
12. Subject: Biennial Review of Conflict of Interest Code of the City of Cupertino for officials and designated positions
Recommended Action: a.) Rescind Resolution No. 14-168 and adopt Resolution No. 16-090 amending the Conflict of Interest Code of the City of Cupertino; and b.) Authorize the City Manager to sign the required 2016 Local Agency Biennial Notice
[Staff Report](#)
[A - Draft Resolution Redline Version](#)
[B - Draft Resolution Clean Version](#)
[C - 2016 Local Agency Biennial Notice](#)
13. Subject: Second amendment to agreement for consultation services with Insight
Recommended Action: 1. Amend compensation and terms sections of the first amended and restated agreement that expired on June 30, 2016; and 2. Authorize the City Manager to sign the second amended and restated agreement with Insight
[Staff Report](#)
[A - Draft Seconded Amended and Restated Agreement](#)
[B - First Amended and Restated Agreement](#)
14. Subject: Execute a lease agreement with Self-Help For The Elderly Program for use of Creekside Park Building for the period of September 12, 2016-December 31, 2016
Recommended Action: Authorize City Manager to negotiate and execute a lease agreement with Self-Help For the Elderly Program for use of the Creekside Park Building for the period of September 12, 2016-December 31, 2016
[Staff Report](#)
[A - Draft Lease Agreement](#)
[B - Clients Distribution Chart 2015-16](#)
15. Subject: Fee waiver request from League of Women Voters of Cupertino-Sunnyvale for approximately \$255 in facility use fees for the use of Community Hall on September 22, September 26 and September 28, 2016 for candidate forums and a presentation.
Recommended Action: Staff recommends approval of fee waiver request.
[Staff Report](#)
[A- LWV Letter](#)
16. Subject: Request from Mr. Leon Chen to sponsor a bench in memory of his son,

Erik Chen, at Creekside Park

Recommended Action: Accept a donation for a bench with a special plaque in memory of Erik Chen from his father Mr. Leon Chen to be placed at Creekside Park

[Staff Report](#)

[A- Resolution No. 03-162](#)

17. Subject: Application for Alcohol Beverage License for Lyfe Kitchen Norcal, LLC (dba Lyfe Kitchen), 19399 Stevens Creek Boulevard

Recommended Action: Approve application for Alcohol Beverage License for Lyfe Kitchen Norcal, LLC (dba Lyfe Kitchen), 19399 Stevens Creek Boulevard

[Staff Report](#)

[A - Application](#)

18. Subject: Authorization of funding for the Sidewalk Renovation-Stevens Creek Blvd (Stelling-De Anza) Project in order to enhance accessibility in the public right of way

Recommended Action: Authorize funding in the amount of \$250,000 for the Sidewalk Renovation-Stevens Creek Blvd (Stelling-De Anza) Project

[Staff Report](#)

[A - Area Map](#)

19. Subject: Master Agreement between the City of Cupertino and HMH Engineering, Inc. (HMH) to provide civil engineering services on various Capital Improvement Projects

Recommended Action: Authorize the City Manager to execute a Master Agreement between the City of Cupertino and HMH in the amount not to exceed \$1,000,000 for a term of approximately two years

[Staff Report](#)

[A - Draft Agreement](#)

SECOND READING OF ORDINANCES

20. Subject: Second Reading of an ordinance amending Section 11.27.145 of the Cupertino Municipal Code relating to Designation of Preferential Parking Zone on Canyon Oak Way

Recommended Action: Conduct the second reading and enact Ordinance No. 16-2147: "An Ordinance of the City Council of the City of Cupertino amending Section 11.27.145 of the Cupertino Municipal Code relating to designation of preferential parking zones" on Canyon Oak Way on Saturdays, Sundays and holidays between the hours of 7 a.m. and 4 p.m.

[Staff Report](#)

[A - Permit Parking Map](#)

[B - Draft Ordinance](#)

PUBLIC HEARINGS

21. Subject: Appeal of Kimberly Sandstrom Appeal Regarding Eligibility to Purchase Below Market Rate (BMR) Unit
Recommended Action: Appeal of Kimberly Sandstrom Appeal Regarding Eligibility to Purchase Below Market Rate (BMR) Unit has been continued to September 20, 2016
22. Subject: Redevelopment of Marina Foods with associated site and off-site improvements
Recommended Action: a) Adopt Resolution No. 16-091 approving Development Permit (DP-2015-05) and Environmental Analysis (Negative Declaration) (EA-2015-05); and
b) Adopt Resolution No. 16-092 approving Architectural and Site Approval (ASA-2015-22); and
c) Adopt Resolution No. 16-093 approving Use Permit (U-2015-06); and
d) Adopt Resolution No. 16-094 approving Heart of the City Exception (EXC-2016-03); and
e) Adopt Resolution No. 16-095 approving Fence Exception (EXC-2016-05); and
f) Adopt Resolution No. 16-096 approving Tree Removal Permit (TR-2016-14); and
g) Conduct the first reading of Ordinance No. 16-2148 (development agreement DA-2016-01): "Ordinance of the City Council of the City of Cupertino approving a Development Agreement by and among the City of Cupertino, Cupertino 10145, LLC, and Marina Plaza LLC, for the Marina Plaza project at 10122 Bandle Drive and 10145 North De Anza Boulevard"

[Staff Report](#)[CC - 1 Draft Resolution DP-2015-05 and EA-2015-035](#)[CC - 2 Draft Resolution ASA-2015-22](#)[CC - 3 Draft Resolution U-2015-06](#)[CC - 4 Draft Resolution EXC-2016-03](#)[CC - 5 Draft Resolution EXC-2016-05](#)[CC - 6 Draft Resolution TR-2016-14](#)[CC - 7 Draft Ordinance ORD DA-2016-1](#)[CC - 7A Draft Agreement Marina DA](#)[CC - 7B Letter from Applicant to Cupertino Union School District](#)[CC - 7C Letter from Applicant to Fremont Union High School District](#)[CC - 8 Planning Commission staff report and draft minutes, June 14, 2016](#)[CC - 9 Planning Commission staff report and draft minutes, July 26, 2016](#)[CC - 10 Final Planning Commission Resolutions \(Nos. 6809-6814\)](#)[CC - 11 Environmental Review Committee Recommendation](#)[CC - 12 Initial Study/Mitigated Negative Declaration \(ISMND\)](#)[CC - 13 Response to Comments Memo for ISMND](#)[CC - 14 CEQA Memo for Development Agreement](#)

23. **Subject:** Consideration pursuant to a Lease with San Jose Water Company, of the reasonableness of an increase in water rates to customers served by the Cupertino Municipal Water System leased to San Jose Water Company. The increase in rates is substantially identical to that authorized by the California Public Utilities Commission ("CPUC"), after extensive review, for systems owned and operated by San Jose Water Company in other areas within the City

Recommended Action: 1. Hold a Public Hearing on proposed Cupertino Municipal Water System potable water rates and charges; and 2. Adopt Resolution 16-097, finding no basis to find as unreasonable the increase in Cupertino Municipal Water System potable water rates and charges, effective September 15, 2016 and retroactive to January 1, 2016, by 8.6% which is equivalent to the rate increase authorized by the California Public Utilities Commission ("CPUC"), after extensive review for systems owned and operated by San Jose Water Company in other areas within the City

[Staff Report](#)[A - Draft Resolution](#)[B - Water Service Map](#)[C - Lease Agreement with San Jose Water Company](#)[D - Cupertino Rate Increase Request 2016](#)[E - Drought Surcharge Calculation Sample](#)[F - Water Rate Increase Comments](#)

ORDINANCES AND ACTION ITEMS

24. Subject: Hearing to approve assessment of fees on private parcels for the annual weed abatement program
Recommended Action: Conduct hearing and adopt Resolution No. 16-098 approving the assessment of fees on private parcels for the annual weed abatement program
[Staff Report](#)
[A - Draft Resolution](#)
[B - Exhibit A Assessment Report](#)
25. Subject: Accept resignation of Technology, Information, and Communications Commissioner Shishir Chavan and direct staff to fill the unscheduled vacancy in January; and set application deadline and interview dates for commissions with terms expiring in January, or provide further direction to staff.
Recommended Action: a) Accept the resignation of Technology, Information, and Communications Commissioner Shishir Chavan and direct staff to fill the unscheduled vacancy in January 2017; and
b) Set the application deadline of 4:30 p.m. on Friday, January 13, 2017 and interviews beginning at 5:00 p.m. on Monday and Tuesday, January 23 and 24 for commissions with terms expiring January 30, 2017, or provide further direction to staff.
[Staff Report](#)
[A - Resignation Letter](#)
[B - Appointments List and Vacancy Notice](#)
26. Subject: Consider updates to the City's *Policies and Guidelines on Sister Cities* to address friendship cities
Recommended Action: Approve recommended Policies and Guidelines on Sister Cities, Friendship Cities, and International Delegations
[Staff Report](#)
[A - Redline Policies and Guidelines on Sister Cities](#)
[B - Draft Policies and Guidelines on Sister Cities, Friendship Cities, and I](#)

REPORTS BY COUNCIL AND STAFF

27. Subject: Construction Project Updates
Recommended Action: Receive Construction Project Updates
28. Subject: Report on Committee assignments and general comments
Recommended Action: Report on Committee assignments and general comments

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/index.aspx?page=125> for a reconsideration petition form.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend the next 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, 48 hours in advance of the Council meeting to arrange for assistance. 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. Also upon request, in advance, an assistive listening device can be made available for use during the meeting.

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.

Members of the public are entitled to address the City Council concerning any item that is described in the notice or agenda for this meeting, before or during consideration of that item. If you wish to address the Council on any issue that is on this agenda, please complete a speaker request card located in front of the Council, and deliver it to the Clerk prior to discussion of the item. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the City Council on any other item not on the agenda, you may do so by during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

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 nine commissions, which are appointed by the Council. These are the Bicycle Pedestrian Commission, Fine Arts Commission, Cupertino Housing Commission, Library Commission, Parks and Recreation Commission, Planning Commission, Public Safety Commission, Teen Commission, and the 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	
Barry Chang	BChang@cupertino.org	(408) 777-3192
Savita Vaidhyanathan	SVaidhyanathan@cupertino.org	(408) 777-3193
Darcy Paul	DPaul@cupertino.org	(408) 777-3195
Rod Sinks	RSinks@cupertino.org	(408) 777-3194
Gilbert Wong	GWong@cupertino.org	(408) 777-3191
Council administrator	ToniO@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-mailed agendas, minutes, elections, and other items on the city website at www.cupertino.org, or fill out a Speaker Card at the meeting and check your categories of interest.

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. Click "View meetings online."

You can also use iTunes to listen online or download podcasts of City Council meetings. iTunes is a free software program available for Mac and PC users. Occasionally, news and community information is also available at www.Twitter.com/CupertinoCom

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