

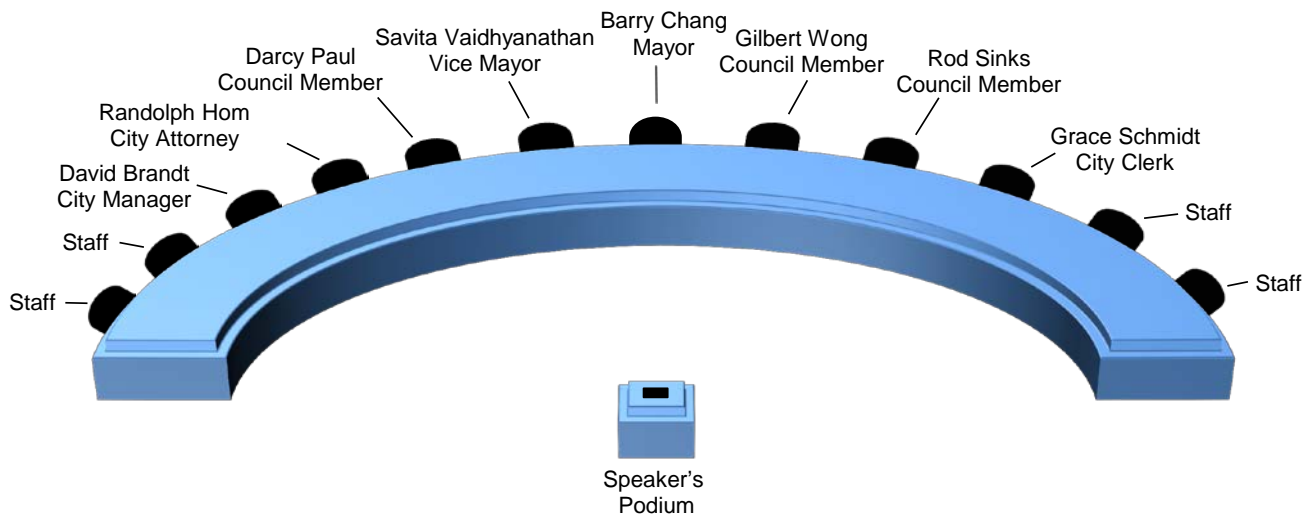


## AGENDA OF THE CITY COUNCIL

**Tuesday, October 18, 2016**

**Non-televised Special Meeting Closed Session (5:00)**

**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](http://www.cupertino.org)

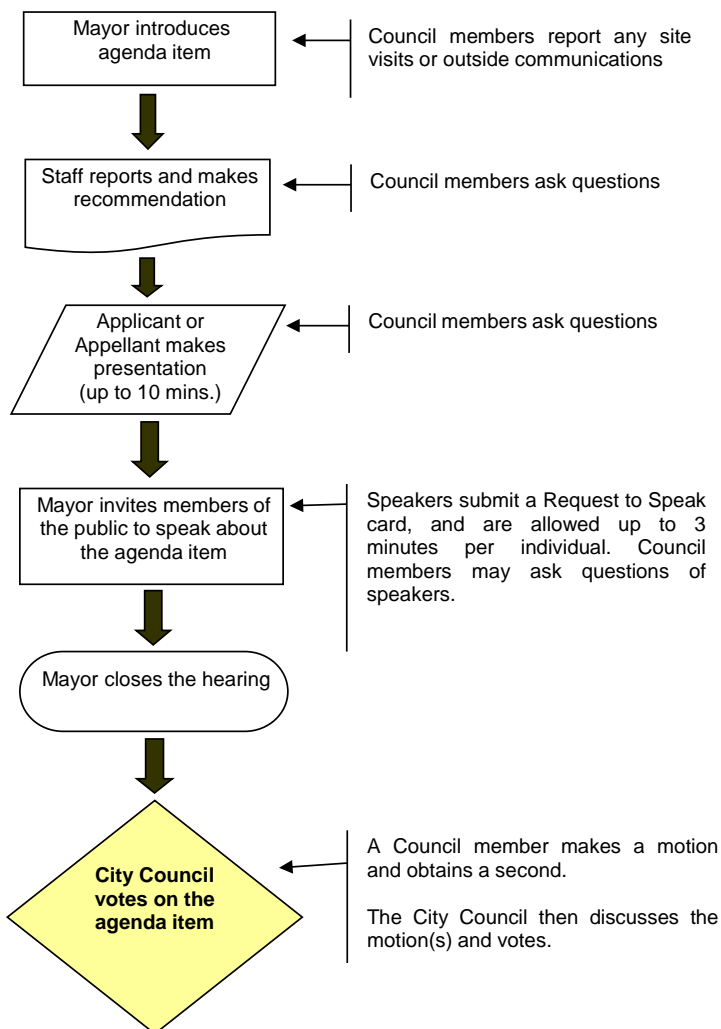
## CONDUCT OF BUSINESS

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 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](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.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

Tuesday, October 18, 2016

5:00 PM

Non-televised Special Meeting Closed Session (5:00); Followed by Televised Regular Meeting  
(6:45)

### 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, October 18, 2016, commencing at 5:00 p.m. in City Hall Conference Room A, 10300 Torre Avenue, Cupertino, California 95014 and the regular meeting following at 6:45 p.m. in Community Hall Council Chamber, 10350 Torre Avenue, Cupertino, California 95014. 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 - 5:00 PM

10300 Torre Avenue, City Hall Conference Room A

#### CLOSED SESSION

1. Subject: Public Employee Performance Evaluation (Gov't Code Section 54957).  
Title: City Manager; Appointed Employees Compensation Program
2. Subject: Public Employee Performance Evaluation (Gov't Code Section 54957).  
Title: City Attorney; Appointed Employees Compensation Program
3. Subject: Conference with Labor Negotiators (Gov't Code Section 54957.6);  
Agency designated representatives: City Manager, Director of Administrative Services; Employee organizations: Unrepresented (Management and Confidential) Employees' Compensation Program

#### ADJOURNMENT

### REGULAR MEETING

**PLEDGE OF ALLEGIANCE - 6:45 PM****10350 Torre Avenue, Community Hall Council Chamber****ROLL CALL****STUDY SESSION**

1. Subject: Study Session regarding Sustainable Strategies for Recycling and Waste Management  
Recommended Action: 1. Receive information and public comment at study session;  
2. Direct staff to investigate sustainable strategies that strengthen solid waste reduction measures as identified in the City of Cupertino Climate Action Plan (CAP), and;  
3. Solicit future input from the Sustainability Commission in evaluating strategies that maximize the amount of waste products that are recycled, reused or composted, and;  
4. As determined necessary, schedule for Council consideration the amendment of applicable chapters of the City of Cupertino Municipal Code to enforce solid waste reduction measures, and;  
5. As determined necessary, schedule for Council consideration the authorization and negotiation of agreements between the City of Cupertino and potential recycling/organic processing sites.  
6. As determined necessary, schedule for Council consideration amendments to the Franchise Agreement between the City of Cupertino and Recology Cupertino for Collection and Processing of Recyclable and Compostable Materials, and the Collection and Disposal of Garbage (Franchise Agreement)  
[Staff Report](#)  
[A - EPA's Food REcovery Hierarchy](#)

**CEREMONIAL MATTERS AND PRESENTATIONS**

2. Subject: Presentation by Toyokawa Sister City Committee regarding recent trip  
Recommended Action: Receive the presentation by Toyokawa Sister City Committee regarding recent trip
3. Subject: Library Commission Fiscal Year 2016-17 Work Plan presentation  
Recommended Action: Receive the Library Commission Fiscal Year 2016-17 Work Plan presentation
4. Subject: Cupertino Safe Routes to School Program Update  
Recommended Action: Receive Cupertino Safe Routes to School Program Update

5. Subject: Presentation from the Taipei Friendship City Committee regarding a Smart City Conference in May of 2017  
Recommended Action: Receive the presentation

## POSTPONEMENTS

## 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 October 4 City Council minutes  
Recommended Action: Approve the October 4 City Council minutes  
[A - Draft Minutes](#)
7. Subject: Request from the Taipei Friendship City Committee for City to Sponsor a Smart City Conference in May of 2017  
Recommended Action: Sponsor the proposed Smart City Conference  
[Staff Report](#)
8. Subject: Authorize an additional full-time equivalent (FTE) position in the City Attorney's Office  
Recommended Action: Adopt Resolution No. 16-106 to: 1) Increase FTE in the City Attorney's Office from 3 FTE to 4 FTE by adding a Deputy City Attorney position; and 2) Authorize a budget adjustment of \$60,000 in the City Attorney's program budget  
[Staff Report](#)  
[A - Draft Resolution](#)
9. Subject: Adopt resolution increasing the employer's contribution for medical and hospitalization insurance for employees under the Unrepresented group, Cupertino Employees's Association, Operating Engineers, Local Union No. 3, Appointed, Elected Officials, and retired annuitant groups.

Recommended Action: Adopt Resolution No. 16-107 increasing employer's contribution for medical and hospitalization insurance for employees under the Unrepresented, Cupertino Employees' Association, Operating Engineers, Local Union No. 3, Appointed, Elected Officials, and retired annuitant groups

[Staff Report](#)

[A - Draft Resolution](#)

10. Subject: Approve the terms and conditions of employment for the Unrepresented (Management and Confidential) Employees, Appointed Employees, and Elected officials

Recommended Action: 1. Adopt Resolution No. 16-108 amending the Compensation Program for the Unrepresented (Management and Confidential) Employees; and 2. Adopt Resolution No. 16-109 amending the Compensation Program for the Appointed Employees; and 3. Adopt Resolution No. 16-110 amending the Compensation Program for the Elected Officials; and 4. Make the necessary budget adjustments to ensure that there are sufficient budget appropriations to cover the costs related to changes to the compensation program

[Staff Report](#)

[A - Employee Group Salary and Benefits recommended changes](#)

[B - Koff and Associates Class and Comp Study - Leave schedule](#)

[C - Draft Resolution amending the Unrepresented Employees' Compensation](#)

[D - Draft Redline Unrepresented Compensation Program](#)

[E - Clean Unrepresented Employees' Compensation program](#)

[F - Draft Resolution amending the Elected Officials Compensation...](#)

[G - Draft Redline Elected Officials Compensation Program](#)

[H - Clean Elected Officials Compensation Program - Changes Accepted -](#)

[I - Draft Resolution amending the Appointed Employees Compensation P](#)

[J - Draft Redline Appointed Employees' Compensation Program](#)

[K - Clean Appointed Employees' Compensation Program - Changes Acce](#)

11. Subject: Approval of the Third Amendment to Santa Clara Valley Urban Runoff Pollution Prevention Program Memorandum of Agreement to extend its term through one fiscal year beyond the date of termination of the current Municipal Regional Stormwater Permit (estimated 2021)

Recommended Action: Authorize the City Manager to execute the Third Amendment (Attachment A) to an Agreement Providing for Implementation of the Santa Clara Valley Urban Runoff Pollution Prevention Program (Attachment B), a multi-jurisdictional Agreement between Santa Clara County, the Santa Clara Valley Water District, and thirteen Santa Clara County municipalities

[Staff Report](#)

[A - Third Amendment Draft Agreement](#)

[B - Appendices 1-3: Agreement Providing for Implementation of the Sant](#)

12. Subject: Application for Alcohol Beverage License for PEFF, LLC (dba Enzo's Restaurant), 21275 Stevens Creek Boulevard, Suite 510  
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for PEFF, LLC (dba Enzo's Restaurant), 21275 Stevens Creek Boulevard, Suite 510  
[Staff Report](#)  
[A - Application](#)
13. Subject: Application for Alcohol Beverage License for Genzo Sekine (dba Bacchus Wines), 10643 Larry Way  
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Genzo Sekine (dba Bacchus Wines), 10643 Larry Way  
[Staff Report](#)  
[A- Application](#)

## **SECOND READING OF ORDINANCES**

### **PUBLIC HEARINGS**

14. Subject: Enact an Urgency Ordinance to prohibit non-medical marijuana cultivation, dispensaries, transport and deliveries and commercial cannabis activities within the City of Cupertino. (Location: City-wide; Applicant: City of Cupertino)  
Recommended Action: That the City Council: 1. Find that the proposed actions are exempt from CEQA; and 2. Enact Interim Urgency Ordinance No. 16-2153 "An Interim Urgency Ordinance of the City Council of the City of Cupertino Establishing a Moratorium on Non-Medical Marijuana Dispensaries, Marijuana Cultivation Facilities, Commercial Cannabis Activities and Marijuana Transport and Deliveries within the City of Cupertino Pending Completion of an Update to the City's Zoning Code"  
[Staff Report](#)  
[A - Draft Interim Urgency Ordinance](#)  
[B - 2015 Association of Colorado Chiefs of Police Report](#)  
[C - FAQ from Website](#)

### **ORDINANCES AND ACTION ITEMS**

15. Subject: Consideration of an ordinance to repeal and replace Cupertino Municipal Code Chapter 16.52 regarding prevention of flood damage for properties within the City

Recommended Action: Conduct the first reading of Ordinance No. 16-2154: "An Ordinance of the City Council of the City of Cupertino to repeal and replace Cupertino Municipal Code Chapter 16.52 regarding prevention of flood damage for properties within the City"

[Staff Report](#)

[A - Draft Ordinance](#)

[B - Existing Ordinance Proposed for Rescinding](#)

[C - FEMA Community Assistance Visit letter](#)

## **REPORTS BY COUNCIL AND STAFF**

16. 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](http://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](http://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](http://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