



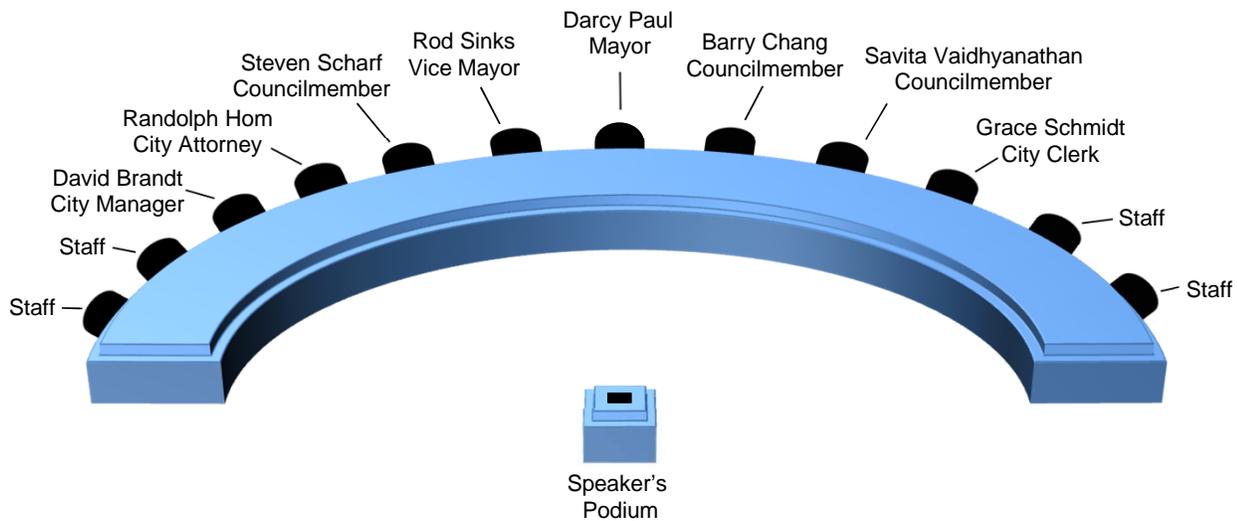
**CUPERTINO**

## **AGENDA OF THE CITY COUNCIL**

**Tuesday, May 15, 2018**

**Special Meeting Televised Study Session (3:30)  
and Non-televised Closed Session (Immediately Following)**

**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.

### 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.

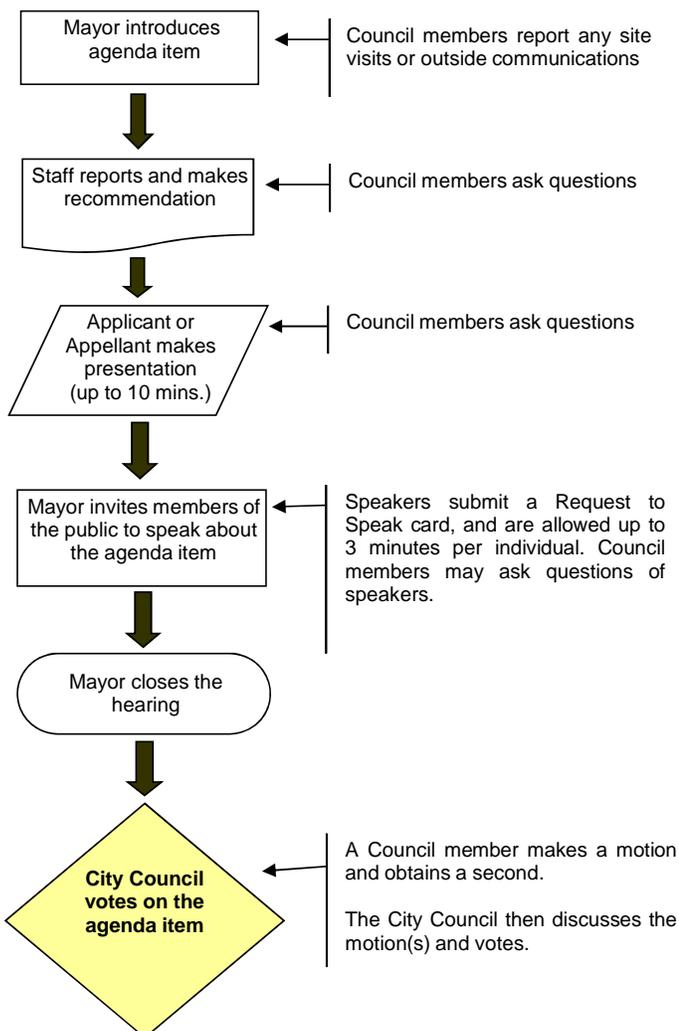
### AGENDAS, MINUTES, AND PACKETS AVAILABLE ON THE WEB

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.http://www.cupertino.org/index.aspx?page=125](http://www.cupertino.org/index.aspx?page=125) for a reconsideration petition form.

### FLOWCHART FOR AGENDA ITEMS:





**CUPERTINO**

# **CITY OF CUPERTINO**

## **AGENDA**

### **CITY COUNCIL**

**10350 Torre Avenue and 10300 Torre Avenue**

**Tuesday, May 15, 2018**

**3:30 PM**

**Special Meeting Televised Study Session (3:30) and Non-televised Closed Session (Immediately Following); and 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, May 15, 2018, commencing at 3:30 p.m. for a Study Session in Community Hall Council Chamber, 10350 Torre Avenue, Cupertino, California 95014 and a Closed Session immediately following in City Hall Conference Room A, 10300 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." The regular meeting items will be heard at 6:45 p.m. in Community Hall Council Chamber, 10350 Torre Avenue, Cupertino, California.

#### **SPECIAL MEETING**

#### **ROLL CALL**

#### **STUDY SESSION - 3:30 PM**

**Community Hall, 10350 Torre Avenue**

1. Subject: Budget Study Session regarding the Proposed Fiscal Year 2018-19 Budget, including CIP  
Recommended Action: Conduct a Budget Study Session regarding the Proposed Fiscal Year 2018-19 Budget, including CIP

**CLOSED SESSION - Immediately Following Study Session  
City Hall Conference Room A, 10300 Torre Avenue**

2. Subject: Conference with Real Property Negotiators (Government Code Section 54956.8); Property: City-wide Public Right of Way; Agency Negotiator: Timm Borden; Negotiating Parties: City of Cupertino and Verizon; Under Negotiation: Terms for Leased Use of Public Right of Way
3. Subject: Public Employee Employment (Gov't Code 54957(b)(1)); Position: City Manager.

## ADJOURNMENT

### REGULAR MEETING

#### PLEDGE OF ALLEGIANCE - 6:45 PM

Community Hall, 10350 Torre Avenue

#### ROLL CALL

#### CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Proclamations to Charities Housing and SV@Home for Affordable Housing Week May 11-18  
Recommended Action: Present Proclamations to Charities Housing and SV@Home for Affordable Housing Week May 11-18
2. Subject: Proclamation for Public Works Week May 20-26  
Recommended Action: Present Proclamation for Public Works Week May 20-26
3. Subject: Presentations by Cupertino-Cupertino, Italy Sister City Committee adult and student delegations  
Recommended Action: Receive presentations by Cupertino-Cupertino, Italy Sister City Committee adult and student delegations

#### 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.*

4. Subject: Approve the May 1 City Council minutes  
Recommended Action: Approve the May 1 City Council minutes  
[A - Draft Minutes](#)
5. Subject: Approve the Third Quarter Financial Report and recommended budget adjustments for Fiscal Year 2017-18  
Recommended Action: 1. Accept the City Manager's Third Quarter Financial Report for FY 2017-18  
2. Approve the Third Quarter adjustments for FY 2017-18 as described in the Third Quarter Financial Report  
3. Adopt Resolution No.18-044 approving Third Quarter budget adjustments  
[Staff Report](#)  
[A - Draft Resolution](#)  
[B - Third Quarter Financial Report for FY2017-18](#)  
[C - Budget Journal for Proposed Adjustments](#)
6. Subject: Fee waiver request from League of Women Voters of Cupertino-Sunnyvale for approximately \$225 in facility use fees for the use of Community Hall on Monday, May 14, 2018 for a forum on Vallco and Wednesday, May 16, 2018 for candidate forums and a presentation on upcoming ballot measures.  
Recommended Action: Staff recommends approval of fee waiver request.  
[Staff Report](#)  
[A - Letters from League of Women Voters of Cupertino-Sunnyvale](#)
7. Subject: Small Cell License Agreement with New Cingular Wireless PCS, LLC, d/b/a AT&T Wireless  
Recommended Action: Authorize the City Manager to enter into a Small Cell License Agreement with New Cingular Wireless PCS, LLC, d/b/a AT&T Wireless  
[Staff Report](#)  
[A - Small Cell License Agreement between the City Of Cupertino and Ne](#)  
[B - Exhibit of preferred Small Cell Pole Replacement Design Concepts](#)

8. Subject: Application for Alcohol Beverage License for Cafe Mie Kari, LLC (dba Nanyang Kitchen), 10893 N. Wolfe Road  
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Cafe Mie Kari, LLC (dba Nanyang Kitchen), 10893 N. Wolfe Road  
[Staff Report](#)  
[A - Application](#)
9. Subject: Application for Alcohol Beverage License for TKS Restaurants, LLC (dba The Kebab Shop), 19700 Vallco Parkway, Suite 150  
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for TKS Restaurants, LLC (dba The Kebab Shop), 19700 Vallco Parkway, Suite 150  
[Staff Report](#)  
[A - Application](#)
10. Subject: Management Plan Contract for Water System Asset Planning & Valuation for the Cupertino Municipal Water System  
Recommended Action: Authorize the City Manager to negotiate and execute the Management Plan Contract for Water System Asset Planning & Valuation for the Cupertino Municipal Water System agreement with Kayuga Solution for an amount of \$328,416 and approve a contingency of \$21,584 for a total of \$350,000  
[Staff Report](#)  
[A - Request for Proposal for the Water System Asset Planning & Valuation](#)  
[B - Kayuga Proposal dated April 12, 2018](#)
11. Subject: Agreement between the City of Cupertino and Pavement Engineering, Inc. for consultant services on various street asphalt and concrete improvement projects.  
Recommended Action: Approve an Agreement between the City of Cupertino and Pavement Engineering, Inc. (PEI) in the amount not to exceed \$526,635 from the date of execution through June 30, 2019, and authorize the City Manager to negotiate and execute all necessary documents to carry out all consultant services for the various street asphalt and concrete and improvement projects.  
[Staff Report](#)  
[A - Draft Master Agreement](#)

## SECOND READING OF ORDINANCES

## PUBLIC HEARINGS

12. Subject: Tentative Map application to allow the subdivision of 3 parcels into 5 parcels - 4 residential and 1 common (private street), Tree Removal Permit to allow the removal and replacement of seven (7) protected trees and associated environmental review. (Application No(s): TM-2015-01, TR-2016-28 (EA-2015-04) Applicant: Welkin International (Cai Xing Xie); Location: 10234 Scenic Blvd., APN#357-08-014, 047)

Recommended Action: The Planning Commission recommends that the City Council deny the Project by concurring with the Planning Commission Resolution No. 6856 and the findings therein by;

- 1) Deny the Tentative Map Application to allow the subdivision of three parcels into five parcels - four residential and one common (private road); and
- 2) Deny the Tree Removal Permit to allow the removal and replacement of seven (7) protected trees

Alternative Action:

Consider Staff's recommendation to approve the project by adopting the draft Resolution No(s). and the findings therein;

- 1) Adopt Resolution No. 18-045 adopting a Mitigated Negative Declaration and a Mitigation Monitoring and Report Program for the proposed project; and
- 2) Adopt Resolution No. 18-046 approving the Tentative Map Application to allow the subdivision of 3 parcels into 5 parcels - 4 residential and 1 common (private road); and
- 3) Adopt Resolution No. 18-047 approving the Tree Removal Permit to allow the removal and replacement of seven (7) protected trees

Staff Report

[A - Resolution No. 6856](#)

[B - Draft Resolution to approve EA-2015-04](#)

[C - Draft Resolution to approve TM-2015-01](#)

[D - Draft Resolution to approve TR-2016-28](#)

[E – Planning Commission Resolution Recommending Approval of the En](#)

[F – Planning Commission Resolution Recommending Approval of the Te](#)

[G – Planning Commission Resolution Recommending Approval of Tree F](#)

[H - ERC Recommendation, IS-MND including Technical Appendix](#)

[I - Plan Set](#)

[J - Arborist Report](#)

## **ORDINANCES AND ACTION ITEMS**

13. Subject: Approve a Public Agencies Post-Employment Benefits Section 115 Trust administered by a third-party administrator to be selected by the City's Audit Committee

Recommended Action: Adopt Resolution No. 18-048 approving the Public Agencies Post-Employment Benefits Section 115 Trust administered by a third-party administrator to be selected by the City's Audit Committee

[Staff Report](#)

[A. Draft Resolution](#)

[B. PARS Pension Rate Stabilization Program](#)

[C. PFM Pension Rate Stabilization Program](#)

#### **REPORTS BY COUNCIL AND STAFF**

14. Subject: Annual Report on the Pavement Management Program

Recommended Action: Receive the report. No action is required.

[Staff Report](#)

[A - Description of pavement condition range categories and street-by-stre](#)

[B - Street-by-street listing of improvements to be completed by the 2018 I](#)

[C - Street-by-street listing of improvements completed by the FY 16/17 P;](#)

15. 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.*

*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 agenda 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.*

*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 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
Rod Sinks	RSinks@cupertino.org	(408) 777-3194
Savita Vaidhyanathan	SVaidhyanathan@cupertino.org	(408) 777-3193
Barry Chang	BChang@cupertino.org	(408) 777-3192
Steven Scharf	SScharf@cupertino.org	(408) 777-3191
Council administrator	LaurenS@cupertino.org	(408) 777-1312
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](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