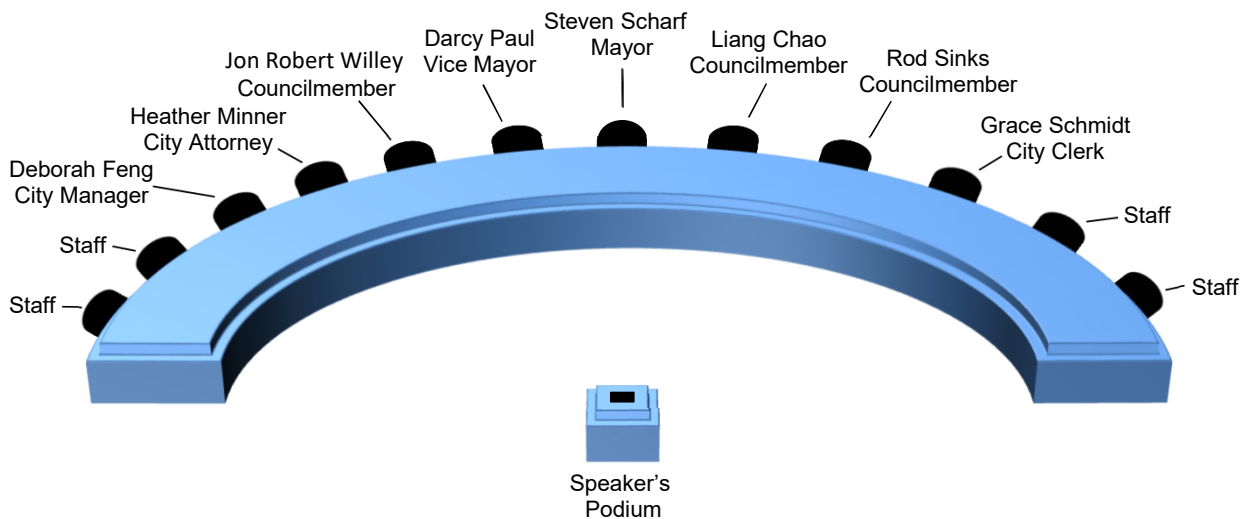




AGENDA OF THE CITY COUNCIL

Tuesday, February 4, 2020

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

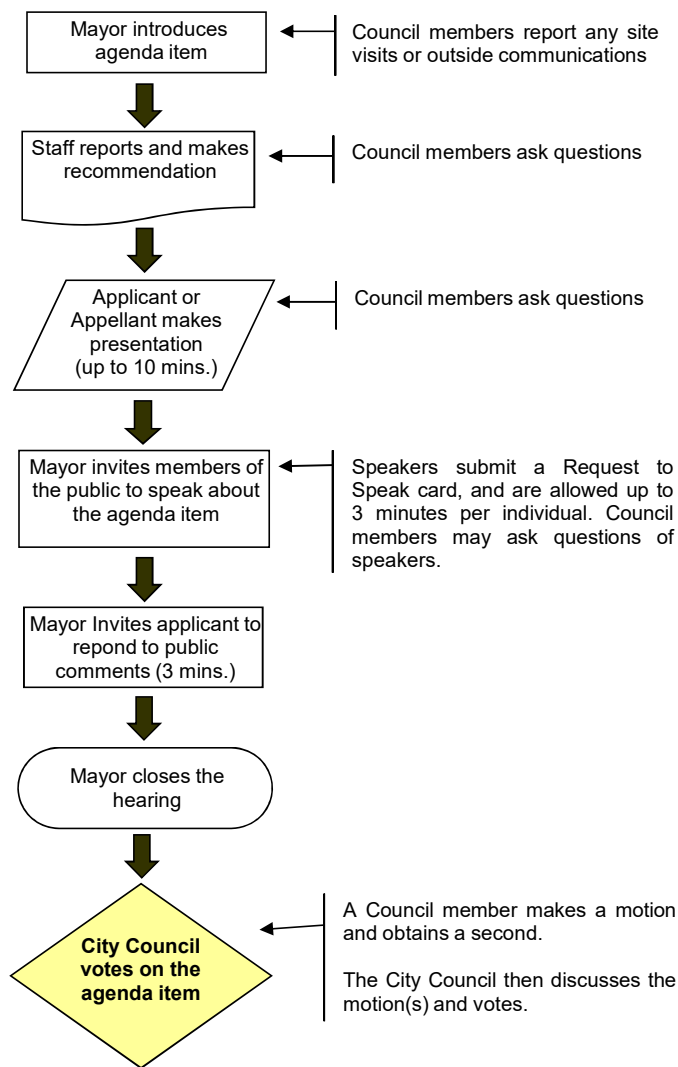
CONDUCT OF BUSINESS

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 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.

The proceedings of the meeting are recorded, 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. Completion of Speaker Cards and identifying yourself is voluntary and not required to attend the meeting or provide comments.

FLOWCHART FOR HEARING ITEMS:



PUBLIC HEARINGS

The City Council is required by law to hold public hearings on certain matters prior to making its decision. Notice to interested parties is given by legal advertisement in the local newspaper of general circulation at least 10 calendar days preceding the hearing date. Applications requiring public hearings include change of zoning, variances, use permits, and tentative maps.

COUNCIL MEETINGS

The City Council regularly meets the first and third Tuesdays of each month. These meetings are held 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. 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.cupertino.org/index.aspx?page=125 for a reconsideration petition form.



CITY OF CUPERTINO

AGENDA

CITY COUNCIL

10350 Torre Avenue, Council Chamber

Tuesday, February 4, 2020

6:45 PM

PLEDGE OF ALLEGIANCE

ROLL CALL

CEREMONIAL MATTERS AND PRESENTATIONS

- Subject: Presentation by Cupertino High School seniors on "What the youth would like to see in Vallco."

Recommended Action: Receive presentation by Cupertino High School seniors "What the youth would like to see in Vallco."
- Subject: Certificates of recognition for the 2019 STEM Winners from Cupertino who participated in the Santa Clara County 2019 Synopsys Championship

Recommended Action: Present certificates of recognition to the 2019 STEM Winners from Cupertino who participated in the Santa Clara County 2019 Synopsys Championship
- Subject: Proclamation to Human Resources Manager Maria Delgado-Jimenez upon her retirement and recognizing her thirty-five years of dedicated service to the City of Cupertino.

Recommended Action: Present proclamation to Human Resources Manager Maria Delgado-Jimenez upon her retirement and recognizing her thirty-five years of dedicated service to the City of Cupertino.

POSTPONEMENTS

ORAL COMMUNICATIONS

This portion of the meeting is reserved for persons wishing to address the Council on any matter 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.

REPORTS BY COUNCIL AND STAFF (10 minutes)

4. 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.

5. Subject: Approve the January 21 City Council minutes
Recommended Action: Approve the January 21 City Council minutes
[A - Draft Minutes](#)
6. Subject: Award of Construction Inspection Services, Plan Review Services, and Public Works Inspection Services contracts for the Vallco Town Center SB 35 project
Recommended Action: 1 - Authorize the City Manager to award a 3-year contract to 4LEAF, Inc., to provide Construction Inspection Services and Public Works Inspection Services for a not to exceed contract price of \$7,407,710 for the Vallco SB35 project;
2 - Authorize the City Manager to award a 3-year contract to CSG Consultants, Inc., for a not to exceed contract price of \$1,150,000 for plan review services for the Vallco SB35 project;
3 - Authorize the City Manager to award a 3-year contract to Independent Code Consulting, Inc., for a not to exceed contract price of \$13,500,000 for plan review services for the Vallco SB35 project
[Staff Report](#)
[A - 4LEAF, Inc. contract](#)
[B - Independent Code Consultants, Inc. contract](#)
[C - CSG Consultants, Inc. contract](#)
7. Subject: Planning Commission's recommendation to select Kitty Moore as the Environmental Review Committee representative
Recommended Action: Accept the Planning Commission's recommendation to the Environmental Review Committee
[Staff Report](#)
8. Subject: Consider entering into a funding agreement with Santa Clara Valley Transportation Authority (VTA) to allow the City of Cupertino to receive 2016 Measure B funds for expenditure on bicycle and pedestrian educational programs within the City that qualify under the 2016 Measure B Bicycle & Pedestrian Education and Encouragement Program

Recommended Action: Authorize the City Manager to enter into a funding agreement with Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Bicycle & Pedestrian Education and Encouragement Program

[Staff Report](#)

[A - Draft Funding Agreement](#)

SECOND READING OF ORDINANCES

9. Subject: Second reading of an Ordinance Repealing Ordinance No. 006 Regarding Adoption of Robert's Rules of Order and Amending Chapter 2.08 of the Cupertino Municipal Code Accordingly.

Recommended Action: Conduct the second reading and enact Ordinance No. 20-2196: "An Ordinance of the City Council of the City of Cupertino Repealing Ordinance No. 006 Regarding Adoption of Robert's Rules of Order and Amending Chapter 2.08 of the Cupertino Municipal Code Accordingly."

[A - Draft Ordinance Repealing Ord No. 006 Regarding Robert's Rules of Order and Amending Ch 2.08 of the Cupertino Municipal Code](#)

PUBLIC HEARINGS

10. Subject: Relative to Recology Cupertino's Franchise Agreement with the City:
- 1) Termination of the residential on-call, curbside Household Hazardous Waste (HHW) program, termination of collection of the HHW fee, refund of fees collected since January 2019, and establishment of an annual assessment of costs against Recology Cupertino (Recology) in an annual, not to exceed amount of \$93,535; and
 - 2) Authorizaion of Recology's request for a Special Maximum Rate Adjustment of an additional \$2.24 per month for residential customers in single-family homes and a rate increase of 3.93% for all other categories of Service Recipients to cover the increased cost of mixed recycling processing as a result of disruption and volatility of overseas recycling commodity markets for the period of October 2018 through January 31, 2021 (Special Maximum Rate Adjustment effective beginning January 1, 2020); and
 - 3) Authorization to execute Franchise Agreement amendment for same.

Recommended Action: Staff recommends that the City Council approve the following:

- 1) Termination of the residential on-call curbside HHW program stipulated in the Franchise Agreement, as amended, Section 4.17; and
- 2) Termination of collection of the HHW fee retroactive to January 1, 2019, with direction for Recology to administer full credits for any fee collected after such date from single and multi-family Cupertino rate payers within no more than thirty calendar days; and
- 3) Approve and direct Recology to annually pay the City for its costs related to termination of the curbside HHW program not to exceed an annual amount of \$93,535 retroactive to January 1, 2019 and through the remainder of the term of the Franchise Agreement; and
- 4) Authorize a Special Maximum Rate Adjustment of an additional \$2.24/per month for residential customers in single-family homes and an increase of 3.93% for all other categories of Service Recipients pursuant to Section 12.3 of the Franchise Agreement to cover the increased cost of mixed recycling processing for the period October 2018 through January 31, 2021 (rate adjustment beginning January 1, 2020 and continuing through January 31, 2021, which is the remainder of the term of the current Agreement); and
- 5) Adopt Resolution No. 20-013 to Authorize the City Manager to execute the Third Amendment to the Franchise Agreement with Recology Cupertino, implementing the above (Attachment B).

[Staff Report](#)

[A - Draft Resolution](#)

[B - Recology Third Amendment to Franchise Agreement](#)

[C - Recology Rate Adjustment Letter 1-28-2020](#)

11. Subject: First reading of Municipal Code Amendments to the Cupertino Municipal Code, repealing and replacing Cupertino Municipal Code Chapter 5.50 of Title 5 (Business Licenses and Regulations), adopting new policies to regulate the sale of tobacco, such as prohibiting the sale or distribution of electronic cigarette products, extending the look-back period for permit suspensions from 24 months to 60 months, requiring a minimum age for individuals selling tobacco products, and amending the administrative appeal process for permit violations.

Recommended Action: 1. Conduct the first reading of Ordinance No. 20-2197: "An Ordinance of the City Council of the City of Cupertino repealing and replacing Chapter 5.50 of Title 5 (Business Licenses and Regulations) to regulate the sale of tobacco products"

2. Find that the proposed actions are exempt from CEQA.

[Staff Report](#)

[A - Draft Ordinance to Regulate the Sale of Tobacco Products](#)

[B - Draft Ordinance to Regulate the Sale of Tobacco Products Redline](#)

[C - Survey Results](#)

[D - Community Feedback](#)

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

ORDINANCES AND ACTION ITEMS

12. **Subject:** Municipal Code Amendment to Cupertino Municipal Code Section 2.20.010 to remove the City Clerk's duty to attend each closed session of the City Council and keep closed session minutes; designate the City Manager as the City employee/official to attend each closed session of the City Council and keep closed session minutes.

Recommended Action: 1. Conduct the first reading of Ordinance No. 20-2198: "An Ordinance of the City Council of the City of Cupertino amending City Code Section 2.20.010 (Recordkeeping Duties-Closed Sessions) of Chapter 2.20 (City Clerk) to Title 2 (Administration and Personnel) to remove the City Clerk's duty to attend City Council closed sessions and keep minutes."

2. Adopt Resolution No. 20-014 "A Resolution of the Cupertino City Council designating the City Manager as the City employee/officer to attend City Council closed sessions and keep minutes."

[Staff Report](#)

[A - Draft Ordinance](#)

[B - Draft Resolution](#)

13. **Subject:** Hearing regarding abatement of public nuisance from weeds or other fire hazards pursuant to provisions of Cupertino Municipal Code Chapter 9.08 and Resolution No. 19-141; hearing for impacted property owners to contest the matter of proposed abatement (continued from January 21, 2020)

Recommended Action: Adopt Resolution No. 20-010 ordering abatement of public nuisance from weeds or other fire hazards pursuant to provisions of Cupertino Municipal Code Chapter 9.08 and Resolution No. 19-141; and conduct hearing for impacted property owners to contest the matter of proposed abatement.

[Staff Report](#)

[A - Draft Resolution and Exhibit A](#)

[B - Weed Abatement Program Commencement Report \(Exhibit A\)](#)

[C - Letter to Property Owners to Abate Weeds](#)

[D - Hearing Notice to Destroy Weeds and Program Fees](#)

[E - Minimum Fire Safety Standards Program Brochure](#)

[F - Return Reply Form \(RRF\) Sample](#)

[G - Approved Resolution No. 19-141](#)

[H - 10408 Menhart Lane 2018-19 photos](#)

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 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

Steven Scharf	SScharf@cupertino.org	(408) 777-3191
Darcy Paul	DPaul@cupertino.org	(408) 777-3195
Liang Chao	LiangChao@cupertino.org	(408) 777-3192
Rod Sinks	RSinks@cupertino.org	(408) 777-3194
Jon Robert Willey	JWilley@cupertino.org	(408) 777-3193
Executive Assistant	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

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