

SPECIAL MEETING AGENDA

- 1. Welcome**
- 2. Pledge of Allegiance**
- 3. Approval of Minutes/Attendance Report for June 13, 2023**
- 4. Action Items**
 - A. Request to OCLTA for Provision of a Limited Measure M2 Compliance Audit for Fiscal Year Ending 2023
Andrew Hamilton, Taxpayer Oversight Committee Chairman
 - B. Changes to the Audit Subcommittee Charter, Contingent upon Receiving Approvals for Limited Measure M2 Compliance Audit for Fiscal Year Ending 2023
Andrew Hamilton, Taxpayer Oversight Committee Chairman
- 5. OCTA Staff Updates** (5 Minutes)
- 6. Committee Member Reports**
- 7. Public Comments***
- 8. Adjournment**

The next meeting will be held on September 12, 2023 at 5pm

Agenda Descriptions: The Agenda descriptions are intended to give notice to members of the public of a general summary of items of business to be transacted or discussed.

Public Comments: At this time, members of the public may address the Taxpayer Oversight Committee (TOC) regarding any items within the subject matter jurisdiction of the TOC, provided that no action may be taken on off-agenda items unless authorized by law. Comments shall be limited to three (3) minutes per person, unless different time limits are set by the Chairman, subject to the approval of the TOC.

Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact the OCTA at (714) 560 5611, no less than two (2) business days prior to this meeting to enable OCTA to make reasonable arrangements to assure accessibility to this meeting.

Measure M2 Taxpayer Oversight Committee
Orange County Transportation Authority
550 S. Main Street, Orange CA, Room 07
June 13, 2023 @ 6:00 p.m.

MEETING MINUTES

Committee Members Present:

Andrew Hamilton, Auditor-Controller
Ajay Khetani, Fourth District Representative
Andrew Ramirez, First District Representative
Harry Sloan, Second District Representative
Joseph McCarthy, Third District Representative
Kirk Watilo, Third District Representative
Naresh D. Patel, First District Representative
Shannon O'Toole, Fifth District Representative

Committee Members Absent:

Mark W. Eisenberg, Fifth District Representative
Mark Kizzar, Second District Representative
Rasik N. Patel, Fourth District Representative

Orange County Transportation Authority Staff Present:

Alice Rogan, Director, Marketing and Public Outreach
Allison Imler, Community Relations Specialist, Public Outreach
Andrew Oftelie, Chief Financial Officer, Finance and Administration
Charvalen Alacar, Section Manager, Local Programs
Christina Byrne, Department Manager, Public Outreach
Janet Sutter, Executive Director, Internal Audit
Jim Beil, Executive Director, Capital Programs
Kia Mortazavi, Executive Director, Planning
Marissa Espino, Principal Community Relations Specialist, Public Outreach
Sean Murdock, Director, Finance and Administration

1. Welcome

Chair Andrew Hamilton called the Orange County Transportation Authority (OCTA) Taxpayer Oversight Committee (TOC) meeting to order.

2. Pledge of Allegiance

Andrew Hamilton led the Pledge of Allegiance

3. Annual Public Hearing

Andrew Hamilton opened the 32nd Annual Measure M Taxpayer Oversight Committee Public Hearing.

- A. An Overview of the Taxpayer Oversight Committee (TOC) was provided by Joseph McCarthy. The TOC is an eleven-member committee consisting of Andrew Hamilton, County of Orange Auditor Controller, and ten public members representing the five districts in Orange County.
- B. Review of the 2022 Taxpayer Oversight Committee Actions was provided by Joseph McCarthy. The purpose of the TOC is to ensure the Orange County Transportation Authority (OCTA) is proceeding in accordance with the Measure M2 Ordinance. Actions included conducting the Annual Measure M Public Hearing in June of 2022 where OCTA was found to be proceeding in accordance with the M ordinance for the 31st year. Review and comments were provided on the fiscal year 2022 Local Transportation Authority (LTA) Audit Results; the overall expenditures were tracked; the 35 local jurisdictions annual eligibility documents and the OCTA quarterly progress reports were reviewed. The committee also reviewed the status of all the programs and projects contained in M2.
- C. An overview of the Annual Eligibility Review Subcommittee (AER) Report was provided by Shannon O'Toole for the fiscal year 2022-2023. The Measure M2 ordinance requires all local jurisdictions in Orange County to annually satisfy eligibility requirements to receive M2 funds. Review of the eligibility documents for fundings is completed in two phases. In the first phase, the Pavement Management plan eligibility requirement was reviewed. All submittals by the 35 local Orange County jurisdictions were found eligible to continue receiving M2 net revenues. In the second phase, the Measure M2 Expenditures Report for fiscal year 2021-2022 was reviewed. Thirty-four of the local county jurisdictions were found eligibility to receive funding; the City of Cypress, although submitting on time, the review found the city did not meet their maintenance effort requirements and was deemed ineligible to receive net M2 funds at this time. The expenditure report for the City of Cypress was not included or approved in this review.

- D. Andrew Hamilton presented an overview of the Audit Subcommittee. On February 14, 2023, auditor Jennifer Richards, Partner, Crowe LLP, spoke about financial statements and issued an Unmodified Opinion on the Local Transportation Authority (LTA) special revenue fund for Measure M2. Also reviewed were the agreed upon procedures performed by Crowe. In the M2 status report, Article 13-B, Appropriations Limit calculation for fiscal year 2022, one observation was noted. An over-accrual of expenditure of \$1.3 million. No other exceptions were noted. Another presentation by Crowe in May of 2023 presented the results of an audit of eleven cities on their Local Fair Share, and Senior Mobility activities for fiscal 2022. The committee is also provided the results of internal audits related to Measure M, the annual internal audit plan, quarterly updates to the plan, and other matters under the subcommittee jurisdiction including M2 Expenditure Reports and the Annual Measure M Ordinance Compliance Tracking Matrix which showed that for 2022 OCTA was in compliance with the Measure M Ordinance.
- E. Andrew Hamilton opened the floor for Public Comments. Three members of the public provided comments; Michael Hennessy; Frank Davies and Andrew Do.

Michael Hennessy introduced himself as a public member serving on the OCTA Board of Directors since 2011. During this time, he has been on the OCTA Finance and Administration Committee, and for the last four years served as the Chair of the Finance Committee, which is also the Chair of the Audit Committee. The vote being taken today is to determine if OCTA staff is proceeding in compliance with Measure M2. As a Board member he stated he is proud of the history of receiving compliance reviews for the last 31 years and can say without reservation that we have the appropriate independence in our audit department and they have made a sufficient study for the TOC to make their determinations. Staff has made the delivery of Measure M their top priority through the years and he urges the committee to vote that we are in compliance with the Measure M ordinance.

Frank Davies introduced himself as a former Taxpayer Oversight Committee member and a resident of Orange County. When he was a member of the committee, he used many of the tools mentioned by Ms. O'Toole, Mr. McCarthy, the reports and the Agreed Upon Procedures (AUP) engagements to make his own determination that OCTA was in compliance with the ordinance. This was brought forward to the whole committee and in the past, the whole committee has determined that OCTA is in compliance with the ordinance. He hopes today that the committee will determine that OCTA is in compliance with the ordinance.

Andrew Do introduced himself as a County Supervisor representing the First District and a member of the OCTA Board of Directors, as former Board Chair and Finance Committee Chair. He said the comments received about staff transparency and the rating scores received by OCTA from the New York City bond rating agencies for projects undertaken illustrates clearly the trust they have in us and our staff. I am

asking you to look at the process that we have been following for 32 years, that has been approved by multiple auditor-controllers and Chairmen of the committee and ask if there is anything here that you feel or suspect that might be untoward. The answer is clearly no. The function you serve today is significant to the Agency and tells the public that we meet all the legal requirements. I ask you to focus on what is presented to you in totality and you find OCTA is in compliance.

Andrew Hamilton asked if there had been any online public comments received. Alice Rogan responded there were no public comments received via email.

Andrew Hamilton called for a motion to close the public hearing. A motion was made by Ajay Khetani and seconded by Andrew Ramirez. Motion carried.

4. Approval of Minutes/Attendance Report for April 11, 2023

A motion was made by Harry Sloan, seconded by Joseph McCarthy, to approve the April 11, 2023, TOC Minutes/Attendance Report. Motion carried.

5. Action Items

A. Annual Eligibility Review Subcommittee Eligibility Report

Shannon O'Toole, Annual Eligibility Subcommittee Chair presented the report. Measure M2 requires all jurisdictions in Orange County to annually satisfy their eligibility requirements in order to keep receiving the M2 net revenue. The AER subcommittee first receives and reviews the eligibility materials and passes the review to the TOC. The eligibility component most recently submitted was the fiscal 2021-2022 M2 Expenditure Report for each local agency. At the June 1st, 2023, AER subcommittee meeting, OCTA provided a detailed overview of the technical review of each of the M2 Expenditure Reports. The expenditure report for the City of Cypress was not included in the review as the city was found ineligible to receive net M2 revenues by the OCTA Board of Directors on May 22, 2023.

There were additional items discussed by the subcommittee for inclusion in the report; a request for the date of the most recent audit; annual information regarding various Local Fair Share (LFS) expenditures; reporting the indirect expenses by agency utilizing an established methodology formalized through the city's cost allocation plans.

The AER Committee confirmed the receipt and review of the fiscal 2021-2022 expenditure reports for the eligible thirty-four local Orange County jurisdictions. The AER is asking the TOC to affirm receipt and review of the fiscal 2001-2022 expenditure reports from the eligible local jurisdictions and present the eligibility findings to the OCTA Regional Transportation Planning Committee on June 29, 2023, and to the OCTA Board on July 10, 2023, for consideration that 34 of Orange County local jurisdictions be deemed eligible to continue receiving M2 net revenue.

Andrew Hamilton called for a motion to affirm the TOC has received and completed the review of fiscal year 2021-2022 Measure M2 Expenditure Report from 34 of Orange County's 35 local jurisdictions excluding the City of Cypress.

A motion was made by Kirk Watilo, seconded by Shannon O'Toole to approve. Motion carried.

B. 2023 Measure M Annual Hearing Follow-up and Compliance Findings

Andrew Hamilton, Chairman, presented the overview. One of the responsibilities of the committee is to determine if OCTA has been proceeding in compliance with Measure M2. Compliance is based on the results presented by staff, many reports, audits and agreed upon procedures, and the public hearing, all information provided to date.

Andrew Hamilton stated that since he was not present when the TOC Audit Subcommittee charter for fiscal year 2021-2022 was approved This audit charter that was approved about a year and half ago, agreed to by the committee and my predecessor, and although I may not be comfortable voting yes on that charter or even voting yes tonight; many of you will feel comfortable approving that compliance since many of you approved the charter and were on the committee at that time.

Andrew Hamilton stated that he would like to meet and review the charter for the fiscal year that they are currently in. It does not have anything to do with the vote for fiscal 2021-2022 compliance. Andrew Hamilton stated that he believes a new audit charter for fiscal 2022-2023 could enhance the safeguards He said that this should not stop the committee from certifying tonight based on the audit charter approved before.

Naresh Patel asked when he would like to meet and Alice Rogan responded staff could send a notice to find a time that worked best.

Kirk Watilo noted that in the first year of the committee, they had two- and a half-hour meetings where they worked through the process of figuring out how the Measure would be overseen and how the Citizens Oversight Committee would work. The policy and procedures were developed and have been amended over the years, resulting in a good, tried and true document. In his opinion the citizens of Orange County have come to trust OCTA and the committee should stay-the-course and not really make any changes. Some modifications could be recommended in future committee meetings during the next year, giving time to form consensus on what is being recommended. Kirk Watilo stated he felt there does not need to be an emergency meeting.

Andrew Hamilton responded that the audit charter approved in February 2023 is for the current fiscal year and there are only two weeks left in the current fiscal year.

When the preparation begins for the upcoming audits, it would show they are starting with a new audit charter. It is not a rush but it should be expeditious.

Kirk Watilo responded that the process starting in the next couple of weeks, going forward into next year will coincide with the staff timing to solicit bids for auditors.

Andrew Hamilton responded that he feels right now is the time to make revisions to the audit charter or it would be two years from now before they see the results of any changes. If they make it sooner, the results would be seen in a year from now.

Co-Chair Joe McCarthy commented that he has been on the committee for three years and is very comfortable with the processes that have been in place; and that while everything can be continued to be improved and looking for improvement is a good thing, he is comfortable that OCTA has been proceeding in accordance with what they are supposed to do with the renewed Measure M.

A motion was made by Co-Chair Joseph McCarthy to approve that the OCLTA, has been proceeding in accordance with the Renewed Measure M2 Ordinance and Investment Plan for 2022. Motion was seconded by Kirk Watilo. The motion passed 7-1 with Andrew Hamilton voting no, stating he was not part of that audit charter committee.

C. M2 Quarterly Revenue & Expenditure Report (March 2023)

Sean Murdock, Director of Finance and Administration presented an overview of this item.

Committee Member Comments:

A committee member asked for the sales tax, was that because March was just one percent and was that adjusted for inflation or straight quarter over quarter. Sean Murdock responded it was quarter over quarter. If you adjusted for inflation, you would have negative real growth in that quarter.

A committee member commented that the 55 project has not started and asked about the \$3 million. Sean Murdock responded it was for the environmental phase.

A motion to receive and file was made by Andrew Ramirez, seconded by Ajay Khetani. Motion carried.

6. Presentation Items

A. Measure M2 Quarterly Progress Report – Q3

Francesca Ching, Measure M Program Manager, presented this item.

Committee Member Comments:

A committee member commented that under the challenges noted in the staff report, the Federal Transportation Administration (FTA) made an estimate on the cost of the OC Streetcar project that was higher than our estimate and the completion date was a year later than ours. Do they know something we don't? Jim Beil responded that the differing budget and schedule for the OC Streetcar project is due to the different level of risk assessment that is performed. It is a very detailed process and the FTA adds a time contingency of 25 percent to the schedule. Additionally, the FTA estimate includes exposure of what the contractor is asking for; OCTA does not believe it is appropriate to include claims that may not be merited.

A committee member commented that sales taxes are down for the quarter and asked what the forecast is for the next year. Sean Murdock responded that staff is receiving updated forecasts from the three universities and Muni Services. The updated sales tax revenue forecast will factor in fiscal year end numbers which is in the August timeframe and blend the forecasts from the four entities.

7. Selection of Co-Chair

Andrew Hamilton called for nominations for committee co-chair. Shannon O'Toole nominated herself. There were no other nominations.

A motion to approve Shannon O'Toole as co-chair was made by Kirk Watilo and seconded by Andrew Ramirez. Motion carried.

8. Subcommittee selection

Alice Rogan, Marketing and Public Outreach Director, stated there are two committees, the Audit Subcommittee and Annual Eligibility Review Subcommittee to assist the TOC in doing their work. Due to Brown Act rules, there cannot be a quorum, or no more than five members serving on the committee. It is at this time that current sitting members that are not outgoing are asked what committee they would like to sit on. Ajay Khetani serves on the Environmental Oversight Committee.

Committee Member Responses:

Andrew Ramirez responded AER.
Shannon O'Toole responded AER.
Kirk Watilo responded Audit.
Naresh D. Patel responded AER.

A committee member asked when is the effective date of the committee changes. Alice Rogan responded July 1, 2023.

9. OCTA Staff Updates

Alice Rogan, Marketing and Public Outreach Director commented this was the last meeting of the year and there are two outgoing members: Joe McCarthy and Harry Sloan. She thanked them for their service. The recruitment for new members is now complete.

10. Committee Member Reports

There were no committee member reports.

11. Adjournment

Chair Andrew Hamilton adjourned the meeting.

The next meeting will be held on September 12, 2023, at 5pm.

Taxpayer Oversight Committee

Fiscal Year 2022-2023

Attendance Record

| X = Present | | E = Excused Absence | | | * = Absence Pending Approval | | | U = Unexcused Absence | | | -- = Resigned | |
|---------------------|------|---------------------|-------|---------|------------------------------|--------|------|-----------------------|-------|---------|---------------|---------|
| Meeting Date | July | 9 Aug. | Sept. | 11 Oct. | Nov. | 13 Dec | Jan. | 14 Feb. | March | 11 Apr. | May | 13 Jun. |
| Naresh D. Patel | | X | | X | | E | | E | | X | | X |
| Andrew Ramirez | | X | | E | | X | | E | | X | | X |
| Harry "Steve" Sloan | | X | | X | | X | | X | | X | | X |
| Mark Kizzar | | X | | X | | E | | X | | X | | * |
| Joseph McCarthy | | E | | X | | X | | E | | X | | X |
| Kirk Watilo | | X | | X | | X | | E | | X | | X |
| Rasik N. Patel | | X | | E | | X | | X | | E | | * |
| Ajay Khetani | | X | | X | | E | | E | | X | | X |
| Shannon O'Toole | | X | | X | | E | | X | | X | | X |
| Mark W. Eisenberg | | X | | X | | E | | X | | X | | * |
| Frank Davies | | X | | X | | X | | -- | | -- | | -- |
| Andrew Hamilton | | N/A | | N/A | | N/A | | X | | X | | X |

Absences Pending Approval

| Meeting Date | Name | Reason |
|---------------|-------------------|--------------|
| June 13, 2023 | Mark Kizzar | Family event |
| June 13, 2023 | Rasik N. Patel | |
| June 13, 2023 | Mark W. Eisenberg | Out of town |

TAXPAYER OVERSIGHT COMMITTEE AUDIT SUBCOMMITTEE

AUDIT CHARTER ~~February~~June 2023

The Audit Subcommittee (Subcommittee) of the Taxpayer Oversight Committee (TOC), is established to assist the TOC in fulfilling its oversight responsibilities regarding the Measure M ordinance approved by the voters of Orange County. Specifically, the Subcommittee will have responsibilities in matters related to internal and independent outside audits of the Measure M programs, projects, and financial records.

In providing assistance to the TOC, the Subcommittee will assume the role of an audit committee as provided herein, and recommend action on all audit related matters to the full TOC. Recognizing that the Finance and Administration Committee (Committee) of the Board of Directors (Board) of the Orange County Transportation Authority (OCTA) serves as OCTA's audit committee with audit oversight of Measure M projects, programs, and financial records, the role of the Subcommittee is to augment the Committee's audit oversight as it relates specifically to Measure M projects, programs, and financial records.

All members of the Subcommittee will participate in fulfilling these responsibilities. At least one member of the Subcommittee will have financial experience sufficient to provide guidance and assistance to other Subcommittee members on matters related to government accounting, auditing, budgeting, and finance.

In fulfilling its audit responsibilities, the Subcommittee will have prompt and unrestricted access to all relevant OCTA documents, records, and staff. Requests by the Subcommittee for financial or other resources sufficient to fulfill these responsibilities, and beyond that already existing in OCTA's adopted budget, will be directed, through the full TOC, to OCTA's Chairman of the Board.

Members of the Subcommittee will be independent of OCTA, its contractors, consultants, and agents, in both fact and appearance, and will consult with the Chairman of the TOC concerning any circumstances which may compromise their ability to meet this standard. Members of the Subcommittee will comply with all applicable state and federal laws in the performance of their duties under this audit charter.

Responsibilities of the Subcommittee will include, but may not be limited to, the following:

Independent Financial Statements Audits

1. Review with management and the independent financial statement auditors:
 - a. The annual financial statements of the Orange County Local Transportation Authority and related footnotes, schedules, and unadjusted differences, including

the accounting principles used, and significant estimates or judgments made, by management.

- b. The management letter issued by the independent auditors in relation to their audit of OCTA and all its legal entities.
 - c. Any other independent audit reports the Subcommittee believes may be relevant to the exercise of its duties.
2. Discuss with the independent financial statement auditors any difficulties encountered during the course of their work, disagreements with management, or restrictions or limitations placed upon them.
 3. Assist OCTA in the selection, retention, or discharge of its independent auditor. This assistance may be provided through:
 - a. Participation on the independent auditor procurement selection panel.
 - b. In coordination with the full TOC, provide performance feedback regarding the independent auditor to OCTA's Board and Internal Audit Department (Internal Audit).
 4. Inquire of the auditors as to their independence, their compliance with Government Auditing Standards, and applicable accounting and auditing guidance issued by the Government Accounting Standards Board, the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, and other standard-setting bodies.

Independent Outside Compliance Audit

1. Review with management and the independent outside compliance auditors results of the annual compliance audit of the OCLTA, Measure M2 Ordinance No. 3, including any identified instances of non-compliance, or any significant deficiencies or material weaknesses in internal controls identified through the audit.
2. Discuss with the independent outside compliance auditors any difficulties encountered during the course of their work, disagreements with management, or restrictions or limitations placed upon them.
3. Assist OCTA in the selection, retention, or discharge of its independent outside compliance auditor. This assistance may be provided through:
 - Participation on the independent outside compliance auditor procurement selection panel.
 - In coordination with the full TOC, provide performance feedback regarding the independent outside compliance auditor to OCTA's Board and Internal Audit.

4. Inquire of the auditors as to their independence, their compliance with Government Auditing Standards, and applicable accounting and auditing guidance issued by the Government Accounting Standards Board, the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, and other standard-setting bodies.

4.

Formatted: No bullets or numbering

Agreed Upon Procedures

1. Review with the independent auditors the results of agreed-upon procedures performed at the direction of the Subcommittee and/or the Board of OCTA.
2. Design procedures to provide assurance that Measure M2 funds are used in compliance with the ordinance, and expenditures are reported accurately.
3. Periodically evaluate the sufficiency and applicability of the procedures.
4. In coordination with the full TOC, provide management and OCTA's Board with recommendations based on the results of the procedures.
5. Review relevant city/county data and select a sample of jurisdictions for annual audit, to determine the level of compliance with the Measure M2 ordinance.

Triennial Performance Assessment

1. Participate in the development of a scope of work for the triennial performance assessment required by Measure M2.
2. Participate in the selection of the independent consultant.
3. Review the results of the triennial performance assessment, including management responses. Monitor the implementation of all recommendations.
4. In coordination with the full TOC, provide feedback to OCTA's Board on the performance of the independent consultant, the adequacy of management's responses, and/or the sufficiency of corrective action planned in response to audit#assessment recommendations.

Internal Audit and Internal Controls

1. Receive and review the annual Internal Audit plan and quarterly updates of audit activity.

2. Review internal audit reports that have Measure M2 implications, including management responses and planned corrective action.
3. Consider the effectiveness of OCTA's system of internal controls, including controls over financial reporting.
4. Inquire of Internal Audit as to restrictions or limitations placed upon it by management or the Board.
5. Review the results of Internal Audit's triennial quality assurance (or "peer") review, and confirm that Internal Audit has been found independent as defined by Government Auditing Standards.
6. In coordination with the full TOC, provide OCTA's Board feedback or recommendations related to audit findings, internal controls, or the performance of the internal audit function.

Other

1. Review this Audit Charter at least annually to assess its adequacy and recommend changes.
2. Provide updates to the TOC on actions taken, communications by, or recommendations made by the Subcommittee.
3. Inquire annually of the Chairman of the Committee as to any concerns the Committee has regarding OCTA's internal controls, its internal audit function, its independent financial statement auditors and independent outside compliance auditors, Measure M projects, programs, financial records, or other matters, and report to the full TOC.