



MINUTES

Executive Committee Meeting

Committee Members Present

Tim Shaw, Chairman
Steve Jones, Vice Chairman
Lisa A. Bartlett
Andrew Do
Michael Hennessey
Mark A. Murphy

Staff Present

Ken Phipps, Deputy Chief Executive Officer
Laurena Weinert, Clerk of the Board
Olga Prado, Assistant Clerk of the Board
James Donich, General Counsel
OCTA Staff and Members of the General Public

Committee Members Absent

Laurie Davies

Call to Order

The May 6, 2019 regular meeting of the Executive Committee was called to order by Chairman Shaw at 9:04 a.m.

Pledge of Allegiance

Director Bartlett led in the Pledge of Allegiance.

1. Public Comments

There were no public comments.

Special Calendar

There were no Special Calendar matters.

Consent Calendar (Items 2 and 3)

2. Approval of Minutes

A motion was made by Director Hennessey, seconded by Director Bartlett, and declared passed by those present, to approve the minutes of the Executive Committee meeting of April 1, 2019.

3. Designation of Applicant's Agent for Federal and State Financial Assistance

A motion was made by Director Hennessey, seconded by Director Bartlett, and declared passed by those present, to adopt Resolution No. 2019-019 designating the Chief Executive Officer and Deputy Chief Executive Officer as Orange County Transportation Authority's agents for executing applications for federal and/or state disaster assistance on behalf of the Orange County Transportation Authority.



Regular Calendar

4. **Capital Programs Division - Third Quarter Fiscal Year 2018-19 Capital Action Plan Performance Metrics**

James G. Beil, Executive Director of Capital Programs, reported on the third quarter fiscal year 2018-19 Capital Action Plan Performance Metrics and highlighted Attachment B of the Staff Report.

Mr. Beil also reported, for the OC Streetcar project, contaminant materials were encountered on the maintenance and storage facility site, a remediation plan is in progress, and the schedule and cost may be impacted.

Chairman Shaw asked about the Fullerton Transportation Center elevator upgrade delays. Mr. Beil highlighted the status, and the contractor is about a year behind schedule.

No action was taken on this receive and file information item.

5. **Measure M2 Eligibility for the City of Stanton**

Ken Phipps, Deputy Chief Executive Officer (DCEO), provided opening comments and offered that both Committee agenda Items 5 and 6 can be presented together.

Director Do asked to reconsider merging agenda Items 5 and 6 as the findings are different for the cities of Stanton (Stanton) and Santa Ana (Santa Ana). Director Do agreed to presenting an overview of both Items 5 and 6 and have a separate discussion/vote for each item.

Kurt Brotcke, Director of Strategic Planning, introduced Janet Sutter, Executive Director of Internal Audit, and presented an overview for both agenda Items 5 and 6 as follows:

- Provided background on the Measure M2 (M2) Ordinance eligibility process.
- The Taxpayer Oversight Committee (TOC) oversees and participates in portions of the eligibility process.
- The TOC has its annual M2 compliance finding hearing scheduled in June 2019.
- The TOC directed Orange County Transportation Authority's (OCTA) Internal Auditor to conduct 12 audits of local agencies for fiscal year 2017-18.
- The audit concluded that Stanton and Santa Ana did not meet the established maintenance of effort (MOE) requirements.



5. (Continued)

- In the 29 years' experience of administering Measure M and M2 programs, OCTA has never had an instance of a local jurisdiction being ineligible to receive M2 revenues due to failure to meet the MOE requirements.
- The recommendations for Stanton and Santa Ana were highlighted.

Ms. Sutter reported Stanton's audit findings as follows:

- MOE minimum expenditures amount is \$245,000 and Stanton spent \$246,000.
- Auditors tested 47 percent and identified \$8,593 expenditures that were ineligible.
- After deducting the ineligible expenditures, Stanton fell below the MOE minimum by \$7,562.

A discussion ensued about Stanton as follows:

- Staff holds an annual meeting for city finance directors to provide information on M2 MOE expenditures and other requirements.
- As for eligible expenditures, OCTA ties back to the gas tax guidelines as it relates to the MOE expenditures, and there is an MOE expenditures guideline.
- The MOE requirements have not changed over the years.
- The recommended remedy for both Stanton and Santa Ana is to makeup for the underrun in the MOE in fiscal year 2018-19 that would be audited.
- The State Controller's Office policy does not allow a city to open its books, after the year has been closed, to substitute eligible for ineligible expenditures.
- Stanton's ineligible expenditures were as follows:
 - Coyote tracking - \$5,000
 - Bee removal - \$175
 - Public parking lot materials - \$2,650
 - Cleanup costs for vacant lots - \$768
- Each city is unique and sets up its own cost allocation plan for the allowable MOE expenditures.
- Director Bartlett suggested providing the jurisdictions the list of eligible MOE expenditures that they could setup in its system.
- This fiscal year, Stanton will have a consultant test the charges to its MOE expenditures.

Chairman Shaw asked James Donich, General Counsel, to note for the record if staff's recommendations are consistent with the M2 Ordinance. Mr. Donich stated that staff's recommendations are appropriate remedies per the M2 Ordinance and Board of Directors (Board)-adopted guidelines.



5. (Continued)

For Item 5, a motion was made by Director Do, seconded by Director Hennessey, and declared passed by those present, to:

- A. Find the City of Stanton ineligible to receive net Measure M2 revenues.
- B. Suspend payments to the City of Stanton of net Measure M2 revenues until the City of Stanton can demonstrate compliance with Measure M2 eligibility requirements and the Board of Directors acts to find the City of Stanton an “eligible agency.”
- C. Authorize the Chief Executive Officer to execute Amendment No. 5 to Contract No. C-5-3564 with Vavrinek, Trine, Day and Company, LLP to revise the scope of work, add an additional task to apply agreed-upon procedures to assess compliance with maintenance of effort expenditure requirements, extend the agreement through June 30, 2020, and authorize staff to deduct fiscal year 2018-19 audit costs from any future net Measure M2 payments to the City of Stanton.
- D. Increase the City of Stanton's maintenance of effort requirement for fiscal year 2018-19 by the amount of expenditures that were not met as identified in the fiscal year 2017-18 audit.
- E. Authorize the Chief Executive Officer to negotiate and execute a settlement agreement with the City of Stanton to correct and remedy the fiscal year 2017-18 audit issues.

6. Measure M2 Eligibility for the City of Santa Ana

The overview for this item was presented under today's agenda Item 5.

Janet Sutter, Executive Director of Internal Audit, reported for this item the following:

- Santa Ana's MOE requirement was \$7.755 million and spent \$8.2 million.
- The auditors tested 31 percent of the MOE expenditures and identified \$715,000 ineligible expenditures that caused a shortfall of \$263,000.



6. (Continued)

A discussion ensued regarding:

- Auditing 100 percent possibly could have found other ineligible expenditures, and the audit accepted practice is to not audit the remaining expenses.
- Santa Ana charged expenditures without documentation, had no cost allocation plan post 2008 and 2009, and the plan that could not be found was outdated.
- Santa Ana's disqualified MOE expenditures categories were as follows:
 - Information Technology
 - Information System Strategic Plan
 - Treasury accounting services
 - Insurance charges
 - Computer services charges
 - City yard rental
- The disqualified MOE expenditures are not tied to a specific project, and there are a variety of methods for allocating indirect costs and examples were provided.
- Without a cost allocation plan, the 10 percent indirect costs methodology cannot be examined.

A public comment was heard from Faud Sweiss, Santa Ana Executive Director of Public Works, who stated the following:

- Santa Ana recently has been working with OCTA staff and appreciates the good working relationship throughout the years.
- Santa Ana has spent substantial amounts for the MOE required.
- Santa Ana met the intent of the M2 Ordinance; yet, made errors in recording the expenditures, and \$1.2 million was not counted towards the MOE.
- Asked for reconsideration of staff's recommendations.
- During the last few years, Santa Ana had issues in its finance department.
- Asked for a hearing, an opportunity to fix the findings, or suspend the M2 funds.
- The staff's recommendations would hurt the community that paid the tax funds to get those projects delivered to them.

A discussion ensued with Mr. Sweiss that there was an issue with reporting the MOE expenditures and a jurisdiction cannot have the audit reopened.

James Donich, General Counsel, referenced Attachment B to the M2 Ordinance and read into the record the language about a determination of non-eligibility. Mr. Donich reported that to determine eligibility, the hearing will be conducted at the May 13, 2019 Board meeting.



6. (Continued)

A robust discussion ensued about the audit determination that Santa Ana did not provide sufficient verifiable expenditures and had no cost allocation plan to meet the M2 Ordinance MOE requirements.

The Committee Members want to ensure that a jurisdiction can ask OCTA staff questions about the expenditures, compliance of the M2 MOE, and the taxpayers are assured that the M2 promises are being kept.

For Item 6, a motion was made by Director Hennessey, seconded by Director M. Murphy, and declared passed by those present, to:

- A. Find the City of Santa Ana ineligible to receive net Measure M2 revenues.
- B. Suspend payments to the City of Santa Ana of net Measure M2 revenues until the City of Santa Ana can demonstrate compliance with Measure M2 eligibility requirements and the Board of Directors acts to find the City of Santa Ana an “eligible agency.”
- C. Authorize the Chief Executive Officer to execute Amendment No. 5 to Contract No. C-5-3564 with Vavrinek, Trine, Day and Company, LLP to revise the scope of work, add an additional task to apply agreed-upon procedures to assess compliance with maintenance of effort expenditure requirements, extend the agreement through June 30, 2020, and authorize staff to deduct fiscal year 2018-19 audit costs from any future net Measure M2 payments to the City of Santa Ana.
- D. Increase the City of Santa Ana's maintenance of effort requirement for fiscal year 2018-19 by the amount of expenditures that were not met as identified in the fiscal year 2017-18 audit.
- E. Authorize the Chief Executive Officer to negotiate and execute a settlement agreement with the City of Santa Ana to correct and remedy the fiscal year 2017-18 audit issues.



Discussion Items

7. Chief Executive Officer's Report

Ken Phipps, DCEO, reported on the following topics:

Bike Month:

- OCTA is celebrating, in the month of May, bike month and people are encouraged to participate in the various bike-related activities.
- On Thursday, May 16, OCTA will host its annual public bike ride and rally. The bike ride starts at 7:30 a.m., from the Orange Metrolink Station, and culminates at the OCTA Headquarters with a small rally.
- OCTA will provide the Board Members with a bike.

Beach Boulevard Corridor Study (Study):

- This month, OCTA is seeking public feedback on the Study.
- The Study is an OCTA and California Department of Transportation effort to improve Beach Boulevard and identify solutions ranging from enhanced pedestrian, bicycle, and transit facilities to improved signal synchronization.
- Several outreach events will take place along the 21-mile corridor, including at the La Habra Citrus Fair, which took place last Saturday.
- Upcoming outreach events include:
 - Westminster Senior Center on Thursday, May 9 at 9:00 a.m.;
 - West Anaheim Youth Center on Saturday, May 18 at 9:00 a.m.; and
 - Bella Terra on Saturday, May 18 at noon.
- The online survey and information are available at octa.net/BeachStudy.

Bus Service Plan Community Hearings:

- Later this month, OCTA will host a series of community meetings to solicit feedback on the proposed bus service changes for October 2019 and February 2020.
- The proposed changes are part of the OC Bus 360° plan to optimize the efficiency of the bus system.
- The community meetings will take place as follows:
 - Brea Community Center on Tuesday, May 21 at 6:00 p.m.;
 - Santa Ana Senior Center on Wednesday, May 22 at 5:30 p.m.; and
 - Irvine Lakeview Senior Center on Thursday, May 23 at 6:00 p.m.
- A public hearing about the proposed bus service change is scheduled for the Monday, June 10 Board meeting.



8. Committee Members' Reports

Director Bartlett commented that OCTA is an Angels Express and Angels fan, and County of Orange employee Kevin Canning's son, Griffin Canning, is one of the starting pitchers for the Angels who performed well at his first game.

Chairman Shaw stated that he asked the City of La Habra staff to place on its website, information on the Study to solicit input, and inquired if each city along the corridor is soliciting feedback.

Alice Rogan, Director of External Affairs, responded that OCTA asked each city, along the Study corridor, to provide its public information office details on the Study and to solicit feedback.

9. Closed Session

There were no Closed Session items scheduled.

10. Adjournment

The Executive Committee meeting adjourned at 10:15 a.m.

The next regularly scheduled meeting of this Committee will be held at **9:00 a.m. on Monday, June 3, 2019**, at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room – Conference Room 07, Orange, California.

ATTEST

Laurena Weinert
Clerk of the Board

Tim Shaw
Chairman