

# City of San José Measure T Community Oversight Committee

District 1— Gary Cunningham  
District 3— Michelle Brenot  
District 5— Enrique Arguello  
District 7— Open  
District 9— Shruti Chandrasekhar (C)  
Citywide (Labor) — Olivia Navarro  
Citywide (Business) — Joanna Rauh (VC)  
Environmental Issues — Lee Space

Carolyn Bauer —District 2  
Jai Srinivasan —District 4  
Nicholas Cochran —District 6  
Gilberto Torres —District 8  
Open —District 10  
Matt Tuttle— Public Safety  
Rich Giammona —Citywide (Finance/Accounting)

## AMENDED

### REGULAR MEETING AGENDA

#### Draft Meeting Minutes

6:00 p.m.

November 2, 2023

Hybrid Meeting -

<https://sanjoseca.zoom.us/j/94713264901>

and San José City Hall

200 E. Santa Clara Street, San José, CA  
Room T-550

### How to observe the MEASURE T COMMUNITY OVERSIGHT COMMISSION

**MEETING:** <https://sanjoseca.zoom.us/j/94713264901>

Webinar ID: 947 1326 4901

Passcode: None

Or One tap mobile :

+12133388477,,88421761784# US (Los Angeles)

+14086380968,,88421761784# US (San Jose)

How to submit written Public Comment:

- 1) By email to [aziza.amiri@sanjoseca.gov](mailto:aziza.amiri@sanjoseca.gov) by 9:00 a.m. the day of the meeting.

How to provide Spoken Public Comment during the meeting:

- 1) Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 408 638 0968 or +1 213 338 8477 or 888 475 4499 (Toll Free) or 877 853

5257 (Toll Free)

Webinar ID: 884 2176 1784

Click \*9 to raise a hand to speak.

By online <https://sanjoseca.zoom.us/j/94713264901>

- 1) Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
  - a. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
  - b. When the Chair calls for the item on which you wish to speak, click on “raise hand.” Speakers will be notified shortly before they are called to speak.
  - c. When called, please limit your remarks to the time limit allotted.

*Committee Member Gilbert Torres will be participating in the meeting from an off-site location: 724 Amberton Drive, Smyrna, TN 37167*

*Committee Member Enrique Arguello will be participating in the meeting from an off-site location: Calle Quintana Roo # 736 Colonia Juárez Morelia Michoacan Mexico C.P. 58010*

*Committee Member Lee Space will be participating in the meeting from an off-site location: 4942 Elester Drive, San Jose, CA 95124*

*Pursuant to AB2449, Vice Chair Joanna Rauh provided notice she will participate in the meeting using videoteleconference under the just cause exemption of caregiving. This is her first of two allowed just cause exemptions.*

**I. Call to Order and Roll Call**

**In Attendance:** Gary Cunningham, Carolyn Bauer, Michelle Brenot, Jai Srinivasan, Nicholas Cochran, Shruti Chandrasekhar, Matt Tuttle, Joanna Rauh, Lee Space

**Absent:** Enrique Arguello, Gilberto Torres, Olivia Navarro, Rich Giammona

**II. Orders of the Day**

**Motion:** Committee Member Nicholas Cochran

**Moved:** Committee Member Carolyn Bauer

**Second:** Committee Member Gary Cunningham

**Approved unanimously by all attending committee members.**

**III. Open Forum** (*Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate.*)

**IV. Consent Calendar**

**A. Approval of Meeting Minutes from June 8, 2023**

**Motion:** Chair Shruti Chandrasekhar

**Moved:** Committee Member Carolyn Bauer

**Second:** Committee Member Nicholas Cochran

**Approved unanimously by all attending committee members.**

**V. Reports and Information Only**

**A. Chair**

Chair Shruti wants committee members to be notified when there is an opportunity for public comment and community outreach opportunities. Chair Shruti also asked if the scope of the projects can be identified specifically regarding the community center and microgrid.

Staff notified the committee that if there any questions from the community to reach out to Aziza Amiri. Staff will also notify the committee of any opportunities for public comment, community outreach opportunities, and ribbon cutting or groundbreaking ceremony on any Measure T projects. Staff will be sharing with committee members the

memo that was shared in the meeting regarding the community center scope and provide Chair and the committee members an update on the plan for microgrid in a follow up email.

B. Director

None

C. Council Liasion

None

D. Staff and Organizations

Teleconferencing Rules.

Effective January 1, 2023, AB 2449, provides two limited exceptions in which a requesting member of the Brown Act Body can attend meetings remotely without posting their remote location on the agenda and without having that remote location be accessible to the public:

1. Just Cause: the requesting member notifies their legislative body at the beginning or prior to the meeting of the need to participate remotely due to Just Cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. Just Cause is defined as childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse or domestic partner that requires them to participate remotely; a contagious illness that prevents them from attending in person; a need related to a physical or mental disability as defined in Government Code Sections 12926 and 12926.1, or official travel of the legislative body or another state or local agency. The Just Cause exception is limited to a maximum of 2 meetings per calendar year per member of the legislative body; OR

2. Emergency: the requesting member needs to request remote participation due to a physical or family medical emergency that prevents attending in person, with a general description of the circumstances relating to their need to appear remotely, and the legislative body needs to take action to approve the request. If the request does not allow sufficient time to place the proposed action on the posted agenda for which the request is made, the legislative body may take action at the beginning of the meeting to approve the request by a majority vote.

Agendas are posted every day at 430pm so any changes to the agenda need to be provided. Therefore, if you are using just cause or an emergency request, I would need to be notified before 430pm so I can amend the agenda.

If the AB 2449 Just Cause and Emergency Exceptions cannot be utilized, the traditional Brown Act Teleconferencing Rules may still be utilized by members of the legislative body to attend remotely via teleconference or video teleconference as follows:

- At least a quorum must participate from locations within the City of San José jurisdiction;
- The remote location must be listed on the agenda including a full address and room number as applicable; Agenda are required to be posted per the Browns Act at least 7 days prior to the meeting so it needs to identified by the committee member before the 7 days if they need to teleconference
- The agenda must be posted at the remote location for 72 hours prior to the meeting and remain posted until the meeting concludes;

- The remote location must be accessible to the public;
  - Members of the public must be allowed to attend and speak at the remote location;
- and
- All votes during the meeting must be by roll call.

The committee member also needs to complete and sign the affidavit stating they posted the agenda at their teleconference location. They must also show proof. The affidavit states That the committee member confirmed that the teleconferencing location is ADA-accessible to the public. That the meeting location will be open to the public and have technology to allow the public to participate during the meeting time, except during any closed session discussions.

For more information:

[https://library.municode.com/ca/san\\_jose/codes/code\\_of\\_ordinances?nodeId=TIT2A\\_D\\_CH2.08BOBUCO](https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT2A_D_CH2.08BOBUCO)

Members of Boards and Commissions must follow the attendance rules set forth in Section 2.08.060 of the San José Municipal Code. Attendance at a regular meeting for purposes of Section 2.08.060 of the Municipal Code means attending at least 50% of the duration of the entire meeting. Attending less than 50% of the duration of the entire meeting is considered an absence for purposes of Section 2.08.060 of the Municipal Code. In the case of an excused absence, Commissioners should notify the Commission Secretary of their excused absence as soon as possible.

#### 2.08.060 - Absence from meetings - Reappointment.

A member of any board or commission, other than the planning commission, the salary setting commission and the civil service commission, shall be deemed to have automatically resigned from office if:

The board or commission has four or fewer regular meetings in any calendar year, and the member has unexcused absences from any two consecutive regular meetings of the board or commission; or

#### Excused absence:

An absence due to an illness of the member, or illness or death of a member's spouse, domestic partner, parent, child, sibling or dependent; or

An absence because a member is away on authorized board or commission business; or For any member who is a city councilmember or a city employee, an absence due to the member performing required city business; or

An absence from a meeting of the board of administration for the federated city employees' retirement system or of the board of administration for the police and fire department retirement plan which the board of administration has found to be for good cause.

#### Reference:

2.08 of Muni Code covers all and Council Policy 0-4

**VI. Old Business**

A. Review Action Items from June 8, 2023

**VII. New Business – Action/Discussion**

A. Presentation on latest Measure T Status Report

Committee Member Cochran had a question on the report under pavement maintenance. It shows staff identified 288 miles of streets dispersed throughout city resurfaced/reconstructed with Measure T funding. Memo said over 700 miles. What's the right number?

- Response (staff): The 700 miles of street identified that need to be resurfaced will be covered through Measure B and the Measure T funding. Staff will provide an update to the committee members through email the overall expected number of miles to be repaved using only Measure T

All committee members agreeing that the Measure T Status Report should remove anything related to measure B. Focus on what's specific to measure T.

(Committee Member Carolyn Bauer): Where is the money going? How much interest have we earned on our money? Where are we spending that on?

- Response (staff): The audit report presentation will go in more detail about what the spending is on and how much interest have been earned so far under Revenues – Investment Income on page 6.

(Committee Member Nick Cochran): What are the sense about getting the grants and money for the Clean Water and Charcot Project?

- Response (staff): Staff meet with the grant team almost bi-weekly, there's a lot of clean water grant opportunities. Staff was able to obtain a \$3.2 million state grant for River Oaks, \$4.9 million state grant from Department of Water Resources, and airport funding of \$2 million. Staff will continue to look at other grant opportunities and will be working with Valley Water to obtain funding for construction for phase 2 of the Charcot project.

(Committee Member Gary Cunningham): Did the savings from the Charcot project stay within Measure T?

- Response (staff): Yes. The savings from the Charcot project was reallocated to the Measure T Public Safety to cover the shortfalls.

(Committee Member Carolyn Bauer): What is the additional funding need to complete Phase 2 construction for Charcot?

- Response (staff): It is currently unknown. Staff is hoping to have updated estimates from Consultant on Phase 2 by the next COC meeting.

(Committee Member Nick Cochran): What happens if Phase 2 Charcot construction funding is not available?

- Response (staff): We have challenged the project team to figure out solutions including coordinating with Valley Water and obtaining grant funding.

(Committee Member Gary Cunningham): Request to change the matrix item 3.1 to say Charcot Storm Drain and not Pump Station

(Committee Member Nick Cochran): What does the storm drain get us?

- Response (staff): The memo does go through a bit of what phase 1 covers. This revised project provides similar level of flood protection while saving the cost of building a pump station. Some previous memos go into better detail of what the storm drain project is. I would have to ask the team on identifying the entire scope of the phase.

(Chair Shruti Chandrasekhar): Request adding more details in the matrix that the project is in multiple phases under the notes section.

(Committee Member Nick Cochran): What is the 4 million going to be used for Fire Station 23? Is there no Measure T money to fund the entire project?

- Response (staff): The plan is to use the \$4 million to purchase a property. Police Training and Academy did receive lowers bids and we should be seeing savings to the program. More information on Police Training will be provided in the next month which will include updating the matrix with the new numbers.

(Committee Member Nick Cochran): Is Fire Station 23 and Charcot the Measure T priorities if there is savings?

- Response (staff): Right now staff is committing to providing all savings to Fire Station 23 since that project is not funded except for land acquisition. With Charcot, project team will still be performing the majority of the work needed for its purpose.

#### B. Review the Measure T Auditor's Report

(Committee Member Gary Cunningham): Note 5 talks about the issuance to fund the debt service amount of \$33 million. Can you tell us what that is?

- Response (David Bullock from MGO): All proceeds are deposited into the capital project fund. Flow of funds and the bond was issued with premium and the premium was used to pay for the taxable bonds. Money came in and came out. The flow funds is the net deposit of \$239.9 million. The cost of issuance is \$95,698 and was deposited into the Public Safety and Infrastructure Bond Projects Fund for Measure T projects.

(Committee Member Carolyn Bauer): Is a portion of the bonds sold are taxable and not taxable and did it trade at a premium?

- Response (David Bullock from MGO): I believe so. Luz, Assistant Director from Finance, will provide that information to Aziza to provide the committee through an email.

(Committee Member Nicholas Cochran): Spending to date is \$260 million and the issuance is \$440 million, staff needs to spend a certain amount in order to avoid tax implications is that correct? Is that IRS requirement on a cash basis, accrual basis, a financial statement basis, how is that compliance measured?

- Response (David Bullock from MGO): City has a debt management group that focuses on looking at arbitrage. The IRS expects reporting once every 5 years. I would not get to hung up on whether they will spend it timely enough. If they don't, there may be a rebate or arbitrage interest earning above and beyond the tax-exempt bond. \$200 million was issued July 2021 and the three-year mark will be July 2024. Luz Cofresi-Howe, Assistant Director of Finance, can provide additional information through an email.

(Committee Member Nicholas Cochran): Is it a big problem if we don't spend the money within the 3 years?

- Response (Luz Cofresi-Howe, Assistant Director of Finance): It can be a challenge because it does threaten the exemption status of any bonds. The estimate of the spend down for Fiscal Year 2023-2024 will be \$150 million. If that holds, we should be comfortable with the spending requirement. Staff will provide additional information through an email if the \$150 million is a realistic number of spending for the rest of the fiscal year.

(Chair Shruti Chandrasekhar): On the compliance report, do you actual look at the source of the fund? When you do the compliance report is it verified if funding is coming from several sources and do you confirm whether the program is in compliance?

- Response (David Bullock from MGO): We look at the fund itself. The funds are set up to be separated so the funds do not commingle. We have Measure T fund so we can trace all the activities from inception so we can determine that there's all Measure T spending. There is no commingling. The audit report shows all the ins and outs of funding going through Measure T.

### C. Review the Measure T COC Matrix

(Committee Member Lee Space): How are you defining critical infrastructure but it looks like you are realigning that funding? Can you confirm that it was moved over to somewhere else?

- Response (staff): Yes. It was moved over to Public Safety.

(Committee Member Carolyn Bauer): Where does it say the savings from one project was transferred to another project?

- Response (staff): The notes section of the matrix provides that information.

(Committee Member Gary Cunningham): Why did the cost of PD Hangar double?

- Response (staff): The cost increased because it was initially coupled with the Airport Facilities Relocation as on big project. That project was under a design build contract but was terminated due to the pandemic impacting revenue to the airport. Therefore, the two projects were decoupled and the project team had to start from scratch to obtain a consultant and prepare the bid documents. During this time, prices of material and labor increased and the economy saw an increase in inflation. Staff also determined during design that the building had to be building as an emergency facility which required additional structural and seismic improvements. Lastly, the Police Department requested an additional bay for an additional plane. All these factors increased the cost tremendously.

(Committee Member Carolyn Bauer): Why was Fire Station 32 bid out twice and received non-responsive bids?

- Response (staff): The bidders didn't provide enough documentation or there's missing documents. They were also disqualified due to mathematical errors. The first set of bids, the lowest bidder withdrew their bid because of a mathematical error and with the second bids, there was an issue regarding wage theft.

D. Review the Key Schedule of Events

Committee Members will meet on January 9, 2024. Therefore, we are removing the option of January 17 meeting.

**VIII. Future Meeting Schedules and Other Related Agenda Items**

A. Next meeting scheduled Tuesday, January 9, 2024

**IX. Adjournment at 8:32pm**



*The [Code of Conduct](#) is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view. The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.*

You may speak to the Commission about any discussion item that is on the agenda, and you may also speak during Public Comments on items that are not on the agenda and are within the subject matter jurisdiction of the Commission. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Committee, Board or Commission. Please be advised that, by law, the Commission is unable to discuss or take action on issues presented during Public Comments. Pursuant to Government Code Section 54954.2, no matter shall be acted upon by the Commission unless listed on the agenda, which has been posted not less than 72 hours prior to meeting.

Agendas, Staff Reports and some associated documents for the Commission items may be viewed on the <https://www.sanjoseca.gov/your-government/departments-offices/public-works/measure-t-community-oversight-committee>.

Correspondence to the MEASURE T COMMUNITY OVERSIGHT COMMITTEE are public record and will become part of the City's electronic records, which are accessible through the City's website. Before posting online, the following may be redacted: addresses, email addresses, social security numbers, phone numbers, and signatures. However, please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the MEASURE T COMMUNITY OVERSIGHT COMMITTEE, will become part of the public record. If you do not want your contact information included in the public record, please do not include that information in your communication.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Public Works Department, 200 East Santa Clara Street, San José, California 95113, at the same time that the public records are distributed or made available to the legislative body. Any draft resolutions or other items posted on the Internet site or distributed in advance of the commission meeting may not be the final documents approved by the commission. Contact Office of the City Clerk for the final document.

The MEASURE T COMMUNITY OVERSIGHT COMMITTEE meets two/three times a year in May and November at 6:00 p.m., with special meetings as necessary. If you have any questions, please direct them to the Commission staff. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

**To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 294-9337 (TTY) as soon as possible, but at least three business days before the meeting.**

**Please direct correspondence and questions to:**

City of San José - Attn: Aziza Amiri  
200 East Santa Clara Street, San José, California 95113 Tel: (408) 535-5666  
[Aziza.amiri@sanjoseca.gov](mailto:Aziza.amiri@sanjoseca.gov)