



Regular Meeting of the Measure T Citizens' Oversight Committee

LOCATION

Madera County Transportation Commission
Board Room
2001 Howard Road, Suite 201
Madera, California 93637

or via Zoom

<https://us06web.zoom.us/j/89096801270?pwd=cTlaRjE1RndwaGFUYlVYdnROcmV4QT09>

Webinar ID: 890 9680 1270

Passcode: 132774

Telephone: US: +1 408 638 0968

DATE

August 9, 2023

TIME

5:00 PM

Citizens' Oversight Committee Members

Terry Flanagan, Chair
Max Rodriguez, Vice Chair
Janice Gomes
Wayne Chapman
Tim Riché
Faustina Washburn
April Molina

Member At Large
District 4
District 1
District 2
District 3
District 5
Member At Large

REASONABLE ACCOMMODATIONS AND ADA

MCTC has adopted a Reasonable Accommodations Policy that provides a procedure for receiving and resolving requests for accommodation to participate in this meeting (see <https://www.maderactc.org/administration/page/reasonable-accommodations-policy>). If you need assistance in order to attend the meeting, or if you require auxiliary aids or services, e.g., listening devices or signing services to make a presentation to the Committee, MCTC is happy to assist you. Please contact MCTC offices at (559) 675-0721 so such aids or services can be arranged. Requests may also be made by email to sandy@maderactc.org, or mailed to 2001 Howard Road, Suite 201, Madera, CA 93637. Accommodations should be requested as early as possible as additional time may be required in order to provide the requested accommodation; 72 hours in advance is suggested.

PUBLIC COMMENT

If you are participating remotely and wish to make a comment on a specific agenda item during the meeting, please use the “Raise Hand” feature in Zoom and you will be called on by the chair during the meeting. You can also submit your comments via email to publiccomment@maderactc.org. Comments will be shared with the Committee and placed into the record at the meeting. Every effort will be made to read comments received during the meeting into the record, but some comments may not be read due to time limitations. Comments received after an agenda item will be made part of the record if received prior to the end of the meeting.

Regarding any disruption that prevents the Measure T Citizens’ Oversight Committee from broadcasting the meeting to members of the public, then (1) if public access can be restored quickly, the meeting will resume in five (5) minutes to allow the re-connection of all members of the Committee, staff, and members of the public; or (2) if service cannot be restored quickly, the meeting shall stop, no further action shall be taken on the remaining agenda items, and notice of the continued meeting will be provided.

AGENDA

At least 72 hours prior to each regular Measure T Citizens’ Oversight Committee meeting, a complete agenda packet is available for review on the [MCTC website](#) or at the MCTC office, 2001 Howard Road, Suite 201, Madera, California 93637. All public records relating to an open session item and copies of staff reports or other written documentation relating to items of business referred to on the agenda are on file at MCTC. Persons with questions concerning agenda items may call MCTC at (559) 675-0721 to make an inquiry regarding the nature of items described in the agenda.

INTERPRETING SERVICES

Interpreting services are not provided at Committee meetings unless requested at least three (3) business days in advance. Please contact MCTC at (559) 675-0721 during regular business hours to request interpreting services.

Servicios de interprete no son ofrecidos en las juntas de Comité al menos de que se soliciten con tres (3) días de anticipación. Para solicitar éstos servicios por favor contacte a Evelyn Espinosa at (559) 675-0721 x 5 durante horas de oficina.

MEETING CONDUCT

If this meeting is willfully interrupted or disrupted by one or more persons rendering orderly conduct of the meeting unfeasible, the Chair may order the removal of individuals who are willfully disrupting the meeting. Such individuals may be arrested. If order cannot be restored by such removal, the members of the Committee may direct that the meeting room be cleared (except for representatives of the press or other news media not participating in the disturbance), and the session may continue.

RECORD OF THE MEETING

Measure T Citizens' Oversight Committee meetings are recorded. Copies of recordings are available upon request, or recordings may be listened to at the MCTC offices by appointment.

Agenda

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT

This portion of the meeting is reserved for persons wishing to address the Committee on items within its jurisdiction but not on the agenda. Note: Prior to action by the Committee on any item on this agenda, the public may comment on that item.

4. WELCOME AND INTRODUCTIONS

5. APPROVAL OF MINUTES

A. Meeting Minutes –April 12, 2023

Enclosure: Yes

Action: Approve Minutes

6. PUBLIC MEETINGS AND THE BROWN ACT TRAINING

Enclosure: Yes

Action: Information and Discussion Only

7. OVERVIEW OF MEASURE T PROGRAM

Enclosure: No

Action: Information and Discussion Only

8. ROLES AND RESPONSIBILITIES OF MEASURE T CITIZENS' OVERSIGHT COMMITTEE MEMBER

Enclosure: No

Action: Information and Discussion Only

9. OTHER ITEMS

A. Proposed Meeting Schedule

B. Agenda Items for Next Meeting

C. Items from Committee Members

10. ADJOURNMENT

PUBLIC MEETINGS AND THE BROWN ACT

*NICK PAPAJOHN, DEPUTY COUNSEL
MADERA COUNTY TRANSPORTATION COMMISSION*



Aleshire & Wynder

TOPICS

- “Meeting” rules under the Brown Act
- Agenda requirements under the Brown Act
- Conducting a meeting



The Ralph M. Brown Act

(AKA: The Open Meeting Laws)

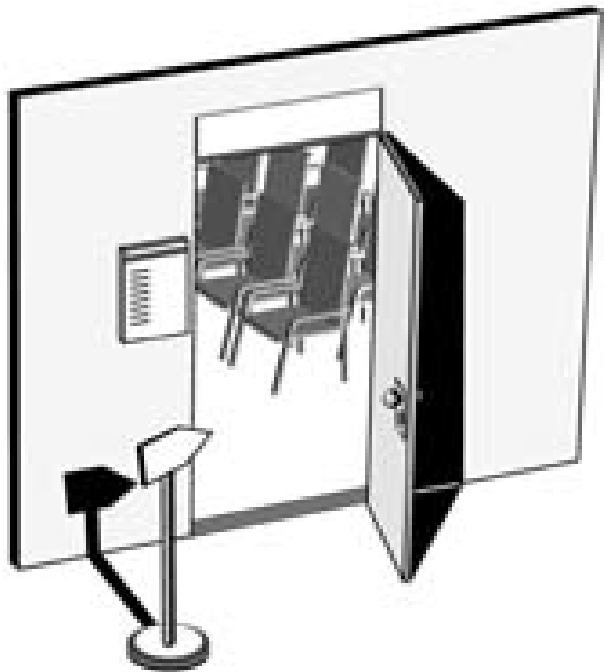
- ▶ “All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency.”

(Gov. Code § 54953)

Conducting Business at Open Meetings

- ▶ A majority may not consult outside a properly noticed meeting open to public
- ▶ Key concept: what constitutes a meeting
 - ▶ Example: Serial communications
- ▶ Exceptions for certain kinds of events
- ▶ As long as a majority does not consult among themselves
- ▶ May not react or comment to social media post or comment by another member of the body





What is a meeting?

Definition:

"Meeting" includes any gathering of a majority of the members of a legislative body to hear, discuss, or deliberate upon any item which is within its subject matter jurisdiction."



What is a meeting?

Means of Communication:

A meeting includes any use of direct communication, personal intermediaries, or technological devices which are employed by a majority of the members of the legislative body to develop a collective concurrence on action to be taken by members of the legislative body.

(Gov. Code § 54952.2)

What is a meeting

- ▶ Meetings take place if quorum receives information on, discusses, or deliberates on any item on which the body may legally act
- ▶ Must be within the boundaries of the agency
- ▶ Applies to “legislative” bodies and advisory bodies
- ▶ Special Meetings called by the Chair or majority - 24hr notice
- ▶ Serial and rotating meetings or polling prohibited, but social gatherings are permitted



Serial Meetings?

- A serial meeting is a meeting that at any one time involves only a portion of a legislative body, but eventually involves a majority.
 - In Person
 - Telephone
 - Letters
 - Emails
 - Text Messages
 - Social Media (via Facebook, Twitter, Instagram, etc.)**



Serial Meetings

- ▶ Examples of serial meetings:

- ▶ Chain:

- ▶ If member A contacts member B to express his/her opinion on a Measure T Oversight Committee-related issue, and B contacts member C and shares the opinions of members A and B, a “serial meeting” may result in violation of the Brown Act.

- ▶ Hub and spoke:

- ▶ An intermediary, such as staff member, contacts at least a quorum of the members to develop a collective concurrence on action to be taken by the legislative body.



Serial Meetings and AB 992

- ▶ A legislative body member shall not respond directly to any communication on an internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member of the legislative body.
 - ▶ This includes likes, thumbs up, emojis, sharing, or commenting
 - ▶ Social media is any online platform that “is open and accessible to the public.” Includes traditional social media sites such as Facebook, Twitter, or Nextdoor, but also smaller forums such as a discussion section on a news website.
- ▶ Take away: Members should avoid commenting on or even liking or posting emojis or other responsive remarks on the social media post of another Council member so as to avoid the possibility that a majority of the body is deemed to be engaged in a communication.



REMEMBER:



- Your emails and text messages may be subject to public disclosure under the Public Records Act.
- ***IT DOES NOT MATTER*** if you are messaging from a personal device or personal email account.

What is NOT a meeting?

- ▶ If a quorum does not receive information on, discuss, or deliberate on any item, on which the body may legally act, then the following generally are NOT meetings:
 - ▶ Individual contact
 - ▶ Public conferences
 - ▶ Other local agency meetings
 - ▶ Community meetings
 - ▶ Social gatherings

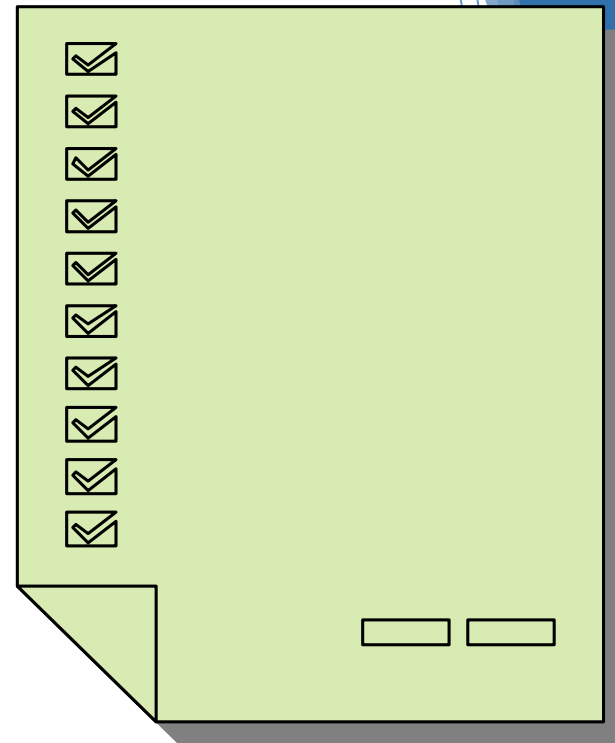
Agenda Requirements

- ▶ A written agenda must be prepared for each regular or adjourned regular meeting of each legislative body.
- ▶ No action may be taken if an item is not on the agenda (unless it is a qualified emergency item)



Agenda Requirements

- ▶ Posted 72 hours in advance
- ▶ Brief description sufficient to inform public of the nature of each item



Remote participation

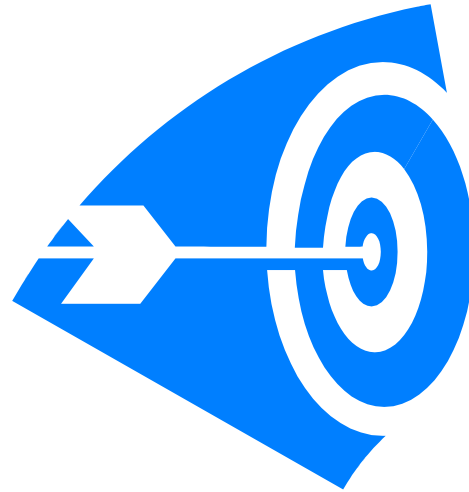
- ▶ Traditional teleconferencing rules (Gov't Code 54953(b):
 - ▶ Quorum must be within the area covered by the Oversight Committee; all teleconferencing locations must be posted on the agenda; agendas must be posted at each teleconferencing location; each teleconferencing location must be open to the public
- ▶ New teleconferencing rules (Gov't Code 54953(f)):
 - ▶ Members can teleconference without following requirements of traditional rules for “just cause” or “emergency circumstances,” as defined
 - ▶ Use just cause only twice in a year; combined, cannot use more than 3 months total
 - ▶ Quorum must meet in person at the same physical location within the jurisdiction of the Oversight Committee
 - ▶ A number of requirements to allow remote participation
 - ▶ Can be added to agenda after agenda posting deadline by majority vote of body

“Just cause” and “emergency circumstances” Gov’t 54953(j)

- ▶ (1) “Emergency circumstances” means a physical or family medical emergency that prevents a member from attending in person.
- ▶ (2) “Just cause” means any of the following:
 - ▶ (A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. “Child,” “parent,” “grandparent,” “grandchild,” and “sibling” have the same meaning as those terms do in Section 12945.2.
 - ▶ (B) A contagious illness that prevents a member from attending in person.
 - ▶ (C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).
 - ▶ (D) Travel while on official business of the legislative body or another state or local agency.

Stay on point!

- ▶ All matters to be transacted or discussed.
- ▶ Must include reasonable period of time for public comment before or during consideration
- ▶ To add a new matter body must find:
 - ▶ (1) The Committee became aware of the need for action after agenda was posted,
 - ▶ (2) immediate action is necessary,
 - ▶ (3) there must be a 2/3 vote of membership—unanimous vote if less than 2/3 present!



Agenda Requirements: Exceptions

- ▶ No discussion of any item not on agenda. . . except:
 - ▶ Brief responses.
 - ▶ Statements or questions.
 - ▶ Questions for clarification.
 - ▶ Reference to staff or other resources for factual information.
 - ▶ Request staff to report at a subsequent meeting.



Public Participation in Meetings

- ▶ Anyone can attend open meetings
- ▶ Cannot require names, questionnaires, or conditions to attendance
- ▶ Public may record proceedings by video, film, or audiotape
- ▶ If meeting willfully interrupted or order cannot be restored by removing only the disrupting individuals (after a warning), body may order room cleared

Public Comment Period(s)

- Public has the right to talk about anything they want that's not on the agenda.
- Members of the public get to speak on each and every item on agenda before deliberations have been made



Closed Session

- ▶ Four Common Grounds for Closed Session:
 1. Real Property Negotiations
 2. Pending/Anticipated Litigation
 3. Labor Negotiations
 4. Personnel Matters
- ▶ Must give employee 24 hour written notice of right to have charges heard in open session



Closed Session

- ▶ Confidentiality applies!
- ▶ Cannot discuss funds, funding priorities, or budget, salaries, contract negotiations (unless labor negotiations). . .
- ▶ Must reconvene in open session and make any required disclosure



Penalties: Failing to Comply

- ▶ Nullification of decision
- ▶ Criminal Misdemeanor - for intentional violations (up to 6 months in jail/\$1000 fine)
- ▶ Injunction, Mandamus & Declaratory Relief
- ▶ Challenger must demand corrective action within 90 days of action -- or 30 days if agenda issue
- ▶ 30 days to correct action before suit
- ▶ Intense adverse media attention

DANGER
BROWN ACT
VIOLATIONS





Best Practices

Assume all information is public or will become public.

Don't discuss Committee business with fellow decision-makers outside of meetings

CONDUCTING A MEETING

- ▶ The Committee may - but is not required to - adopt rules and procedures for the conduct of meetings
- ▶ This includes whether to use Robert's Rules of Order or Rosenberg's Rules of Order
- ▶ Most local agencies are moving towards using Rosenberg's Rules of Order as they are practical, simple, and easier to use



Running a Meeting: Overview

1. Establish a quorum. This must be at least a majority of the total membership. The meeting must be stopped if a quorum is not present.
2. Determine if the Chair is present. If so, the Vice-Chair presides. If both are absent, then the secretary calls the meeting to order and a temporary Chair is selected until the Chair or Vice-Chair is present.
3. Call the meeting to order.
4. Follow the Agenda. New items cannot be added to the Agenda at the meeting absent qualifying emergency issues. Agenda items can be moved.
5. Call each Agenda item.
6. Adjourn the meeting.

Public Input

These rules should help make a meeting very public-friendly for Agenda items.

- ▶ First: Tell the public what the Commission will be doing.
- ▶ Second: Keep the public informed while the body is doing it.
- ▶ Third: When the Commission has acted, tell the public what the body did.

Agenda Item Overview: Regular Items

Minutes, Accepting Audits, Approving Annual Reports, Etc.

1. The Chair calls the Agenda item.
2. Any required conflict disclosures by Commissioners should be made.
3. Staff makes a presentation.
4. The Commission asks clarifying questions of staff, if any. (No Commission discussion or deliberation at this point)
5. The Chair opens public comment on the item. (Individual public comment can be limited to 3 or more minutes, but time limits must be applied equally to everyone providing public comment and should be stated at the outset.)
6. The public offers comments, if any.
7. The Chair closed public comment.
8. Discussion and deliberation by the Commission only. Commissioners can ask clarifying questions of staff, etc.
9. The Chair calls for a motion, or a Commissioner makes a motion. Another Commissioner seconds the motion.
10. The Chair calls for the vote.
11. The Chair announces the results of the vote.

Agenda Item Overview: Workshops and Presentations (Workshops on Annual Report, etc.)

1. The Chair calls the Agenda item.
2. Any required conflict disclosures by Commissioners should be made.
3. Staff makes a presentation.
4. The Commission asks clarifying questions of staff, if any. (No Commission discussion or deliberation at this point)
5. Public comment is not legally required for workshops or presentations. However, the Chair (or a majority of the Commission if the Chair declines to do so) can decide to have public comment. This is suggested as having public comment is also consistent with the Committee's purpose of ensuring that Measure T funds as spent as promised to the public.
6. (If applicable) The public offers comments, if any.
7. (If applicable) The Chair closed public comment.
8. Discussion and feedback from the Commission, if any. Note: No action can be taken by the Commission on workshop or presentation items (i.e., there is no vote).

THANK YOU!



Aleshire & Wynder

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