

This meeting has been noticed according to the Brown Act rules.



**Ordinance No. 152
Oversight Panel
Members:**

*Susan Schiavone
Alison Kerr
Rebecca Lindor
Marli Melton
Melodie Chrislock
Kevan Urquhart
Adam Pinterits
John Tilley*

*Vacant, Mayoral
Appointee*

MPWMD Contacts:

*General Manager,
David J. Stoldt*

*Administrative Services
Manager/CFO
Suresh Prasad*

Mission Statement

Sustainably manage and augment the water resources of the Monterey Peninsula to meet the needs of its residents and businesses while protecting, restoring, and enhancing its natural and human environments.

Vision Statement

Model ethical, responsible, and responsive governance in pursuit of our mission.

AGENDA

**Ordinance No. 152 Citizen's Oversight Panel
of the Monterey Peninsula Water Management District**

Wednesday, July 12, 2023 at 1:30 P.M. [PST]

Meeting Location: MPWMD-Main Conference Room
5 Harris Court, Building G, Monterey, CA 93940
[Hybrid: In-Person and via Zoom]

Join the meeting at this link:

[https://mpwmd-
net.zoom.us/j/84131892006?pwd=OVVDM3djbTBaUXJmODNJam53YVNuQT09](https://mpwmd-net.zoom.us/j/84131892006?pwd=OVVDM3djbTBaUXJmODNJam53YVNuQT09)

Or access the meeting at: zoom.us

Webinar ID: 841 3189 2006

Meeting password: 07122023

Participate by phone: (669) 900 9128

For detailed instructions on connecting to the Zoom meeting see page 3 of this agenda.

Rebecca Lindor, Division 3 Representative will be participating via Zoom (teleconference) at the Law Offices of John R. Coniglio-Conference Room, 490 Calle Principal, Monterey, CA 93940

This agenda was posted at the District website (www.mpwmd.net) and at 5 Harris Court, Bldg. G, Monterey, California on July 7, 2023. Staff notes will be available on the District web site at <https://www.mpwmd.net/who-we-are/committees/advisory-committees/ordinance-152-citizens-oversight-panel/> by 5:00 p.m. on Friday, July 7, 2023.

Call to Order / Roll Call

Comments from Public – *The public may comment on any item within the District's jurisdiction. Please limit your comments to three minutes in length.*

Action Items – *Public comment will be received on Action Items. Please limit your comments to three minutes in length.*

1. Consider Adoption of the Panel Meeting Minutes from January 31, 2023 and April 19, 2023

Discussion Items -- *Public comment will be received on Discussion Items. Please limit your comments to three minutes in length.*

2. Review of Revenue and Expenditures of Water Supply Charge Related to Water Supply Activities
3. Update on Monterey Peninsula Taxpayers Association (MPTA) Lawsuit

Board's Goals and Objectives

Are available online at: <https://www.mpwmd.net/who-we-are/mission-vision-goals/>

Other Items -- Public comment will be received on Other Items. Please limit your comments to three minutes in length.

4. Water Supply Project Update (*Verbal Report*)
5. Suggest Items to be Placed on a Future Agenda

Adjournment

Accessibility

In accordance with Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), MPWMD will make a reasonable effort to provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. MPWMD will also make a reasonable effort to provide translation services upon request. Submit requests at least 48 hours prior to the scheduled meeting date/time: (1) Joel G. Pablo, Board Clerk by e-mail at joel@mpwmd.net, or at (831) 658-5652; and (2) Sara Reyes, Sr. Office Specialist by e-mail at sara@mpwmd.net or at (831) 658-5610.

Provide Public Comment at the Meeting

Attend In-Person

The Board meeting will be held in the Main Conference Room at **5 Harris Court, Building G, Monterey, CA 93942** and has limited seating capacity. Face coverings are encouraged, but not required. Please fill out a speaker card for each item you wish to speak on, and place in the speaker card box next to the Panel Clerk.

Attend via Zoom: See below "Instructions for Connecting to the [Zoom Meeting](#)"

Submission of Public Comment via E-mail

Send comments to comments@mpwmd.net with one of the following subject lines "PUBLIC COMMENT ITEM #" (insert the item number relevant to your comment) or "PUBLIC COMMENT – ORAL COMMUNICATIONS." Staff will forward correspondence received to the Committee. Correspondence is not read during public comment portion of the meeting. However, all written public comment received becomes part of the official record of the meeting and placed on the District's website as part of the agenda packet for the meeting.

Submission of Written Public Comment

All documents submitted by the public must have no less than one copy to be received and distributed by the **Clerk** prior to the Meeting.

Document Distribution

In accordance with Government Code §54957.5, any materials of public record relating to an agenda item for a meeting of the Board of Directors that are provided to a majority of the members less than 72 hours before the meeting will be made available at the **District Office, 5 Harris Court, Building G, Monterey, CA**, during normal business hours. Materials of public record that are distributed during the meeting shall be made available for public inspection at the meeting if prepared by the Board or a member of its legislative/advisory body, or the next business day after the meeting if prepared by some other person.

Instructions for Connecting to the **Zoom Meeting**

The public may remotely view and participate in the meeting to make public comment by computer, by phone or smart device.

Please log on or call in as early as possible to address any technical issues that may occur and ensure you do not miss the time to speak on the desired item. Follow these instructions to log into Zoom from your computer, smart device or telephone. (Your device must have audio capability to participate).

To Join via Zoom- Teleconferencing means, please click the link below:

Join the meeting at:

<https://mpwmd-net.zoom.us/j/84131892006?pwd=OVVDM3djBTBaUXJmODNJam53YVNuQT09>

Or join at: <https://zoom.us/>

Webinar ID No.: 841 3189 2006

Webinar Password: 07122023

Participate by phone: (669) 900 - 9128

1. Use the “raise hand” function to join the queue to speak on the current agenda item when the Chair calls the item for Public Comment.

COMPUTER / SMART DEVICE USERS: You can find the raise hand option under your participant name.

TELEPHONE USERS: The following commands can be entered using your phone’s dial pad:

- *6 – Toggle Mute / Unmute
- *9 – Raise Hand

2. Staff will call your name or the last four digits of your phones number when it is your time to speak.
3. You may state your name at the beginning of your remarks for the meeting minutes.
4. Speakers will have up to three (3) minutes to make their remarks. *The Chair may announce and limit time on public comment.*
5. You may log off or hang up after making your comments.

Refer to the Meeting Rules to review the complete Rules of Procedure for MPWMD Board and Committee Meetings:
<https://www.mpwmd.net/who-we-are/board-of-directors/meeting-rules-of-the-mpwmd/>

ORDINANCE NO. 152 CITIZEN'S OVERSIGHT PANEL

ITEM: ACTION ITEM

1. CONSIDER ADOPTION OF THE PANEL MEETING MINUTES FROM JANUARY 31, 2023 AND APRIL 19, 2023

Meeting Date: July 12, 2023

From: David J. Stoldt
General Manager

Prepared By: Joel G. Pablo
Sara Reyes

CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378

SUMMARY: The draft meeting minutes of the Ordinance No. 152 Citizen's Oversight Panel for January 31, 2023 and April 19, 2023 are attached as **Exhibits 1-A** and **1-B**. The Panel will review, provide suggested edits, and consider approval of the draft meeting minutes.

RECOMMENDATION: Consider adoption of the January 31, 2023 and April 19, 2023 Panel meeting minutes as presented or provide editorial changes, *if any*.

EXHIBIT

1-A Ordinance No. 152 Citizen's Oversight Panel: Draft Meeting Minutes for January 31, 2023

1-B Ordinance No. 152 Citizen's Oversight Panel: Draft Meeting Minutes for April 19, 2023



EXHIBIT 1-A

Revised Draft Minutes
Ordinance No. 152 Citizen's Oversight Panel of the
Monterey Peninsula Water Management District
January 31, 2023

As a precaution to protect public health and safety, and pursuant to provisions of AB 361 (Rivas), the meeting was conducted via Zoom Video/Teleconference.

Call to Order David J. Stoldt, General Manager / Chair to the Panel called the meeting to order at 1:00 p.m.

Roll Call

Panel Members Present:

Susan Schiavone
Alison Kerr
Rebecca Lindor (*Joined at 1:02 p.m.*)
Marli Melton
Melodie Chrislock
Kevan Urquhart
Adam Pinterits
John Tilley
Vacant, Mayoral Appointee

MPWMD Staff Members Present:

David J. Stoldt, General Manager (*Left at 2:00 p.m.*)
Suresh Prasad, Administrative Services Manager/CFO
Joel G. Pablo, Board Clerk

District Counsel Present:

David C. Laredo and Fran Farina with De Lay and Laredo

Panel Members Absent:

None

Comments from the Public:

Chair Stoldt opened public comment; *No comments were directed to the Panel.*

[Rebecca Lindor (joined at 1:02 p.m.) and introduced herself to the Panel.]

Action Items

1. Consider Adoption of the Panel Meeting Minutes from October 19, 2022

Chair Stoldt introduced the matter and opened public comment. *No comments were directed to the Panel.*

A motion was offered by Urquhart with a second by Schiavone to approve the panel meeting minutes from October 19, 2022. The motion passed on a roll-call vote of 7-Ayes (Tilley, Pinterits, Urquhart, Chrislock, Melton, Lindor and Schiavone), 0-Noes, 1-Abstain (Kerr).

2. Review Draft 2022 Annual Report and Authorize Release to the MPWMD Board of Directors

David J. Stoldt introduced the matter. Melton shared her appreciation that the draft annual report includes both majority and minority opinion. She questioned if the minority stance on sunsetting the Water Supply Charge as found in the draft is accurate and kindly requested for Tilley to elaborate. Tilley responded stating at the time the charge was presented before the Board and enacted he understood the Water Supply Charge should have been discontinued when the User Fee returned. He believes the collection of the charge has reached an expiration date and the funds should have been directed to paying off the debt. Pinterits concurred with Tilley’s comments. Stoldt explained the rationale for the continued collection of the user fee and water supply charge. The Panel discussed the idea of including the number of individuals in support of the majority vs. minority opinion. After much deliberation, the Panel decided not to include the majority / minority ratio into the report.

Stoldt briefly summarized Panel discussion and consensus on the report:

- a. Not Include the Majority / Minority Ratio
- b. Complete blank fields
- c. Attach the Water Supply Charge Availability Analysis and Water Supply Charge Reports

Chair Stoldt opened public comment. *No comments were directed to the Panel.*

A motion was offered by Tilley with a second by Schiavone to approve submittal of the 2022 Annual Report to the Board of Directors. The motion passed on a roll-call vote of 7-Ayes (Tilley, Pinterits, Urquhart, Chrislock, Melton, Lindor and Schiavone), 0-Noes and 1-Abstain (Kerr).

Discussion Items

3. Review of Revenue and Expenditures of Water Supply Charge Related to Water Supply Activities

Suresh Prasad, Administrative Services Manager/Chief Financial Officer briefly covered Exhibits 3-A through 3-C, answered Panel questions and provided the following highlights:

Exhibit 3-A: Water Supply Charge (WSC) Receipts (Fiscal Year 2022-23)

- a. The District has budgeted \$3.4 million for the fiscal year.
- b. WSC amounts to be collected from property tax bills in the following months:
 - December 2022: ≈ 60%
 - April 2023: ≈ 35%
 - June 2023: ≈ Remainder

Exhibit 3-B: Water Supply Charge Availability Analysis (FY 2022-23)

- a. Briefly covered the unaudited figures to include revenues and expenditures thru November 30, 2022
- b. Explained that the District purchased water from Pure Water Monterey (Monterey One Water) and sold the water to California-American Water.

- c. Thru November 30th of the current fiscal year, the net revenue over expenses is at a deficit of approximately \$1.2 million.

Exhibit 3-C: Water Supply Charge Report – Water Supply Fund

- a. Displayed chart and explained that the revenues collected through the charge does not cover all of the expenses found in the report.

Chair Stoldt opened Public Comment; *No comments were directed to Panel.*

[Chair Stoldt left the meeting at 2:00 p.m.]

4. Update on Monterey Peninsula Taxpayers Association (MPTA) Lawsuits

David C. Laredo, *District Counsel* provided brief background information on the original MPTA lawsuit filed in 2013 and the decision reached by the 6th District Court of Appeal in favor of the District. Laredo commented on two matters of existing litigation MPTA II v. MPMWD (Case No. 21CV003066) and MPTA III v. MPWMD (Case No. 22CV002113). On MPTA II, a hearing was held on December 2022 and Judge Panetta took the case under submission. He noted that a further Case Management Conference has been set for April 4, 2023 and any decision made by Panetta could be appealed by either party.

Chrislock questioned how much has been spent on the MPTA lawsuits. Laredo and Prasad stated that this information can be presented at the next Panel Meeting. Kerr questioned Laredo regarding active participation of certain panel members whose entity is actively engaged in pending litigation with the District. *In response to Kerr*, Laredo commented and provided that a conflict-of-interest analysis can be conducted to determine conflicts to include: (1) Will the decision have a material financial effect either economic or personal that is different than the public at large; and (2) Lastly, determine if a bias exists. Laredo stated the Panel does not have adjudicatory authority and Panel members have the freedom to express their bias.

Chair Stoldt opened public comment; *No comments were directed to the Panel.*

5. Update on Mechanics Bank Loan Refinancing or Pay-Off

Suresh Prasad, Administrative Services Manager/CFO provided an overview of his staff note and noted that he has been in contact with personnel at Mechanics Bank on pay-off and refinancing options. He hopes at the next Panel meeting he can provide more information and options the Bank has for the District. In response to Kerr, Prasad and Laredo explained that the origination of the loan was taken in part to replenish the internal borrowing the District has undertaken as a result of the user fee not being collected and to fund the Aquifer Storage and Recovery projects of the Districts.

Opened public comment; *No comments were directed to the Panel.*

Other Items

6. Water Supply Project Update

Item Removed.

7. Suggest Items to be Placed on a Future Agenda

Chrislock: Legal Costs to the District on the MPTA Lawsuits

ADJOURNMENT: There being no further business, Suresh Prasad, Administrative Services Manager/CFO adjourned the meeting at 2:18 p.m.

Joel G. Pablo, Board Clerk to the
MPWMD Ordinance No. 152 Citizen’s Oversight Panel

Approved by the MPWMD Ordinance No. 152 Citizen’s Oversight Panel on April XX, 2023
Received by the MPWMD Board of Director’s on April XX, 2023



EXHIBIT 1-B

Draft Minutes

**Ordinance No. 152 Citizen's Oversight Panel of the
Monterey Peninsula Water Management District
*Wednesday, April 19, 2023***

This meeting was held at the MPWMD Main Conference Room located at 5 Harris Court, Building G, Monterey, CA 93940 and conducted virtually using Zoom. *Susan Schiavone, Division 1 Panel Representative joined via Zoom (Teleconference) at 1505 Ord Grove Ave., Seaside, CA 93955.*

Call to Order David J. Stoldt, General Manager / Chair to the Panel called the meeting to order at 11:05 a.m.

Roll Call

Panel Members Present:

Susan Schiavone (*Joined via Zoom*)
Rebecca Lindor
Marli Melton
Melodie Chrislock
Adam Pinterits
John Tilley
Vacant, Mayoral Appointee

MPWMD Staff Members Present:

David J. Stoldt, General Manager / Chair to the Panel
Suresh Prasad, Administrative Services Manager/CFO
(*Joined via Zoom*)
Joel G. Pablo, Board Clerk

District Counsel Present:

David C. Laredo with De Lay and Laredo

Panel Members Absent: Alison Kerr and Kevan Urquhart

Comments from the Public: Chair Stoldt opened public comment; *no comments were directed to the Panel.*

Action Item

1. Consider Adoption of the Panel Meeting Minutes from January 31, 2023

Chair Stoldt introduced the matter and opened public comment. *No comments were directed to the Panel.*

A motion was offered by Lindor with a second by Chrislock to approve the Panel Meeting Minutes from January 31, 2023.

Panel Discussion

Tilley pointed direction to Exhibit 1-A: Draft Meeting Minutes from January 31, 2023 – Item No. 4. He requested an amendment to the meeting minutes to include a brief conversation

initiated by a question posed by Kerr to Laredo regarding active participation of certain panel members whose entity is actively engaged in pending litigation with the District. Tilley read into the record a transcript of Laredo’s definition of conflict-of-interest (COI) from the January 31, 2023 Panel meeting. Tilley stated based off his interpretation of Laredo’s definition of COI he requested for Chrislock to resign from the Panel due to her husband’s public outreach work receiving both a personal and financial interest from the District.

Main Motion is dropped and the panel agreed with staff’s recommendation to table adoption of the January 31, 2023 meeting minutes and to present a revised set of minutes at a future Panel meeting.

Discussion Items

2. Review of Revenue and Expenditures of Water Supply Charge Related to Water Supply Activities

Suresh Prasad, Administrative Services Manager/Chief Financial Officer briefly covered Exhibit 2-A through 2-C, answered panel questions and provided the following highlights to include, but are not limited to:

Exhibit 2-A: Water Supply Charge (WSC) Receipts (Fiscal Year 2022-23)

- a. WSC Collections through Property Tax Bills
 - 1st Collection / December 2022: ≈ 59.5% or a little over \$2 million collected.
 - 2nd Collection / April 2023: ≈ Anticipates 30% to be collected.

Exhibit 2-B: Water Supply Charge Availability Analysis

- a. District Received Audited Actuals for FY 2021-2022
- b. Briefly reported on unaudited actuals for FY 2022-2023 thru February 28, 2023

Exhibit 2-C: Water Supply Charge Report – Water Supply Fund

- a. Audited Actuals for 2022 for WSC is \$3,393,516; Unaudited Actuals for 2023 (Collected thru February 2022) for the WSC is \$2,022,764.
- b. Displayed chart and explained that the proceeds received from the WSC does not cover the total expenditures found in the report.

Chair Stoldt opened public comment; *no comments were directed to Panel.*

3. Update on Monterey Peninsula Taxpayers Association (MPTA) Lawsuit

David J. Stoldt, General Manager provided background information and shared that the Board adopted a policy in April 2017 as it relates to the priorities to include: (1) repayment of the Rabobank loan; (2) borrow funds to cover water supply activities and projects; and (3) sunset the WSC. Stoldt briefly covered Panetta’s order “Order Granting Petition for Writ of Mandate and Request for Declaratory Relief” dated March 3, 2023 and the District believes a retrial on the matter is warranted for failure to recognize the Constitutional Commerce Clause exemption and failure to recognize defined priorities of the use of the user fee by the California Public Utilities Commission. Stoldt pointed direction to and Laredo covered Exhibit 3-A: Memorandum in Support of Motion to vacate judgement and for a new trial. Laredo states the District contends that the user fee revenues are not available to replace the Water Supply Charge

and discussed points previously covered by Stoldt. Laredo mentioned a case management conference has been slated for April 28, 2023 and anticipates Panetta to render a decision before the end of May 2023. Furthermore, Laredo added that the District Board has provided direction to staff to pursue an appeal on the matter in the event the court does not respond to the motion to vacate or the motion is deemed denied. Stoldt indicated the District intends to continue to collect the WSC during appeal and place the funds into a separate account until a final decision is reached on the matter. Stoldt briefly covered the process for handling and refunding WSC revenues received should the District not prevail in court. Laredo commented the District Board has the final discretion during its budget review and adoption process to provide direction to staff to continue or cease collection of the WSC.

Chair Stoldt opened public comment; *no comments were directed to Panel.*

4. Legal Costs to the District on the MPTA Lawsuits

David J. Stoldt, General Manager covered his staff report; expenditures to-date (through March 31, 2023) for the Monterey Peninsula Taxpayers’ Association lawsuit against the District on the District’s Water Supply Charge; and answered Panel questions.

Chair Stoldt opened public comment; *no comments were directed to Panel.*

5. Update on Mechanics Bank Loan Refinancing or Pay Off (Verbal Report)

David J. Stoldt, General Manager mentioned that the District Board was briefed on loan refinancing and pay off options. Stoldt made the following points that included, but not limited to:

- a. Proceeds were used to pay down accounts utilized for Aquifer Storage and Recovery (ASR) and potential expenditures on ASR.
- b. Outstanding Balance on Loan: Approximately \$2.1 million
Maturity Date on Loan: June 30, 2023
- c. District intends with Board approval to pay off the loan as opposed to refinancing the loan

In response to Tilley, Stoldt briefly covered potential exposures or expenditures to the District’s budget as it relates to pending cases and/or future litigation on the Monterey Peninsula Taxpayer’s Association and Measure J. Tilley added a potential loss of revenue would include the WSC and MPTA attorney fees and costs as it relates pending litigation.

Other Items

6. Water Supply Project Update (Verbal Report)

David J. Stoldt, General Manager provided the following water supply project update to include, but not limited to:

- 1. Water Purchasing Agreement for the Pure Water Monterey Expansion has been executed by Monterey One Water, California American Water and the District and discussed next steps.

2. Briefly covered storm water capture constraints and issues due to unavailable Cal-Am wells and pump stations in Carmel Valley.
3. Water Allocation Report: As a result of the Pure Water Monterey project, the District intends to discuss water allocation with the jurisdictions at a future Technical and Policy Advisory Committees.
4. Briefly discussed lifting of the cease and desist order with Pure Water Monterey Base / Expansion project absent a desalination plant. Addressed potential hurdles brought forward by California American Water and its desire to construct a desal plant.

7. Suggest Items to be Placed on a Future Agenda

None.

ADJOURNMENT

There being no further business, Chair Stoldt adjourned the meeting at 12:21 p.m.

Joel G. Pablo, Panel Clerk to the
MPWMD Ordinance No. 152 Citizen’s Oversight Panel

Approved by the MPWMD Ordinance No. 152 Citizen’s Oversight Panel on July XX, 2023
Received by the MPWMD Board of Director’s on July XX, 2023

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ORDINANCE NO. 152 CITIZEN'S OVERSIGHT PANEL

ITEM: DISCUSSION ITEM

**2. REVIEW OF REVENUE AND EXPENDITURES OF WATER SUPPLY CHARGE
RELATED TO WATER SUPPLY ACTIVITIES**

Meeting Date: July 12, 2023

**From: Suresh Prasad
Administrative Services Manager/
Chief Financial Officer**

Prepared By: Suresh Prasad

**CEQA Compliance: This action does not constitute a project as defined by the California
Environmental Quality Act Guidelines section 15378**

Due to technical issues, the report will be sent via email when ready.