



Final 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 Judge 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 Judge 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 12, 2023
Received by the MPWMD Board of Director’s on July 17, 2023