

Ordinance 152 Citizens' Oversight Panel

2016 Annual Report to the MPWMD Board of Directors

2015-16 Topics of Discussion

The following areas of discussion represent four key topics the Panel has identified of particular interest or concern during the current year.

1. **Reinstatement of District User Fee:** District Ordinance No. 152 which established the Water Supply Charge states in its Section 10.C(b) that the District shall not collect a Water Supply Charge “to the extent alternative funds are available via a charge collected on the California American Water Company bill.” On January 25, 2016 the California Supreme Court filed its opinion in the suit the District brought against the California Public Utilities Commission (CPUC or PUC), determining “PUC Decision No. 11-03-035 (rejecting Cal-Am’s application for authorization to collect the District’s user fee, and also rejecting the settlement agreement entered into by Cal-Am, the District, and the Division of Ratepayer Advocates [now ORA]) and PUC Decision No. 13-01-040 (denying the District’s application for rehearing) are set aside. The matter is remanded to the PUC for further proceedings consistent with the views expressed herein.” The District, Cal-Am, and ORA filed a Joint Motion to reinstate the User Fee last week.

Therefore, it is incumbent upon the Board to examine its needs and availability of its two primary funding sources and develop a plan for their use, including reductions or possible sunsets of either or both.

The General Manager and Chief Financial Officer thoroughly examined the issue and in April the Board adopted the following recommended strategy:

Collect both charges for at least 3 years. This would be done for 4 key reasons: (i) the User Fee would primarily fund programs already in Cal-Am surcharges (District conservation and river mitigation), so there is little “new” revenue; (ii) the Monterey Peninsula Taxpayers Association lawsuit over the Water Supply Charge remains unresolved, hence that revenue remains at risk; (iii) there are still large near-term expenditures required on water supply projects; and (iv) Cal-Am has a recent history of significant revenue undercollection, so the viability of the User Fee is at risk until the CPUC rules on a more stable rate design, and the predictability of the User Fee revenue is better known. After that time, begin to sunset or reduce collections of either or both, if possible.

Have only a single MPWMD User Fee Surcharge on Cal-Am bill, instead of a mitigation surcharge, a conservation surcharge, and the User Fee. Remove the existing Conservation Surcharge and Mitigation Program expenses from the Cal-Am rates as soon as practicable. Capture in MPWMD User Fee budget. Cal-Am to remain responsible for its rebate budget until the User Fee has capacity.

Remove the same programs from the next GRC period (2018-2020).

Calculate solely on “Total Water Service Related Charges” line on bill, plus any prior-year uncollected water service related surcharges, ensuring that the User Fee is based solely on Cal-Am water and meter revenues.

The Citizens Oversight Panel cautiously supports this plan. The panel believes progress is being made on a permanent water supply solution for which large scale expenditure of District funds are being made. A 3-year “wait-and-see” period makes sense. However, the Panel expects the District to maintain fiscal discipline and keep its financial “house in order.”

The Panel believes that during this period the District should (a) develop a meaningful plan to sunset the Water Supply Charge, in whole or in part, and (b) develop a plan to retire the Rabobank loan that was initiated to pay for the Aquifer Storage and Recovery water supply project in a timely fashion after the District’s User Fee was suspended by the CPUC.

2. **15% Overhead Calculation:** The District presently allocates “indirect labor, supplies, and services” to the calculation of overhead. However, the District continues to include certain labor costs of the General Manager, division managers, and other staff as direct costs of “water supply.” Some members of the Panel believe that some costs identified by the District as direct costs should not be included as overhead. District staff disagrees. The Panel will continue to examine levels of associated overhead.
3. **Deficit Spending:** The Pure Water Monterey groundwater replenishment (GWR) project budget continues to cause the District to incur borrowing from its credit line or use of reserves. It is expected that the practice will continue in the 2016-17 budget for GWR. Such near-term borrowing to meet current pay-as-you-go capital costs is expected by the District to be repaid from future Water Supply Charge collections and, ultimately a reimbursement from State Revolving Fund loan proceeds. The Panel is very concerned that obligating future collections does not result in a balanced budget and results in future claims on the Water Supply Charge which impairs the ability of the District to “sunset” the charge in a timely fashion.
4. **Local Projects:** The Panel continues to support the use of a portion of the Water Supply Charge for Local Projects, such as the Pacific Grove non-potable water source and the Airport well repurposing. As such, the Panel recommends appropriation of a similar sum of money from the Water Supply Charge from future budgets. A summary of such projects to-date is attached.

Local Water Project Funding To-Date

Project	Status
Pacific Grove \$200,000	First \$100,000 spent; Anticipate construction start this fall; Will save 88 AFY
Old Del Monte Golf Course \$80,000	Two wells completed; Awaiting CEQA review of pond; Expect pond construction by February; Will save 40-50 AFY
Monterey Regional Airport \$30,000	Completed study; Identified 104 AFY of non-potable supply; Will attempt to find users in FY 2016-17
City of Monterey \$85,000	Storm water capture study; No expenditures to date; Trying to obtain state grant moneys
City of Seaside \$106,900	Laguna Grande non-potable well; No expenditures to date
Monterey County Fairgrounds \$75,000	Replumb bathrooms to well water; No expenditures to date; Almost 50% reduction in water due to retrofits; Suggest canceling grant

Primary Panel Function

The Ordinance 152 Citizen's Oversight Panel (the "Panel") is a committee formed for the sole purpose of providing a forum for public involvement in the budgeting and expenditure of the District's annual Water Supply Charge. The Panel is directed to meet quarterly and review proposed expenditure of funds for the water supply activities of the District. The Board does not seek consensus from the Panel, but rather input on the ongoing budgeting and expenditure of revenues raised by the water supply charge on water supply related activities. The Panel will submit an annual report for consideration by the Board of Directors. This document serves as that annual report. In the Panel's by-laws, the report is to be submitted at the September Board meeting, however, the initial panel was not constituted until December 2012, meeting for the first time in early 2013. Hence, the first year of the Panel's activities just closed.

Also under its by-laws, the Panel is expected to visit District facilities – to be scheduled by the District – to become better acquainted with water supply projects and operations. During the past year, the Panel visited the Aquifer Storage and Recovery site and heard a presentation on the Pure Water Monterey Groundwater Replenishment project.

The Panel will also, from time to time, be requested to provide community input with respect to water supply-related activities. One key area during the past year was the Panel's encouragement of the creation of funding for Local Water Project, as discussed more within this report.

Pursuant to the Ordinance, proceeds of the water supply charge may only be used to fund District water supply activities, including capital acquisition and operational costs for Aquifer Storage and Recovery (ASR), Groundwater Replenishment (GWR), and desalination purposes, as well as studies related to project(s) necessary to ensure sufficient water is available for present beneficial water use in the main CAW system. In addition to direct costs of the projects, proceeds of this annual water supply charge may also be expended to ensure sufficient water is available for present beneficial use or uses, including water supply management, water demand management, water augmentation program expenses such as planning for, acquiring and/or reserving augmented water supply capacity, including engineering, hydrologic, legal, geologic, financial, and property acquisition, and for reserves to meet the cash-flow needs of the District and to otherwise provide for the cost to provide services for which the charge is imposed. No more than fifteen (15%) of proceeds collected by reason of Ordinance No. 152 shall be used to fund general unallocated administrative overhead.

Panel Composition

The Panel meets the definition of a "legislative body" as defined by the Brown Act; therefore, all meetings shall be noticed and open to the public in compliance with the Brown Act.

The Panel is comprised of 9 members who shall reside within the boundaries of the Monterey Peninsula Water Management District. Members of the Panel shall serve at the pleasure of the District Board.

The Board shall appoint one member from a panel of three persons nominated by the Monterey Peninsula Taxpayers Association, and the Board shall appoint one member from a panel of three persons nominated by the Monterey County Association of Realtors, and each Director shall appoint 1 member to the Panel. Appointees must reside within the District boundaries and may be associated with a community group, but does not have to officially represent any community group.

- a) Each appointee shall serve a term of two years, with terms expiring on January 1, or on the date the appointing Director vacates office as a member of the MPWMD Board of Directors, whichever shall occur first.
- b) A quorum of five (5) Panel members shall be required for an official meeting to be conducted. Action may be taken by majority vote of those Panel members present.
- c) The General Manager will serve as Chair to the Panel, for purposes of facilitating meetings. District staff will provide support to the committee as appropriate.