



This meeting has been noticed according to the Brown Act rules. This agenda was posted on Thursday, January 26, 2023.

**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*

*Board Clerk,
Joel G. Pablo*

After staff reports have been distributed, if additional documents are produced by the District and provided to the Panel regarding any item on the agenda, they will be made available on the District's website prior to the meeting. Documents distributed at the meeting will be made available upon request and posted to the District's website within five days following the meeting.

Agenda

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

Tuesday, January 31, 2023 at 1:00 PM | *Virtual Meeting*

As a precaution to protect public health and safety, and pursuant to provisions of AB 361, this meeting will be conducted via Zoom Video/Teleconference only.

Join the meeting at this link: <https://mpwmd-net.zoom.us/j/82994535181?pwd=OUxHVEhBQUFOY0pjZDZhL2kxRmFpUT09>

Or access the meeting at: zoom.us

Webinar ID: 829 9453 5181

Meeting password: 01312023

Participate by phone: (669) 900 9128

For detailed instructions on connecting to the Zoom meeting see page 2 of this agenda.

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 October 19, 2022
2. Review Draft 2022 Annual Report and Authorize Release to the MPWMD Board of Directors

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

3. Review of Revenue and Expenditures of Water Supply Charge Related to Water Supply Activities
4. Update on Monterey Peninsula Taxpayers Association Lawsuit
5. Update on Mechanics Bank Loan Refinancing or Pay-Off

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

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

Adjournment

Upon request, 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 by 5:00 p.m. on Friday, January 27, 2023 to: (1) Joel G. Pablo via e-mail at joel@mpwmd.net, or call (831) 658-5652; and (2) Sara Reyes via e-mail at sara@mpwmd.net, or call (831) 658-5601.

Instructions for Connecting to the Zoom Meeting

Note: If you have not used Zoom previously, when you begin connecting to the meeting you may be asked to download the app. If you do not have a computer, you can participate by phone.

Begin: Within 10 minutes of the meeting start time from your computer click on this link: <https://mpwmd-net.zoom.us/j/82994535181?pwd=OUxHVEhBQUFOY0pjZDZlL2kxRmFpUT09> or paste the link into your browser.

DETERMINE WHICH DEVICE YOU WILL BE USING (PROCEED WITH ONE OF THE FOLLOWING INSTRUCTIONS)

USING A DESKTOP COMPUTER OR LAPTOP

1. In a web browser, type: <https://www.zoom.us>
2. Hit the enter key
3. At the top right-hand corner, click on "Join a Meeting"
4. Where it says "Meeting ID", type in the Meeting ID# above and click "Join Meeting"
5. Your computer will begin downloading the Zoom application. Once downloaded, click "Run" and the application should automatically pop up on your computer. (If you are having trouble downloading, alternatively you can connect through a web browser – the same steps below will apply).
6. You will then be asked to input your name. It is imperative that you put in your first and last name, as participants and attendees should be able to easily identify who is communicating during the meeting.
7. From there, you will be asked to choose either ONE of two audio options: Phone Call or Computer Audio:

COMPUTER AUDIO

1. If you have built in computer audio settings or external video settings – please click "Test Speaker and Microphone".
2. The client will first ask "Do you hear a ringtone?" •If no, please select "Join Audio by Phone".
•If yes, proceed with the next question:
3. The client will then ask "Speak and pause, do you hear a replay?" •If no, please select "Join Audio by Phone"
•If yes, please proceed by clicking "Join with Computer Audio"

PHONE CALL

1. If you do not have built in computer audio settings or external video settings – please click "Phone Call"
2. Select a phone number based on your current location for better overall call quality.

+1 669-900-9128 (San Jose, CA)	+1 253-215-8782 (Houston, TX)
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+1 312-626-6799 (Seattle, WA)	+1 646-558-8656 (Maryland)

3. Once connected, it will ask you to enter the Webinar ID No. and press the pound key
4. It will then ask you to enter your participant ID number and press the pound key.
5. You are now connected to the meeting.

USING AN APPLE/ANDROID MOBILE DEVICE OR SMART PHONE

1. Download the Zoom application through the Apple Store or Google Play Store (the application is free).
2. Once download is complete, open the Zoom app.
3. Tap "Join a Meeting"
4. Enter the Meeting ID number
5. Enter your name. It is imperative that you put in your first and last name, as participants and attendees should be able to easily identify who is communicating during the meeting.
6. Tap "Join Meeting"
7. Tap "Join Audio" on the bottom left hand corner of your device
8. You may select either ONE of two options: "Call via Device Audio" or "Dial in"

DIAL IN

1. If you select "Dial in", you will be prompted to select a toll-free number to call into.
2. Select a phone number based on your current location for better overall call quality.

+1 669-900-9128 (San Jose, CA)	+1 253-215-8782 (Houston, TX)
+1 346-248-7799 (Chicago, IL)	+1 301-715-8592 (New York, NY)
+1 312-626-6799 (Seattle, WA)	+1 646-558-8656 (Maryland)
3. The phone will automatically dial the number, and input the Webinar Meeting ID No. and your Password.
4. Do not hang up the call, and return to the Zoom app
5. You are now connected to the meeting.

Presenting Public Comment

Receipt of Public Comment – the Chair will ask for comments from the public on all items. Limit your comment to 3 minutes but the Chair could decide to set the time for 2 minutes.

- (a) Computer Audio Connection: Select the "raised hand" icon. When you are called on to speak, please identify yourself.
- (b) Phone audio connection **with** computer to view meeting: Select the "raised hand" icon. When you are called on to speak, push *6 to unmute and please identify yourself.
- (c) Phone audio connection only: Press *9. Wait for the clerk to unmute your phone and then identify yourself and provide your comment. Press *9 to end the call.

Submit Written Comments

If you are unable to participate via telephone or computer to present oral comments, you may also submit your comments by e-mailing them 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". Comments must be received by 10:00 a.m. on Tuesday, January 31, 2023. Comments submitted by 10:00 a.m. will be provided to the **Panel** and compiled as part of the record of the meeting.

ORDINANCE NO. 152 CITIZEN'S OVERSIGHT PANEL

ACTION ITEM

1. CONSIDER ADOPTION OF THE PANEL MEETING MINUTES FROM OCTOBER 19, 2022

Meeting Date: January 31, 2023

From: David J. Stoldt
General Manager

Prepared By: Joel G. Pablo

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 October 19, 2022 is attached as **Exhibit 1-A**. The Panel will review, provided suggested edits, and consider approval of the draft meeting minutes.

RECOMMENDATION: Consider adoption of the October 19, 2022 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 October 19, 2022



EXHIBIT 1-A

Draft Minutes

Ordinance No. 152 Citizen's Oversight Panel of the Monterey Peninsula Water Management District October 19, 2022

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 11:00 a.m.

Roll Call

Panel Members Present:

Susan Schiavone
Jason Campbell
Melodie Chrislock
Marli Melton
Adam Pinterits
John Tilley
Mike Rachel
Kevan Urquhart [*Joined at 11:18 a.m.*]

MPWMD Staff Members Present:

David J. Stoldt, General Manager / Chair to the Panel
Suresh Prasad, Administrative Services Manager/CFO
Joel G. Pablo, Board Clerk

District Counsel Present:

David C. Laredo, Esq. with De Lay and Laredo

Panel Members Absent:

Bill Peake

Comments from the Public:

Opened Public Comment; *No comments were directed to the Panel.*

Action Item

1. Consider Adoption of the Panel Meeting Minutes from May 12, 2022

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

A motion was offered by Campbell with a second by Melton to approve the panel meeting minutes from May 12, 2022. The motion passed on a roll-call vote of 7-Ayes (Schiavone, Campbell, Chrislock, Melton, Pinterits, Rachel and Tilley), 2-Absent (Peake and Urquhart) and 0-Noes.

Discussion Items

2. Overview of Projects Funded with Water Supply Charge in FY 2022 – 23 Budget

David J. Stoldt, General Manager provided an overview his staff note, answered panel questions and covered projects funded with the Water Supply Charge in FY 2022 – 23 Budget to include: Pure Water Monterey Project- Expansion, Pure Water Monterey Project- Operating Reserve, ASR Phase 1, the Cal-Am Desalination Project, other Water Supply Projects- IFIM/GSFLOW,

local water supply projects, Los Padres Long-term plan, IRWM Grant Coordination and other project expenditures. Stoldt commented that the District has monies reserved for desalination. He stated the Board recently approved a grant to Monterey Peninsula College for a recirculating fire training device in the amount of \$25,000 and continues to manage the State Integrated Regional Water Management program benefiting local jurisdictions and agencies. *In response to Tilley*, Stoldt stated the funds remaining for the Cal-Am Desalination plant is reserved for future use in the event the company’s project has approval by California Coastal Commission and revisit the need to restart public financing. He noted Cal-Am had an approved \$279 million dollar loan from the State Revolving Fund that has been rescinded by the State due to lack of progress on the desal project.

Opened Public Comment; No comments were directed to the Panel.

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 Exhibit 3-A through 3-C, answered panel questions and provided the following highlights under each:

Exhibit 3-A: Water Supply Charge Receipts

1. Under Fiscal Year (FY) 2021-22 Unaudited Actuals thru June 30, 2022 is approximately \$3,393,515.00 against the 3.4 million budgeted.

Exhibit 3-B: Water Supply Charge Availability Analysis

1. Provided an overview the fund balance as of the end of the Fiscal Year of June 30, 2022 and unaudited actuals thru September 30, 2022.
2. Project Expenditures Unaudited Actuals for FY2022-23: Reported that the most significant expense thru September 2022 is the PWM Project- Water Purchase at \$1.9 million.

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

1. Briefly covered the unaudited figures both revenues/expenditures for FY2022 and three months into FY2023.
2. Reported approximately \$685,973 deficit into the new fiscal year and \$2.4 million deficit rounding out FY2022.

Tilley commented that the Mechanics Bank Loan should be paid off, understands the Districts need for the Water Supply Charge, however disagrees with how those funds are being spent by the District.

Opened Public Comment; No comments were directed to Panel.

4. Discuss Topics for 2022 Annual Report

David J. Stoldt, General Manager provided an overview of the staff report, directed attention to topics covered in past annual reports and sought Panel direction. Melton questioned the eligibility of the Los Padres Dam Project to be classified as a Water Supply Project (WSP). Stoldt commented the District can make the case for classifying the Dam as a WSP by leaving

the dam in place, improving its overall efficiency and through sediment management. Tilley stated that he would like to contribute to the draft by offering the minority opinion on the three main topics covered in the 2021 Annual Report. Schiavone inquired and sought an update on the remaining balance on the Mechanics Bank loan due in June 2023. *In response to Schiavone*, Stoldt mentioned he plans to provide an update on the loan and will discuss options for paying off or refinancing the loan at the next Panel meeting. *The Panel was provided direction to send topics and additional information over to the General Manager and the Board Clerk. A draft of the report will be presented at the January 2023 Panel meeting for discussion and have the Board of Director’s receive the report at a future meeting.*

Opened Public Comment; *No comments were directed to the Panel.*

5. Summary of Previous Project Funding Sources

David J. Stoldt, General Manager / Chair to the Panel provided an overview of his staff note, the summary of Uses and Sources of Funds for MPWMD Water Supply Function (thru March 31, 2022) and figures noted therein.

Opened Public Comment; *No comments were directed to the Panel.*

Other Items

6. Suggest Items to be Placed on a Future Agenda

Stoldt noted that the two items will be added to the January 2023 agenda to include:

1. Discuss Paying Off or Refinancing the Mechanic Bank Loan
2. Review the Draft 2022 Ordinance No. 152 Annual Report

ADJOURNMENT: There being no further business, Chair Stoldt adjourned the meeting at 11:02 a.m.

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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 January XX, 2023
Received by the MPWMD Board of Director’s on February XX, 2023

EXHIBIT 2-A

Ordinance 152 Citizens Oversight Panel

DRAFT 2022 Annual Report

2022 Annual Report Recommendations

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

1. **Full or Partial Sunset of the Water Supply Charge:** The Panel reminds the Board that the 2020-21 fiscal year was the fourth year of dual collection of the Water Supply Charge and the User Fee. Therefore, the Panel discussed whether it would be advisable to plan for its continued use over the next several years or perhaps consider reductions or even sunset of the Water Supply Charge.

The User Fee was re-established for collection on the Cal-Am bills in July 2017. At its October 19, 2020 meeting the District Board adopted a policy that if User Fee collections in a fiscal year exceed the budget, then the excess will be applied in the following fiscal year budget in the following priority: First, to pay off the Mechanic's Bank loan; Second, to repay reserves used for water supply project costs; Third, to sunset the Water Supply Charge. The loan balance is \$2.2 million and the outstanding repayment to reserves was at \$5.8 million as of March 31, 2022. While the Panel supports the District's adopted policy and was pleased to see the District Board be proactive, it is anxious to clear the first two priorities in order to begin to address the third.

The Panel members understand, however, that the Monterey Peninsula Taxpayers Association lawsuit will receive a ruling in March or April of 2023. That lawsuit may result in an appeal, rather than a final outcome. The District believes in the next few years the Water Supply Charge will continue to be needed to pay ongoing capital costs of Project Expenditures, including: Aquifer Storage and Recovery project, the Pure Water Monterey operating reserve, a fourth deep well for Pure Water Monterey, and the recently authorized Pure Water Monterey Expansion. It is likely the collections each of the next few years will be insufficient to meet all District water supply needs the next few years, and those activities will again be subsidized by other District revenues, including the User Fee, but the User Fee itself will not be enough to supplant the Water Supply Charge until such projects are complete.

Panel majority view: This illustrates the continuing importance of the Water Supply Charge in funding projects and activities to meet the ongoing need for adequate and reliable water supplies and reserves.

Panel minority view: The Water Supply Charge has exceeded its time constraint and should be retired immediately. The District User Fee should be looked at for any additional expenditures on water supply.

- 2. Mechanics Bank Loan:** In 2013, the District undertook a \$4 million dollar loan from Mechanics Bank (nee RaboBank) to reimburse Aquifer Storage and Recovery (ASR) project costs paid by internal borrowing and to fund future planning costs for water supply. This was because the California Public Utilities Commission had disallowed the District's User Fee from Cal-Am bills since 2010 until reinstated in 2017. Of the proceeds, \$2.2 million were used to pay (or repay) ASR costs and \$1.5 million was available for future water supply planning and design.

The overall FY2021-22 District budget set aside \$500,000 for paying down the Mechanics Bank loan, which was done in August 2021. The current 2022-23 budget also has \$500,000 in it to pay down the loan which was done in January 2023. The principal balance is presently approximately \$2.2 million. June 30, 2023 is the date to pay it off in full or refinance, due to a 10-year balloon payment on a nominal 30-year loan. The loan itself specifically identifies the Water Supply Charge as security for repayment. Therefore, sunset of the charge cannot be considered until the loan is paid off or the security for repayment is revised. At the time of this report, Mechanics Bank had not yet identified costs and terms for refinancing.

Panel majority view: It should be a priority to pay-off the loan, but if there are other less costly alternatives, they should be considered. Pay-off should not immediately result in a sunset of the Water Supply Charge, rather all financial needs of the District should be considered and the adequacy of the User Fee to meet other needs, as well as water supply should be determined.

Panel minority view: The Water Supply Charge should have been dedicated to paying off the loan from the onset of the charge and if further payments are necessary they should come from the User Fee while the Charge is ceased immediately.

- 3. Measure J Costs:** The Panel is currently in disagreement over whether the Water Supply Charge was intended solely for projects to solve the region's longstanding water supply problem, or could also be used to fund any of the costs related to Measure J, the acquisition of Cal-Am's assets.

Panel majority view: Most Panel members agree with Outside Counsel's 2019 determination that it would be legal to use the Water Supply Charge on Measure J costs, and urges the District to not aggressively pursue a sunset of the Water Supply Charge at the expense of sufficiency of District reserves for liquidity, on-going new water supply projects, and need for flexibility for Measure J.

Panel minority view: Measure J does not constitute a water supply project and is therefore not an appropriate use of Water Supply Charge funds.

- 4. Financial Report:** The attached financial report (Exhibit A) for the 2021-2022 fiscal year shows the details of water supply project revenues and expenses. The following summary uses round numbers for ease of discussion.

Total Revenues were \$ _____ million. Major revenue sources include the Water Supply Charge at \$ _____ million (___%), Property Taxes at \$ _____ million (___%), User fees at \$ _____ (___%), and Pure Water Monterey water, which sold at cost for \$ _____ million (___%), reimbursing the expense to produce it. Capacity fees, project reimbursements, and interest make up the remaining ___%.

Total Expenditures were \$ _____ million. The largest components were Direct Personnel at \$ _____ million (___%) and Project Expenditures at \$ _____ million (___%). Legal, Project Expenditure Reimbursements, Fixed Asset Purchases, Indirect Labor, Debt Service, and Indirect Supplies and Services make up the remaining ___%. A more detailed account of Project Expenditures is also provided.

Exhibit B shows inflows and outflows to the District's Water Supply Fund. An important conclusion is that in each of the ten years since the inception of the Water Supply Charge, it has been annually insufficient to meet all water supply related District expenditures. As a result, the District has subsidized water supply related activities by \$ _____ million during that timeframe.

- 5. Performance:** To date, the Water Supply Charge has been instrumental in funding design, construction, and operation of the following projects and on-going operations:

- Pure Water Monterey project, which provides 35% of our water supply
- Aquifer Storage & Recovery, which will eventually supply 13% of our supply.
- Local water Projects (Pacific Grove, MRY Airport, Del Monte Golf Course, others)
- Integrated Regional Water Management Planning (resulting in State grants)
- Federal Grants
- Water quality and level sampling/analysis region-wide. And
- Various studies for drought resilience and water supply alternatives.

Respectfully submitted by the Ordinance 152 Citizens Oversight Panel, February 13, 2023.

ORDINANCE NO. 152 CITIZEN'S OVERSIGHT PANEL

DISCUSSION ITEM

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

Meeting Date: January 31, 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

SUMMARY: Please review **Exhibit 3-A, 3-B** and **3-C** submitted for discussion at the January 31, 2023, committee meeting.

EXHIBITS

- 3-A** Water Supply Charge Receipts
- 3-B** Water Supply Charge Availability Analysis
- 3-C** Water Supply Charge Report (Water Supply Fund)

EXHIBIT 3-A

Monterey Peninsula Water Management District

Water Supply Charge Receipts

	FY 2022-2023 Original Budget	FY 2022-2023 Unaudited Actuals	FY 2021-2022 Original Budget	FY 2021-2022 Unaudited Actuals
Water Supply Charge	\$3,400,000	\$0	\$3,400,000	\$3,393,516
Percentage		0.0%		99.8%

EXHIBIT 3-B

Monterey Peninsula Water Management District

Water Supply Charge Availability Analysis

	thru 11/30/2022		FY 2021-2022 Original Budget	FY 2021-2022 Unaudited Actuals
	FY 2022-2023 Original Budget	FY 2022-2023 Unaudited Actuals		
Beginning Fund Balance		\$9,478,780		\$8,469,682
Water Supply Charge	\$3,400,000	(\$178)	\$3,400,000	\$3,393,516
Capacity Fee	500,000	159,653	400,000	503,981
PWM Water Sales	12,201,000	5,451,391	9,828,000	9,828,000
Project Reimbursement	2,332,200	94,220	1,359,100	1,029,128
Property Taxes	1,125,000	0	1,969,700	2,058,683
User Fees	792,000	178,683	764,000	858,082
Interest	40,000	18,449	70,000	18,295
Reclamation Project	20,000	0	20,000	33,896
Other	5,000	4,913	5,000	7,812
Total Revenues	\$20,415,200	\$5,907,131	\$17,815,800	\$17,731,393
Direct Personnel	1,591,504	691,905	1,259,704	1,451,637
Direct Supplies & Services*	157,146	59,833	140,316	130,411
Legal	220,000	85,086	220,000	166,590
Project Expenditures [see below]	17,420,450	5,991,713	15,117,100	13,404,055
Project Expenditures-Reimbursements [see below]	792,600	111,147	725,000	362,982
Fixed Asset Purchases	104,700	19,318	126,800	39,471
Contingencies	25,200	0	23,800	0
Debt Service	730,000	0	730,000	719,308
Election Expense	90,000	0	0	0
Indirect Labor*	189,196	76,278	189,196	183,066
Indirect Supplies & Services*	319,054	121,480	284,884	264,775
Reserve	371,350	0	1,106,700	0
Total Expenditures	\$22,011,200	\$7,156,759	\$19,923,500	\$16,722,295
Net Revenue Over Expenses**	(\$1,596,000)	(\$1,249,628)	(\$2,107,700)	\$1,009,098
Ending Fund Balance	\$0	\$8,229,152		\$9,478,780
Project Expenditures	FY 2022-2023 Original Budget	FY 2022-2023 Unaudited Actuals	FY 2021-2022 Original Budget	FY 2021-2022 Unaudited Actuals
PWM Project	\$105,000	\$87,576	\$1,865,000	\$2,169,547
PWM Project - Expansion	\$1,000,000	\$287,308	\$850,000	\$583,200
PWM Project - Operating Reserve	\$1,200,000	\$0	\$1,385,000	\$480,403
PWM Project - Water Purchase	\$12,201,000	\$5,451,391	\$9,695,000	\$9,695,000
ASR Phase I	\$325,600	\$7,046	\$517,200	\$21,749
Reimbursement Projects	\$792,600	\$111,147	\$725,000	\$362,982
Cal-Am Desalination Project	\$30,000	\$0	\$50,000	\$0
ASR Expansion	\$80,000	\$0	\$0	\$0
Other Water Supply Projects - IFIM/GSFlow	\$1,848,000	\$0	\$50,000	\$17,586
Local Water Projects	\$157,000	\$0	\$157,000	\$0
Measure J/Feasibility Study	\$160,000	\$57,935	\$92,800	\$129,202
Drought Contingency Plan	\$0	\$0	\$0	\$0
Los Padres Long Term Plan	\$84,000	\$47,330	\$339,300	\$214,536
PB Reclamation Project	\$0	\$0	\$0	\$0
Other Project Expenditures	\$229,850	\$53,127	\$115,800	\$92,832
Total Project Expenses	\$18,213,050	\$6,102,860	\$15,842,100	\$13,767,037

*: Indirect costs as percent of Water Supply Charge 14.9% 0.0% 13.9% 13.2%

Recent Activities:

- ASR Chemical Building
- Measure J/Feasibility Study
- PB Reclamation Project Financing
- PWM Reserve Water
- PWM Water Purchase

** Deficit balances are paid from combination of loan, interfund borrowing, line of credit proceeds, or fund balance

Exhibit 3-C
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
Water Supply Charge Report (Water Supply Fund)

	Fiscal Year Ending											Total
	2023*	2022*	2021	2020	2019	2018	2017	2016	2015	2014	2013	
Revenue												
Water Supply Charge	\$ -	\$ 3,393,516	\$ 3,422,117	\$ 3,355,193	\$ 3,410,398	\$ 3,405,008	\$ 3,391,354	\$ 3,382,389	\$ 3,327,701	\$ 3,412,207	\$ 3,400,873	\$ 33,900,756
Expenditures												
Personel:												
Salaries	\$ 428,301	\$ 1,088,157	\$ 1,050,039	\$ 1,034,678	\$ 1,025,894	\$ 918,724	\$ 824,182	\$ 815,048	\$ 790,486	\$ 768,299	\$ 734,454	\$ 9,478,262
Employee Benefits and other	\$ 339,881	\$ 546,546	\$ 489,891	\$ 468,197	\$ 415,047	\$ 367,183	\$ 338,110	\$ 308,289	\$ 295,699	\$ 321,168	\$ 331,552	\$ 4,221,563
Services and Supplies:												
Project expenditures	\$ 654,141	\$ 4,072,037	\$ 5,149,121	\$ 5,995,887	\$ 2,284,777	\$ 1,850,300	\$ 3,595,023	\$ 5,384,999	\$ 3,373,391	\$ 6,465,907	\$ 2,294,196	\$ 41,119,779
Water purchases	\$ 5,451,391	\$ 9,695,000	\$ 6,041,594	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 21,187,985
Operating expenditures	\$ 149,734	\$ 270,392	\$ 290,370	\$ 236,163	\$ 240,055	\$ 154,660	\$ 143,059	\$ 166,695	\$ 344,266	\$ 143,720	\$ 130,241	\$ 2,269,355
Professional fees	\$ 116,665	\$ 291,384	\$ 201,588	\$ 192,081	\$ 313,446	\$ 357,070	\$ 214,106	\$ 378,388	\$ 284,904	\$ 304,978	\$ 363,081	\$ 3,017,691
Capitlay outlay	\$ 19,318	\$ 39,471	\$ 12,647	\$ 14,927	\$ 76,477	\$ 64,404	\$ 17,334	\$ 60,530	\$ 38,752	\$ 35,919	\$ 15,944	\$ 395,723
Debt Service:												
Principal	\$ -	\$ 617,383	\$ 96,405	\$ 93,157	\$ 90,175	\$ 86,953	\$ 83,881	\$ 80,508	\$ 78,059	\$ 75,215	\$ 38,368	\$ 1,340,104
Interest and other charges	\$ -	\$ 101,925	\$ 122,731	\$ 125,979	\$ 128,961	\$ 132,183	\$ 137,086	\$ 138,627	\$ 147,150	\$ 143,921	\$ 41,801	\$ 1,220,364
Total Expenditures	\$ 7,159,431	\$ 16,722,295	\$ 13,454,386	\$ 8,161,069	\$ 4,574,832	\$ 3,931,477	\$ 5,352,781	\$ 7,333,084	\$ 5,352,707	\$ 8,259,127	\$ 3,949,637	\$ 84,250,826
Difference [surplus/(deficit)]	\$ (7,159,431)	\$ (13,328,779)	\$ (10,032,269)	\$ (4,805,876)	\$ (1,164,434)	\$ (526,469)	\$ (1,961,427)	\$ (3,950,695)	\$ (2,025,006)	\$ (4,846,920)	\$ (548,764)	\$ (50,350,070)
Other Revenue Sources												
Project reimbursements	\$ 94,220	\$ 1,063,024	\$ 622,842	\$ 1,220,812	\$ 526,867	\$ 5,583,786	\$ 693,848	\$ 429,075	\$ 712,002	\$ 2,093,013	\$ 2,032,924	\$ 15,072,413
PWM Water Sales	\$ 5,451,391	\$ 9,828,000	\$ 5,908,182	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 21,187,573
Grants	\$ -	\$ -	\$ -	\$ -	\$ 200,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 38,342	\$ 238,342
Difference [surplus/(deficit)]	\$ (1,613,820)	\$ (2,437,755)	\$ (3,501,245)	\$ (3,585,064)	\$ (437,567)	\$ 5,057,317	\$ (1,267,579)	\$ (3,521,620)	\$ (1,313,004)	\$ (2,753,907)	\$ 1,522,502	\$ (13,851,742)

Source: MPWMD Audited Financial Statement

* 2022 & 2023 unaudited figures

ORDINANCE NO. 152 CITIZENS OVERSIGHT PANEL

DISCUSSION ITEM

4. UPDATE ON MONTEREY PENINSULA TAXPAYERS ASSOCIATION LAWSUIT

Meeting Date: January 31, 2023 **Budgeted:** N/A

From: David J. Stoldt **Program/
General Manager** **Line Item No.:** N/A

Prepared By: David J. Stoldt **Cost Estimate:**

General Counsel Approval: N/A

Committee Recommendation: N/A

CEQA Compliance: N/A

DISCUSSION: Two separate superior court actions challenge continued collection of the District’s Water Supply Charge. The first is Monterey Peninsula Taxpayers Association v. Monterey Peninsula Water Management District, Monterey Superior Court Case No. 21CV003066 (MPTA 2) The second, Monterey Peninsula Taxpayers Association v. Monterey Peninsula Water Management District, Monterey Superior Court Case No. 22CV0021113, (MPTA 3), is a “reverse validation” action that the Court put on hold while the other case is litigated.

MPTA sued in September 2021, alleging the District has unlawfully continued to collect the Water Supply Charge after alternative funds became available through the reinstated User Fee. MPTA asserts the continued collection of the Water Supply Charge violates Proposition 218 and the sunset provision in the Charge’s authorizing ordinance. In MPTA’s estimation, the language of the sunset clause requires a dollar-for-dollar decrease in the Water Supply Charge to reflect User Fee revenues. MPTA also argues because the “purpose” of the Water Supply Charge was to replace the User Fee, dual collection violates article XIII D, section 6, subdivision (b)(2) of our constitution, which states “[r]evenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.” MPTA seeks a writ of mandate and declaratory relief to compel MPWMD to stop collecting the Water Supply Charge in an amount equivalent to the User Fee revenues collected through Cal-Am. However, so far MPTA is not seeking refunds of any amounts already collected.

On December 20, 2022 Judge Panetta held a hearing on MPTA’s petition for Writ of Mandate in MPTA 2 (Case No. 21CV003006), but the Court has yet to issue its ruling. That ruling is not anticipated until late March or April 2023. A further Case Management Conference before Judge Panetta has already been set for both MPTA 2 and MPTA 3 on April 4, 2023.

In advance of Judge Panetta’s eventual ruling it is impossible to speculate on the outcome. A District Board closed session discussion of the ruling, including consequences and options will be set once that ruling is available. At that time, the District will then have several options available to it if the Court grants the MPTA request in part or in whole, including the right of appeal to the

Court of Appeal, 6th District. MPTA will be able to file an appeal if it wishes to contest the Trial Court ruling.

Notice of appeal must be filed within 60 days after the District has been served notice of entry of judgment in this case. In the event MPTA should file its appeal first, the District can then file a cross appeal within 20 days of MPTA's notice, even if that date falls outside the original 60-day time frame.

