

**CITY OF MILL VALLEY
CITY COUNCIL**

MINUTES

**COUNCIL CHAMBERS, CITY HALL
26 CORTE MADERA AVENUE, MILL VALLEY
June 6, 2011
7:30 PM**

Mayor Kenneth R. Wachtel--Present
Vice Mayor Garry Lion--Present
Councilmember Andrew Berman--Present
Councilmember Shawn Marshall--Present
Councilmember Stephanie Moulton-Peters--Present

City Staff Present: City Manager McCann, Deputy City Clerk Wilson, Finance Director Erickson, Interim Director of Public Works Barnes, SASM General Manager Danehy and City Attorney Stepanicich.

CALL TO ORDER

Mayor Wachtel called the Regular Session to order at 7:30 p.m.

PUBLIC OPEN TIME

Alex Bishoff, South Knoll Road, commented on the City's participation in the Marin Energy Authority program and requested that the Council investigate the cost of the program to the City one year after implementation.

COUNCIL AND STAFF ANNOUNCEMENTS

City Manager McCann announced that **Kimberly Wilson** has completed the program through the Institute of Municipal Clerks to receive the certification of a Municipal Clerk. He extended his congratulations to her.

APPROVAL OF THE AGENDA ORDER

It was **MOVED** by **Councilmember Moulton-Peters** and **SECONDED** by **Councilmember Berman** to approve the Council meeting agenda. The Motion was carried unanimously with a vote of 5-0-0.

CONSENT CALENDAR

It was **MOVED** by **Vice Mayor Gary Lion** and **SECONDED** by **Councilmember Moulton-Peters** to approve the Consent Calendar. The Motion was carried unanimously with a vote of 5-0-0.

1. Warrants--\$2,028,760.02.
Recommended Action: Approve paying expenses authorized by the adopted City Budget.
[Staff Report-Payables.doc](#)
2. Consideration of the Minutes of the May 16, 2011 City Council meeting.
Recommended Action: Approve Minutes.
[Draft City of Mill Valley Minutes, May 16, 2011](#)
3. Consideration of Resolutions accepting Tamalpais Park Street Tree Assessment District.
Recommended Action: Adopt Resolutions No.[11-21](#), [11-22](#), and [11-23](#).
[Staff Report-Tamalpais Park Street Tree Assessment District.doc](#)
4. Acceptance of a \$25,000 donation from the Mill Valley Soccer Club for resodding a portion of the Bayfront Park sports field.
Recommended Action: Accept donation.
[Staff Report-Mill Valley Soccer Club Donation.doc](#)
5. Consideration of a Resolution authorizing the execution of the Marin County Community Development Block Grant Cooperation Agreement.
Recommended Action: Adopt Resolution No.[11-24](#).
[Staff Report-Marin County Community Development Block Grant.doc](#)
6. Consideration of a Resolution to authorize the execution of an agreement with the Department of Transportation for the Safe Routes to School grant funding for Camino Alto Avenue and the Miller Avenue/Almonte Blvd Intersection improvement project.
Recommended Action: Adopt Resolution No.[11-25](#).
[Staff Report-Agreement Safe Routes to School Grant.doc](#)
7. Consideration of a Resolution establishing the Fiscal Year 2011-2012 Appropriations Limit.
Recommended Action: Adopt Resolution No.[11-26](#).
[Staff Report-Fiscal Year 2011-12 Appropriations Limit.doc](#)
8. Consideration of a Resolution approving specifications and plans and authorizing the execution of a contract for the Sanitary Sewers in Easements Cleaning Project to Subtronic Corporation in the amount of \$31,925.
Recommended Action: Adopt Resolution No.[11-27](#).
[Staff Report-Award Easements Cleaning Project.doc](#)

PUBLIC HEARING:

- 9. Introduction of an Ordinance to rezone properties known as 33, 41 and 41G Lovell Avenue from RM-1.5 to RM-1.5PD and adoption of a Resolution to approve a Vesting Tentative Map to create eleven residential condominium parcels at the site. Recommended Action: Introduce and waive first reading of the Ordinance and adopt Resolution No. 11-28. Staff Report-Ordinance Amendment-Rezone, Vesting Tentative Map 33,41,41 G Lovell Avenue.doc**

Mayor Wachtel opened public comment on the item, hearing none, he closed public comment. **Mayor Wachtel** opened Council comment and discussion, hearing none, he asked for a motion on the item.

It was **MOVED** by **Councilmember Marshall** and **SECONDED** by **Councilmember Moulton-Peters** to approve the Ordinance and adopt the Resolution No. **11-28**. The Motion was carried unanimously with a 5-0-0 vote.

- 10. Introduction of an Ordinance amending Title 17, Chapter 17.04 of the Mill Valley Municipal Code to consider proposed sewer service rates increase. Recommended Action: Introduce and waive first reading of the Ordinance. Staff Report-Public Hearing Proposed Sanitary Sewer Service Fees.doc Attachment 1-Draft Ordinance.doc Attachment 2-Sewer Rate Study.doc Attachment 3,4 & 5 (Previous Staff Reports & Minutes).doc Attachment 6-Workshop Presentation & Notes.doc Attachment 7-Special Notice.doc Attachment 8-Letters in Response to Proposition 218 Notice.doc**

City Manager McCann introduced the item and noted the receipt of 17 written communications after the preparation of the staff report. **Interim Public Works Director Barnes** introduced the Staff Report and summarized the proposed sewer service rate increase.

Mayor Wachtel opened to Council discussion.

Councilmember Berman inquired about the number of protest letters required to prevent the sewer rate increase.

Vice Mayor Lion posed questions regarding the number of protest letters, the credit for low-income individuals, strength factors, and the potential for alternate strength factors for “green” dry cleaners.

Councilmember Marshall inquired about when information about flow-based rates would be available. She asked if the Council were to consider new rates next year, would the hearing be subject to Prop 218 requirements.

City Attorney Stepanicich replied that it would.

Councilmember Moulton-Peters inquired if the EPA compliance order requires the City to perform capital improvement work on the sewers.

Interim Public Works Director Barnes replied that it does.

Councilmember Moulton-Peters inquired about the low-income credit.

Interim Public Works Director Barnes described the proposed credit, and explained that it would be patterned in a manner similar to PG&E's CARE program.

City Attorney Stepanicich and Council discussed flow based rate formulas and Proposition 218 requirements.

Councilmember Marshall inquired about the data provided by the consultants, and how many years the City could use the data.

Interim Public Works Director said that the data could be used for five years.

Councilmember Berman inquired about protest letters.

City Attorney Stepanicich informed the Council that the last opportunity to protest the rate increase was tonight.

City Manager McCann informed the Council of the change in the Ordinance which responds to community concerns relative to the rate charged to properties with second dwelling units. The original ordinance had suggested an equal rate for second units, but after reviewing practices in other communities, it was decided that the EDU rate of 1.67 was more equitable.

Mayor Wachtel opened the meeting to public comment on the item.

Phyllis Schrobsdorff inquired about rates for multi-family units.

Council and staff discussed second and multi-family units. They discussed and compared the current and proposed rate structures and the future impact on fees once flow based rates are introduced.

The following individuals spoke in opposition to the rate increase: **Rufus Jeffris, Stephanie Witt, Michael Gomez, Carolyn Berwell, Hans Fahland, _____ Dressler, Ernie Pitts, and Daniel Meltzer.**

These individuals cited concerns about the rate increase, the public participation and notification process, rate equity for different sized dwellings, and the period of several years in which rates

were not increased. Suggestions included maintaining the current fees until the following year when the flow based rates are introduced, and paying for the increase with debt-financing.

Maureen Parton spoke in support of the rate increase, citing the important value of protecting local watersheds. She asked for periodic updates on the process of the upgrade, for Council and City staff to consider new technologies for wastewater treatment, and the benefits of engineered wetlands.

Marvin Lundwall spoke on behalf of the Marin Income Property Owner Association. He stated that organization members do not oppose the increase, but are concerned that the rates are not properly apportioned.

Mayor Wachtel asked if any other person would like to file a written protest. **Mayor Wachtel** asked **City Manager McCann** to tally and report on the number of written protests received.

City Manager McCann reported that 81 written protests had been received. **Mayor Wachtel** confirmed that this number did not constitute a majority of owners of the parcels affected.

Mayor Wachtel closed the public hearing and opened to Council discussion.

Mayor Wachtel inquired about the impact of flow based rates once they are introduced.

Consultant Farnkopf replied that a significant number of customers will have a rate reduction, and a minority of customers will pay an increased amount.

Councilmember Berman, in response to the concern that rates have remained the same since 2004, stated that the Council and City has had to balance other financial demands impacting the community such as school bonds and municipal services taxes. He stated that the system has been maintained, but infrastructure improvements have not been made due to more pressing issues, such as the EPA compliance order and the recently completed hillside work. He stated that community concerns have been addressed in part by offering low-income credits and revising the language on second dwelling units. He stated that the Council decided not to take on debt to finance the improvements but opted for the “pay-as-we-go” plan, which has benefitted the City in the past.

Vice Mayor Lion stated that he appreciated the community input and is encouraged by the low-income credit provision and the revised language regarding second dwelling units. He stated that it is important to focus on the Capital Improvement Program (CIP) budget, which is driving the need for the rate increase to pay for infrastructure improvements. He noted that the regulatory environment is no longer tolerant of maintenance only of the sewer system; improvement and replacement is also necessary. He stated that the City cannot wait, especially if the City gets hit by another major storm. He stated that the City cannot afford the environmental and financial costs of another sewage overflow and the associated fines.

Councilmember Marshall stated that she agreed that the City must improve the wastewater system, but thinks that the rate hikes are too drastic for the first year. She suggested a lower rate

increase in year one, at 100 percent, and then return to the issue next year once the flow based rates are introduced. She also suggested some debt financing to cover part of the costs of the repairs.

Councilmember Moulton-Peters stated that she supports a lower first-year increase as well as debt financing for a portion of the repairs.

Mayor Wachtel made comments about the public notification and participation process. He said that he did not support complete debt financing. He inquired about Council support for consideration of a Point of Sale Sewer Lateral Ordinance.

SASM General Manager Danehy updated the Council on the Sewer Lateral Replacement Program. He supported the Council in considering a Point of Sale Sewer Lateral Ordinance.

City Manager McCann discussed the planned allocation of funds raised by the increase in sewer fees and the impact of these fees on the CIP and the City budget.

The Council discussed rates at alternate levels then recommended by staff and restated their plan to revise the fees based on flow rates next year.

Mayor Wachtel stated that he would entertain a motion on the revised Ordinance.

City Attorney Stepanicich stated that the MOTION would be to introduce the Ordinance titled the Ordinance of the City Council of the City of Mill Valley amending Title 17, Chapter 17.04 of the Mill Valley Municipal Code regarding sewer service fee and to waive further reading of the Ordinance as revised, with the revisions to sub-section B 17.04.09.0B which changed the rate charges for each of the years as was specified and also make a revision to the second dwelling unit rate.

It was **MOVED** by **Councilmember Berman** and **SECONDED** by **Vice Mayor Lion** to introduce the Ordinance as revised and waive further reading. The Motion was carried unanimously with a 5-0-0 vote.

COUNCIL LIAISON REPORTS

- a. **Councilmember Moulton-Peters** and **Councilmember Marshall** gave a report on the Transportation Authority of Marin.

Council directed staff to place on a future City Council agenda the Regional Housing Needs Assessment (RNHA) allocation numbers issue regarding Cities taking a percentage of the County's housing obligations which are inside Mill Valley's sphere of influence.

Council directed staff to also place discussion about funding for the Sonoma Marin Area Rapid Transit (SMART) plan on a future City Council agenda.

- b. **Councilmember Marshall** addressed the question raised during Public Open Time regarding a MEA rate review. **Mayor Wachtel** stated that he has asked **City Manager McCann** to come forward with a comparison of what the City has paid MEA and what the City would have paid if it had stayed with PG&E.

CITY MANAGER'S REPORT

City Manager McCann reported on the following:

- [a. Parks and Recreation Commission Meetings-Schedule change and future webcasting.](#)
- [b. Fiscal Year 2011/2012 Budget Update, June 20th meeting.](#)
- [c. Mill Valley Refuse Service Rate adjustment, June 20th meeting.](#)
- [d. Parking Regulations Update, June 20th meeting.](#)
- [e. Wetlands Days.](#)
- [f. Congratulations to Mill Valley Parks and Recreation for the 10th Anniversary of the Community Center Celebration.](#)
- [g. Summer Schedule Update.](#)

COUNCIL REQUESTS AND IDEAS FOR DISCUSSION

Councilmember Berman requested information about the request to Council for consideration of a View Ordinance. He also requested information about the Sewer Lateral Replacement program and a Point of Sale Sewer Lateral Ordinance.

Councilmember Marshall requested the Council take a straw poll to decide if they would like to address the following topics at a future meeting: a Sewer Lateral Ordinance, a View/Light Ordinance, Memorial Day parade sponsorship, a Riparian Ordinance, a Nuisance Ordinance to address parking in front yards, and parking on weekends.

ADJOURNMENT

The meeting was adjourned at 10:19 p.m. to the next City Council meeting to be held on June 20, 2011.

Kenneth R. Wachtel, Mayor

ATTEST:

Kimberly Wilson, Deputy City Clerk, CMC