

**CITY OF MILL VALLEY
CITY COUNCIL**

MINUTES

**COUNCIL CHAMBERS, CITY HALL
26 CORTE MADERA AVENUE, MILL VALLEY**

January 17, 2012

7:30 p.m.

Mayor Garry Lion--Present

Vice Mayor Andrew Berman--Present

Councilmember Shawn Marshall--Present

Councilmember Stephanie Moulton-Peters--Present

Councilmember Ken Wachtel – Present

City Staff Present: City Manager McCann, Director of Planning and Building Moore, Public Works Director Barnes, Police Chief Bernal, Interim Recreation Director Kesler, Senior Planner Staude and City Clerk/Administrative Analyst Rogers.

CALL TO ORDER

Mayor Lion called the Regular Session to order at 7:35 p.m., and announced that the Council had met at the Sweetwater building prior to the Council meeting.

PUBLIC OPEN TIME

Dr. Lynn Noonan, 326 Sycamore Ave., commented on statements made by Council at the December 5, 2011 Regular City Council meeting. She discussed accusations against the Mill Valley Police Department regarding the treatment of Mill Valley children.

APPROVAL OF THE AGENDA ORDER

It was **MOVED** by **Councilmember Wachtel** and **SECONDED** by **Councilmember Moulton-Peters** to approve the Council meeting agenda, continuing Item No. 9 to the February 6, 2012 Regular City Council meeting, hearing Item No. 14 before Item No.11, and moving Item No. 12 to the last item on the agenda. The Motion was carried unanimously by a 5-0 vote.

COUNCIL AND STAFF ANNOUNCEMENTS

None.

PRESENTATIONS

1. [Presentation of Certificates of Appreciation to the Miller Avenue Design Advisory Committee.](#)

Mayor Lion presented plaques milled from a City of Mill Valley black walnut tree to the Committee members and thanked them for their hard work.

City Manager McCann thanked **Director of Planning and Building Moore, Senior Planner Staude** and the Committee members for their outstanding work on the Miller Avenue design project.

2. [Presentation by Paula Reynolds, Chairperson of the City Council's Business Advisory Board: Final Report.](#)

Business Advisory Board Final Report Documents

Paula Reynolds presented the report and thanked the Council and her Business Advisory Board (BAB) colleagues for the opportunity to work with and get to know the business community. She discussed possible funding sources for the new Chamber of Commerce and discussed the need for advocacy for the business community.

City Manager McCann thanked **Ms. Reynolds** and the BAB members for their significant contributions.

Vice Mayor Berman thanked **Ms. Reynolds** and stated that the Chamber of Commerce is in the beginning phase of a new more effective chapter. He discussed the need for the City to partner with the business community in order to ensure the Chamber's success and he indicated his pleasure with the outcome of the BAB's work.

Councilmember Marshall stated she concurred with the other members of the Council.

Councilmember Moulton-Peters complimented the BAB on their work. She thanked **Ken Brookes** for the 2011 Winterfest event.

Councilmember Wachtel discussed the large amount of community support the City of Mill Valley receives from citizen volunteers. He stated **Ms. Reynolds** proved to be a wonderful leader and thanked her for her generous contributions to the community.

3. [Introduction of the 2012 Mill Valley Chamber of Commerce Board Members.](#)

Mayor Lion introduced the 2012 Mill Valley Chamber of Commerce Board Members.

Alan Abrams, Chair of the Mill Valley Chamber of Commerce, stated he was looking forward to working with the community and the local business owners. He thanked the City Council for the introduction.

4. [Art Commission's Annual Report](#)

[Art Commission Annual Report Documents](#)

John Leonard, Chair of the Art Commission, presented the report. He requested greater assistance from City staff for the Commission and suggested that the staff support come from the Parks and Recreation Department.

Councilmember Marshall thanked **Mr. Leonard** and the members of the Art Commission for their hard work. She suggested earmarking some money during the next budget cycle to help provide staff support to the Commission.

Vice Mayor Berman stated some additional staff support should be considered, but that he didn't want staff to stifle the creativity of the Commission.

5. [Parks and Recreation Commission's Annual Report](#)

[Parks and Recreation Commission Staff Report Documents](#)

Sally Baker, Chair of the Parks and Recreation Commission, presented the report and outlined the Parks and Recreation accomplishments and events of the past year.

Councilmember Moulton-Peters thanked **Ms. Baker** for the report and commented that she hoped the Parks and Recreation Commission explore the possibility of combining with the Arts Commission.

Vice Mayor Berman thanked **Ms. Baker** for her contributions to the City. He applauded the fact that the Commission would wait until the new Commissioners were appointed for 2012 to schedule any agenda items relating to long-range planning.

Councilmember Marshall indicated that combining with the Arts Commission with the Parks and Recreation Commission should be carefully analyzed during the next budget cycle. She congratulated the Commission on receiving grant funds for the Community garden.

Councilmember Wachtel thanked the Parks and Recreation Commission for their hard work on behalf of Mill Valley families.

Ms. Baker thanked the Parks and Recreation staff for their hard work and support.

CONSENT CALENDAR

It was **MOVED** by **Councilmember Wachtel** and **SECONDED** by **Vice Mayor Berman** to approve **Item Nos. 6 through 8, and Item No. 10** as amended on the Consent Calendar, continuing Item No. 9 to the February 6, 2012 City Council meeting. The Motion was carried unanimously by a 5-0 vote.

6. Warrants--\$ 1,148,967.29
Recommended Action: Approve paying expenses authorized by the adopted City Budget.
[Warrant Document](#)
7. Consideration of the Minutes of the January 18, 2011, February 22, 2011, September 6, 2011, October 3, 2011 and January 3, 2012 Regular City Council meetings.
Recommended Action: Approve the January 18, 2011, February 22, 2011, September 6, 2011, October 3, 2011 and January 3, 2012 Regular City Council meeting minutes.
[Minutes Documents](#)
8. Consideration of a Resolution Amending Resolution No. 10-29, Establishing Authorized Signatures on City Checks.
Recommended Action: Adopt Resolution No.____.
[Authorization to Sign City Checks Documents](#)
9. Consideration of a Request from the Operator of the Depot Bookstore and Café' to Exercise the 5-year Renewal Option of the Property Lease. (Continued to the February 6, 2012 City Council meeting)
Recommended Action: Approve the revised rental rate terms and authorize the City Manager to execute the 5-year lease renewal.
[Depot Bookstore and Cafe 5 Year Renewal Option Exercise Documents](#)
10. Informational Update on the Proposed Alternative Land Use and Transportation Scenarios Presented by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) as part of the Process to Develop a "Sustainable Communities Strategy" as Required by Senate Bill 375.
Recommended Action: Informational only. ABAG/MTC are accepting written comments from Bay Area local governments on the Alternative Scenarios through January 31, 2012. Council authorized the Mayor to send a letter outlining Mill Valley concerns and thoughts.
[Sustainable Communities Strategy Update Documents](#)

PUBLIC HEARING

14. [Introduction of an Ordinance to Amend Chapter 8.37, Downtown Plaza, of the Mill Valley Municipal Code.](#)

Recommended Action: Introduce Ordinance and waive first reading.

Downtown Plaza Use Documents

Downtown Plaza Use, Public Input, July 2011

Downtown Plaza Use, Public Input, October 2011

City Manager McCann introduced the item and noted that staff had received a number of public communications that had been forwarded to the City Council for review.

Interim Recreation Director Kesler presented the staff report.

In response to **Councilmember Wachtel**, **Interim Recreation Director Kesler** discussed amplified music time restrictions and stated the Parks and Recreation Commission had many discussions regarding how late an amplified event should be allowed to go.

In response to **Councilmember Wachtel**, **Interim Recreation Director Kesler** discussed proposed restrictions outlined in the recommended ordinance and rules and regulations. **Councilmember Wachtel** questioned the standards the Parks and Recreation Commission would use to allow profit making organizations to hold events on the Plaza. **Interim Recreation Director Kesler** explained that those types of applications would be assessed by the Commission on a case-by-case basis.

Vice Mayor Berman questioned how to draw the line on what types of for-profit businesses would be allowed to hold events on the Plaza. He stated he would like to see the Rules and Regulations document have more specific information listed on how to judge applications for use and possibly provide examples of what events would be allowed, and what events would be prohibited.

Councilmember Wachtel clarified which types of groups the Rules and Regulations document would allow to hold events on the Plaza.

Councilmember Moulton-Peters questioned whether or not any neighborhood associations were alerted to the proposed ordinance and public hearing. She questioned how the City would enforce the events on the Plaza and questioned whether the City had to enclose the plaza if there was alcohol being served at an event.

Joan Murray, Chair of the Parks and Recreation Commission, discussed the Commission's deliberations and the feedback received by residents regarding the use of amplified music.

Doug Nelson, Parks and Recreation Commissioner, discussed the relationship between the proposed ordinance and the Rules and Regulations document. He stated it was the Commission's desire to simplify the ordinance and discussed the Commission's, the

City's and the Police Department's need to be able to respond to and enforce citizens complaints. He discussed the standards for profit and public use and stated he wished the language in the ordinance not be too restrictive.

In response to **Councilmember Wachtel, Mr. Nelson** stated that the Parks and Recreation Commission desired flexibility regarding the number of amplified events allowed annually in the Plaza, so it was decided that no number limit would be established in the ordinance.

Councilmember Marshall questioned the use restrictions to be in place at the plaza and noted that some agreed restrictions should be outlined in the ordinance.

Mayor Lion opened the public hearing.

Margaret (unable to determine last name) stated the question as to whether or not amplified music should be allowed on the Plaza had been brought up beginning in 2009. She stated the City of Mill Valley is shaped like a bowl, creating natural noise amplification. She indicated that amplified music should only be allowed until 5:00 p.m., not 7:00 p.m. She recommended that the Downtown Plaza stay a public gathering place and not let it be used for profit or monetary gain.

Ken Brookes, 15 Bernard Ave., discussed the history of the Plaza and the amplified music. He stated that having music allowed on the Plaza until Downtown restaurants were opened for dinner service, increased the foot traffic of the local businesses.

Paul Peacock, 46 Miller Ave., stated he concurred with **Mr. Brookes**. He suggested changing the wording in the ordinance from "drums" to "percussions." He questioned the enforcement of musical events and asked that the City Manager appoint someone to clean up litter and debris in the Downtown area.

Paula Reynolds, Mill Valley Chamber of Commerce, stated the BAB did not take a position on the Plaza use issue. She suggested doing beta testing for an item like this and determining whether the Downtown infrastructure would be able to handle more frequent or larger events. She stated that a one year pilot program with a capped number of events should be implemented.

Barbara Pletcher stated that she concurred with **Ms. Reynolds**. She stated she wanted to see a limited number of events allowed and an ending time placed on events with amplified music.

Doug Canepa, 242 Manor, stated the Alcoholic Beverage Control (ABC) regulates the areas of alcohol sales so that no one under the age of 21 can gain access to liquor. He stated the Plaza was created so that no one could monopolize or make a profit from that area and asked the Council honor that intent.

Mayor Lion closed the public comment.

Councilmember Wachtel indicated he felt the proposed ordinance was not ready for adoption. He stated that the Plaza should not be operated the way every other City park is operated, as it should be monitored more closely. He stated the codified ordinance does not reflect current practices and indicated his support for updating the ordinance, but that appropriate use restrictions need to be put in place. He suggested that amplified music not be allowed after sunset. He indicated that he had no problem with unamplified music occurring without regulation or restriction, with the exception of drums.

Councilmember Moulton-Peters concurred with Councilmember Wachtel in that the ordinance was not yet ready for adoption. She stated she would like to see a cap on the number of amplified or original events allowed per year.

Councilmember Marshall concurred with the other members of the Council. She requested that “public entertainment for profit” be clarified. She stated she wished to see sign regulations addressed in the Rules and Regulations and stated she wanted music restricted between 9:00 p.m. and 7:00 a.m. in the ordinance. She discussed setting a cap for the number of events on the Plaza. She suggested allowing amplified music no more than twice a month and stated that music could be cut off at sundown as **Councilmember Wachtel** suggested.

Vice Mayor Berman stated the ordinance was not ready for first reading and adoption. He stated he was glad this issue had been brought before the Council and suggested reviewing the last 24 months of events on the plaza to check to see if those events adhere to the proposed Plaza uses. He stated the ordinance needed to be something that the Police Department could enforce. He stated he wished to see regulations loosened a bit so that the City could be consistent in allowing events. He stated he felt the Rules and Regulations needed to be worked on. He suggested implanting a pilot program for 8 months and requested that Police Chief Bernal review the ordinance.

Councilmember Wachtel stated he would like smoking prohibited in the Downtown Plaza.

Mayor Lion concurred that the ordinance needed revisions. He stated capping events on a trial basis and placing that in the Rules and Regulations would be a good idea. He discussed Mill Valley based non-profits being allowed to hold events on the Plaza as well as the Mill Valley Film Festival. He stated he did not want to see commercial activities such as a farmers market allowed on the Plaza. He stated he concurred with **Councilmember Wachtel** on the smoking prohibition.

City Manager McCann stated Council’s input had been received and that staff would bring back the revised item at a later date.

Council took a brief recess at 9:58 p.m. and reconvened at 10:04 p.m. with all Councilmembers present.

OLD BUSINESS

11. [Consideration of a Resolution Adopting the Neighborhood Traffic Calming Guide and Program.](#)
Recommended Action: Adopt Resolution No. _____.

Neighborhood Traffic Calming Guide and Program Documents

City Manager McCann introduced the item and indicated that staff had forwarded received communications from the public to the Council for review.

Director of Planning and Building Moore presented the staff report and outlined the changes made to the program in response to the comments received by the Council at the January 3, 2012 Regular City Council meeting.

Councilmember Wachtel asked about the definition of “affected area” and questioned which entity had the final power to determine affected area. **Director of Planning and Building Moore** responded that the working group and the Public Works Department would help determine the affected area neighborhood; the Director of Public Works would have the final authority. He discussed the levels of Traffic calming and the process of creating the affected area.

In response to **Councilmember Wachtel, David Parisi**, Project Consultant, outlined the process of how an affected area is defined. He agreed that the Public Works Department should be the final decision maker on the boundaries of an affected area.

Councilmember Marshall asked about level two mitigations and questioned why a level two measure would be triggered. **Mr. Parisi** stated that level two issues pertain to traffic diversion and safety. **Councilmember Marshall** questioned whether or not the Old Mill School project would have been allowed if it had gone through the Traffic Calming program and vetted through a two-tiered voting system.

In response to **Councilmember Wachtel, Mr. Parisi** stated that if unsafe conditions are brought to City staff’s attention, the City would control the solution and the safety hazard would not have to go through the Traffic Calming program.

Director of Planning and Building Moore explained that the program was not meant to interrupt the current policies and procedures of the Police and Public Works Departments. He stated this program was merely an additional tool for the City to use to respond to public concerns.

Councilmember Wachtel discussed the voting procedures and thresholds recommended by staff in the draft Resolution. He noted that he does not support the voting method proposal.

Mr. Parisi discussed public safety, public works response to public safety issues and discussed the curb extensions at Throckmorton Ave.

Vice Mayor Berman discussed the required vote threshold in an affected area.

Councilmember Wachtel stated he felt the burden of passing the traffic calming measure should be on the people supporting the measure.

Mayor Lion stated that he felt that requiring 60% of “yes” votes of an affected area was too broad and would be very difficult to meet. He suggested creating a minimum quorum of voters. **Mr. Parisi** stated that other communities implemented a voting system where 50% plus 1 of the affected area is necessary to qualify a question, and then 60% of those responses to be “yes” votes must be obtained in order for a traffic calming measure to pass.

Councilmember Wachtel, Vice Mayor Berman and **Mayor Lion** indicated their support of that voting system.

Councilmember Marshall stated she felt the two tiered voting system is too complex and discussed the need to regulate public safety.

In response to **Councilmember Marshall, Director of Planning and Building Moore** stated that the second tier voting program could be eliminated and the 60% of the affected area quorum voting scheme could be implemented.

Mr. Parisi stated many comments regarding process and voting thresholds were made during the committee hearings.

Mayor Lion opened Public Comment.

Cathy Rosekrans stated that she wanted to see the Public Works Department defining the affected area of a measure. She stated she felt the public safety issue was taken care of outside of the program.

Nan Paget, 155 Elm, discussed the letter she submitted to Council. She stated living in an area with close proximity to schools and conveniences brings about inconveniences such as traffic congestion and compromise is essential.

Mayor Lion closed Public Comment.

Vice Mayor Berman stated he felt that the Council should move forward with the resolution, implementing the single-tiered 60% of the majority voting system.

Councilmember Marshall and **Councilmember Moulton-Peters** concurred with **Vice Mayor Berman**.

Councilmember Wachtel stated that he also concurred, and added that the Public Works Department should have the authority to determine an affected area. He mentioned that those houses closest to the mitigation measure should have a say in the voting system.

Councilmember Moulton-Peters stated she agreed with **Councilmember Marshall** and indicated that she wanted to see a one tier voting system.

Mayor Lion stated he agreed with the quorum/majority voting system and eliminating the second tier. He also noted that the Public Works Department should be in charge of defining affected areas.

Director of Planning and Building Moore read the proposed resolution language into the record.

The **Council** indicated a consensus to bring back the revised Resolution to approve the Traffic Calming Guide and Program on the Consent Calendar of the February 6, 2012 City Council meeting agenda.

PUBLIC HEARING

- [13. Presentation of a Status Report Regarding Revisions to the City's Sewer Service Charge. Recommended Action: Receive presentation, discuss and provide direction.](#)

Sewer Service Charge Rate Study Documents

City Manager McCann introduced the item, its history, and staff's expectations for input from Council. He introduced project consultant John Farnkopf.

Councilmember Wachtel stated that in 2011 the Council had discussed fixed sewer rates being unfair for people who used less of the sewage system than others. He stated that is why the City was going to implement a flow based rate system. He discussed costs and the need for predictability in both user rates and City revenue.

Councilmember Marshall discussed the utility rate setting the Marin Energy Authority (MEA) utilizes as a comparison.

Public Works Director Barnes presented the staff report.

Mr. Farnkopf elaborated on **Public Works Director Barnes'** presentation and discussed rate design and the revenue received from fixed charges versus variable flow based rate charges. He discussed the different classes of rates (commercial, residential), revenue requirements and cost of service.

City Manager McCann noted that the revenue the current structure is based upon is different than the initial revenue needs staff had proposed in June, 2011. He discussed Capital Improvement Project (CIP) funds and revenue needs.

Mr. Farnkopf stated that regarding flow, the sewer rates are based on historic winter water use. He discussed the predictability of the revenue fluctuation when using flow based rates.

In response to **Councilmember Wachtel**, **City Manager McCann** stated that a revenue buffer can be developed to anticipated revenue losses due to water conservation.

City Manager McCann discussed the trends of consumption and the distribution of costs among the consumer classes. **Public Works Director Barnes** indicated that customers who use the sewer system more, will pay more.

In response to **Mayor Lion**, **Public Works Director Barnes** stated that the City wished to compress and simplify the use classifications.

Councilmember Wachtel questioned rate structure options and discussed the affect of different approaches have on charges to customers.

Councilmember Moulton-Peters stated that this system has competing objectives. Predictability and water conservation work against each other. **Councilmember Wachtel** concurred and stated the customer should pay for the amount of water they use.

Councilmember Marshall discussed the model of flow based rates. She stated that many customers would not take this as an opportunity to conserve water.

Councilmember Moulton-Peters asked for clarification on line No. 86 of page 3 of the staff report.

In response to Councilmember Wachtel and Mayor Lion, **Mr. Farnkopf** stated the fixed costs of the sewer system are salaries, and expenses of running the plant that have little fluctuation.

Mr. Farnkopf stated he will be doing a cost services analysis and customer service analysis before the project comes back to Council for action.

In response to **Vice Mayor Berman**, **Mr. Farnkopf** stated he would recommend a minimum of a 50% fixed rate. He stated that currently the homeowner is paying 100%.

Mr. Farnkopf discussed costs for having a sewer hook-up. He stated that even with no flow, the system still has costs to cover. He stated it was important to have balance in the fixed and flow-based charges.

Mr. Farnkopf stated that commercial customers fixed charge would be based on how their flow compares to average residential flow.

In response to **Mayor Lion**, **Mr. Farnkopf** stated that the Council could do an indexing on water use rates, and make yearly adjustments to them. He discussed noticing requirements for an indexing system. In response to **Councilmember Wachtel**, **Mr. Farnkopf** stated a legal opinion would be needed to move ahead with an indexing program.

Mr. Farnkopf stated he wished to prepare a recommendation for a 40 or 50% fixed charge rate for the Council to review at a future meeting date.

Mayor Lion opened the Public Hearing.

Alan Abrams, 50 Alta Monte Avenue, commented on the impact the flow based rates would have on renters. He questioned whether winter months were used for all residential and commercial sewer rate charge models. In response to **Mr. Abrams**, **Mr. Farnkopf** indicated that winter months were used and that January and February were usually the months chosen.

Mayor Lion closed the Public Hearing.

Vice Mayor Berman stated he was glad this item was brought to Council for input as more education makes for a more well informed decision. He stated he was interested in the cost analysis and indicated that he would like to see the fixed rate at about 50%.

Councilmember Marshall indicated she would come close to a 40 – 50% fixed rate. She stated she wanted more information on indexing and how the City would deal with a short fall of funds. She asked for information on the percentage of operating reserves that are built into the fixed cost.

Councilmember Wachtel concurred with his fellow Councilmembers and indicated that staff should proceed.

Councilmember Moulton-Peters stated she concurred with **Councilmember Marshall** regarding a 40- 50% fixed rate range.

Mayor Lion stated he would accept a 40 to 50 % range. He stated he wanted to minimize the number of times the City Council reviews the sewer rate issue. He noted the need to reexamine the CIP funding.

City Manager McCann thanked the Council for their input and stated that staff would analyze their discussion to help implement the correct sewer rate percentages.

Mayor Lion asked the **Council** whether or not they wished to hear Item Nos. 15 and 12 on the agenda, as it was past 11:00 p.m. in the evening. The Council unanimously voted to hear the last two items, despite the late hour.

15. [Consideration of a Resolution Authorizing Funding from Supplemental Law Enforcement Services Fund for Police Use.](#)
[Recommended Action: Adopt Resolution No. ____.](#)

Disbursement of Supplemental Law Enforcement Services Fund Documents

Police Chief Bernal presented the staff report.

Mayor Lion opened the Public Hearing.

No comments were received.

Mayor Lion closed the Public Hearing.

It was **MOVED** by **Councilmember Wachtel** and **SECONDED** by **Councilmember Marshall** to approve **Resolution No. 12-02** authorizing funding from Supplemental Law Enforcement Services Fund for Police use. The Motion was carried unanimously by a 5-0 vote.

OLD BUSINESS

12. [Consideration of an Appointment of a City Councilmember and Alternate to the General Plan Advisory Committee.](#)
[Recommended Action: Confirm Appointments.](#)

General Plan Advisory Committee Documents

City Manager McCann presented the staff report.

Mayor Lion opened Public Comment.

No comments were received.

Mayor Lion closed Public Comment.

The Council indicated a consensus to appoint **Vice Mayor Berman** as the City Council delegate and **Mayor Lion** as the alternate.

COUNCIL LIAISON REPORTS

None received.

CITY MANAGER'S REPORTS

None received.

COUNCIL REQUESTS AND IDEAS FOR DISCUSSION

None received.

Mayor Lion canvassed the Council and determined that the Mill Valley Facilities Financing Corporation Annual Board of Directors meeting would be continued to February 6, 2012, directly after the conclusion of the Regular City Council meeting.

ADJOURNMENT

Mayor Lion adjourned the meeting at 12:16 a.m. to the next City Council meeting to be held on, February 6, 2012.

Approved and adopted by the City Council
of the City of Mill Valley on February 6,
2012.

Garry Lion, Mayor

ATTEST:

Kelsey Rogers, City Clerk/Administrative Analyst