

STAFF REPORT

TO:

Mayor and City Council

FROM:

Jill Barnes, Interim Director of Public Works

SUBJECT:

Public hearing to consider proposed sanitary sewer rates, to tabulate

written protests from customers and to introduce new sewer service fees

DATE:

June 6, 2011

Approved for Forwarding:

James C. McCann, City Manager

Recommendation:

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Open public hearing on sewer service fee increase, consider public comment and receive written protests; then close public hearing and tabulate number of valid written protests and if there is not a majority protest, move to introduce and waive the first reading of the ordinance

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AMENDING CHAPTER 17.04 OF THE MUNICIPAL CODE

INCREASING SEWER SERVICE FEES

and schedule second reading for June 20, 2011. If there is a majority protest, direct staff to develop alternatives.

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Background:

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On February 7th, staff provided an overview of the City's wastewater system and introduced the need to increase sewer service rates (Background reports and attachments are available on the City's website at www.cityofmillvalley.org). Staff presented the fact that the current rates, which were last increased in 2004, are insufficient to fund on-going maintenance needs, treatment fees charged by the Sewerage Agency of Southern Marin (SASM) or replacement of aging sewer facilities. City Council provided clear direction at the February meeting to adjust the rate structure to address the substantial increase from SASM and to insure that funds are available to

21 immediately address operating requirements and to initiate appropriate infrastructure 22

improvement and replacement. 23

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On March 7th, staff returned to Council with two rate-structure models (This staff report and its attachments are available on the City website at www.cityofmillvalley.org). Council directed staff to propose rates for adoption over a five-year period and base the rates on a pay-as-you-go model (not reliant upon debt issuance). Council also directed staff to return with a program to provide a credit for qualifying households based on economic hardship.

On April 19th, City Council approved proposed maximum rate increases to be carried out over the next five years and directed staff to mail notices of the proposed increases, of a May 17th informational public workshop and a June 6th public hearing to consider adoption of the new rates in accordance with the requirements of Proposition 218.

On May 17th, staff conducted a public workshop to share information about why the increase is needed, to provide background about how the proposed rate increase was determined and to answer questions from the residents regarding application of wastewater utility rates. The workshop was attended by approximately 15 people. The comment from those present focused on four common themes: 1) an acknowledgement that adequate funding must be provided to insure a robust waste water system; 2) a strong desire for a flow based rate structure; 3) a desire to establish a mechanism to provide reasonable relief to customers of lower income; and 4) a desire for greater precision and equity in the rate structure as applied to multi-family dwellings and commercial uses (Refer to website video archive and meeting notes).

As of May 26th, the City has received 58 letters of protest (attached). A large portion of these letters state that the proposed increase will create an economic hardship for the ratepayer and request that the City provide a discounted rate for senior citizens and/or those with low income. Other letters object to the significant initial increase and request that the increase be distributed over a longer time period. Many acknowledge the need to provide sufficient funding for the important service but ask why the City had not revisited the rates since 2004.

Discussion:

HFH Consultants in association with Harris and Associates completed the City of Mill Valley Sewer Rate Study (attached) which concludes that a substantial increase to the current rates is needed to support the wastewater utility. The Rate Study recommends that the City increase its sewer service fee (Fee) in each of the next five years based on increasing costs of operation. The Rate Study also includes a proposed low-income customer credit program in response to City Council interest.

Procedural and Substantive Requirements to Adopt Fee

Pursuant to the requirements of Proposition 218 and Article XIIID of the California Constitution, notices regarding this Public Hearing were mailed to owners of record for parcels directly responsible for payment for sewer service fees within the City's service area more than 45 days prior to tonight's hearing.

There are an estimated 5,600 owners of record directly responsible for payment for wastewater service within the City's service area. In the event a majority (i.e., more

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than 50%) of such owners submits valid, written protests prior to the close of the Public Hearing, then the proposed sewer service fees cannot be adopted and other rates would have to be proposed.

The Ordinance

The Ordinance increases the Fee from \$297 to \$694 for a single family residential use or an Equivalent Dwelling Unit (EDU) in fiscal year 2011-12, to \$757 per EDU in fiscal year 2012-13, to \$784 per EDU in fiscal year 2013-14, to \$792 per EDU in fiscal year 2014-15 and to \$827 per EDU in fiscal year 2015-16.

The Fee for a commercial or multi-family residential parcel is based on an EDU with factors included for the type of sewage discharged and the volume of potable water used in comparison to average single family residential use.

 The Ordinance also provides a low-income assistance program. The sewer service fee for a parcel occupied by a low-income customer may receive a credit of up to 25%. A qualified low-income customer is a residential customer who applies for low-income assistance and meets eligibility conditions determined by the City Manager, which shall be based on the types of low-income discount programs established by California public utility companies or public agencies. Staff is not aware of any low-income credits or discounts offered by other sewage collection agencies in the County. However, the City of Calistoga (15%), Cotati (10%) and Rohnert Park (20%) offer low-income discounts. Utility discounts throughout the state range from 10 % to 40%.

Future Actions to Adopt and Collect Fee on Tax Roll

Following the public hearing on the proposed Fee and introduction of the Ordinance on June 6, 2011, the City Council will need to take additional actions, which staff recommends occur on June 20, 2011, to adopt and levy the Fee. Specifically, the City Council must provide a second reading and adopt the Ordinance establishing the Fee. Upon the conclusion of the hearing, the City Council may adopt, revise, change, reduce or modify (but may not increase) any charge or overrule any or all objections and shall make its determination upon each charge as described in the Written Report.

Flow-based Rates

City Council has expressed interest in converting residential sewer service charges from flat to flow-based rates. Individual sewer service charges would be calculated based on each parcel's metered water use which is used to estimate waste discharge. This method of calculating rates could provide greater equity for smaller dwellings like second- unit apartments which are currently charged at a rate of one EDU. The work required to study whether to convert to flow-based rates could proceed this fall and winter for presentation in spring 2012 so that if the City Council elected, conversion to flow-based rates could be conducted in time for adoption in FY 2012-13.

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114 Static Rate History

A common question staff has received throughout this process has been why we haven't 115 adjusted our rates over time. The reason for this is that last sewer-rate increase was set 116 in 2004 based on a study that those rates would cover the City's sewer needs through 117 2009. During those five years staff managed the sewer system on the budget those rates 118 provided by focusing on less costly maintenance and scaled-back capital improvement 119 projects. At the same time staff resources were assigned to pressing priorities to 120 program emergency repairs, obtain grant funding and file the subsequent grant appeals 121 to address damages suffered after disasters in 2005 and 2006. The limited and largely 122 maintenance-driven wastewater operation has functioned adequately for many years and 123 has been a standard approach taken by many of the districts in our state in an effort to 124 limit user rate increases. However, in current years regulatory agencies have enacted 125 comprehensive changes to requirements for and oversight of sewer collection districts. 126 This has shifted the City and others to focus increased resources on wastewater 127

infrastructure and required additional revenue to meet the new standards.

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Capital Improvement Program

Based on engineering analyses by Harris & Associates, annual expenditures of \$2,000,000 - \$2,500,000 are initially needed to make progress on the deferred capital improvements; the amount increases annually by inflation. With this funding, the City will be able to resume timely pavement repairs (as we must first repair/replace below ground pipes before paving) as well as major reconstruction such as is planned for Miller Avenue. However, even with this much funding, over a decade will be required to renew and replace the most critical facilities. The \$2,000,000 - \$2,500,000 annual capital improvement program is estimated to fund approximately 1 mile of pipe rehabilitation per year.

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Comparing Rates in Marin. The City's rates are currently lower than those charged by every other district in our region (see slide from the May 17th workshop). Even after the proposed increase, the City's rates will be well below the average fee charged in Marin County.

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Fiscal Impact:

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Based on the findings in the Harris & Associates, Inc. Rate Study, sewer service fees need to increase as soon as possible in order to continue providing wastewater services in a responsible manner and to meet financial obligations under existing agreements.

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Attachments:

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- 1. Ordinance No. _____ Increasing Sewer Service Fee
- 2. Sewer Rate Study dated June 1, 2011 155
- 3. February 7th Staff Report & Minute Excerpts 156
 - 4. March 7th Staff Report & Minute Excerpts
- 5. April 19th Staff Report & Minute Excerpts 158
- 6. May 17th Workshop Presentation & Meeting Notes 159 160
 - 7. Special Notice of Sewer Service Charge Rate Increase
- 161 8. Letters in Response to Proposition 218 Notice