

**CITY OF MILL VALLEY  
CITY COUNCIL**

**MINUTES**

**COUNCIL CHAMBERS, CITY HALL  
26 CORTE MADERA AVENUE, MILL VALLEY  
April 2, 2012  
7:30 p.m.**

Mayor Garry Lion--Present  
Vice Mayor Andrew Berman--Present  
Councilmember Shawn Marshall -- Absent (Arrived at 7:50 p.m.)  
Councilmember Stephanie Moulton-Peters--Present  
Councilmember Kenneth R. Wachtel--Present

City Staff Present: City Manager McCann; City Attorney Stepanicich; Finance and Human Resources Director Erickson; Public Works Director Barnes; and City Clerk/Administrative Analyst Rogers.

**CALL TO ORDER**

**Mayor Lion** called the Regular Session to order at 7:35 p.m.

**PUBLIC OPEN TIME**

**Dr. Lynn Noonan**, 326 Sycamore Avenue, discussed alleged wrong doings of Mill Valley Police Officers towards Mill Valley youth.

**APPROVAL OF THE AGENDA ORDER**

It was **MOVED** by **Vice Mayor Berman** and **SECONDED** by **Councilmember Moulton-Peters** to approve the Council meeting agenda. The Motion was carried unanimously by a 4-0 vote, **Councilmember Marshall** absent.

**COUNCIL AND STAFF ANNOUNCEMENTS**

None.

**PRESENTATIONS**

1. Presentation of a Proclamation Honoring the Tamalpais High School Mock Trial Team on its unprecedented 17th Consecutive Marin County Championship.  
*Item No. 1 Supporting Documents*

**Mayor Lion** presented the Proclamation to the Tamalpais High School Mock Trial Team and congratulated them on their hard work and dedication to their studies and debate.

**Elena Ricciardi**, Co-Captain of the Tam High Mock Trial team, thanked the Council for the recognition and indicated her pleasure being a part of the Mock Trial team.

### CONSENT CALENDAR

It was **MOVED** by **Vice Mayor Berman** and **SECONDED** by **Councilmember Moulton-Peters** to approve **Item Nos. 2 through 4** on the Consent Calendar. The Motion was carried unanimously by a 4-0 vote, **Councilmember Marshall** absent.

2. Warrants--\$ 1,139,514.74  
**Recommended Action:** Approve paying expenses authorized by the adopted City Budget.  
*Item No. 2 Supporting Documents*
3. Consideration of the Minutes of the March 19, 2012 Regular City Council Meeting.  
**Recommended Action:** Approve the March 19, 2012 Regular City Council meeting minutes.  
*Item No. 3 Supporting Documents*
4. Consideration of a Resolution to Authorize the City Manager and Director of Public Works to accept grants and/or deeds of easements and other interests in real property, and offers of dedication, and consenting to the recordation of such instruments.  
**Recommended Action:** Adopt Resolution No. \_\_\_\_.  
*Item No. 4 Supporting Documents*

### OLD BUSINESS

5. [Presentation and confirmation of the revised Sewer Service Charge Rate Structure.](#)  
**Recommended Action:** Receive presentation, and provide direction as appropriate.  
*Item No. 5 Supporting Documents*

**City Manager McCann** introduced the item, noting the previous administrative processes and public hearings that had gone into the City Council's consideration of this matter. He indicated that on March 19, 2012, the Council had discussed and provided strong direction that the sewer rate structure should be based on a flow-based system. He discussed the City's Capital Improvement Projects (CIP) needed to improve the City's sewer systems and discussed the option to utilize debt financing to accelerate infrastructure improvements without significant user rate increases. He noted the need to adhere to Proposition 218 regulations and to create a fair, balanced rate structure. **City Manager McCann** discussed the March 26, 2012, Public Workshop that the City held to help explain the rate increase to those citizens and businesses that may see more than a 20% rate increase in their sewer bills.

**Councilmember Marshall** arrived at 7:50 p.m.

**City Manager McCann** outlined discussion points noted in the staff report and stated that **City Attorney Stepanicich** was available to answer any questions regarding Proposition 218 regulations.

In response to **Councilmember Wachtel**, **Public Works Director Barnes** stated that the current sewer rate structure raises approximately \$4 million a year to fund City sewer related operating costs, charges for wastewater treatment by the Sewerage Agency of Southern Marin (SASM) and City CIP work.

In response to **Councilmember Wachtel**, **City Attorney Stepanicich** indicated that with respect to the requirements for proper public notice pursuant to the requirements of Proposition 218, the Council could adopt or implement lower user rates so long as the rates remained proportional to the cost of service and noted the rates may not exceed the maximum rate that was publically noticed in conjunction with the rate setting hearing and adopted by ordinance. **City Manager McCann** discussed the cost per unit and stated they are derived from the Cost of Service analysis, and stated that they were proportional rates.

**Public Works Director Barnes** stated that she had some slides available for Council's review regarding pay-as-you-go funding and debt financing options.

**Councilmember Marshall** noted that staff is recommending use of debt financing, and questioned what annual debt payments would be. **City Manager McCann** explained that with interest, the debt service would be \$600,000 a year, each year during the twenty year term of the financing.

**Councilmember Marshall** stated the cost of capital is historically low right now, as interest is below four percent.

In response to **Councilmember Moulton-Peters**, **Public Works Director Barnes** discussed needed sewer repairs on Miller Avenue and stated that she thought the sewer repair portion of the Miller Avenue Streetscape Project would cost between \$6 and 8 million dollars. She noted that the sewer repairs would occur in conjunction with the Miller Streetscape project and would be phased based upon available funding.

In response to **Councilmember Wachtel**, **Public Works Director Barnes** discussed use of sewer service revenues and indicated that even though the sewer rate structure brings in approximately \$4 million a year, it is not be enough to completely fund the Miller Avenue project because other expenses and necessary CIPs are funded through the sewer fund as well.

**Mayor Lion** questioned the staff report's option of dropping three customer classes; mortuaries, commercial laundry and auto steam cleaning. He noted the City of Mill Valley doesn't have any within City limits. He questioned whether staff could establish a rate for those businesses anyway, just in case any came into town at a later date. **Mr. Farnkopf**,

the City's rate setting consultant, stated that you could estimate the rates for those businesses.

In response to **Mayor Lion, Mr. Farnkopf** clarified and discussed pay-as-you-go and debt financing.

**Mayor Lion** discussed the timing and use of proceeds from the proposed \$8 million dollar bond. In response to **Mayor Lion, Finance and Human Resources Director Erickson** stated the cost of issuing a bond is fixed. He stated that the bond proceeds would be put into an escrow account and earn interest. He stated it was important the City not earn more interest than it would be paying. He stated it would be inefficient to have an equity ("line of credit") loan.

**Mayor Lion** discussed other portions of the sewer rate structure, the appropriate period to utilize for initial water use and cost of service analysis, 2010 or more current data; and summer vs. winter month water use variations with regards to hospitality related commercial classifications (hotels and restaurants).

In response to **Councilmember Marshall, City Attorney Stepanich** stated that sewer funds that had been reserved could be used as a matching fund for a project to improve sewer laterals. He stated that the City would be allowed to finance CIPs from the reserve funds.

**Councilmember Wachtel** questioned whether or not the City could have a 10 percent buffer instead of the proposed 5 percent revenue stability buffer. **City Manager McCann** noted that a larger buffer would be better to provide a stable revenue stream, but may cause concern with the rate payers, as they will be presented with a maximum potential rate which includes a 10% buffer component vs. a 5% buffer.

**Mayor Lion** opened the public comment period.

**Paula Reynolds**, Acting Chair of the Chamber of Commerce, thanked the City for holding the public workshop on March 26, 2012, and for actively including the Chamber of Commerce and the broader community in the discussion of revised sewer service rates. She thanked the Council for utilizing fair and equitable standards for the sewer rates. She discussed using averages of winter and summer water usage and noted that the Council should revisit the issue at a later date for those citizens who have questions once the new rates are implemented.

**Mayor Lion** closed the public comment period.

**Public Works Director Barnes** presented slides from a PowerPoint presentation and took questions from **Council**.

**City Manager McCann** asked that **Council** provide direction to staff.

**Councilmember Marshall** stated that she believes that the City must aggressively address improvements to reduce sewer flows due to Inflow and Infiltration (I&I) and that the City should adopt and implement a comprehensive sewer lateral inspection and replacement program and include funding as a part of a CIP to provide incentives to customers to repair leaking laterals.

In response to **Vice Mayor Berman**, **City Manager McCann** stated that the Sewerage Agency of Southern Marin (SASM) has in place a grant and loan program through their compliance order that facilitates repair of sewer laterals for Mill Valley families. He discussed I&I and the City's capital program.

**Vice Mayor Berman** discussed the need for I&I reduction improvements and various SASM related initiatives. He concurred with **Councilmember Marshall** and stated the City needs a comprehensive sewer lateral program to address I&I. **City Manager McCann** concurred with **Vice Mayor Berman** that there needed to be a comprehensive program put in place to address the City's I&I issue and stated that per Council's consensus it would become a part of the City's CIP.

**Councilmember Wachtel** stated he was concerned about paying \$12 million dollars for an \$8 million bond (his general estimate of issuance, principal, and interest costs during the term of the financing). He indicated his favor for Option No. 4 in **Public Works Director Barnes'** PowerPoint presentation which proposed a \$4 million debt issuance and increased user rates to generate an increased annual level of revenue to support a higher level of CIP funding. He indicated that he was fine with using the summer water flow measurement for hospitality businesses within the City. He stated he too wished to see a sewer lateral policy/program put in place. He stated that he wanted to be consistent on which years the City uses as volume determination as the basis of service charges.

**Councilmember Moulton-Peters** indicated that she was in favor of seeing a 100 percent flow-based sewer rate structure. She stated she concurred with **Councilmember Wachtel** and supported **Public Works Director Barnes'** Option No. 4.

**Councilmember Marshall** stated that she favored the flow-based charges and thought that implementing a minimum flow charge was appropriate. She stated that she liked the hybrid Option No. 4, but did not appreciate the rate increases that were associated with it. She indicated that she wanted a sewer lateral program implemented and noted that the 5 percent buffer seemed fiscally sound.

**Vice Mayor Berman** stated he felt that rate adjustments would have to come back to the Council for yearly review. He indicated his support of a 100 percent flow-based rate system and stated that he agreed with having a minimum flow charge. He stated he felt the City had to take on some debt to fund the much needed system improvements in order to make meaningful progress in a reasonable time frame. He stated the City needed fund reserves at a higher level, up to roughly \$5 million and thought the 5 percent buffer is fine.

**Mayor Lion** concurred with implementing a 100 percent flow-based sewer rate structure. He indicated that only hospitality businesses should have their usage rates averaged between summer and winter months. He stated that having a minimum flow charge would be fine and favors Option No. 4. He explained that he liked the stability which would be provided by the 5 percent buffer and stated that he didn't want Council to have to review rate setting every year. He suggested crafting the ordinance in a way that would include a self correcting revenue and user rate mechanism that could be used in upcoming years.

**City Manager McCann** clarified the City Council's direction, discussed rate caps and stated that more information would be coming back to Council in June. He noted that Option No. 4 was agreed upon, and that a 5 percent revenue stabilization buffer would be built into the rate structure.

The **Council** agreed with **City Manager McCann's** summary.

In response to **Mayor Lion**, **Public Works Director Barnes** discussed the scheduling of the item. **City Manager McCann** indicated that the item could be heard by Council in July at the latest and most likely introduced in June.

**City Attorney Stepanicich** asked that the Council clarify who was in favor of a 5 percent buffer, and who was in favor of a 10 percent buffer. **Mayor Lion** called the question and the 5 percent option passed with a 4-1 vote, **Councilmember Wachtel** dissenting.

**City Manager McCann** thanked Council for their direction.

### COUNCIL LIAISON REPORTS

**Councilmember Moulton-Peters** stated she was going to a Sustainable Communities Strategy meeting on Wednesday, April 4, 2012. She requested meeting with **Director of Building and Planning Moore** before she attends.

In response to **Mayor Lion**, **City Manager McCann** stated that staff is currently working on scheduling a joint meeting with the City Council and Planning Commission to discuss items such as the General Plan and ABAG housing policies.

### CITY MANAGER'S REPORTS

**City Manager McCann** discussed the following items:

- a. April 3, 2012 Mill Valley Community Meeting.
- b. General Plan Advisory Committee and Working Group Appointments.

### COUNCIL REQUESTS AND IDEAS FOR DISCUSSION

None.

**ADJOURNMENT**

It was **MOVED** by **Councilmember Marshall** and **SECONDED** by **Councilmember Wachtel** to adjourn at 9:39 p.m. to the next City Council meeting to be held on Monday, April 16, 2012, and noted that the annual Mill Valley Community Meeting will be held on Tuesday, April 3, 2012 at the Mill Valley Community Center, 180 Camino Alto, Mill Valley, CA.. The Motion carried unanimously by a 5-0 vote.

Approved and adopted by the City Council  
of the City of Mill Valley on April 16, 2012.

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Garry Lion, Mayor

ATTEST:

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Kelsey Rogers, City Clerk/Administrative Analyst