



**Marin Chapter
California Civil Grand Jurors' Association**

January 23, 2015

Mayor's Office
Kenneth Wachtel
City of Mill Valley
26 Corte Madera Ave.
Mill Valley, CA 94941

Dear Mayor,

Re: The Scoop on Marin County Sewer Systems, Parts I and II

I am writing to you as a member of the Implementation Review Committee of the Marin Chapter of the California Civil Grand Jurors' Association. Our Association's goals are to support the civil grand jury system and promote local government accountability. Our Chapter is composed of former Marin County Civil Grand Jurors. One of the tasks of the Implementation Review Committee is to follow-up on responses to prior Grand Jury recommendations to ascertain the status of their implementation.

Specifically, we are following up on recommendation responses presented in the letters signed by Stephanie Moulton Peters dated September 2, 2014, concerning the Marin County Civil Grand Jury's June 16, 2014 reports, titled "**The Scoop on Marin County Sewer Systems, Parts I and II**". The recommendations and the City of Mill Valley's responses are attached in Exhibit 1. For your ease of reference, we have also attached the California Penal Code, Section 933.05, which governs the requirements for responses to grand jury reports (exhibit II) as well as the standard response report form that should accompany responses (exhibit III).

The Scoop on Marin County Sewer Systems, Part I

The City of Mill Valley's responses to the Recommendations are legally inadequate because they do not clearly commit to one of the following options as required by the California Penal Code as listed below:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation.

Please complete the attached response report form and clarify the City's responses to all Recommendations in the format required by the Penal Code as detailed above. Additionally, as more than six months has now passed, we assume that you have now completed the further analysis mentioned in the responses to Recommendations 3 and 4. Please also provide the outcome of your further analysis.

The Scoop on Marin County Sewer Systems, Part II

As explained on page 3 of the report, the Findings were taken directly from survey responses provided by the City of Mill Valley. Despite this, the City disagreed with the Findings. We are unclear as to why the City of Mill Valley disagreed with the information that it had provided in the survey 9 months prior. Please provide clarification.

The City of Mill Valley's responses to the Recommendations are legally inadequate because they do not clearly commit to one of the options allowed by the penal code as mentioned in the previous section. However, we have looked at the City's website and located the City's Sewer Capital Improvement Plan (Recommendation 1) and the SSMP (Recommendation 5), which effectively show implementation of these two recommendations. We additionally note your statement of implementation with respect to Recommendation 11. With respect to other recommendations, we request that you provide additional information as follows:

Recommendation 2: Please provide a response to this recommendation (developing a financial reserve policy) that complies with the California Penal Code as noted above.

Recommendation 7: The revised date on the SSORP is August 2009 and it does not appear that the updated Overflow Response Training Manual portion of the document has been incorporated into the SSORP as stated in your response. Please advise if you will be updating the SSORP on the website to include the updated Overflow Response Training Manual.

I will call in the near future to answer any questions that you may have regarding this request. Please send your reply by February 13, 2015, electronically, to the undersigned, Helene Marsh, at marsh.helene@gmail.com. We appreciate your cooperation.

Sincerely yours,

Helene Marsh
Member of the Implementation Review Committee
Director, Marin Chapter of the California Civil Grand Jurors' Association
Tel: 415-300-7233
marsh.helene@gmail.com

EXHIBIT 1

The City of Mill Valley Recommendations and Responses to “The Scoop on Marin County Sewer Systems, Parts I and II”, June 16, 2014

PART I

- R1. Recommendation R1:** All districts must work to eliminate spills, through in-depth analysis and investment in infrastructure
Response: The City Council agrees that all districts must work to eliminate spills, through in-depth analysis and investment in infrastructure.
- R3. Recommendation 3:** All agencies adopt an ordinance that will require private laterals to be inspected routinely and repaired as necessary.
Response: The City of Mill Valley City Council is currently considering the Model Sewer Lateral Ordinance recently adopted by the Sewerage Agency of Southern Marin to determine the best approach to integrating its provisions into the City's Municipal Code. Timeframe for completion is approximately two months.
- R4. Recommendation 4:** All agencies conduct an analysis to determine the feasibility of using treated wastewater for flushing pipes in routine maintenance work.
Response: The City has considered using treated water as a part of its routine maintenance efforts. However, there are two factors that affect the City's ability to use the water. The first is the inability to temporarily store the treated water until it can be used. The second factor is the water coming from the waste water treatment plant has a high saline content which has a detrimental effect on the equipment. The City is exploring options to address these issues.
- R5. Recommendation 5:** All agencies continue to cooperate with each other and find further ways to reduce costs.
Response: The City of Mill Valley continues to explore cost saving opportunities with our neighboring agencies.

Exhibit 1 ctd...

PART II

- R1. Recommendation R1:** Bolinas Community Public Utility District, Mill Valley, Tamalpais Community Services District and Tomales Village Community Services District develop capital improvement plans by the end of 2014.
Response: The City Council of the City of Mill Valley approves and maintains a 5-year Capital Improvement Program for sewer facilities.
- R2. Recommendation R2:** Bolinas Public Utility District, Mill Valley, Murray Park Sewer Maintenance District, San Quentin Sewer Maintenance District, Tamalpais Community Services District and Tomales Village Community Services District develop financial reserve policies.
Response: On July 19, 2012 the City Council of the City of Mill Valley adopted a "flow-based" sewer service user's rate structure. A component of the rate structure was a provision for establishment and maintenance of budget reserves.
- R5. Recommendation R5:** Homestead Valley, Mill Valley, North Marin Water District, Richardson Bay, Sanitary District #5, Tamalpais Community Services District and Tomales Villages Community Services District post their SSMPs on their websites.
Response: The City's SSMP was posted on the City website in 2013. Just recently, the City improved the link to the document on the City of Mill Valley Public Works webpage to make it easier to find.
- R7. Recommendation R7:** Alto, Bolinas Public Utility District, Homestead Valley, Mill Valley and Tomales Village Community Services District develop Overflow Emergency Response Training Manuals.
Response: The City of Mill Valley updated the Overflow Response Training Manual included in the Sanitary Sewer Overflow Response Plan (SSORP) and had a joint-training session with other SASM agencies on June 4, 2014. The SSORP is posted on the City of Mill Valley Department of Public Works website.
- R11. Recommendation R11:** Las Gallinas Valley Sanitary District and Mill Valley report their Category 1 spills within two hours of becoming aware of the spill, as required by State Water Resources Control Board Order No. WQ 2013-0058-EXEC.
Response: The City of Mill Valley reports Category I spills within 2 hours of becoming aware of a spill as required by State Water Resources Control Board Order No. WQ 2013-0058-EXEC

EXHIBIT II

Penal Code Section 933.05

933.05.

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following: (1) The respondent agrees with the finding. (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor. (b) For purposes of subdivision

(b) Of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions: (1) The recommendation has been implemented, with a summary regarding the implemented action. (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation. (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report. (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department. (d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release. (e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental. (f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

EXHIBIT III

Report Title: *The Scoop on Marin County Sewer Systems: Part I,*

Report Date: June 10, 2014

Public Release Date: June 16, 2014

Response by: September 14, 2014

FINDINGS

- I (we) agree with the findings numbered: _____
 - I (we) disagree wholly or partially with the findings numbered: _____
- (Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefor.)**

RECOMMENDATIONS

- Recommendations numbered _____ have been implemented.
(Attach a summary describing the implemented actions.)
- Recommendations numbered _____ have not yet been implemented, but will be implemented in the future.
(Attach a timeframe for the implementation.)
- Recommendations numbered _____ require further analysis.
(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed **six months from the date of publication of the grand jury report.)**
- Recommendations numbered _____ will not be implemented because they are not warranted or are not reasonable.
(Attach an explanation.)

Date: _____ Signed: _____

Number of pages attached _____

From: Ken Wachtel KWachtel@krwlaw.net
Subject: RE: The Scoop on Marin County Sewer Systems, Parts I and II, June 16, 2014
Date: March 4, 2015 at 3:07 PM
To: Helene Marsh marsh.helene@gmail.com
Cc: jmccan@cityofmillvalley.org

KW

I have just forwarded your email to our city manager and I expect he will respond shortly.



Kenneth R. Wachtel
Mayor
City of Mill Valley

415-937-1952
415-381-2727
KRWachtel@Gmail.com

From: Helene Marsh [mailto:marsh.helene@gmail.com]
Sent: Wednesday, March 04, 2015 2:45 PM
To: Ken Wachtel
Cc: jmccan@cityofmillvalley.org
Subject: Re: The Scoop on Marin County Sewer Systems, Parts I and II, June 16, 2014

Dear Mayor-

Further to your email below, I have not received a response from you nor the City Manager to our letter of January 23, 2015 regarding follow up on your responses to the above referenced Marin County Civil Grand Jury reports. Please advise if you are working on a response and, if so, when we might expect to receive it.

Thank you for your attention to our request for additional information.

Sincerely,

Helene Marsh
Director,
Marin Chapter of the California Civil Grand Jurors' Association

On Jan 23, 2015, at 3:39 PM, Ken Wachtel <KWachtel@krwlaw.net> wrote:

Helene,

I thank you for clarifying this for me. And thank you for your good (and hard) work for our community.

<image003.jpg>

Kenneth R. Wachtel

Mayor
City of Mill Valley

415-937-1952

415-381-2727

KRWachtel@Gmail.com

From: helenemarsh [mailto:marsh.helene@gmail.com]

Sent: Friday, January 23, 2015 3:22 PM

To: KWachtel@krwlaw.net

Cc: jmccan@cityofmillvalley.org

Subject: Re: The Scoop on Marin County Sewer Systems, Parts I and II, June 16, 2014

Dear Mayor,

Thank you for the quick response to my email.

The Marin Chapter of the Civil California Grand Jurors' Association was organized over 20 years ago. Our members are former Grand Jurors who want to support and enhance the Civil Grand Jury system. <http://www.mccgja.org>

Civil Grand Jurors serve only one year as a "seated" jury member and therein lies the impetus for continued involvement. Respondents, such as municipalities like Mill Valley, have up to 90 days according to the Penal Code to respond to a Grand Jury report. If they need to do further analysis or say they are going to implement a report recommendation in the future, the "due date" for their definitive responses may occur after the seated Grand Jury has left service. The new jury, less familiar with the previous reports, is not in the best position to follow up, and often does not. Thus, the need for and the value of having a Grand Jury Association to provide this follow up.

A respondent such as Mill Valley is not mandated by any statute to respond to our requests for follow-up information. We are private citizens, who happen to be former Grand Jurors, that are following up on public records and action. Our summaries are posted on our website for Marin residents to view. We also send our summaries to Nels Johnson at the Independent Journal as well as the current Grand Jury for consideration. Our objective is to make sure respondents follow through on their initial responses and, hopefully, to report success stories of the Grand Jury helping tax-supported entities make positive changes. The decision on whether or not to respond to our follow up and the content of the decision becomes part of our

respond to our follow up and the content of the decision becomes part of our summary.

I hope this answers your questions. Please let me know if I can be of further assistance.

Sincerely,

Helene Marsh

On Jan 22, 2015, at 3:44 PM, Ken Wachtel <KWachtel@krwlaw.net> wrote:

Wow, I didn't know there was an agency of former Grand Jurist. Didn't you get enough while on active duty?

Well, I've sent your email and attachment to our city manager and one of us will get back to you.

Just curious. We are mandated by law to respond to the grand jury. Are we mandate by law to respond to your association. If so, please forward such authority.

Thanks for caring.

Ken

<image003.jpg>

Kenneth R. Wachtel

Mayor

City of Mill Valley

415-937-1952

415-381-2727

KRWachtel@Gmail.com

-----Original Message-----

From: helenemarsh [mailto:marsh.helene@gmail.com]

Sent: Thursday, January 22, 2015 3:34 PM

To: KRWachtel@Gmail.com

Subject: The Scoop on Marin County Sewer Systems, Parts I and II, June 16, 2014

Dear Mayor,

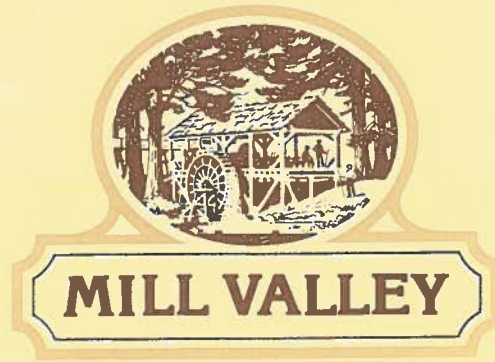
Please see the attached letter regarding the responses of the City of Mill Valley to the above Marin County Civil Grand Jury reports.

Thank you for your attention to this matter.

Sincerely,

Helene Marsh
Director
Marin Chapter of the California Civil Grand Jurors' Association

Kenneth R. Wachtel
Mayor
Garry Lion
Vice Mayor
John McCauley
Councilmember



Jessica Jackson
Councilmember
Stephanie Moulton-Peters
Councilmember
James C. McCann
City Manager

April 14, 2015

Helene Marsh
Member of the Implementation Review Committee
Director, Marin Chapter of the California Civil Grand Juror's Association
Marsh.helene@gmail.com

Reference: Response by City of Mill Valley Mayor, Stephanie Moulton-Peters to the 2013/2014 Marin County Civil Grand Jury Report Entitled, "The Scoop on Marin County Sewer Systems: Part I".

Dear Ms. Marsh,

This letter serves as a response to your January 23, 2015, letter following up on the City's responses to the Marin County Grand Jury's report presented in the letters signed by then-Mayor Stephanie Moulton-Peters dated September 2, 2014. The City's responses were responding to the Marin County Civil Grand Jury's June 16, 2014, reports entitled "The Scoop on Marin County Sewer Systems, Parts I and II."

In your recent communication you note that the Implementation Review Committee does not find the City's responses to the presiding judge of the Superior Court to be legally adequate. The City has not received word from the presiding Judge that she or the Grand Jury found the City's responses to be lacking, or not conforming to Penal Code Section 933 however, clarification of the City's responses are noted below:

The Scoop on Marin County Sewer Systems, Part 1

Recommendation R1: All districts must work to eliminate spills, through in-depth analysis and investment in infrastructure.

Response: The City Council agrees that all districts must work to eliminate spills through in-depth analysis and investment in infrastructure.

Update: The recommendation has been implemented as the City Council has recently taken steps to improve Sewer infrastructure through the adoption a Sewer Lateral Ordinance (Ordinance No. 1270) which monitors private sewer laterals including all pipes, fittings, and appurtenances, from the outer face of the building served to the connection into the City's sewer main, including the connection itself. The ordinance describes four events for which an owner must provide a lateral inspection report to the City and complete the indicated repairs. The ordinance also identifies prohibited sewer lateral connections and discharges and provides enforcement mechanisms for failure to comply with the requirements. The Sewerage Agency of Southern Marin also recently

adopted a Long Range Master Plan. The Master Plan will guide the plant's next thirty years in an effort to plan for expected new legal requirements, protect it from flooding, deal with aging infrastructure, prepare for its future growth needs and incorporate sustainability initiatives. Mill Valley and the other member agencies are currently working on developing its Implementation Plan.

Recommendation R3: All agencies adopt an ordinance that will require private laterals to be inspected routinely and repaired as necessary.

Response: The City of Mill Valley City Council is currently considering the Model Sewer Lateral Ordinance recently adopted by the Sewerage Agency of Southern Marin to determine the best approach to integrating its provisions into the Municipal Code. Timeframe for completion is approximately two months.

Update: The City's Sewer Lateral Ordinance was adopted on March 2, 2015. All other SASM Agencies have also adopted similar ordinances. The recommendation has been implemented.

Recommendation R4: All agencies conduct an analysis to determine the feasibility of using treated wastewater for flushing pipes in routine maintenance work.

Response: The City has considered using treated water as a part of its routine maintenance efforts. However, there are two factors that affect the city's ability to use the water. The first is the inability to store the treated water until it can be used. The second factor is the water coming from the wastewater treatment plant has a high saline content which has a detrimental effect on the equipment. The City is exploring options to address these issues.

Update: The recommendation requires further analysis, which is ongoing.

Recommendation R5: All agencies continue to cooperate with each other and find further ways to reduce cost.

Response: The City of Mill Valley continues to explore cost saving opportunities with our neighboring agencies.

Update: The recommendation continues to be implemented.

The Scoop on Marin County Sewer Systems, Part II

The responses to the Findings are accurate and approved by the Mayor and City Council – and supported by the responses given to the Grand Jury's Recommendations. The City's actions do not contradict the Findings responses.

Recommendation R1: Bolinas Community Public Utility District, Mill Valley, Tamalpais Community Services District and Tomales Village Community Services District develop capital improvement plans by the end of 2014.

Response: The City Council of the City of Mill Valley approved a 5-year Capital Improvement Program in 2012 when it adopted a flow-based sewer rate structure.

Update: The recommendation has been implemented.

Recommendation R2: Bolinas Public Utility District, Mill Valley, Murray Park Sewer Maintenance District, San Quentin Sewer Maintenance District, Tamalpais Community Services District and Tomales Village Community Services District develop financial reserves policies.

Response: On July 19, 2012 the City Council of the City of Mill Valley adopted a "flow-based" sewer rate structure. A component of that fee was a provision for a reserve fund. On April 20, 2000, the SASM Board established a reserve fund of 3.4 million dollars.

Update: The recommendation has been implemented.

Recommendation R5: Homestead Valley, Mill Valley, North Marin Water District, Richardson Bay, Sanitary District #5, Tamalpais Community Services District and Tomales Villages Community Services District post their SSMPs on their websites.

Response: The City's SSMP was posted on the City website in 2013. Just recently, the City improved the link to the document on the Public Works webpage to make it easier to find.

Update: The recommendation has been implemented. Please see link to the City's website: <http://www.cityofmillvalley.org/Index.aspx?page=1557>.

Recommendation R7: Alto, Bolinas Public Utility District, Homestead Valley, Mill Valley and Tomales Village Community Services District develop Overflow Emergency Response Training Manuals.

Response: The City of Mill Valley updated the Overflow Response Training Manual included in the Sanitary Sewer Overflow Response Plan and had a joint-training session with other SASM agencies on June 4, 2014.

Update: The recommendation has been implemented.

Recommendation R11: Las Gallinas Valley Sanitary District and Mill Valley report their Category 1 spills within two hours of becoming aware of the spill, as required by State Water Resources Control Board Order No. WQ 2013-0058-EXEC.

Response: The City of Mill Valley reports Category I spills within 2 hours of becoming aware of a spill as required by State Water Resources Control Board Order No. WQ 2013-0058-EXEC.

Update: The recommendation has been implemented.

Please accept this letter as a complete and thorough response regarding the Marin County Civil Grand Jury's report entitled "The Scoop on Marin County Sewer Systems, Parts I and II."

Yours Truly,



Jim McCann
City Manager
City of Mill Valley

Cc: Director of Public Works Jill Barnes
File