

BROOKTRAILS TOWNSHIP COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS
Tuesday, August 28, 2007

The Board of Directors of Brooktrails Township Community Services District met in regular session on August 28, 2007 at 7:08 p.m. at the Brooktrails Community Center.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Roll call showed the following directors present: Williams, Ziady, Orth, Horrick and Skezas. Also present were General Manager Chapman and District Counsel Neary.

REPORT ON CLOSED SESSION

Mr. Neary reported that the Board met with counsel to discuss anticipated litigation under Government Code Section 54956.9(c), and received information from counsel. No action was taken.

C. ADDITIONS/ADJUSTMENTS TO THE AGENDA

D. MINUTES OF PREVIOUS MEETINGS

1. July 24, 2007. Director Orth moved to approve the minutes as presented; Director Ziady seconded and the motion carried unanimously.

E. SPECIAL PRESENTATION

2. Lt. Ron Welch – Mendocino County Sheriff's Department Annual Report. Lt. Welch was in charge of the Willits sector with six deputies living in Brooktrails. He said they would like to get the Neighborhood Watch Program going again and he encouraged the audience to contact his office if they were interested. His office was receiving complaints about the marijuana growing season and he expected to see an increase in home invasions. Director Orth said that probably our biggest concern is structure fires related to marijuana. Robert Melliush said we have called the Sheriff's Department in the past about pulling out marijuana gardens found in the greenbelt and they did not respond. Lt. Welch said unless he was told of a specific incident there was nothing he could do. Mr. Melliush asked about what to do if this is found now. Lt. Welch said to call. Director Ziady asked if there were any meth problems locally. Lt. Welch said the narcotics task force was very secretive and was not going after low-level people right now but going deeper.

Bob Terry asked about firearms discharge. Lt. Welch said the County ordinance was 500 yards with a rifle, 150 yards for a pistol shotgun from a residence. Ongoing shooting noise can be disorderly conduct even if legal in location. Mr. Terry described a situation reported to him where a resident tried to report a shooting incident to a deputy, who asked her what she wanted him to do about it. Director Williams described hearing about a dozen apparent rifle shots on August 19; he felt this might be the same incident as Mr. Terry's.

Lt. Welch said there were 17 vacancies in the department. They are starting programs to encourage local youth to go into corrections as these are the ones who stay. The Board President thanked Lt. Welch for coming.

F. PUBLIC HEARINGS

None.

G. PUBLIC COMMENTS

None.

H. CONSENT CALENDAR

3. Review of Accounts Payable report and authorization to issue checks. Director Orth moved to approve payment of the outstanding invoice report; Director Horrick seconded. The motion carried unanimously.

4. Retroactive approval of checks. Director Orth moved to retroactively approve checks listed on Attachment A; Director Horrick seconded. The motion carried unanimously.

5. Retroactive approval of August 15 check run. Director Orth moved to retroactively approve the check run of August 15, which had been authorized at the July 28 meeting; Director Horrick seconded. The motion carried unanimously.

I. ACTION AGENDA

6. Consideration of a Type III Wildland Vehicle (used) from US Forest Service federal excess program. General Manager Chapman explained that the General Fund turned would be healthier than expected by about \$40,000. Fire Chief Daryl Schoepner discussed the recent rollover incident with our

fire truck and showed photos; five crew members were treated and released from the hospital with some minor injuries. The current truck is 22 years old and did not meet current standards; it is top-heavy and this caused the accident. They believe that in the process of being righted damage was caused to the rear axle and to the step. The truck was sent to Sacramento for the repair, estimated at almost \$45,000.00. To replace the truck would be about \$250,000.00. Chief Schoeppner said, considering the next agenda item, he wanted to make it clear that no drugs or alcohol were involved in this incident. They are doing a "safety stand-down" meeting to evaluate the incident and related procedures.

Chief Schoeppner said that under the excess equipment program through which we got our water tender, a Type III US Forest Service engine was available. He believed it was in excellent shape, needing paint and rust removal and some repairs. The cost to obtain the vehicle would only be the maintenance and insurance and costs to put it into service. He and Lt. Noyer would do the signage and striping. Upon Board approval, they would look at the 4-wheel drive vehicle in Sacramento. Director Orth asked what Type III means; Chief Schoeppner said it does not have a large pump in it but carries tools, hand pumps and crew and a smaller pump. Without this type of engine, we are not doing mutual aid. Director Orth moved to authorize the General Manager to purchase the Type III Wildland Vehicle and expend up to \$10,000.00 in costs; Director Ziady seconded. Director Williams asked if Chief Schoeppner needed more than \$10,000.00; Chief Schoeppner said he had built a margin into his estimate. After discussion, Director Orth amended his motion to reflect funds would come from the General Fund; Director Ziady seconded. The motion carried unanimously.

7. Consideration of employee drug policy. Director Orth moved to release the legal opinion; Director Ziady seconded. The motion carried unanimously.

Director Horrick asked about random drug testing, saying there was a small pool of affected employees and asked why all employees were not included, and why not have all employees on a schedule instead of using a random test. Mr. Neary said considerations included the employee's rights to privacy balanced with the employer's right; the only testing approved by the court was random testing. Employees otherwise could feel targeted. The other constitutionally permissible testing was where there was reasonable suspicion that a substance was being used. Director Horrick asked if medical marijuana fell under the realm of prescription drugs; Mr. Neary said he believed so; basically if there is an employee with a genuine need to use marijuana by prescription, the employer should know about it and have the opportunity to safeguard the District by reassigning the employee to work that does not require acuity and safety response. Director Horrick summarized the aim of the District was to have a drug-free environment, workplace safety and rehabilitation, not so much punishment. Mr. Neary said that aspect of this policy was very restrained.

Director Horrick said hypothetically if a supervisor saw someone light up a crack pipe on the job, what was the procedure for removing the employee from the workplace? Do we have one? Mr. Neary said the employee would be suspended with pay pending the investigation. President Skezas asked if you could order a test; Mr. Neary said yes. Director Williams asked if the ability to immediately send an employee home was already in the personnel manual. Mr. Neary said the existing personnel manual includes disciplinary action including suspension at the discretion of the employer. If the finding was supported, then you take appropriate action. If the finding is not supported, then the employee has had some time off without having lost wages. Director Williams said it was clear from the code that if an employee used illegal substances on the job, the supervisor had the ability on the spot to immediately suspend that employee and send them home with pay and set up a random test immediately. Mr. Neary said there was no declaration in the personnel code that said an employee shall not use prohibited substances. There may be an implied prohibition. If an employee was perceived or there is a reasonable suspicion of using marijuana, this paper would address that; you would report to your superior that you had this prescription. There would be discipline for failure to report.

Director Williams asked if the employee manual spoke about rehabilitation; Mr. Neary said no; we have health insurance with those provisions, but this policy attempts to allow the employee to propose rehabilitation in lieu of discipline. If the General Manager found it appropriate the rehabilitation plan could be adopted and would take the place of probation; it would be on a case-by-case basis. There was no particular legal duty to provide rehabilitation for voluntary substance abuse.

Director Orth said if the process is confidential the Board won't even know it has been engaged, unless the employee requests an appeal to the Board. It was a personnel and medical issue and private. Director Williams asked about where the policy applied. Mr. Neary responded the definition of "premises" included all the property under District control; he would have to think about whether you could broaden it to be within District boundaries while under influence of a prohibited substance, that would be a broader application. Director Williams said he felt it only applied to when the employee was working, and if they're not working we weren't involved. Mr. Neary said to a certain extent that was true; an employee off premises and off work can ingest prohibited substances. However, this policy makes it a violation to show up for work that way. Director Williams noted the driver's test standard; Mr. Neary said this could be higher or lower as desired. Much discussion followed but it was settled on being lowered from .08 to .05. Director Orth said this was going to be negotiated with the employees. Mr. Neary said we would adopt the

policy subject to meeting with employees; employees do not have a veto on the matter, and an adopted policy would provide a clear foundation for discussion.

Chief Schoepner said regarding the firefighter endorsement, he contacted several County departments about their policies; they vary, but the end result is that it was hard enough to get volunteers. Mr. Neary said it wasn't going to apply to volunteers, just District employees. In this recent accident, Bob Nowlin called him to ask if he needed testing; he wanted to take some prescribed pain medication and was concerned that if he did and then had to take a drug test, he would have a problem. He felt if you do test, you have to test everyone. Mr. Neary said there was a reason to have this policy, for grants. Originally, we toyed with the idea of having all employees tested and that question might come up. The policy was less likely to be successfully challenged if it were limited to employees with interaction with the public health and safety issues. Somebody working at the water plant or driving a truck clearly affected public safety. Our office employees probably were less of a case to be made.

President Skezas said he was concerned about medical marijuana, saying he felt it was usually the last resort, not the first. It would seem that if someone were using medical marijuana they would be impaired on the job. They usually would have gone through a process, and if this were legitimate, they would have already tried other drugs for pain or whatever it is. Mr. Neary said that is how it works in theory but in practice a small portion of the County's population has a medical marijuana prescription. He felt as a practical matter it was a possibility that some of our employees have medical marijuana prescriptions and that is something we should know about. He said if they use it at night and the next morning it's out of their system, that's not something to be concerned about. They wouldn't be punished but would be taken out of those positions. Director Orth said it should be made clear that medical marijuana was included in the prescription drugs list. Mr. Melliush commented we have a very small work force, and that we don't have light duty types of work; they have to be water operators and use heavy equipment. Director Williams said if they can't do the work, they could get terminated, even if it's a prescription drug.

Bob Terry said if someone had migraine headaches they can't do their job; if they take the appropriate level of prescribed marijuana or any other drug, then maybe they are able to completely function as they should, so the balance must be drawn. Director Orth said the supervisor would make that judgment. Chief Schoepner asked how this affected him as a supervisor with patient privacy. Mr. Neary said this would be between him and his employee unless there was a workplace violation. Chief Schoepner asked if he would be violating their privacy and asked if this wasn't what the HEPA laws were about. Mr. Neary said it wouldn't apply. Chief Schoepner said he's not subject to knowing the employee's medical records, those are confidential. Mr. Neary said if you detect an employee or have it reported to you as smoking marijuana, you start a disciplinary process, major or minor. The first level would be what the reason was, and if they say they have a medical prescription, you want to know what the underlying cause was, and if the employee didn't want to tell you and you didn't have enough information, that might affect the discipline. Director Orth said it needed to go to the employees and undoubtedly we would hear back. Mr. Chapman said that's why he would have Mr. Neary with him to explain the policy.

8. Consideration of amendment of AES (Analytical Environmental Services) contract. Mr. Chapman reviewed the list of tasks AES needs to complete for the Rubber Spillway project. President Skezas was concerned that Task 6, a nesting survey, might delay progress if nesting species are found. Director Orth clarified that the survey looks for specific birds, not just any birds. Director Orth moved to extend and modify the AES contract for an additional \$50,000.00, to a total of \$160,960.00. Director Williams seconded. Roll call vote was as follows:

AYES:	Directors:	Williams, Ziady, Orth, Horrnick, Skezas
NOES:	Directors:	None
ABSENT:	Directors:	None

9. Consideration of abandonment of Thimbleberry Bridge grant. Mr. Chapman said he had briefly discussed the project with Director Ziady. There was no way to know if we were ever going to see any light at the end of the tunnel. Director Williams moved to authorize the General Manager to withdraw the grant application from further consideration. Director Horrnick seconded. Director Ziady said the Recreation Committee agreed to withdraw the grant; the encouragement was that the \$15,000.00 set up for match funds stay in the Recreation budget for projects. Mr. Chapman agreed. There was no input from the audience. The motion carried unanimously.

10. Consideration of agenda for September 15 Community Forum and question of canceling forum. Mr. Chapman said in the past he has talked about water projects at this meeting but felt this had been already addressed this year. Director Horrnick commented that few people attended last year and said it might be better to just have two September meetings. Director Orth moved to cancel the September 15 meeting; Director Ziady seconded. The motion carried unanimously. Discussion followed that we have the authority to call special meetings at any time.

J. ADDITIONS TO FUTURE AGENDAS

None.

K. SPECIAL REPORTS

From Directors: Director Ziady said the Greenbelt Committee has a new chair, Wallace Stahle. She was not sure when he was going to do the annual report if we're not going to have the Community Forum meeting. The Committee was going to consider participation and energy levels of current members and were hoping to recruit other members. She said she would continue as the Board representative. Director Williams asked if there had been any progress on the Ohl Grove fee schedule. Director Ziady said that had been dealt with and was in the hands of Mr. Chapman and would come to the Board. Mr. Melliush asked if a decision had been made on the buildings there. Director Ziady said it was discussed and they were leaning toward taking down two of the buildings and to shore up and save the third. People were going to look at the third building and at the next meeting they would consider a possible recommendation that all of the buildings come down.

Director Orth reported on the Willits Bypass. CalTrans has started its acquisition process. There was a project development team meeting two weeks ago. He referred to the gateway interchange shown on the drawings distributed to directors. This was a two-lane interchange with a roundabout servicing a county road which would be dead-ended at the railroad tracks. This will allow County engineers to design a second access road which will feed into that point. He said he was very happy with what we got for Brooktrails, although Willits was very unhappy it didn't get a Route 20 interchange, although we've been told since the beginning that couldn't happen due to wetlands impacts and other factors. He felt that Brooktrails made a good argument that it represented the core of many of the traffic problems in Willits. The big news was that CalTrans would now acquire full four-lane rights of way. The acquisition process should take two years. Director Williams said he felt roundabouts were a good idea and they work.

From District Counsel: None.

From General Manager: Mr. Chapman reported that we will be spending about \$12,000.00 - \$14,000.00 for rocks (and a replacement 18" culvert) to repair a landslide by Fawn Lily Trail. At risk was our sewer system pipes. This problem had been brought to his attention by Scott Harris of CF&G. In other news he and Robert Melliush would be meeting with Mark Vogel and a lift station specialist on the Madrone Lift Station project. Moreover, we have not gotten a lot of response on the duplex letters and have sent more letters out; the only estimate right now is about \$4,000.00 for a duplex. Director Orth asked about our water storage right now; Mr. Chapman said it is back from the dam about 40 feet now. Mr. Melliush said Lake Emily was going down but Ada Rose was still full. Mr. Chapman said he'd like to thank the community somehow in the paper for their conservation efforts. However, the down side of that statement was that our revenue for tier usage was hurting. Mr. Melliush also said that when people conserve, the percentage of water lost from the system goes up. Mr. Chapman commented that we are investigating some outside leak detection firms. Lastly, Director Williams asked about the high-efficiency toilet rebate program, and asked what the conclusion was about the advisability of this for Brooktrails. Mr. Chapman pointed out the statistics on Santa Rosa's customers, which gives them a large economy of scale; it's not that the idea's not good, but how do we come up with the money, and we don't have enough in the budget for something like this right now.

L. PUBLIC COMMENTS

An audience member asked about evacuations. Mr. Chapman said her issue was valid and that we hold an inter-agency meeting annually about this topic, in May. Director Orth suggested she familiarize herself with the Sherwood Road exit route both north and south. He said every evacuation will be a dynamic situation; it is unlikely a total evacuation all at once will be called. Director Ziady commented about brush clearing done on some of the roads this year (Ridge Road).

Patricia Comell said someone wanted to help the Wild Turkey Club with their trails.

M. ADJOURNMENT

Director Orth moved to adjourn; President Skezas declared the meeting of August 28, 2007 closed at 8:54 p.m.

GEORGE SKEZAS, President

ATTEST:

MICHAEL V. CHAPMAN