

**BROOKTRAILS TOWNSHIP COMMUNITY SERVICESDISTRICT**  
**BOARD OF DIRECTORS**  
**Tuesday, January 9, 2007**

The Board of Directors of Brooktrails Township Community Services District met in regular session on January 9, 2007 at 7:00 p.m. at the Brooktrails Community Center.

**A. PLEDGE OF ALLEGIANCE**

**B. ROLL CALL**

Roll call showed the following directors present: Ziady, Orth, Horrick and Skezas. Also present was General Manager Chapman. District Counsel Neary and Director Williams arrived at 7:05 p.m.

**REPORT ON CLOSED SESSION**

None.

**C. ADDITIONS/ADJUSTMENTS TO THE AGENDA**

None.

**D. MINUTES OF PREVIOUS MEETINGS**

1. December 12, 2006. Director Orth requested that on page 2744, 3rd sentence of 5th full paragraph, the last word should be changed to "access." Director Orth moved to approve the minutes as so amended; Director Ziady seconded. The motion carried unanimously.

**E. SPECIAL PRESENTATION**

None.

**F. PUBLIC HEARING**

2. Proposed rates for garbage collection and recycling – Solid Waste of Willits. Director Horrick left the table due to his working with the County Tax Assessor's Office. General Manager Chapman reviewed the proposed annual rates that included a 3.82% increase (tipping charges and a COLA). The rates would become effective February 1, 2007. President Skezas opened the public hearing at 7:03 p.m. There were no comments. President Skezas closed the public hearing at 7:05 p.m.

**G. PUBLIC COMMENTS**

Gerry Ward said that Christmas trees could be brought to the Transfer Station free of charge. He said during December 6 – 12th they did an appliance amnesty program to collect dishwashers, refrigerators, etc. from the entire area.

**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 December 27, 2006 second check. Director Orth moved to retroactively approve the second check run; Director Horrick seconded and the motion carried unanimously.

**I. ACTION AGENDA**

5. Appeal of Construction Rate – John & Patricia Ford. General Manager Chapman explained the situation to the Board. He asked staff to send a courtesy letter to all people being charged construction rates in October 2007. The Fords responded. They then received a refund of approximately half of the overpayment and were appealing to the Board for the full refund amount. Patricia Ford said they assumed the builder would follow through with his responsibilities, and they did not understand the format of the bill and did not think of the bill was too high. Director Williams asked if the items listed in the July 24, 2003 letter from the District Architect to the builder were finished. Mrs. Ford said they weren't entirely. However, Mr. Chapman said the property was signed off on by Bob Axt but there was unresolved debate as to when this happened. Mrs. Ford said she had a letter from the Architect signing off with her. Director Williams said he took it there was a County signoff and Mr. Chapman confirmed there was, but at the time Bob Axt had not signed off due to the items in his letter that needed to be done. Mr. Chapman noted that policy now does not allow the contractor to be the applicant. Director Williams said that wouldn't have affected this situation because the contractor was then in fact the owner. He noted a handwritten comment on the letter that a copy had been sent to the new owners [the Fords]. Mr. Chapman confirmed this and said according to Elizabeth Simpson there had been no response. Director Williams said he was concerned about our follow-up when no one got back to us, and asked why there was a separate construction rate. Mr. Chapman explained that we have the construction rate to try to help get the building process finished so that someone will try to get back to our regular rate. Director Orth said the only power of enforcement we had was through the water rates.

Director Orth moved to give a full rebate to the Fords on the next check run; Director Horrick seconded. Director Williams said he was voting in favor; he said the construction rate didn't trigger action in this case because the owners didn't know, and the builder had already walked away. He said if someone can be satisfied with not finishing their house and continued to pay the construction rate, that did not do us much good, so we need some follow-up built into this. Director Ziady concurred and said we should have a checklist that the County has signed off, Bob Axt has signed off, and the construction rate has been removed. The motion carried unanimously.

6. Consideration of resolution approving Solid Waste of Willits rate increases effective February 1, 2007. Director Horrick left the table and District Counsel Neary explained to Director Williams the conflict of interest procedure. Director Orth moved to adopt Resolution 2007-1 setting the new rates; Director Ziady seconded. Director Williams asked about the insert that reduces a 35-gallon can to a 20-gallon can and about every-other-week pickup and Mr. Ward explained. Roll call vote was as follows:

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

7. First discussion of water rationing program for Summer 2007. General Manager Chapman explained the initial concept for the water rationing program, to begin when we start our Rubber Spillway project next August 2007. He found our prior ordinance to be unworkable. The new concept included: We would have the Board set a maximum objective amount of gallons per month based on the supply available (our preliminary estimate is 5,000 gallons/month). We would then monitor consumption with the our crews reading meters twice a month. We will need the power of a Water Referee to shut off a violator immediately, and a panel of five for a very quick appeal process. He was asking the Board to endorse the overall concept at this meeting and provide comments; the bring back the matter in a month.

Mr. Chapman then explained that he and Bruce Burton from the Department of Health Services have had several discussions about a workable program. Mr. Burton said it should be simple; he wanted the Water Referee to be held accountable to the State for the program working; and he said you had to reverse engineer the allocation amount needed (that is, starting with December and working backwards to August). Mr. Burton had said the Water Referee must have good judgment and have the ability to actually shut someone down in egregious cases. Mr. Burton further thought 5,000 gallons was a reasonable amount for health and safety needs, and said his department would back us up because it was a short-term situation with a long-term solution for existing customers.

Mr. Chapman then explained the panel process. The Water Panel needed enough power to make their decisions stick. Problems with the Brown Act posting requirements would slow down the process, unless the Board decided it wants to meet frequently in August. He asked if an outreach program should be done for large families or medical conditions. He said he would not want to publicize that a family of a certain size would get a certain amount, because then everyone would want that amount, and because we don't know yet how much water we will actually have August 2007.

Director Orth said he would like to see us develop a water bank. He used the example of someone using 3,000 gallons instead of the allowed 5,000, in which case you've just banked 2,000 gallons. He said he wished we had a laundry service we could offer those families, along with providing raw water. He said these were the kinds of things we could develop over the next few months.

Director Ziady questioned the handling of large families. She said if we give them extra water, you have to make sure somebody else isn't using it. She asked if Bruce Burton had experience with other communities in moratorium and how the process had been done. Mr. Chapman discussed briefly the East Bay MUD and their rationing program. Comments were made by directors that we should find and follow the example of other entities who have done this before us.

Director Ziady said she thought the Water Referee should be the General Manager because he could work the fastest, but asked if he should be on the appeals board. She felt that the Board was going to have to bite the bullet and have a lot of meetings. She said that we are going to have to have some guidelines for a variance and definitions, so she would like to see what another community has done. She said the water banking sounded nice but she was a little leery of it. Mr. Chapman responded he wanted to go down the path of something we can enforce; we have only 4-5 crew employees and it takes an employee 2-1/2 days to just read 1,500 meters. Director Williams thought we should make a temporary hire; he said we might be adding something that could be overwhelming.

The dialog turned to the water bank. Director Williams said he understood Director Orth to be saying we wanted to average 5,000 gallons per month for the community; if at the end of a period we've averaged 4,000, we had 1,000 gallons per household we could use against unexpected loss in the future, or we can start shifting it around. Director Orth said he would rather we take 20% off the top and bank it for the last month, and it would only be available to people already processed and who have a reasonable appeal. He said even before that first two week period we should have been able to identify some of those large families and tell them.

The Board meeting frequently as the appeals panel was discussed. Mr. Chapman said it would be at least twice a week in August. Timely posting to satisfy the Brown Act could be a problem with unscheduled meetings. Director Williams asked if we could get some sort of holding or letter of authorization from the Attorney General's office as to how the Brown Act would apply. District Counsel

Neary said you could have emergency meetings and we could probably set the program up so that if you did have to terminate service, that termination would occur on a set day of the week which would be keyed into 24-hour notice for the majority of the Board to meet. He said there might be a problem with having the Board delegate its authority to the appeal board; because customers always have the right of appeal. He suggested that the General Manager be the single-person appeals board and then have a Water Referee and somebody else designated to challenge too much generosity on the General Manager's part to the Board. Since his decisions should be appealable to the Board, someone else would need to be the person making cutoff decisions.

Director Ziady asked what happened to the people with their water cut off. Mr. Chapman said this happens regularly because people don't pay their water bills. He said for the sake of argument, reasonable judgment meant that if you were using 5,100 gallons instead of 5,000, we probably would have the customer sign a form saying they would come into compliance the next cycle, whereas if somebody uses 10,000, we would simply shut them off. Typically, he said, he was fairly in tune with what was going on out there. He said Robert Melliush declined to be on the panel because he would be the person given orders to shut off water accounts.

Director Williams asked if there were a statutory scheme that dictated any part of what we are proposing. District Counsel Neary said under the Water Code the Board of Directors had wide discretion after making a Declaration of Emergency Water Shortage. Director Williams was a little bit concerned about getting sued for cutting someone's water off for using over 5,000 gallons; he questioned individual liability. Director Williams said he understood the water referee and appeals panel were not dictated by the law; Mr. Chapman said yes. So, Director Williams continued, we're going to invent this. Mr. Chapman agreed, but for a very short period of time and backing of DHS.

Director Williams said it's one thing to declare an emergency when something compels you to, but we are voluntarily incurring the emergency and asked if that changed anything; District Counsel Neary said no. Director Williams said he would like an opinion from Board Counsel to that effect and would also like to know if anyone else has done this. He asked if DHS had the ability to tell us we're doing it wrong. Mr. Chapman said Mr. Burton would do whatever was required of their department to make sure this program worked.

Regarding Counsel Neary's comment about a water referee coming to the general manager, Mr. Chapman suggested that instead he go to District Counsel and ask if his decision was reasonable or not. Director Williams said that the person on the ground making the decisions, if it's either the General Manager or District Counsel, they are already working full-time. He said he would love to see it be a retired judge or water engineer. He felt if the directors could stay out of that decision, the better. He believed it was a bad idea to have the General Manager making the decision to cut off the water. Mr. Chapman responded it had to be someone who knows the dynamics of the lakes and water model estimates.

Director Ziady said she understood the logic of hiring a referee, but we were put in this office to make these decisions; you serve the public even when they're throwing tomatoes. She said she felt there was an obligation on the elected officials, rather than hiring somebody. She felt the Board was competent and capable of doing this, and said it is miserable and hard, but there is an overriding public health decision and that's what you get elected for.

Director Horrick said he liked Director Orth's comments about a water bank; it would be tough for a lot of our residents to retrain on how to use water and we will have people still using over 5,000 gallons. He asked how many we have right now. Mr. Chapman said one-third was over 5,000 gallons in November. Director Williams said he felt the approach was to say 5,000 per household and have them come to us and identify their need for more. Director Orth said we could set up a community garden with a water tank with well water and allow people to grow their own vegetables. Director Williams said that was a very good idea.

President Skezas asked why we had to drop the lake on August 1. Mr. Chapman responded the work crews could not work in mud around the spillway area. President Skezas asked when the first time would be when we can turn off someone's water; Mr. Chapman said we might do it on the 10th or 11th if we knew of someone using a huge amount. President Skezas said we needed a calendar of events. He said he wouldn't support turning someone off after only 10 days. Director Orth said he felt President Skezas wanted to make sure Mr. Chapman wouldn't be turning off the smaller over-users right away, but only the huge over-users. President Skezas said his point was you're not going to have a whole month so you're going to have to pro-rate: 5,000 is for a month. More discussion followed about exactly how many days would be involved between readings the first month. Director Orth said his understanding was that in the first 30-day period you'd be going after the biggest users, and then get more conservative the farther you go, as long as the water bank average is still good. President Skezas said he'd like to see a timeline for the construction and when we can allow the lake to start rising due to rains, or whether we have to keep the lake level down. The subject then turned back to the discussion about possible candidates for the water referee, as well as a calendar schedule for which the Board should meet in August 2007.

Robert Terry said in response to the comment about creating an emergency (Director Williams), an emergency was placed upon us three years ago. He said whether after a shutoff, the meter would be turned back on for the next period. Mr. Chapman said you always have to give them the right to appeal, every time. He said we're not trying to punish people but to get them to realign their water habits; they would have to sign a form saying they were going to come into compliance. Director Williams said the other part of his question is, if you get shut off, what do you do to get turned back on? He said this was a procedure that had to be put down in writing so everybody knows what the rules are.

Robert Melluish said if any rain comes he would just transfer it to the other lake, assuming it isn't full. Director Orth said we should look for a raw water source for Lake Ada Rose as the final mechanism to maintain enough water for the allocations. Mr. Melluish said DHS will not allow us to run out, we have an obligation to at least look. He continued with the idea of a banking system could work but he believed you would have to give people an incentive to conserve less than 5,000. Director Williams said people using less than 5,000 should get a break on their bill. Mr. Chapman said we could set up a temporary situation whereby we would not charge for Tier 1 usage if they stayed under a target (say 4,000 or 5,000); they would just pay the base rate.

The subject turned to water restrictors. Director Williams said a restrictor would be a condition to allow them to still get water. Mr. Melluish said one can be installed. Mr. Melluish said a restrictor would give us grace room. Director Orth said it could take care of 80% of the cases not going to shutoff. Mr. Melluish said he could experiment; Mr. Chapman said they would research it.

The audience member asked how you tell someone they can't grow prescription marijuana when the state says they can. A short discussion followed. The audience member asked if we could have the sheriff at the next meeting. Mr. Chapman said we have other presentations scheduled for the next two months, but we could do this after them.

8. Consideration of resolution replacing Resolution 2006-39 (water supply projects). General Manager Chapman said that after reading the minutes from the last meeting, he wanted to totally separate the rubber spillway project from the expansion projects. He felt that the language in the December resolution was ambiguous enough that it clouded that issue; the conclusion could lead for us to do a full EIR. He wanted it for the record that the rubber spillway project scheduled for 2007 was a stand-alone project. He clarified the italicized language showing the needed correction, and naming the projects as the Lake Emily and Lake Ada Rose Expansion projects. Director Williams moved to adopt Resolution 2007-2 as set forth in Attachment A to the staff report; Director Orth seconded.

District Counsel Neary said he didn't get that in his packet and proceeded to read the materials. He asked why using the word "expansion" would be less of a cumulative effect; he said all we're doing here is replacing the word "expansion" for "improvement." Mr. Chapman said the concept of the two reservoirs was expanding them in size. Director Orth said the rubber dam was an improvement and not an expansion. Mr. Chapman said he didn't think that the term "spillway" should be included. Mr. Neary said the issue was whether you'd do the rubber spillway project if you didn't do the other projects. Mr. Chapman said yes. Mr. Neary said he felt using the term "expansion" sounded like more of a cumulative impact. Director Horrick asked if there were any rush and if this could come back to the Board. Mr. Chapman said we needed to get this stuff eventually off to Jan Goldsmith, our attorney in Sacramento. President Skezas asked if the word "spillway raising" referred to the rubber dam project or to raising the spillway 15 feet. Mr. Chapman said he wasn't sure, due to the ambiguity. He further added that this was the language added by Bob Whitney at the last meeting. Director Orth said he wanted to defer. District Counsel Neary said he wrote the original resolution and he intended it to refer to the cumulative projects. General Manager Chapman said that Bob Whitney had wanted the words "and spillway" added. Director Orth said he didn't think this was covering all of the concerns that were out there and it should come back to the Board.

9. Consideration of \$100,000.00 RCAC bridge loan (rubber spillway). General Manager Chapman said that RCAC (Rural Community Assistance Corp.) does bridge loans for USDA-financed projects. We had such a loan from RCAC for our wells program three years ago, but we would like to switch this loan to pertain to the rubber spillway project. RCAC has modified our agreement to reflect that and the matter was now before the Board to adopt the authorizing resolution. We needed to have the \$100,000.00 down payment for the rubber spillway by January 31, even though we don't have all of our dam permits yet. But we still need to get the gates ordered and manufactured in time for the summer project. The RCAC bridge loan would be a one-year note; when we are funded by USDA it would be repaid from those proceeds.

Mr. Chapman noted that we still didn't have our letter of conditions from USDA; once that is received it will trigger a whole series of events to be carried out right away by the Board. Director Orth moved to adopt Resolution 2007-2 authorizing procuring a \$100,000.00 bridge loan from RCAC and authorizing the General Manager to execute any necessary documents; Director Williams seconded. President Skezas said his only concern was that a year from now we might have to pay the \$100,000.00 back from our pocket if the project is delayed. General Manager Chapman clarified that we are buying the gates for \$300,000.00; Greg Aanestad of USDA said that if we were delayed, we should go back to RCAC and make the loan amount \$300,000.00, to be repaid the following year. Roll call vote was as follows:

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

10. Review of meeting schedule for 2007; schedule annual planning and budget meetings; approve agenda for planning meeting. The directors agreed to the regular meeting schedule as listed, with the planning meeting scheduled for March 17 and the budget meeting on April 14. Whether to have a community forum meeting was discussed. Director Williams suggested scheduling it and canceling it if we decide it was not needed. The date was set for September 15.

Director Orth said we will probably have at least two meetings in August. General Manager Chapman commented there will be one regular meeting and probably several emergency meetings for the

rationing appeals. Director Williams said this is unless we go with scheduled appeals meetings. Director Orth moved to approve the schedule as discussed; Director Horrick seconded; the motion carried unanimously.

**J. ADDITIONS TO FUTURE AGENDAS**

None.

**K. SPECIAL REPORTS**

**From Directors:** Director Orth said he and Director Williams had both been at a WELL meeting regarding bypass funding the previous evening. Director Orth said he had attended the MCOG meeting on the Willits bypass recommendation for funding to CalTrans, and he handed out to the directors a paper he had distributed there. The application for \$177 million has been forwarded; CalTrans has submitted their application for \$150 million.

**From District Counsel:** None.

**From General Manager:** General Manager Chapman reported that he had attended the funeral of John Hanson, our lead engineer for the rubber spillway project. He would be meeting with the District Engineer for the Regional Water Quality Control Board regarding our satellite sewer system on Friday. We mentioned that we were having more difficulties with the Thimbleberry Bridge requirements because of the formal NEPA requirements, of which we were not informed in the original grant process (and for which we have not budgeted). We will try to use the AES document as best we can to satisfy this requirement, but such documents must be prepared by a qualified biologist.

**L. PUBLIC COMMENTS**

None.

**M. ADJOURNMENT**

Director Horrick moved to adjourn, and President Skezas declared the meeting of January 9, 2007 closed at 9:23 p.m.

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GEORGE SKEZAS, President

ATTEST:

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MICHAEL V. CHAPMAN