

**BROOKTRAILS TOWNSHIP COMMUNITY SERVICES DISTRICT**  
**BOARD OF DIRECTORS**  
**Tuesday, June 12, 2007**

The Board of Directors of Brooktrails Township Community Services District met in regular session on June 12, 2007 at 7:03 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 was General Manager Chapman. District Counsel Neary arrived at 7:05 p.m.

**REPORT ON CLOSED SESSION**

None.

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

None.

**D. MINUTES OF PREVIOUS MEETINGS**

1. May 22, 2007. Director Orth moved to approve the minutes; Director Williams seconded and the motion carried unanimously.

**E. SPECIAL PRESENTATION**

None.

**F. PUBLIC HEARINGS**

2. First Public Hearing on Proposed Rates & Fees for Fiscal Year 2007-08. General Manager Chapman commented that the request was to change the water monthly base rate to \$32.45 and the sewer monthly base rate to \$30.07. Notice of the proposed changes was mailed to the water customers. President Skezas opened the public hearing at 7:02 p.m. There being no comment, he closed the public hearing at 7:04 p.m.

3. Public Hearing on Proposed Budget for Fiscal Year 2007-08. General Manager Chapman clarified the reserve funds available for Recreation for Director Ziady. He said he also felt comfortable having the District take over one-half the costs for the Community Center this year. He noted a \$75,000.00 transfer between the General Fund and the Fire Department, and of that amount \$30,000.00 would transfer through to the Water Enterprise Fund to pay for past borrowings. The May 31, 2007 cash position was \$197,000.00. If the Fire Department were able to obtain a grant for a water tender, the District would definitely come up with the matching funds. President Skezas opened the public hearing at 7:09 p.m. There being no comments, he closed the public hearing at 7:10 p.m.

**G. PUBLIC COMMENTS**

None.

**H. CONSENT CALENDAR**

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

5. Retroactive Approval of Herman D3 exam fee - \$100.00. Director Orth moved to retroactively approve the check for \$100.00; Director Williams seconded. The motion carried unanimously.

**I. ACTION AGENDA**

6. Proposed Budget modifications for Fiscal Year 2007-08. General Manager Chapman asked for questions on the revisions to the budget. Director Orth moved to approve the changes. It was clarified that approval would occur at the next meeting.

7. Policy discussion regarding the removal of dangerous trees. General Manager Chapman said he would like to listen and take notes from the Board about what to do about our tree issues. Fire Chief Daryl Schoepner said there was no particular ordinance regarding the removal of trees or clear-cutting of lots. When the Fire Department finds out that somebody has cut trees without permission, there simply are no penalties for this illegal activity. Many times residents are doing it to obtain a view or to get firewood. The Chief continued that the Fire Department currently can sign off on a tree's removal for its being dead, dying

or hazardous; however, neither he nor Capt. Noyer are arborists and they meet opposition from property owners. There is no policy set by the Board on how to deal with that. Other issues are that when the Fire Department has authorized removal of one tree, they return later to find three or four trees taken out. Bob Axt, our District Architect, charges a fee for a tree removal permit and the Fire Department doesn't. There is also no particular policy about hazardous trees in the greenbelt. The Fire Department has noticed a lot more people buying houses, building fences and clear cutting behind them and the assumption is that these are marijuana growers. Lastly Chief Schoeppner suggested we should go to one designated person and we should charge a fee.

Director Orth said we need an ordinance to handle tree issues and it should be fee-based so the program pays for itself, and gives you the level of enforceability and says who should do the enforcing. Chief Schoeppner said in Marin County a local government recently proposed a tree removal process, and the fine for violating was \$1,500.00 a tree. Director Orth said that the ordinance should say no cutting allowed without a permit, including dead or dying trees. He said there should be a hierarchy of trees for removal, from undesirable to desirable native species. He said we probably don't care if some of the junk species are cut or not, regardless of their diameter.

Chief Schoeppner said we do have a permit process, and we do qualify them based on the species. Director Horrick commented about spacing between trees. Director Ziady said staff should research other policies; she said she didn't think the Fire Department could be taken entirely out of the picture. But there could be a fee for both hazardous or firewood removal. She said the tracking software could be used for this too.

Director Williams said he was a bit surprised to hear we've had a permit process for years with no enforcement. District Counsel Neary confirmed for him that there were no County rules regarding trees. Director Williams asked if we have the right to enforce. Mr. Neary said that the District can only exercise those powers delegated to it or necessarily implied to carry out its powers. But specifically the District does not have police power on this matter. That is delegated to the State and counties. Sometimes a county or city can delegate some of its powers to a District, such as occurred several times in Brooktrails history. Our development ordinance is essentially a County ordinance that we proposed and the County adopted, affecting only Brooktrails. To the extent that we run into any serious question about whether we have the enforcement authority, unless we can point to some statute that says an entity may enact an ordinance and provide for its enforcement, as there is for a hazard abatement order, it's really questionable. If we fine someone, he said, someone will eventually question the authority. Director Williams said in Sonoma County they're putting people in jail for cutting down trees, so the authority must be there somewhere.

District Counsel Neary said we really don't have that authority, and the solution is, we can go to the County and propose an ordinance with limited application to Brooktrails. He said regarding the development ordinance, it would be easier to amend the development ordinance. Mr. Neary said he recalled there are some provisions directly relating to preservation and that would be the place to start. He said amending the Specific Plan is not an easy process but you can amend it.

Director Williams asked how enthusiastic the residents would be to having an enforceable ordinance with respect to preservation and removal of trees. Mr. Neary said the CC&Rs were pretty strict for the first 20 years of Brooktrails. Mr. Chapman said he felt there would be a lot of support for prohibiting tree cutting (other than tan oaks) because people like redwoods and madrones.

Chief Schoeppner said they get people who will call about a tree on a lot next door to them and ask the Fire Department to order it removed. This is a \$1,000.00 cost to the property owner. He said a neighbor might want this done because they think the tree is ugly, and this pits the Fire Department against the residents and property owners.

Mr. Neary said perhaps the notion should be that before the Chief has to deal with it, he require the property owner to obtain an opinion from a qualified source, a tree removal firm or arborist, that the tree is hazardous, to back up their claim. Director Williams asked why the Fire Department was involved at all and why they weren't calling the General Manager. Discussion followed that it was connected to abatement and to public safety. Director Williams said if it did not have anything to do with fire safety or fire abatement it was not their job. Director Williams said the Fire Department should refer them to the General Manager's office unless it's a fire issue. Director Ziady voiced it was a safety issue and you needed an ordinance.

Chief Schoeppner asked District Counsel if he was liable if he went out and said a tree looked alive to him but it falls and crushes someone. Mr. Neary said he was not liable for exercising a discretionary decision in the course of his authority, even if he is wrong. He said it just underscored how important it was to clearly define the line of authority. Director Williams said there was clear law on respective responsibility of adjoining property owners regarding trees. He said his preference would be for the General Manager to tell such callers to get in touch with the adjoining property owner. He said the only basis upon which we can do it is if we have an expert who will tell us if the tree will fall down, because this gives us substantial protection if he is wrong.

President Skezas said he believed the consensus of the Board was to develop an ordinance that we could take to the County.

8. Continuation of discussion – multiplexes served by one water connection. At a previous meeting the Board had asked the Manager to return with the costs for the District to actually place these meters in. Mr. Chapman advised that it will cost \$1,130.00 materials and labor for the sixplex, and provided a chart of costs for the different types. He said we would provide notice to the affected owners before any hearing. He referred the directors to the letter from District Counsel saying we had the ability to require them to do this, and this is also for rationing purposes.

Director Ziady said she felt the costs listed to the District would be bearable and she agreed with Mr. Neary's suggestion that we should find out what the cost to the property owner would be. Director Orth asked if we would be willing to make payment plans; Mr. Chapman said we could do that easily.

Director Williams asked what the water connection fee was; Mr. Chapman said currently \$6,200.00 and clarified this included a meter. Director Williams asked what connection fees the sixplex paid when it was built. Mr. Chapman didn't know when it was built. Mr. Neary said that prior to 1993 when they adopted the ordinance, they probably just paid for one connection; after 1993, he continued, a multiplex presumably was required to pay per connection. President Skezas said we could find out how many multiplexes were built after the date; those would have been required to pay all the connection fees. Director Orth said we should automatically add a second 120-day period to the initial 120-day period for compliance and if they didn't do it by then, then it would take Board action to allow them to continue. President Skezas further suggested that the discontinuance of service be added for any violation, instead of just the nonpayment clause as it stands now.

Bob Terry asked why they couldn't put the meter closer to the building. Mr. Chapman said it's typically placed at curbside as this makes it simple to determine on whose side a leak is. Director Williams said if you give the property owners the choice of where to put the meter, then it's their responsibility. Mr. Chapman said there were other concerns, such as dogs and driveways, etc. He asked whether the Board wanted our guys to be venturing on to someone's property. Director Orth said you could make an allowance for a non-standard installation if they pay the additional cost, which would include a radio meter, which we already have. Mr. Chapman said the only exception we've had to the rule in 37 years were a few of those meters at the Lodge, but this is going to be a real problem for the District some day because we're going to get into arguing about whose water line it is. It's real easy when it's at curbside, but if it's up against someone's building, that's going to be different. Director Orth asked if these couldn't be negotiated individually. Director Williams said you could have a contract where it is non-standard but nevertheless the property owner would have the responsibility. Mr. Chapman asked how staff is supposed to know about the all of the exceptions in 20 years. Director Ziady voiced it would be nice to have Robert Melliush present before finishing the matter. Mr. Chapman said there would be at least one more preliminary before getting the public involved.

9. Vote for LAFCO Special District Representative – District Nominee Tony Orth. Director Williams moved to vote for Tony Orth for the LAFCO seat. Director Ziady seconded. Roll call vote was as follows:

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

**J. ADDITIONS TO FUTURE AGENDAS**

None.

**K. SPECIAL REPORTS**

**From Directors:** Director Orth said he talked to Phil Dow (MCOG) and the bypass was funded for Phase 1, with one mile of four lane at the south and north ends of town and two lane elsewhere. He believed we will have an interchange at the north end as well. Director Williams asked what happens to the rest of the money. Director Orth said there's a cutback on the mitigation and some will be reserved for coming back later. He said by law they do have to come back because this is a four-lane project and they are required to build a four-lane project by their federal funders. Director Williams posed a question about trespassers in the greenbelt, saying he assumed no one has authority to cut down trees there unless they had permission, and asked what the consequences would be. The discussion turned to encroachment permits.

**From District Counsel:** Mr. Neary said we had closing arguments on Friday in the Crothers case and we will have an answer from the judge within 90 days. Also, he and the General Manager are starting work on an employee drug policy.

**From General Manager:** General Manager Chapman described the postponement of actual construction of the rubber spillway project until next year, with financing proceeding to completion this year. As to water supply, we are better off this year than we were at this time last year, with less usage. He clarified for Director Williams that both earthwork and actual rubber spillway construction would be done next year. He also advised that he was applying for \$20 million in a CDHS grant under which, for the first time, water storage is eligible for financing.

**L. PUBLIC COMMENTS**

None.

**M. ADJOURNMENT**

Director Horrick moved to adjourn; President Skezas declared the meeting of June 12, 2007 closed at 8:10 p.m.

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GEORGE SKEZAS, President

ATTEST:

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MICHAEL V. CHAPMAN