

**BROOKTRAILS TOWNSHIP COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS
Monday, February 11, 2008**

The Board of Directors of Brooktrails Township Community Services District met in regular session on February 11, 2008 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

District Counsel Neary reported that the Board met on four items. The first is existing litigation, Paland v. Brooktrails; the Board conferred with counsel and gave direction. The second, Crothers v. Brooktrails, was earlier resolved by final judgment, but to resolve a potential appeal, the Board authorized a settlement payment of \$11,130.24 for a complete release in that litigation. The third item was one case of anticipated litigation; the Board authorized a qualified appraiser to appraise the property that is the subject of the anticipated litigation. The last item, eminent domain proceedings, involved the Board receiving information and giving direction on five matters.

C. ADDITIONS/ADJUSTMENTS TO THE AGENDA

None.

D. MINUTES OF PREVIOUS MEETINGS

1. January 22, 2008. Director Orth moved to approve the minutes; Director Horrick seconded and the motion carried unanimously.

E. SPECIAL PRESENTATION

None.

F. PUBLIC HEARINGS

None.

G. PUBLIC COMMENTS

None.

H. CONSENT CALENDAR

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

I. ACTION AGENDA

3. Appeal of multiplex meter requirement – Steve & Shadna Cameron. Mr. Chapman introduced the matter, regarding the duplex at 28215 Poppy Drive. He pointed out the letter transmitting the Board directive that two meters should be installed at this location. He had spoken with Frank Lynch, Senior County Planner (County Planning & Building Services), who said that to convert this duplex to a single-family residence (with one meter), you would have to tear out the center wall and the second kitchen.

Steve Cameron said he had talked to Mr. Lynch and his take on that was that it could stay zoned R-2 and still have two units, or a granny unit. The County describes a duplex as a unit with two kitchens. He said they are not using their duplex as a duplex, for the past five years. His wife's parents are using the other unit. It is a two-story duplex and there is no separate plumbing in the other unit. He reiterated they do not use it as a duplex and do not intend to. He said he went along with paying two base rates on the sewage because they bought it that way. He had not had a plumbing quote but had received the idea that it would be very expensive to retrofit. He asked if this were a case-by-case situation; Director Orth said yes. Mr. Cameron said Mr. Chapman's statement in his report that he would be establishing a precedent was wrong. Mr. Chapman suggested otherwise — he had to take issue with that because they had to treat everyone the same. Mr. Cameron said in 2003 they passed a granny flat law in California that allows him to have that second kitchen. Mr. Chapman said that is the year that the District passed its Ordinance 116 prohibiting granny units.

Director Williams said he felt they were coming at this from the wrong direction. He said Mr. Cameron was not using it like a duplex in that he did not rent it out, but was using it as a duplex in that his parents are living in an independent living unit. Mr. Cameron confirmed that the only connection between

the two units was an outside stairway. He said, referring to point 2 of the staff report, that he did use the duplex as a rental unit for the first two years of ownership, because they honored the rental agreement with the tenant then in place.

Mr. Chapman asked what the Board's position was on paragraph 3 of his report, regarding exemptions creating future problems. Director Orth said we do have to do it on a case-by-case basis and he would like to keep a book detailing all exceptions (findings) we give out. Mr. Neary said you have an ordinance and you recognize that it is designed in bright lines so it can be enforced. Unfortunately something done in the early '80s, everyone having their own meter, was not enforced. Now that the rationing and base rates issues have surfaced, they have created a reason to go back and enforce the issue. You can't arbitrarily exempt some people from the application of the ordinance which requires other people to comply. But the reason is not because it creates precedent—when you identify a reason for exemption from the ordinance, and it is justified, then granting such relief is not a reason for somebody else to come in and say, well you gave it to them. In a case like this, there are ways you could probably consider an exemption, but you don't want to do it without specific findings for guidance.

Director Orth asked if those findings would also trigger requirements; Mr. Neary said yes, you can impose conditions via the deed. He said he would try to think this through, and it would also have to address the other two issues: one being some sort of agreement that there would be special rules applying to this property in times of conservation; he would also probably have to consider the base rates. He said you probably could fashion something that would protect the District's interests.

Mr. Chapman added that we are in a moratorium; he had clearance from Bruce Burton (DHS) for these conversions. But if someone down the line came and said we want to convert it back to a duplex, you can't get the meter unless we are out of the moratorium and you pay the connection fees. Our hands are tied by DHS at this point. Mr. Neary summarized we would need a deed restriction that would require its use in current fashion, address the issue of base rate equity and address the issue of what would be done under the moratorium, and require that at sale, before water service is established, that they get certification as to use.

Director Williams asked, if we did a deed restriction, who in our office would realize when notice comes through that this property is sold that something is supposed to happen. Mr. Neary said you put a deed restriction that puts the buyer on notice that before they bought the property they'd have to come in to the District. What if, he asked, Mr. Cameron changed his mind, his parents move out, and he moved other people in. How would we ever find out? Comments were made that we wouldn't. Director Williams said we could say that he's supposed to tell us, but if he doesn't, what are the consequences. Further discussion ensued. Director Williams said we've done some of this stuff in anticipation that we may be on rationing for Summer 2008. Do we want his duplex for purposes of the rationing to be treated as a single-family residence for purposes of how much water it can use? Mr. Neary said you would count it as two. Director Williams said notwithstanding the fact that he doesn't want to change his plumbing, he thought Mr. Cameron was really asking for is to be treated as one, with a single meter. President Skezas said the usage numbers provided by Mr. Cameron exceed the limit, based on the numbers we were considering last year. Director Williams turned to Mr. Cameron and told him we are anticipating possible water rationing — if we were to treat his property as a single-family residence with just one water meter, then he would only be allowed as much water as a single-family residence, notwithstanding the fact that his guess was that two or three generations of family are using both kitchens, and probably the bathrooms, as though it were a duplex. If rationing occurred, you would have a water problem. Comments were made about their average usage at 6,000; Director Ziady told Mr. Cameron he could possibly be cut off. Mr. Cameron said if he went with the duplex, then he could get 10,000.

Mr. Melliush spoke from the audience and asked why, if Mr. Cameron genuinely wanted to go to a single-family residence, why wasn't he getting it rezoned and made into a single-family residence? Director Williams said we could treat it as a single-family residence for rationing as he wants. Mr. Melliush commented, as his family moves on, we will never know if someone is living in the other unit, paying rent. If it's a single-family residence, that problem doesn't occur. Director Williams replied about a deed restriction. If the property were sold, Mr. Melliush further commented, the other guy could continue it on as a single-family residence also. Director Williams said the buyer would have the potential to treat it as a single-family residence or duplex. Mr. Melliush said then we're right back to square one. Director Williams said Mr. Cameron should get a plumber's estimate and make a decision; there are problems both ways. President Skezas commented you had a duplex; whether you're renting out part of it or not wasn't the issue. He further stated it's not a single-family home in any sense of the word, and we have no way of tracking it as things change. Mr. Cameron said he wasn't prepared for any decision now; the granny law was something he had just discovered and he might have to seek some legal advice on that; he believed that he could in fact have that unit just the way it is and claim it as a granny unit. Director Williams said that wasn't the issue either; the real issue is how many meters you're going to have. In a rationing situation, the more meters you've got, the more water the property can use. He finalized that the District doesn't want to be in a position whereby we have to watch or police the exceptions, because we can't do that. Mr. Chapman said the usage chart showed 6,051 gallons a month and over 8,000 gallons a month (although a leak had occurred that month); he and President Skezas reiterated that Mr. Cameron would have been shut off for that usage in rationing.

Director Ziady commented about the future prospects for saleability of the property. Mr. Cameron said they weren't going anywhere and had been here since 1984. Director Horrick asked if we could install the meter. President Skezas asked if Mr. Cameron wanted to withdraw the appeal to get more information. Mr. Cameron said you're right, what if I did intend to sell this in the future, does it have more value as a duplex or as a home? Mr. Cameron said maybe there was a way the District could get its base rate and he could be happy in not having to plumb it yet. In the event of a sale that would be one of the stipulations, that he had to put the plumbing in. Director Ziady asked if he would be comfortable with drought restrictions. Mr. Cameron said he would be getting double so he was happy with that. Director Ziady said no, not if it wasn't hooked up. Discussion followed. Director Orth pointed out that R-1 houses on R-2 lots are still capable of building another unit on the lot. You can't take the zoning off without going through the planning process. Someone could come in and split the house and buy another meter once we're out of the moratorium. He said two meters with a deed restriction at time of sale or transfer would be the way to go.

District Counsel Neary said we shouldn't do an agreement here; he could draft something for consideration, and bring it back in future. It was agreed no action would be taken tonight and the matter would come back in March. Mr. Chapman said in the meantime we would place the second meter. Mr. Cameron said if you did that, then you've circumvented me; he said I'm telling you right now that if you tell me that I have to put in two meters, I am going to convert it and there would only be one meter there. District Counsel Neary said we have a pending request for relief so we could hold off on putting the next meter in; Directors agreed.

4. Annual Water Report. General Manager Chapman reported our production at the water plant dropped in 2007 from 236 gpd/customer to 214 gpd/customer. Our sold water also dropped, down to 151 gpd/customer, reflecting last summer's conservation. In 2007 we produced 117 million gallons. The 25% loss required some explanation. We had 35 water leaks in 2007 compared to 25 in 2006, reflecting that our pipes are getting old. He pointed out that we had placed three altitude valves, giving more supply for fire protection; we were two-thirds finished converting our SCADA program, with 16 of 24 tanks completed. We also placed cathodic protection at the big tanks at the water plant. He commented that every line break cost the District about \$800.00 in labor and materials.

Director Orth asked whether the breaks were related to recent earthquakes. Superintendent Melluish felt it was mostly due to rusted pipes. He said we need to replace the lines, the old saddles are almost worn out; when the moratorium is lifted we will have to put new ones in. Director Williams asked if it were practical to do this. Mr. Chapman said replacing saddles would be very expensive. Director Orth said when you do a new connection, you would upgrade that saddle at that point. Mr. Melluish said in a recent leak on Hawk, they did not reconnect the saddle for a vacant lot that he knows will not be built on. We have had five or six leaks in one year on that street.

Mr. Chapman referred to the large printout of five-year figures attached to his report. Director Williams made further comments on the 25% loss rate; Mr. Melluish said it was still below the national average given the length of our lines. Everyone conserved so much last year that it makes the percentage figure worse; if people hadn't conserved, it would still be around 18-19%.

Director Orth moved to accept and file the 2007 Water Processed and Sold Report; Director Horrick seconded and the motion carried unanimously.

5. Consideration of donation to Fire Safe Council. Director Ziady said the Fire Safe Council had a \$17,000.00 shortfall this year, which was a one-time problem due to excess hours involved in writing and administering grants. Director Ziady said we should look at the benefits we received from them: we are part of their Mendocino County wildfire protection plan; the County and us received a fire prevention mailer; Brooktrails had one BLM grant, now completed, to clear roads in Sylvandale and Spring Creek, our evacuation roads, Blue Lake Road, and provide two helicopter landing sites. Coming up we have the CalFire grant and BLM #2, \$166,800.00, for work on Ridge Road, internal work within Brooktrails greenbelt, and near the airport. This was \$275,000.00-plus in grants that we have received. Our obligation was that in two of the grants we have to maintain the fire work that was done. She said she took the FSC request to the Recreation/Greenbelt Committee and they voted to recommend paying \$3,000.00 from the Committee's budget for a one-time grant. Director Ziady said she felt it was worth the Board providing this donation, and she moved to approve a one-time \$3,000.00 grant from the Recreation sub fund to the Mendocino County Fire Safe Council. Director Horrick seconded. The motion carried unanimously.

6. Consideration of Resolution authorizing General Manager To Give Notices of Hearing for Consideration of Resolutions of Necessity. Mr. Chapman said that District Counsel Neary had provided resolution language for the action, part of the eminent domain proceedings relating to the Lake Emily Rubber Spillway project, to obtain possession of parts of the properties along the Lake Emily shoreline. Mr. Neary said this was a housekeeping item and it is not actually required to give authority to the General Manager to provide this, but it helped us avoid any future argument that the Board did not give such authority, and establishes March 11, 2008 as the date for the hearing on the resolution's necessity.

He would send advance notice to the four property owners potentially involved tomorrow; three of the owners have just not responded to repeated letters. He felt the Resolution of Necessity would provide an incentive for their response. March 11, 2008 would be a month's notice. Director Orth moved to adopt the resolution authorizing the General Manager to give notices of hearing for consideration of resolutions of necessity; Director Horrick seconded.

Roll call vote was as follows:

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

J. ADDITIONS TO FUTURE AGENDAS

None.

K. SPECIAL REPORTS

From Directors: Director Orth said he would be providing a lot of financial information to Mr. Chapman about the conference his wife had been able to attend.

From District Counsel: Mr. Neary said regarding the application for water rights, the Water Board received a protest from California Salmon and Steelhead Association; he said he had not heard of this group before. He said we will have to address this protest, which raises endangered species issues. He felt we might be able to talk them into withdrawing their protest, because in effect all we are doing is diverting from a different place. Director Orth suggested Mr. Neary let them know about our USGS gauging system, which they can learn about on our website.

From General Manager: Mr. Chapman said a late-breaking matter was the potential purchase of a generator for the water plant, which the vendor had the opportunity to sell to someone else but had offered to us. This was at least a \$90,000 generator and we could purchase it for \$25,000.00 - \$27,000.00. He said he would like to be able to tell the vendor tomorrow that we will be purchasing it in two or three weeks.

Also, he had learned regarding the multiplex meters situation that County Planning & Building would require county building permits for the owners to connect from the street to their houses. District Architect Bob Axt said he would give carte blanche approval, for our end. We will have to notify the affected building owners. Responding to Director Ziady, he said he did not know how much this would cost the building owners.

Finally, he had had an inspection this date with the FEMA biologist on the golf course sewer.

L. PUBLIC COMMENTS

Patricia Cornell said she had asked for help a month ago with the trash near the water treatment plant. She produced some pictures. She then made further comments on Fawn Lily Trail. Mr. Chapman told the Board he can't get heavy equipment back there and needed them to know that; he commented this was also steep country. Ms. Cornell wanted some trench work. She said she would like a way to mark the trail also. Mr. Chapman said this trail is very lengthy, and he probably needed to go back up there with Mike Aplet, but it definitely would not be during this rainy season.

M. ADJOURNMENT

Director Orth moved to adjourn; President Skezas declared the meeting of February 11, 2008 closed at 8:14 p.m.

GEORGE SKEZAS, President

ATTEST:

MICHAEL V. CHAPMAN