

**BROOKTRAILS TOWNSHIP COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS  
Tuesday, March 25, 2008**

The Board of Directors of Brooktrails Township Community Services District met in regular session on March 25, 2008 at 7:07 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 said the Board met with counsel regarding pending litigation [Crothers v. Brooktrails Township CSD], pursuant to Government Code Section 54956.9(a), received information and gave direction.

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

None.

**D. MINUTES OF PREVIOUS MEETINGS**

1. March 8, 2008 (Planning Meeting). Director Orth said that he was not at that meeting, but would move to approve the minutes; Director Ziady seconded and the motion carried, with Directors Williams and Orth abstaining.

March 11, 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. Continuation of Cameron appeal – multiplex meters requirement. Mr. Neary said he had not met with Mr. Cameron to work something out as planned; he commented that at the last meeting, Mr. Cameron had basically indicated he was not interesting in pursuing that anyway.

Mr. Cameron said he would just repeat what he had said before. Director Williams asked if it were true that he was unwilling to do a deed restriction converting his property to a single-family residence. Mr. Cameron said he didn't understand that part of it; it is being used as a single-family residence. He said some people are gathering information for him; he said he had gone to Patty Berg (State Assembly Member) and he wanted to be sure he was treated fairly. He spoke to Frank Lynch at County Planning who said he didn't need to do anything, knock out walls or any of that, and that the 2003 granny unit law allowed the other kitchen. Mr. Chapman said when he originally talked to Frank Lynch he got an answer 180 degrees opposite from what Mr. Cameron stated; his answer had been you had a choice between converting from R-2 to a single-family residence by tearing out the center wall and removing the second unit kitchen. Mr. Cameron said it was irrelevant because no zoning change was necessary. It was R-2 and he can live in it as an R-1 if he wanted to. Mr. Chapman repeated that this matter wasn't a zoning issue, it was a water district issue. Mr. Neary also stated it was a water service issue.

Mr. Cameron asked why they had said about the change from R-2 to R-1 then. Mr. Neary said because it was an R-2 you have to have two meters. Continuing, he said he himself had thrown out the idea that if the property was intended to be a single-family residence forever, and if he sold it or transferred it to his heirs, to avoid him having to incur the cost of putting in two meters, you could have a recorded deed restriction which would prohibit use of the property as an R-2. He said Mr. Cameron could

place this restriction on his property and it would probably devalue the property by \$6,000.00 or the cost of installing a second meter at some future time and then someone would be able to sell it as a duplex property in future. But that would avoid the cost of substantial renovation. You would also have to provide for a way of special case application of a conservation ordinance to the property and Mr. Cameron's recognition that use there would be limited to a single-family residence use.

Mr. Neary said he did not know if the Board had any interest in this idea, but he himself had taken from Mr. Cameron's comments at the last meeting that he is not interested in pursuing that. He said he had anticipated that Mr. Cameron's attorney would be getting in touch with him to work out the contours of a deed restriction if he were interested in doing it; at the meeting before last, Mr. Cameron had had a question about whether he wanted to devalue his property by a deed restriction. It would be a very simple document saying I'm the owner of this duplex property zoned R-2; to avoid the cost of renovation to comply with District ordinance requiring a meter for each dwelling; I am imposing upon this property a restriction that it can only be used as a single-family residence until such time as two meters are installed. And you just sign your name and have any encumbrance or lender agrees to subordinate to that but that typically is not a problem. Mr. Neary said Mr. Cameron and the Board would have to buy into that proposal.

Director Orth agreed that the easiest path to accommodate Mr. Cameron's use was that described by Mr. Neary. President Skezas said our problem was the duplex issue, zoned R-2, and our being able to police the situation and require a future new owner buying it as a duplex to put in the second meter and additional plumbing. He said his problem was that they could make it a duplex and we would never know.

Mr. Chapman said he went to Bruce Burton from the Department of Health Services to get permission from them to add the 43 meters into the system (because we were using the same amount of water). Bruce Burton granted a one-time exemption to shore up our problem, but we have 24 people waiting on the waiting list, and if Mr. Cameron were to convert this to one meter and then comes back in two years wanting to switch to an R-2, he's going to be number 25 on the waiting list.

President Skezas said he again was concerned with consistency; if we are not consistent we are wide open to all kinds of appeals.

Robert Melliush spoke and said we need to have that base rate for everybody actually living there because we will be paying for projects over 40 years. In theory, if you eliminate one or two or three people's base rates, it affects everyone else's base rates. Mr. Cameron asked where his consumption of water fit into the average. Mr. Chapman said he never suggested it was exorbitant. The issue was about base rates and rationing.

Director Williams said he was concerned about unintended long-term consequences. He said rolling this over from owner to owner will be a nightmare and just more complicated than it's worth. He asked if installing the second meter, instead of charging two base rates for the property, solved the problem. Can he then plumb it as a duplex in future? Or just pay the base rate as though it were plumbed? Mr. Chapman said the other problem is rationing; Director Williams said that's OK if he has two meters. Mr. Chapman said there are people out there who have made this conversion in the \$13,000.00 range, they might want to come back to the District and ask for reimbursement. He saw other issues coming back if we don't treat everybody the same.

Director Orth said he knew this, but they are raising the rents on the tenants in those properties. He said he always tried to accommodate where possible, especially a single case; he felt we could accommodate this case. We could put in a second meter so the base rate is there, but not require plumbing until such time as it was sold, with the deed restriction.

Director Williams said in order to accommodate what we were trying to accomplish, do those other properties have to replumb their properties? Mr. Chapman said almost all had to do some type of accommodation. Director Williams said this is so they can individually bill their tenants. Mr. Chapman said this is so we can track the tenants.

Director Horrick said he would move to put the second meter in and not require it be plumbed. Director Williams asked, if he has the second meter, why the deed restriction? Discussion followed. President Skezas said trying to police this down the line 15 or 20 years from now was his concern. Director Orth said he would second Director Horrick's motion.

Mr. Neary said the clearest way was to say this was it would be used as a single-family residence forever, which solves the issue of policing. The other alternative would be to say it would be used as a single-family residence until such time as the plumbing was done for the two meters. Director Orth said he felt Mr. Cameron now recognized all the issues and that the deed restriction would solve the problem. President Skezas asked Mr. Cameron to contact Mr. Neary for him to prepare a resolution that could be brought back to the Board. Mr. Cameron said he didn't want to go that route because he would be paying two rates. Director Williams asked to add to the motion that we need a time frame; the date was agreed for April 20, 2008.

Mr. Chapman asked when we'd be placing the second meter; Director Williams said when the paperwork is done. Mr. Chapman asked for clarity that we would still be doing two meters, the second one to begin in May or so. Mr. Cameron expressed surprise that he would get two bills. President Skezas said one would not have usage on it but only the base rates; the other bill would be the same as today.

Director Williams said you're signing a deed restriction saying you're treating it as a single-family residence. Mr. Cameron expressed surprise that he would be paying for two meters and would not get the 5,000 gallons you would normally get and said that wasn't fair. President Skezas said it would be fair if you hooked it up. Mr. Melliush said there's a strong possibility there won't be rationing anyhow unless there's an unforeseen emergency. Mr. Neary said whatever you decide to do, to call his office to make an appointment.

The motion was voted on. Mr. Chapman asked for clarification of what the motion was. Director Horrick said it was to put a second hookup in with the provision that a deed restriction would be worked out by our attorney and that it would be done by the second meeting in April. Mr. Cameron continued to protest. President Skezas said one way is to make it single-family forever. Director Orth referred to the coming bond issue to pay for all the improvements and the fact that it is a duplex lot and will always be treated as a duplex lot and in fact it is a duplex and built like a duplex; single-family residences on duplex lots have been built as single-family residences, unlike Mr. Cameron's. Mr. Chapman summed up the savings made to Mr. Cameron by the Board of Directors by not having him be required to make the physical plumbing conversion now, and therefore the Board really made a compromise of about \$5,000.

4. Selection of low bidder for Lake Emily Rubber Spillway Project. Mr. Chapman said the low bid was \$300,000.00 less than we expected and bids ranged from \$1,686,761.00 to \$2,620,530.00. Greg Aanestad of USDA said the 4.25% interest rate was set by Congress. So our rate will be 4.25% over 40 years. The question before the Board is to "formally grant permission for Ghilotti Construction Company at this bid price of \$1,686,761.00 subject to a later USDA Rural Development review and approval for the loan." Director Orth so moved; Director Horrick seconded. Mr. Neary briefed the Board on the status of the easements; four have not returned the paperwork to the title company and there are two other problems. The one where the property was sold to NRLL, NRLL has now sold it to someone else. This will not hold up the project. Director Williams said he was seeing a \$1 million discrepancy between the low and high bids and some huge variances in specific areas of the bids. He asked if our engineer has looked at these. Mr. Chapman said they had 24 hours to back out of the bid; our engineer called them and they said they were fine with the bid. Mr. Neary said at the time of contract signing there could be an application by the bidder for relief based on mistake. Director Williams asked if our engineer was confident in the bid. President Skezas noted that Ghilotti was extremely high in another area and the two might balance out.

Roll call vote on the motion was as follows:

AYES: Directors: Williams, Ziady, Orth, Horrick, Skezas

NOES: Directors: None

ABSENT: Directors: None

5. Adoption of Goals & Objectives FY 2008-09. Neither Director Orth nor Director Williams had not been present at the meeting where these were discussed. President Skezas pointed out the changes made. Mr. Chapman confirmed that the Ohl Grove buildings were demolished but no wood was salvageable. Director Orth moved to approve the goals and objectives; Director Ziady seconded and the motion carried unanimously.

#### **J. ADDITIONS TO FUTURE AGENDAS**

None.

#### **K. SPECIAL REPORTS**

**From Directors:** None.

**From District Counsel:** District Counsel Neary said he received the loan documents from bond counsel and was looking at those.

**From General Manager:** Mr. Chapman discussed the letter received by Patty Berg regarding the parole *ad valorem* tax issue. Mr. Chapman said Patty Berg did not say how she would vote on the matter. If they do this, they will act on it at the very end of June or early July, just as with the ERAF (education shift). This makes the budget twice as hard to prepare. He said we might have to revalue such things as the franchise fee, as he would need that money if this shift happened. Director Ziady said there was a possibility that a radical shift of funding of property tax would not be used for things that could be passed on to the user in fees; therefore they feel they can use this money without a sunset date, was her understanding. Discussion followed about agencies' efforts to forestall this and the fact that in the face of a financial crisis, they were unsuccessful four years ago; Mr. Neary said he felt this was going to happen. Director Williams said we need to start talking rate changes; in the past, by not changing rates, the legislators get away with it and they get reelected. If the legislature does this, he insisted, we need to change our rates and tell our customers why. Discussion followed about interfund loans. Mr. Chapman said we could tell the public what is happening in our newsletter.

#### **L. PUBLIC COMMENTS**

None.

**M. ADJOURNMENT**

Director Orth moved to adjourn; President Skezas declared the meeting of March 25, 2008 closed at 7:06 p.m.

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GEORGE SKEZAS, President

ATTEST:

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MICHAEL V. CHAPMAN