

**BROOKTRAILS TOWNSHIP COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS  
Tuesday, September 9, 2008**

The Board of Directors of Brooktrails Township Community Services District met in regular session on September 9, 2008 at 7:00 p.m. at the Brooktrails Community Center.

**A. PLEDGE OF ALLEGIANCE**

**B. ROLL CALL**

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

**REPORT ON CLOSED SESSION**

District Counsel Neary reported the Board met with counsel on two matters of anticipated litigation; received information and gave direction.

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

None.

**D. MINUTES OF PREVIOUS MEETINGS**

1. August 26, 2008. Director Horrnick moved to approve the minutes as amended; Director Ziady seconded. Directors Orth and Williams abstained, and the motion carried.

**E. SPECIAL PRESENTATION**

2. Fire and Utility Departments Walk-Through with General Manager Chapman. Mr. Chapman conducted a tour highlighting equipment recently purchased for the Fire Department and Utility Department.

3. Richard Estabrook – Second Water Report 2008. Mr. Estabrook advised that the current supply was 161.6 feet; this was higher than the model projection of 141.9 acre-feet. Our water production had been less than predicted; also we didn't have to lower the lake as much or as fast as expected. He expressed some concern about the last four readings which are getting closer to the prediction line on the graph, although we have had some hot spells in August to account for this, but if the trend continued that would be a concern. Mr. Chapman mentioned that our production in November is typically 30% less than in August; Mr. Estabrook responded that this was accounted for in his graph. Robert Melliush commented from the audience that we are trying to get Lake Emily down as low as we can right now. Mr. Chapman confirmed the rubber spillway project should be completed by November 15<sup>th</sup> according to our engineers. Discussion followed about water releases during early rains. Mr. Estabrook showed a summary of water sales/usage and noted that in the late 1990s it averaged 250gpd/household and today it's about 185gpd/household. President Skezas thanked Mr. Estabrook for his efforts and presentation.

**F. PUBLIC HEARINGS**

None.

**G. PUBLIC COMMENTS**

Director Ziady said in the previous meeting she had commented that Recreation money was being used to repair the Par Course Bridge without asking Recreation, but she now realized that the Recreation Committee had discussed that measure and things were o.k.

**H. CONSENT CALENDAR**

4. Review of Accounts Payable report and authorization to issue checks. Director Horrnick moved to approve the payment of the outstanding invoices, and Director Orth seconded. The motion carried unanimously. Director Orth asked if we could do an evaluation of our monthly PG&E costs over the last 5 years.

5. Retroactive Approval – preauthorized Rubber Spillway payments 9/2/08 and Preauthorization – Rubber Spillway payments to be paid 10/1/08. Director Orth moved to retroactively approve the preauthorized check run issued September 2, 2008 and to pre-approve the payments to be paid 10/1/08. Director Ziady seconded and the motion carried unanimously.

**I. ACTION AGENDA**

6. Kirk Mather – Appeal of Bill for Water Loss. General Manager Chapman said that this loss of 163,000 gallons was in the top three losses during his tenure, and the prior loss of 66,000 gallons three years ago would fall in the top ten. He asked Mr. Mather if his water lines are buried now. Mr. Mather

said yes. Mr. Mather said the District was charging him, and at the highest possible rate, for this loss which was not his fault. He had an intrusion on his property and has had an ongoing battle with another family with false reports filed by them to various public agencies. He said there was a crime against him which caused property damage and the water system loss. He said that if he has to pay this extreme amount, the benefit of these people harming him comes to the District, and, he continued, he kind of wanted to put the District in the same category as those people. He admitted having eighteen late charges, but said he actually overpays because he pays so much per gallon used. He said he doesn't lock his water because of fire season. He asked if it were that important that the District get every dollar for every pay level and punish him after he's been abused. He objected to the tone of the General Manager's letter. He asked is it okay that the District thinks it's okay to take advantage of his situation.

Director Williams asked what he was asking for; Mr. Mather replied, some relief on a \$1,000.00 plus water bill. Director Williams asked if the water was dumped on the ground; Mr. Mather said yes, they just turned the faucet on; he was gone for 10 days. He confirmed there are no buildings on the land and he pulled the permit only to complete the water lines. Director Orth said he was unique in the District because we really don't have water meters serving construction sites without construction. He said the Fire Department carried its own water. Upon questioning Mr. Mather said he didn't cause the loss; somebody else did it to him and he shouldn't be chastised for it.

Director Ziady said we offered a payment plan; Mr. Mather said he took it. She felt that Mr. Chapman's letter showed some leeway to help him cope with the situation. He said sitting there, not having been robbed and not having to pay the bill, you might find it's a soft enough letter. He said he was trying to understand the level of a charge that you set to punish people for overusage and that's why it is so important. Director Orth then mentioned the tiers and the fact that we have to charge the actual cost of production; the very fact that a hearing is taking place involves a higher cost.

Director Horrick asked if a locking bib at the meter would have prevented this from happening. Robert Melliush responded that Mr. Mather had never had vandalism happen before, and this would prevent having a loss if it was ever vandalized again. Director Orth responded we could give a lesser amount with a requirement for a locking bib at the meter. Mr. Mather said he was able to secure it already with a control point on his property. Director Orth said our staff can't see that, though, as we can't go onto your property, so we need a control point where we can see.

Mr. Chapman reminded the Board that we've had leaks in the past from outside residents and they have put locks on them. He said he didn't think it was condescending to suggest that owners were responsible for the water usage through their meters, and that suggesting a locking bib was appropriate. His concern was another major loss on Mr. Mather's property. He further added that the issue was never the dollars, it was the major loss of water, 163,000 gallons (double a normal household in a single year).

Mr. Mather said if the dollars were not the issue, why wasn't there any relief? The discussion turned to the formula the District uses for water relief. Mr. Chapman said the formula is about 50%, so instead of \$1,000.00 it would be about halved; he said we treat everyone the same. Mr. Mather said the GM didn't offer him 50% the last time; Mr. Chapman responded that Mr. Mather had a board hearing and lost because he had his water pipes exposed above ground.

Mr. Terry asked from the audience why we are even dealing with a loss situation from vandalism; he thought the code put the burden on homeowners, why wasn't there an insurance claim. President Skezas asked Mr. Mather about why he has not built on his property. Mr. Mather said he had had some setbacks but has completed the roads and cleared an area for a building site. His next step would be construction.

Director Orth moved that the Board grant a one-time relief with the requirement of a locking valve be put in at the meter in return for the 50% reduction. Mr. Chapman clarified it is a formula and it was approximately 50%. Director Orth clarified that the relief would be granted as per the formula. Director Horrick seconded.

Director Williams said what concerned him was this guy gets vandalized and they dumped our water on the ground and then we compound it by charging him for it, and he was really concerned that the people did it knowing he was going to get charged for it. He said he was going to vote for the 50% break; he said he wanted the Board to understand that when someone vandalizes his property they're stealing the District's water, he's not getting any use from it whatever and we're making him pay for it. Mr. Mather said the people know how this works and that's what the Sheriff said. Director Williams then reminded Mr. Mather there are good reasons for the tier system and that we need it to get water conservation. He said he really hoped they catch these guys, running 160,000 gallons of our water on the ground and making him pay for it. He said he understood what happened three years ago was an accident.

President Skezas spoke about having people standing in line trying to get water meters, and here Mr. Mather had property for 20 years with a meter. He further reminded the Board we have a requirement if you build, that you must have a meter, and Mr. Mather's not building, and he had a problem with that aspect. He reminded Mr. Mather we had 20-plus people waiting in line for a meter who would gladly pay to have one right now, but can't. He said he didn't agree with Director Williams' statement that this was our water; as soon as it went through the meter, it was Mr. Mather's water, and he felt Mr. Mather ought to pay for it. Mr. Mather said you people were making people put in meters when they weren't wanting them, like apartment buildings with multiple meters. He said he's just taking time to do his project.

President Skezas asked for a vote. Directors Williams, Orth, and Horrnick voted aye; Directors Ziady and Skezas voted no. President Skezas said it was a 3-2 vote, Mr. Mather got his 50% reduction with that one requirement of the locking bib.

7. Consideration of resurvey of a dry Lake Emily. Mr. Chapman said that by late October we will have a very low lake level and he would like to do a resurvey at that time. He reported Matt Herman did the last survey and would do this survey too. The cost would be \$11,000.00. The discussion turned to the measurement of siltation. Director Orth commented that a 3-acre cut was done on the top of our watershed in Sylvandale years ago, and it contributes siltation to this day. He said the siltation to our reservoir won't get much better until this is addressed, and he believed we should have an agenda item on this. Now that we own the property above Lake Emily, we probably will be seeking a grant to improve it and this could be part of that. Director Orth moved to approve a contract with SHN Consulting to resurvey Lake Emily for a cost not to exceed \$11,000.00; Director Williams seconded. Roll call vote was as follows:

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

8. Consideration of excessive use cap on water. As a background discussion, Mr. Chapman said we currently have a 20,645 gallon per customer cap during a declared water alert only. Director Williams had suggested having a flat cap. District Counsel Neary has issued an opinion on this which would have to be cleared before release to the public. He said not every legal opinion needs to be released and he suggested maintaining this particular opinion as non-public and the Board agreed.

Director Williams said there were a lot of complaints that some residential properties in Brooktrails were using much more water than others, and since we will always have water issues, it seemed reasonable to him to set a maximum cap for what any property in the district could use, and quit trying to use a tier system to curb excessive use, if we could legally do it. Mr. Chapman clarified for the audience we were really talking about 1% of users who were water abusers, and that their usage was considerably more than the state average. A ceiling would give the District the authority to stop abuse.

Director Horrnick asked if the highest users could be notified that this would be coming before the Board; Mr. Chapman said yes and suggested we should have a public hearing process. Director Orth said he wanted to make sure there was an appeal process. Mr. Chapman pointed out another fear was that some of these abusers may be selling our water, something illegal in our Ordinance and DHS law.

Robert Melliush said he disagreed with all of this; he said with the new dam being built we would have a fuller lake of water that we should be selling; if someone was willing to buy it we should be selling it. Putting a cap on will hurt our revenue down the line. Director Williams said if it was agriculture, which he thought it was, he'd rather cap it off so they would go somewhere else. Mr. Melliush said most of the houses involved in agriculture aren't using that much. Mr. Melliush said law enforcement needs to take care of these situations and it wasn't Brooktrails' job.

Director Orth said when we do the off stream reservoir (Lake Ada Rose) we're going to be sitting on water, and he asked if we could sell it like the City of Willits. Mr. Neary said he wouldn't want to answer that offhand; you would have to do an application. Regarding caps he said you might be able to obtain the same result as a cap by requiring an explanation for any usage over a certain amount, and take action if an explanation was refused. There might be a logical explanation for the high use. Mr. Chapman said in our Ordinance 76, a customer does not have the right to sell water, and DHS does not allow this. Mr. Melliush said the City of Willits sold two million gallons at its station; he said he would love to see us have a station in. Mr. Melliush said extra water is going to put a value on people's property. Even in a dry year, we are in pretty good shape. He said he would like to see the District encourage people to use water next year.

Director Williams suggested directing the General Manager to send a letter to all residents regularly using over 20,000 gallons a month that the District is considering a cap, and invite them to tell us how they are using this water.

9. Consideration of rescheduling November Board meeting due to Veterans Day holiday. The directors settled on Wednesday, November 12 as the date. President Skezas said he would not be present; Director Ziady said she would be late. Director Orth moved to change the date from November 11th to November 12th; Director Horrnick seconded and the motion carried unanimously.

10. Consideration of increased engineering costs, Hanson Engineering. Mr. Chapman pointed out the letter from David Lounsbury, PE detailing the events that have increased the cost, including the requirement to have an on-site geologist in June for the CalOSHA requirements. The new ceiling would be \$598,200.00 for engineering, which is expected to cover through the end of the project and would be part of the USDA loan. On a second matter, there will be increased costs for the water rights application work as well as we expected continued challenges. He said he would like to increase that ceiling now from \$40,000.00 to \$45,000.00.

Director Orth moved to approve the change order contract to approve the extension of \$135,000.00 for Hanson Engineering to complete the construction inspection and post-construction services of the project, with a new ceiling of \$598,200.00 for engineering services. Director Horrnick seconded. Roll call vote was as follows:

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

Director Orth then moved to approve the change order contract to approve an extension of \$5,000.00 beyond the current ceiling of \$4,630.00 for a total of \$9,630.00 to answer questions, etc. regarding the water rights / water availability analysis / appropriation budget, with a new ceiling, rounded, of \$40,000.00. Director Orth amended his motion to specify this was with Hanson Engineering. Director Horrnick 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 was presenting his REMADE proposal before the City of Willits and has already done so at Fort Bragg; he is also working on a draft letter of support from the executive directors of the Energy and Local Government Commissions. After Willits, he will approach Ukiah.

**From District Counsel:** None.

**From General Manager:** Mr. Chapman said we were running into complications regarding family trusts on our lot merger program where applicants are not providing the needed trust documents or are submitting incorrect documents. Even though it was designed to be a cookie-cutter approach, we are not in a position to give legal advice and instruct them as to the trust process, and if we turn to Counsel there is a potential bill there. Director Williams said we should just tell the people to go hire a lawyer, that it is not our responsibility. Director Williams said the people who prepared their family trusts are the people who should be telling them how to do property transfers. Other directors agreed.

**L. PUBLIC COMMENTS**

None.

**M. ADJOURNMENT**

Director Horrnick moved to adjourn the meeting; President Skezas declared the meeting of September 9, 2008 adjourned at 8:42 p.m.

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GEORGE SKEZAS, President

ATTEST:

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MICHAEL V. CHAPMAN