

**BROOKTRAILS TOWNSHIP COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS
Tuesday, January 13, 2009**

The Board of Directors of Brooktrails Township Community Services District met in regular session on January 13, 2009 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

Chris Neary reported that the Board gave guidance to District Counsel regarding anticipated litigation. General Manager Chapman said the Board had discussed a standing committee to explore the formation of a JPA and had elected representatives to the committee.

C. ADDITIONS/ADJUSTMENTS TO THE AGENDA

None.

D. MINUTES OF PREVIOUS MEETINGS

1. December 9, 2008. Director Orth moved to approve the minutes; Director Horrnick seconded. The motion carried unanimously.

E. SPECIAL PRESENTATION

None.

F. PUBLIC HEARINGS

None.

G. PUBLIC COMMENTS

Bob Terry, representing CERT, asked about the District providing supplies for the emergency supplies container installed at the Airport. Mr. Chapman asked Mr. Terry to bring the documents in for review and this would be considered in the budget process.

H. CONSENT CALENDAR

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

3. Retroactive approval of 12/24/08 check run. Director Orth said he thought we were billed through USGS for the stream gauging station at Lake Emily; Mr. Chapman said we are on a quarterly basis for our payment plan with them for a total of about \$23,000 per year. Director Williams moved to retroactively approve the payments, and Director Orth seconded. The motion carried unanimously.

I. ACTION AGENDA

4. Annual Report of Recreation, Greenbelt & Conservation Committee. Jerry Garvey, Chair of the Committee, said they are meeting quarterly and as needed, with the next meeting on January 22, 2009. Activity last year was reduced from previous years, partially due to lack of manpower and partially due to burnout after a couple of years of high productivity. Issues they will continue to address are public safety, in particular fire protection, which will continue to be their #1 priority; watershed protection is a close second; fuel management, which was brought home this summer with the Lightning Complex fires; recreational opportunities for Brooktrails citizens of all ages; forest health and erosion control within the greenbelt, and the trails. Accomplishments for 2008 included demolition of the pool building at the Ohl Grove; the Par Course Bridge was rehabbed. Fire Safe projects were done on the Ridge last summer.

Mr. Garvey said they need to add committee members. For 2009 they are considering fencing of the Par Course playground. They will continue to look at Fire Safe thinning and erosion control. Mr. Chapman mentioned an eroded area about a quarter mile above Lake Emily; he felt we could use the trees cut down by Mr. Godt effectively there. Mr. Garvey said he'd be happy to work on that 1602 permit. The Committee also would like to consider a shelter in the Ohl Grove.

Director Orth said he believed we would see an Americorps program available in future and we needed to start conceptualizing greenbelt projects we could utilize them for. This could include erosion control. Mr. Garvey said they could add this to their next meeting.

Director Williams moved to accept and file the report; Director Horrick seconded and the motion carried unanimously.

5. Consideration of signage to address dirt bikes issue/district rules. Mr. Chapman said the question for the Board was basically how many, and where to put them. He noted the suggested rules of No Camping, No Hunting, No Mushroom Picking, No Fires/No Smoking, No Motorized Vehicles or ATVs, and No Dumping or Littering. He also noted we do not have official rules yet on smoking, fires, or mushroom picking and would have to create those by resolution. Staff had suggested eight trails where we know we have dirt bike use and invited the public to name others.

Steve Eberhard from the Blue Lake Terrace area said he enlisted some of his neighbors to come to the meeting tonight. Mr. Eberhard read his own statement and provided a copy to the Board. He stated dirt bikes were a fire hazard. He suggested small signs (12" x 12") were good enough and could be printed by an online firm for \$25 each. He felt all the rules could be included on these. He also wanted prominent signs to replace the two signs at the Birch Street/Sherwood Road intersection which he had been told by the County maintenance department should only cost \$75.00 for 2' x 3' signs. He said 30 trailhead signs plus the two large signs could be had for \$960 including shipping. Installation could be done by District crew.

Director Orth said it was true that Maintenance Services would make signs for agencies. He mentioned this dirt bike problem comes in cycles and recurs. As to mushroom picking, he felt any ordinance should say no "commercial" mushroom picking, as he felt private property owners had the right to pick mushrooms on their property. Director Ziady reiterated we have to add code and you have to meet legal requirements for this. Director Williams said we don't have a police or enforcement department. What he was reading was a bunch of things people don't like, except they are not illegal. The County basically enforces very little, he said, and putting up these signs is going to be an exercise in futility even if we pass the ordinance. A lot of the proposed rules are already County ordinances, he thought. Director Ziady said we have problems with homeless people camping, who do have fires, and if we're going to do it, she would like to do it right, and to know how many signs she could pay for.

Mr. Chapman said we could come back and start a resolution process for mushroom picking and no fires/no smoking. Director Ziady said she liked the idea of "no motorized vehicles or ATVs" as a better way of putting that rule. Mr. Chapman said he would figure out the labor cost and work this into our schedule this spring. Mr. Chapman said we would be coming back in two weeks for some of this and so a motion wasn't needed.

6. Consideration of resolution declaring public nuisance at 25520 Poppy Drive. Mr. Chapman said this was basically a repeat of the recent Fabian process. We would pass a resolution and set a public hearing for the owner for February 10, 2009 and post the property. Mr. Chapman said we would research any ownership change. Director Orth moved to adopt Resolution 2009-1 declaring the property at 25520 Poppy Drive a public nuisance, setting a public hearing for February 10, 2009, and beginning proceedings under Ordinances 98 and 99 to enforce abatement. Director Ziady seconded. Roll call vote was as follows:

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

7. Meeting schedule for 2009; scheduling of annual Planning and Budget meetings. Director Orth moved to schedule the budget meeting for March 7 and the budget meeting for April 4; Director Horrick seconded; the motion carried unanimously.

8. Annual Report of Officer & Employee Reimbursement. Mr. Chapman pointed out Attachment A representing each reimbursement including Staywell. Maintenance employees each get a \$300/year clothing allowance. Director Williams moved to receive and file the report; Director Orth seconded and the motion carried unanimously.

9. Discussion of impact of Willits Sewer Plant project cost on District's sewer base rates. Mr. Chapman said we have 1,429 sewer connections and another 100+ that are septic systems, mostly on Ridge Road and the Blue Lake area. He continued that we have read in the paper twice now that the sewer project could escalate to \$38 million. He explained that we're paying 37.69% of the capital projects and that is a \$15 million obligation; if we do get up to \$38 million project cost, without a doubt we'll be paying in the \$75.00 range [for monthly sewer base rate] once you consider principal and interest.

Mr. Chapman said that Ms. Cavallari, Interim City Finance Manager, stopped by that day and had a problem with the statement that Willits had "qualified audits." In answer to her, Terry Krieg, CPA has qualified our audits because of lack of their timely information to us. The fact is we received their audit 18 months after 06/30/07; in his book, this was a qualified audit. Timely audits are necessary for bankers, insurance carriers, partnerships, etc.

Mr. Chapman then reviewed the numerous mathematical calculations in his staff report. One of the issues he has had all along was why the City didn't simply apply the USDA loan to begin with. Director Orth suggested it would have spread the cost. Mr. Chapman said at the time they were doing this, they had \$1.5 million available, had they chosen to close the loan. Even though Willits has spent \$1.5 million on engineering, we really don't know how much they've spent on engineering in the last 18 months. He mentioned Ms. Cavallari would have an audit to him by March 1, 2009 and praised Ms. Cavallari for providing three audits within 14 months. However, he did not agree with her suggestion to hold back on notifying Brooktrails residents of the potential increases for at least another four months. Mr. Chapman said we cannot wait forever to explain that the rates are going from \$33.00 to \$43.00 to \$60.00 per month.

Mr. Chapman confirmed the \$280,218.00 as an obligation as of 06/30/07; he advised we needed to kick the payment up from \$18,827.00 to \$46,703.00 for the next six months to clear the 06/30/07 debt. Mr. Chapman further confirmed that Lori Mayo, our Financial Assistant, agreed that the \$280,218.00 was a valid number; Ms. Mayo had visited Willits and looked at those invoices and felt that the charges presented were valid.

Continuing, he reviewed in detail the cash balance calculations on page 2 of his report. If we made the payments we would have about a \$650,000 cash cushion. Knowing this, we need to get our rates up this July 2009. Our current rate is actually \$36.74 (including tax bill assessments) and the City's is \$41.50. Mr. Chapman said we would have to take the rates up by steps, from the current rate to a minimum of \$43.08, bringing us parallel with the City for FY 2009/10. He mentioned the real rate basically should be about \$60.00 per month, with what we know right now, but there was no way we could go straight from \$33.00 to \$60.00. He suggested we have some kind of newsletter to our customers to forewarn them about the consequences of the City's project. Mr. Chapman said if he had known the FY 2006/07 City audit data 12 months ago, he would have advised to raise the rates fairly substantially. He pointed out that the data in his report had nothing to do with a \$38 million total cost, but only with the current USDA \$24 million cost estimate.

In comments Director Williams said we didn't want City of Willits to have a blank check, and Director Ziady commented that we are not funding this project, Willits is. Mr. Chapman said he and District Counsel Neary were going to meet with the City Manager and City Counsel to discuss a potential JPA feasibility committee, and how it would work under the Brown Act, etc.

Mr. Chapman asked the Board for what they felt would be the proper timeline before we should notify our customers. Director Williams asked what the cost of a mailer was and Mr. Chapman thought it would be \$500.00 - \$700.00. President Skezas pointed out that the rate proposed for the coming year was \$43.08. Mr. Chapman said the \$43.00 was really more like \$47.00 because your \$50.00 annual sewer assessment was factored in. Director Williams said we'd be increasing 33% this time, but 50% the next time, and maybe we'd like to increase a little more this first time.

Director Ziady said she'd like to put out a letter with the general situation. Mr. Neary said the important time to send the letter would be during the rate process. He felt we should demonstrate the calculations, but maybe consider coupling this with the annual rate notice. He said the Board should make the preliminary rate determination and present that with the notice of the June hearing, at least 45 days prior. Otherwise, he said, you might find that you've warned them but told them too low or too high. Directors commented we could omit numbers and just say "substantial rate increase." Director Orth said he would prefer, since the audit has been committed, that we discuss this at the March 7th planning meeting and come up with a draft letter then. He would like to see the joint meeting with the City first.

Mr. Neary said the committee meeting's agenda has an item of a potential JPA, but this might be a non-starter. Also we would have to discuss recording back and forth between Brooktrails and the City. He objected to the characterization that we were meeting as a JPA or having a JPA meeting.

Director Ziady said that since we don't know how much we'll have to raise the rates she felt we owed the ratepayers some timely information, since they are reading the Willits News stories; she wanted to say we are a party to this project and are trying our best to determine the cost. Director Orth voiced the letter should give the ratepayers actions they could take, such as contacting our legislators to say we need money for infrastructure here in Willits.

Director Horrick asked if for a particular charge we actually got a bill from the City, or if we just pay off the audit. Mr. Chapman responded we pay from the schedules at the back of the audit; it takes him and Ms. Mayo hours to review these supplemental schedules and verify the math / payments.

Mr. Neary said one change is that two years ago they hired a new auditing firm who developed a different method; it used to be a compilation report and summarized, but now it is not and requires this analysis. This is one of the things we want to talk to the City about. The agreement provides that we receive the audit for the previous year in October. The one we just received was 14 months late. There's been a complete change in reporting. How it's going to be reported to us and in what format is for discussion at the meeting.

Director Williams said you're handling the audits as though they're some sort of a partnership with Willits, as though we're all agreeing on those numbers. Shouldn't the City of Willits be coming up with what they think the number is, he asked, and shouldn't there then be discussion as to how it gets paid? Mr. Chapman said he and Ms. Mayo have to start with something. We get these supplemental statements

and then we have to track operations versus capital costs and cross-check, to prove to ourselves that when we say it is a \$280,218.00 liability, it comes back. And in this case it did come back. The reason he's trying to change the math now is that he now knows it's bona fide. We obviously should have been paying more than the \$18,800.00, but, we said we're not going to do anything until the City gave us some numbers we could really work on. Therefore, due to lateness of the audits we've paid that \$18,800.00 for the past two years. Director Williams asked how much they were asking us to pay. Mr. Chapman said, they never asked because we don't receive an invoice, only supplementary statements. He said when he walked through the door many years ago; he didn't quite understand this format so he had to sit down with Chris Neary and try to understand how this complicated process worked. But the difference was, in those days they at least had their audits by January (6 months, not 18 months), so we could keep up with the times and our payments. He realized all the time that this number \$18,800.00 was a little low, and while he wasn't trying to punish the City, why should we pay them for something that we're throwing darts at, paying in the blind? Now it's not darts, with the 06/30/07 numbers it's something real. Mr. Chapman concluded it certainly doesn't work for us to have this thing constantly given to us so late that we can't make adequate payment plans, rates, and budget decisions.

Director Orth said he understood how frustrated Mr. Chapman was, but looking at the long term and the relationship, the new City Council and City Manager, that was a new opportunity for us, because the City Manager is someone who functioned at the County level, and the questions Mr. Chapman was asking he would ask. He felt the next 60 days could be very critical for the future of our relationship and how we operate in future, and we should plan over the next year to really resolve some of these questions.

Mr. Neary said he felt there were two potential ways of improving the current situation. He identified that maybe we develop a JPA and move the general operations of the sewer plant from the general City budget and into a JPA with a budget developed by our respective Boards. The second way to resolve this and essentially what the existing agreement contemplates (although, he said, we've allowed the City to incrementally move away from it over the last decade and a half), is having the City provide an audited statement in October. That would be something that we could rely upon. What's happened is that all of these statements become not audited statements at all; the City prepares a schedule and the auditor includes it in the audit with a statement saying they don't trust any of these numbers, it's just something the City gave me; right or wrong. Now we don't even get a separate statement, we just get an audit, and Mr. Chapman has to extrapolate to determine what we owe. He said if we can't go to a JPA to fix this, what we really want to see, by means of an amended agreement, is their auditors ought to read the agreement we have and provide an audited statement to us saying these charges are legitimate, I've reviewed and audited them and determined they are a valid bill under the sewer agreement. We don't need to hire our own auditor to go down there, he said; that's what their own auditor should be doing. If we pay it for two or three years and then find out there's some baloney in this, then that auditor has liability. That's basically what the concept of an audited statement is, he continued — that somebody takes the trouble to state these numbers are right. We're getting something that doesn't say anything like that, and that's not the spirit of the original agreement. He said he felt that's what the committee could be doing, to get this back on track in a way that works for both of us. We're sitting here wondering whether the charges are legitimate, whether we pay \$18,000.00 instead of \$30,000.00 because we haven't seen the audit. That's not working for the City either.

And, he continued, typically you want to see rates rise incrementally to reflect the actual cost. If we don't know what the actual cost is, I believe that if we raise the rates to \$60.00 a month this room will overflow. And one reason is why we didn't do it incrementally.

Director Horrick mentioned if the City doesn't have it audited by an independent auditor, then we might have an obligation to do that. Mr. Neary said maybe they're paying their auditor, say, \$30,000.00 to do their audit, and it may be that the bill would be \$40,000.00 of which we would have a 23% share. But paying 23% of the cost to provide an audited statement is much different than overpaying. And we've seen cases where we might have overpaid hundreds of thousands of dollars. Director Horrick said our ratepayers deserve to have audited numbers.

Mr. Chapman mentioned he still needed some guidance as he knew we would run out of money if we don't get the rates up. Director Orth moved to approve the payment to City of Willits for \$46,703.00 per month for the next six months. Director Williams seconded but said he wanted modification. He asked if that figure was what Mr. Chapman felt we needed to pay to catch up with the 2006/07 audit, Mr. Chapman confirmed so. The City rolled through the Redevelopment Agency funds after a five-year backlog, and that made a huge difference. He also pointed out he wasn't trying to argue their case. Mr. Neary said it is still possible for the City to present this \$1.4 million bill to the USDA and then pay back their Redevelopment Fund, and then we would then owe 38% of this over 30 years, and so the impact on our rates would lessen. In an aside, he said we could say to them this is a pretty unusual way to be doing things — we'll put it on the books of one of our City entities and then send you a bill; it doesn't make sense, he said.

Directors commented about Willits submitting this to USDA; the implied question of reopening up the City's books surfaced. Mr. Chapman had never seen this process done before (closed and then opened) and asked Counsel if we would have to sue them saying we didn't like the way they spread the numbers on a one time basis? Was that the only process to get them to regurgitate those numbers? Mr.

Neary said he could give a fuller answer in closed session. Mr. Neary said if somebody asked why you are questioning things in an audit that's 15 months late, that goes back to charges incurred in 2002, and that has a budget overrun of \$1.4 million, he thought he could defend our asking questions, in good faith. Director Orth stated he withdrew his motion. Mr. Chapman said so then, we'll pay them the \$18,847 and reserve the rest (balance up to \$47,703.00). Mr. Neary said the first meeting was basically to lay out the issue so we can prep our committee members and they can prep theirs for the second meeting to be productive.

Mr. Chapman reminded the Board that six weeks from now we'll need to be looking at a number much higher than \$46,703.00 per month.

President Skezas said we will get some input in public or closed session at the next meeting. The status of the motion on the floor was reviewed as the motion having been withdrawn.

J. ADDITIONS TO FUTURE AGENDAS

K. SPECIAL REPORTS

From Directors: Director Orth said he'd be going before the Board of Supervisors within the next 30 days for the Community Energy Authority and this is progressing.

From District Counsel: Mr. Neary reported that in Paland v. Brooktrails, Mr. Paland appealed and we filed our response.

From General Manager: Director Williams asked for perspective on the property taxes item in comparison to last year. Mr. Chapman said he didn't have last year's numbers but it probably hasn't changed that much. Director Williams said they're going through some major reassessments in Sonoma County. Mr. Chapman said he would research this for the next GM report. Director Orth noted also the impact of the Teeter Plan. Director Orth remarked on the comment, "With completion of the [Rubber Spillway] project, the District is requesting a new certificate for the operation of the facility to elevation 1,570.0, without seasonal restrictions of storage levels." He said Mr. Chapman has requested an amendment to the 1602 Agreement to change the bypass flow from 15 cps to 10 cps from January to March 2009 to allow us to fill our reservoir quicker given the La Niña weather pattern we are experiencing. He said his point was that USGS gauging stations have really made us into water managers, and this was the net effect of those expenditures. It gives us flexibility as water managers even when we're not getting the water.

Mr. Chapman said he received a phone call that day from Jim Hanson on the WAA analysis for the Lake Ada Rose project; the Board would have to make another decision in a few weeks. This is regard to the May 2007 Division of Water Rights filing. Now they want to see our water availability analysis. Our last such report for the dam project cost about \$175,000.00, and this one will could be pretty substantial. Mr. Chapman hoped to have this on the agenda in two weeks.

L. PUBLIC COMMENTS

Bob Terry said since the walking tour on Saturday, questions had come up about when the public hearing would be. Mr. Chapman said we could pick the date right now, it could be the second February meeting, and the meeting would be mostly on that.

M. ADJOURNMENT

Director Horrick moved to adjourn; President Skezas declared the open session adjourned at 8:59 p.m.

The Board then met in a second closed session.

George Skezas, President

ATTEST:

MICHAEL V. CHAPMAN