

**BROOKTRAILS TOWNSHIP COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS
Tuesday, May 11, 2010**

The Board of Directors of Brooktrails Township Community Services District met in regular session on May 11, 2010 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 SESSIONS

1. Closed Session held after April 27, 2010 meeting. District Counsel Neary reported that the Board met to discuss pending litigation with the City of Willits, received information from counsel and gave direction; no action was taken. The Board also met with its labor negotiator, Mike Chapman, received information and gave direction.

Closed session prior to tonight's meeting. Mr. Neary reported that the Board met on the issue of two items of pending litigation, one Brooktrails v. City of Willits, received information and gave direction; this closed session was adjourned, to continue following tonight's meeting. The Board also met in closed session prior to this meeting on pending litigation of Roseman v. Brooktrails, in which the Rosemans are challenging the compensation awarded by the District for that portion of their property taken for the Rubber Spillway Project. The Board received information from counsel, gave direction, and no action was taken. There will be a report on any action taken in closed session following tonight's meeting at the next regular meeting.

C. ADDITIONS/ADJUSTMENTS TO THE AGENDA

None.

D. MINUTES OF PREVIOUS MEETINGS

2. April 27, 2010. Director Horrnick moved to approve the minutes. Director Orth seconded and the motion carried unanimously.

E. SPECIAL PRESENTATION

None.

F. PUBLIC HEARING

None.

G. PUBLIC COMMENTS

None.

H. CONSENT CALENDAR

3. Review of Accounts Payable report and authorization to issue checks. General Manager Chapman commented that we installed wiring at the Fire Department at \$7,000.00 and brought the station up to code. We also found a usable generator at Willits Power Equipment for approximately \$7,000.00 which should bring our efficiency up to 90% or better in the District under lost power. Director Orth moved to approve payment of the outstanding invoices; Director Horrnick seconded; the motion was unanimously approved.

4. Retroactive approval of newsletter and rates and fees mailer postage checks. Director Orth moved to retroactively approve the checks; Director Horrnick seconded; the motion was unanimously approved.

I. ACTION AGENDA

5. Hardship appeals – waiting list water connections. General Manager Chapman said the Board would decide each case and provide direction to him on how to proceed in terms of payments, time, etc. There are seven applicants with eight connections slated for appeal tonight. He sent the appellants an instruction letter last week asking them to attend. He noted Jeremy Pope and Randy Dorn were the only appellants present. He mentioned three appellants have signed their notice of intent: Jeremy Pope, Charles Bello and Mr. Seliskar.

Mr. Chapman mentioned he would be sending out forfeiture letters tomorrow to 5 individuals with 14 meters. We had not received any word whatever from any of these. Director Orth said in that letter

we should also explain that the list is going away and this becomes first-come, first-served for the remaining meters. Mr. Chapman spoke that it was not first-come, first-served, but first-approved via our District Architect.

Jeremy Pope Appeal. Mr. Chapman mentioned he met Mr. Pope on April 26, 2010 whereby Mr. Pope presented a hardship letter; he did sign the Notice of Intention to Proceed but did not provide details for his appeal. Mr. Pope said he was selling a piece of property now and should have funds to move forward within 90 days. He said he could put something down to show good faith but could pay the full fee in 90 days from tonight. Director Orth asked if this meant the water connection fee because the sewer connection fee occurs later. Mr. Melliush, in the audience, said that depends on the lot itself. Director Orth said, but we won't do any work on the sewer connection without payment of the sewer connection charge? Mr. Chapman said back when things were moving quickly, typically they paid for both water and sewer. Director Orth said because he hoped we could get into a fairly general same-case process such as 60 days for the 10% for people who signed the Intent to Proceed and then 180 days for full payment. Director Horrick asked was that 10% of both water and sewer? Mr. Chapman responded yes.

Directors discussed Mr. Pope's plan. Director Orth said he thought half a year was adequate given the current economy, and quite a few were looking to modify their plans. Director Williams was concerned that if we set that kind of time frame we are extending the period of time in which they could then fail to perform and eliminate that opportunity of getting a meter quicker to others.

Director Horrick said he thought we were inclined to grant Mr. Pope what he was asking for. President Skezas asked Mr. Pope if he were willing to pay 10% of the total water and sewer tomorrow and the remainder in 90 days? Mr. Pope said yes. President Skezas said then I think we ought to grant him that.

Director Williams said he thought they were also going to try to come up with a fairly uniform response. Ninety days for plan review was discussed as to feasibility; Mr. Chapman said they definitely could go through the District Architect in that time if it were not a major overhaul of their plans. All of them have stamped plans. Director Williams said we know that some will want to change their plans due to the construction quotes they've received.

Director Orth said maybe we should ask Randy Dorn about building costs. Mr. Dorn, in the audience, said he starts at \$160 on a level lot and up; that's pretty realistic. Mr. Dorn agreed whatever precedent you create needs to be available to all, like 90 days versus 180. Mr. Chapman said since the newsletter was mailed May 1st he's had five calls from folks interested in picking up a meter. Based upon the no-shows we may have 15 regardless of the 8 connections we're looking at tonight. Tom Porter was also interested in applying for some.

Director Orth moved for 10% of the water and sewer in 30 days and the remainder in 100 days from now for Mr. Pope. Mr. Pope said he could do that. Director Williams seconded. Mr. Neary interjected at that point and voiced he didn't think that setting precedent was really something the Board was doing; the standard of our ordinances is that if somebody is not satisfied with the application of the ordinance to them, they can apply for relief from the Board. It shouldn't be in the discretion of a staff member because there's no transparency there. If an 85-year-old lady is standing in front of you, you might want to treat her differently than someone else. It's inherently reasonable to give relief to specific individuals in specific situations. The fact that you give this gentleman "x" amount of days doesn't mean that you're obligated to give it to the next person. The motion on the floor carried unanimously.

Randy Dorn Appeal. Mr. Dorn had submitted a new letter at the start of the meeting with two proposals. President Skezas said the first request, for a year to consider, was not acceptable. The second request was for six months. Mr. Dorn said the first request would be simplest for him. He looked at a used manufactured home and has talked to various people and was trying to decide whether to walk away. He asked for whatever additional time the Board would give to put down the money, six months to submit his plans and a year to begin construction.

Director Williams asked if there actually was a market for single family residences in Brooktrails. Mr. Dorn said he didn't know yet. Director Orth said he wasn't too concerned about tying up one meter for 180 days. Director Ziady thought 10% down for both water and sewer within 30 days and then 6 months. Discussion followed about what the timeline would be for building. President Skezas said the original guideline was 30 days, and then 90 days for plans. After much discussion Director Orth asked if 90 days to make a decision was reasonable; Mr. Dorn said whatever you decide. Director Horrick said he was thinking 30 days for 10% down and 180 days.

President Skezas said we kept changing our requirements and he had a problem with that. Mr. Dorn did not sign his Notice, which told him he was really not sure, and that was one of our requirements—do we want to waive that now? You [the Board] made the rules, you have to follow the rules, whatever they are; we're sitting here and changing them around and he didn't think that was being fair to anybody. Mr. Dorn said it was his understanding he had to request a variance in that time. President Skezas said first thing on the list was sign the form; if you had a hardship, submit that at the same time. Mr. Dorn said he didn't realize until just now that he hadn't followed the procedure. President Skezas said only three people of the 24 signed the Notice.

Mr. Chapman referenced Section 4.304(c) provided in the packet regarding forfeiture appeals to the General Manager upon showing good cause within 10 days of the forfeiture letter. The guiding

principle was showing that the noncompliance was beyond the diligent control of the applicant, or that forfeiture would be inequitable given the totality of the circumstances. Director Williams said he knows as a lawyer, most folks don't read the fine print. He thought 180 days would really stretch this process out; there are 4,000 people out there and while there may not be a market for spec homes, there might be people who want to live in Brooktrails and want a connection and to build. We really shouldn't put them off any longer than we have to. He was willing to give him 60 days to make the 10% payment but 120 days to pay it all. He should sign the Intent to Proceed form now. Directors discussed giving him 48 hours to sign, 10% in 60 days and then 120 days (from now) to pay the full amount; it was confirmed that the entire timeline was 120 days, not 180. Director Orth so moved; Director Ziady seconded. The motion carried unanimously.

Charles Bello Appeal. Mr. Chapman reported Mr. Bello stated he was willing to pay the hookup fees tomorrow if his request were approved, but his actual request was to be able to sell the lot with the hookup to recover his expenses on this lot. After some discussion confusion arose as to whether he had one or two lots; Mr. Chapman clarified the meter was assigned to one specific lot. President Skezas said if there were two lots, he had only applied for one meter. Director Orth said it was up to him to sell them both of them together or have the buyer merge them. President Skezas asked if we had the ability to prevent a hookup on the second lot if they're not merged. Director Ziady said to explain to him that this meter will not serve two lots. Director Williams said why don't we make the payment due by 5:00 p.m. on Friday. Mr. Chapman said he would call him and write a letter. Director Williams moved we accept and they have until 5:00 p.m. on Friday May 14th to pay the connection.

Some discussion turned to the possibility of Mr. Bello's house plans overlapping a second lot. Mr. Chapman said he did not know if Mr. Bello's plans overlapped onto the second lot. President Skezas said he could see this one coming back to us. The motion on the floor carried unanimously.

Naikang Chang Appeal. Mr. Chapman said Mr. Chang did not sign his Notice of Intent; he then read parts of Mr. Chang's appeal letters. Part of his letter said "A realistic time phase may be projected only in the latter part of 2010." He proposed opening an escrow account in favor of the District for 10% of the connection fees. He said Mr. Chang hadn't signed the Notice of Intent form because he wasn't sure if that committed him to paying the \$24,000.00 [rounded].

Director Horrick said the request was so vague we didn't have anything to act on. Director Orth said the market trapped him and he believed he honestly wished he could build his retirement home in Brooktrails. He would want him to sign the Notice of Intent within seven business days and then he has to come up with a 10% payment within a time frame of 60 days. President Skezas said, not an escrow account. He would propose the same deal as for Mr. Bello. Mr. Chapman said so, the 60 days is for the total \$24,000.00. Directors clarified seven days for the Notice, 60 days for the 10%, and 120 days for payment of the water/sewer hookup fees, from today. Director Orth said he would make this a motion; Director Ziady seconded; the motion carried unanimously.

Hassan Mofrad Appeal. Mr. Chapman said they had two connections. They did not sign the Notice but he just received the appeal letter. Director Orth said Mr. Mofrad just wanted to stay on our waiting list. Mr. Chapman said we received his latest letter on May 10, 2010 wanting 12 months. Director Orth moved that the Mofrad's two connections be given seven days to sign the Notice of Intent, 60 days for the 10% down, and 120 days from today for full payment. Director Horrick seconded. Mr. Melluish asked, what happens if after 120 days they may have put down the deposit but don't pay the rest? Director Williams said, they forfeit the 10% and they're off the list and they start over. Mr. Chapman said he would show the letters to President Skezas.

Yousif & Grace Seliskar Appeal. Mr. Chapman said they did sign the Notice of Intent. Their letter requested a 15-year extension. President Skezas said he would say the same as the others, 60 and 120 and then it's forfeiture, off the list. By consensus direction was given

Joann Chaney Appeal. Mr. Chapman said we have an agent in this particular situation, but Mr. Sherman was not present. Neither the owner or the agent signed the Notice of Intent form or responded to the appeal instructions, but he had a letter from Mr. Sherman saying they did not feel they should be removed from the waiting list unless the District could prove there were other property owners willing to pay the fees and build immediately. Director Williams said they didn't do anything and send them a 10-day letter, forfeiture; this wasn't an appeal. President Skezas said won't we treat him the same way as the previous one? Directors responded no, just reject. Director Orth moved to reject the appeal; Director Williams seconded. The motion carried unanimously.

Moving on, Mr. Chapman said one applicant, Robert Rossetti, had submitted a Notice of Intent but had not claimed a hardship; nor has he made any payment. He asked for direction. Director Orth said we need to give him the 60/120 rule, since he did sign the Notice of Intent. He so moved. President Skezas mentioned that if the Notice of Intent wasn't satisfactory, let's give him the Paragraph E group. Mr. Chapman said he would check. If it were okay, he would do the 60/120 guideline. President Skezas said okay. If the Notice wasn't okay, we would reject him. Director Orth modified his motion to state that if the letter of intent was acceptable, we'll send the 60/120 letter and if it were not acceptable, we'll go with Paragraph E. Director Ziady seconded and the motion carried unanimously.

Mr. Chapman said he would send the forfeiture letter to the other waiting list members and possibly to Rossetti. Director Williams so moved. Director Ziady seconded and the motion carried unanimously.

A five-minute recess was called.

6. Consideration of request for golf course tree trimming – Ron Runberg. Mr. Chapman referenced the certified arborist letter from John Phillips. Mr. Phillips, Ron Runberg and Mr. Chapman had walked the course last week. Mr. Chapman reported that Mr. Phillips said the trees had to be looked at in context as to whether they were a stand-alone tree, within a cluster, or a tree infused within the forest belt. The trees should basically not be limbed up more than 50% for the health of the trees. He also referenced Mr. Runberg's letter dated April 28, 2010 requesting \$3,500.00 to rent a lift for one week for limbing trees.

Director Ziady asked why we need to rent a lift truck when we have paid for one. President Skezas said ours has to sit on flat ground. Mr. Runberg said the crux of it was he was trying to get sunlight, and we had about two weeks left in the burn season. He said he would cover the liability, if any, and with his crew do the cleanup; he was asking for partial help from the District. Two years ago he did the front of the golf shop on an experimental basis to see what he would get out of it; Thompson Tree spent a day and a half and it cost \$1,750.00. It was not in his budget to be able to do this. The person who would do the limbing was experienced in it. He thought it would get sunlight to the greens. No trees would then have to be taken down and it would be a minimal cost. These would be the same 40 or 50 trees we were originally looking at. He didn't think that in one week we would get any more than the ones around the greens.

Mr. Chapman mentioned concerns about the bridge. He didn't know how much this truck weighed but he had been warned by two engineers that the bridge was insufficient. He did not know how safe that bridge was. We had it in the budget to replace it next August. The engineers will not say how much weight it will hold. Mr. Melliush said we periodically have taken the dump truck over it. Director Williams said that doesn't mean the bridge will continue to hold that weight.

Director Orth said he was looking at ensuring that Mike Chapman as Park Superintendent be put in charge of the whole trimming operation. He mentioned that we were going to address the Heritage Tree issue and the six-hole course issue as the first two items. We're still under the old contract until July 1, 2010.

Director Williams said when we were discussing the language to be clarified in the [new] contract, it was his understanding that it was not a deviation from past practice, but simply going to make clear that which had been understood between the Board, General Manager and Mr. Runberg. We thought it was a little too ambiguous, but we were clarifying it in a way that was consistent with past practice. It was his understanding that things up to about head height, bushy growth around redwood trees, that that was completely within Mr. Runberg's responsibility and discretion. But that limbing up redwood trees would be agreed between Mr. Chapman and Mr. Runberg and we would get an arborist involved. The letter also refers to "trim the agreed-upon limbs" and he asked if Mr. Chapman and Mr. Runberg had in fact agreed upon what should be trimmed. Mr. Chapman said the arborist had clarified some things he needed to know; he was going to try to follow Mr. Phillips recommendations, but that didn't mean he was going to say, *carte blanc*, let's take all these trees up 50%. In that regard Mr. Runberg would be unhappy. Director Williams noted that the arborist's letter said you don't limb or prune unless you have to. There were two concerns, he said. One is, we're seriously considering going from a nine-hole to a six-hole course which opens up the course to a greater variety of use and makes it more desirable. Second, you're talking about letting in sunlight to the greens; it sounded to him like the limbing might be consistent with a nine-hole course, but not necessarily with a six-hole course. He thought there was a consensus in the community that this six-hole course might be an answer regarding the redwood trees.

Director Williams said he had viewed a tree on the course last week that had apparently recently been limbed and it looked like it had been turned from a redwood tree into an umbrella. Mr. Stahle and Mr. Morris asked who did that and under whose authority. Mr. Chapman responded that this was why we had Mr. Phillips' letter in front of us.

Mr. Stahle said this conversation is not unlike Ron making arrangements to cut the trees without your blessing. You guys are going ahead and talking about modifying what would be heritage trees and/or groves without having complied with the Specific Plan. You're basically in violation of your own Specific Plan.

Director Williams responded it was his understanding that whatever limbing was done it should be consistent with any heritage tree ordinance [we don't have one yet]; and there wasn't any old growth tree out there, but there still was a golf course out there. First, he did not want a tree out there touched that would limit our ability to have it be consistent with the future heritage tree ordinance. He then turned to the "telephone pole" tree limbed on fairway number 5 — he wanted to make sure in the future there wasn't a single limb that should be taken off that doesn't have to be taken off. In his judgment we needed to decide as a board whether or not Mr. Chapman is the one who you talk to about what you want to be done, and if Mr. Chapman had any idea that what is desired for the course that is not consistent with what this Board was thinking is going to be done, he comes to the Board. It's the District's golf course, and we

make the decision about those redwood trees. The idea of getting a large bucket out there to go up 60 or 70 feet on those trees, he couldn't imagine where he would like to see that happen on the course. Especially with the possibility of going to a six-hole course. President Skezas interjected the six-hole proposal would retain the nine-hole option. Director Williams said he didn't think we were going to start limbing trees so some people can play both options. He thought the idea was it's going to be a six-hole course that some people can turn into a nine-hole course if they want to, but we're not going to trim the trees for them. Mr. Runberg said that the concept is more towards George's idea, it would be for both. Referencing the tree that was cut that Director Williams mentioned, he wasn't putting this on Dave Sentak, he asked Dave who was the arborist who did the trees, this was a year plus ago, that we had those standards, and Mr. Chapman had no idea, I take responsibility for that, it's on the old contract. So it is good that we have something in the middle with Mr. Phillips. It's not something he would do again.

Don Morris said this was premature until we go through the planning process and talk about the heritage tree ordinance. He noticed Mr. Phillips said the most current guidelines state no more than 25% of the live crown should be removed in any year. He noticed that some heritage tree ordinances say the same thing. They also say that no more than one-third of the roots should be trimmed. They allow people to prove a need if they want to do more. That's supposedly what we're supposed to do with the heritage tree ordinance. Regarding the contract language, the new contract said that Operator shall obtain prior written consent of the Board to remove trees over 6" or the written consent of the General Manager prior to removing trees less than 6" at chest height. The new contract requires written consent. It was his understanding that the current Operator has been going on a little binge here recently, getting in some pruning under the original contract. As long as this attitude prevails here, Mr. Morris said, we're going to have constant turmoil; he thought it was time for this to change and hopefully the planning process would. And also when it comes to finance, there needs to be cost/benefit analysis.

Mr. Stahle said was a continued wearing away of the well-being of the trees and with this trimming which seems to be on the fast track to get in under the old contract. He questioned whether Mr. Chapman was an objective person in this regard. This is a new version of the same old debate that has not been addressed as long as the Specific Plan and the Environmental Resources Committee isn't in place and there isn't any management plan for the trees.

Mr. Chapman said he revised his own position after hearing the Board of Directors through a 14-month process. He mentioned he couldn't satisfy everyone — for those on the right he was too far to the left; and for those on the left, he was too far right. There were still many "playability" trees located on hole 6 and 7 where the issue was more about golf ball flight and really nothing to do with the sun. He still hasn't heard a complete consensus from the Board on the sunlight issue. He was in favor of Ron's six-hole concept and that would require having 8 trees removed behind Hole 6 and fairway number 7. He closed by reiterating he wanted to get the drainage improved and he still was concerned about bringing the truck over the bridge.

Director Orth said with the Specific Plan Committee taking on the Heritage Tree ordinance immediately, he would propose a motion that would not make Ron happy because it would delay this again, but it fits in with the comments about getting the planning done. His proposed motion was to approve the Brooktrails Park Superintendent (General Manager) as supervisor for management of redwood trees and groves. The Park Superintendent shall prepare an annual maintenance plan for action for public hearing and review and approval by the Board of Directors. That would get the Heritage Trees defined, looking at the six-hole course proposal, and would then allow us to prepare that management plan for adoption. It's going to be fall or winter of this coming year rather than this spring under that proposal. His intent was to get the Specific Plan Committee up and going on the Heritage Tree issue and get the six-hole course proposal fleshed out as well so that this time next year we're in much better shape and have come to agreement. He hoped we could accomplish this within six months. Mr. Chapman said under the suggestion of the ad hoc committee the committee would consist of Directors Williams and Orth, Bob Terry, Matt Richmond who is a biologist, and Don Morris.

Director Ziady asked when walking the course with Mr. Phillips, can we delay this trim or do some very limited work. Mr. Chapman said there were trees that need trimming for playability, he wasn't going to say that that can't be done.

Director Orth referred to his motion asking the General Manager to come forward with a plan to be heard in public hearing and approved by the directors. He thought we could allow Ron to get some simple stuff done during that process with the understanding that any plan that would come forward this year would be minimal and based upon playability issues. By fall the bridge would not be an issue.

Mr. Chapman asked the question as to whether the Board wants us to trim some trees for playability, yes or no? Director Orth said there's a motion on the floor that needing a second. Director Williams seconded. Director Orth said this allows you to come back with a plan to trim specific trees at specific holes. We know we can do more later once we have these issues defined. He felt under the new contract this would be the kind of process we'd use in a Heritage Tree ordinance, a hearing process that would allow us to operate more normally without arguing forever. President Skezas said he didn't think that would ever change, it would always be an argument. Director Orth said right now there was no definition, we can all understand what's about to happen, there should be clear understanding before an operation goes forward and a public process.

Director Williams said he was hearing that even a heritage tree process would allow grooming, trimming, etc. as long as that's for the health of the tree. Don Morris specified some ordinances he had reviewed; they allow such and such with a permit; there is a procedure you go through if you want to remove a tree and you set the criteria and conditions for that. He thought one of them gave a lot of discretion to the superintendent of parks and recreation.

Director Williams suggested to Mr. Runberg that the process needed to be conducted as though the new contract were in place. The heritage tree ordinance to a large extent is going to be drafted to govern the conduct of this Board in dealing with trees owned by the District, the grove at the golf course and the greenbelt.

Director Orth said the motion would require that Mr. Chapman come back with a preliminary plan and he would get his marching orders through that process. President Skezas said he would like to modify the motion that he come back with the plan in two weeks; Director Orth said okay. The Board consensus was for Mr. Chapman to return with a plan and more data.

J. ADDITIONS TO FUTURE AGENDAS

Director Orth said at the next meeting we need to take action of whether to support the bypass to the various permitting agencies with letters of support. The Corps of Engineers, various Water Quality permits.

K. SPECIAL REPORTS

From Directors: None.

From District Counsel: None.

From General Manager: Mr. Chapman said a young man called to say he just paid \$6,000.00 for a lot and intends to come grow 25 plants on it; he said the Sheriff's Department had okayed this. But obviously you have to have a dwelling. Somebody does this about once a year and we have to dissuade them. He wants to set up a fence and haul water; it's a zoning issue; it's all kinds of issues. Mr. Morris said it's a commercial enterprise on an R-1 lot, it violates zoning.

L. PUBLIC COMMENTS

None.

M. ADJOURNMENT

Director Horrick moved to adjourn; President Skezas adjourned the public meeting at 9:40 p.m. The Board then reconvened in the District Office for continuation of executive session.

George Skezas, President

ATTEST:

MICHAEL V. CHAPMAN