



BROOKTRAILS TOWNSHIP

COMMUNITY SERVICES DISTRICT
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April 12, 2013

Holly Madrigal, Mayor
City of Willits
111 East Commercial Street
Willits, CA 95490

Dear Mayor Madrigal:

Brooktrails Township officials were dismayed to learn that this past Wednesday two agenda items on the *Consent Calendar* were approved which represent two missed opportunities to improve communications between Brooktrails and the City regarding ongoing wastewater treatment plant funding.

The obvious item was:

Consent Calendar Item No. 4f - Final Contract Amendment No. 12 with SHN Consulting Engineers to Provide Post Construction Management Services, Resident Project Representation, Permitting and Compliance Services and Terms Related to the Completion of Stages II And III of the Willits Wastewater Treatment Plant Project.

We are more than surprised that no advance notification of this matter was provided to Brooktrails and no copy of the proposed contract amendment terms was included with the staff report on the City's website.

First, Brooktrails cautions the City to make certain SHN not be relieved of potential financial responsibility for any design problems. We have learned that over a 12 month period, including all four seasons, as much as 100 million of gallons of treatment plant effluent are unaccounted for and may have directly percolated into the Little Lake Valley groundwater table in violation of your permit. Brooktrails officials did inform City officials in writing about this risk related to a design issue before any construction contracts were awarded. In contrast to a number of engineering reports, the construction documents did not provide for compaction of the enhanced wetlands ponds.

And that doesn't even address the problem for the City that 62.31% of the new plant's reduced average daily dry weather flow capacity is inadequate to meet the City's current needs (a problem that also exists for wet weather flow capacities). Despite your assertions, information gathered in the past two years indicates the City does not have 37.69% of capacity to sell Brooktrails.

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Further, since funding this contract amendment involves reclassifying grant funds “from one billing group to another and provides post construction services and compensation”, we are concerned that grant funds are being diverted that could have been used for construction costs.

Brooktrails also objects in advance to any costs related to “Post Construction Management Services” that may be contained within any future billings sent to Brooktrails. We believe that some of the engineering work may be more properly classified as warranty work for which no payment should be made to SHN.

The second agenda item may be less obvious but is of significance in the context of the current dispute:

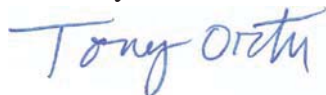
Consent Calendar Item No. 4d - Contract for Professional Services with R. J. Ricciardi, Inc., for Preparation of June 30, 2013 Audited Financial Statements, June 30, 2013 State Controller’s Report, and 2013 Public Facilities Corporation Tax Return.

On page 2 of the letter from R. J. Ricciardi, Inc., which constitutes Exhibit A of the proposed Contract, is the statement: “As part of the audit, we will prepare a draft of your financial statements, schedule of expenditures of federal awards, and related notes.” It is disappointing that again there is no mention of a schedule of expenditures and revenues related to the operation of the Wastewater Treatment Plant. Last year many hours were spent in costly mediation sessions to seek agreement regarding accounting and auditing issues. An audit of a schedule related to the Treatment Plant operations surely would have been a reasonable outcome.

It appears that making even a minimal effort to avoid future disagreements on known issues regarding the Wastewater Treatment Plant funding dispute with Brooktrails is not a priority of the City Council. And we are forced to assume that the unanimous approval by the City Council of the filing of a amendment expanding the City’s cross-complaint reflects a rejection of our last settlement proposal and an intent by the Council to have a court resolve those issues.

As we noted in our previous letter, the more information we gather the more we believe Brooktrails will prevail in court on most of the issues. Since January, Brooktrails has pursued a settlement only because we believed it would be better for both Brooktrails and Willits ratepayers than the current litigation. It is clear you did not share this goal.

Sincerely,



Tony Orth, President
Brooktrails Township Board of Directors

cc: Denise Rose, Brooktrails General Manager
Adrienne Moore, Willits Interim City Manager
Christopher J. Neary, Brooktrails General Counsel
H. James Lance, Willits City Attorney