

Cordry-Sweetwater Conservancy District
Board of Directors Meeting
December 19th, 2023

1. **Board Members Present:** Josh Edwards, Pat Sherman, Herb Benshoof, Aaron Parris, Mark Rasdall, Ted Adolay, and Mike Leavitt
2. **Board Members Absent:** None
3. **Also, Present:**
 - a. **Staff:** Brittany Bay, Nick Johann, & Josh Bryant
 - b. **CSCD Attorney:** Roger Young
 - c. Approximately 25 freeholders in attendance & numerous online viewers
4. **Welcome:** Mr. Edwards called the meeting to order at 7:02 PM.
5. **Agenda Modifications:**
 - a. Mrs. Bay requested to add line items 8.e.i Holiday Bonuses and 6.b.i credit card reader at the marina.
6. **Approval of Minutes:**
 - a. Mr. Sherman requested to modify the minutes to correct the spelling of remonstrance and to add to where Mr. Parris read off the wake committee recommendations and no action was taken it would be noted no action taken by the Board. There was discussion of recommendation/motion number 19 and it was clarified with number 12, so no modification needed.

MOTION: Mr. Sherman motioned to approve the November 21st, 2023, Board Meeting Minutes with the above-mentioned modifications, seconded by Mr. Parris. Motion passed unanimously.
7. **Freeholder Concerns:**
 - a. Carrie Vavul (OES 333) had questions about the election. Mrs. Vavul asked if a freeholder owned multiple lots but only pays one equal assessment of how many votes would that freeholder receive. Mr. Young explained the best way to look at it is each equal assessment has a vote. Mrs. Vavul then asked if there was a database/spreadsheet that shows which lots are in each district area and if they are divided to be an equal number of freeholds in each area. Mr. Young explained that as opposed to a general election where each person gets a vote with the Conservancy District each freehold gets a vote not the person. Mr. Young further noted that he believed the statute said the land within the District should be divided into areas but does not come out and say the areas should contain an equal number of freeholds, but he believed they should. Mr. Young then explained that the areas that the District has today were

established in 1974. Mr. Young then discussed that he had talked to the court about the fifth amendment to the District plan, and they have searched but can find no exhibit A (map) attached to the fifth amendment to the order establishing the District. This amendment changed the District from 5 areas to 7 areas. Mr. Young then discussed the map that the office has to go off of and noted it very well could be exhibit A. Mr. Young then noted there is not database you could only tell that by referencing the map which has lines drawn on it separating the areas. Mrs. Vavul then asked what if there was a dispute on the area because they could not tell which area based on the line. Mr. Young then noted that the Board would have to decide on the best evidence they have been given. Mr. Young then noted that if someone did not like the Board's decision and there was a challenge they could file suit in Brown County Circuit Court and the Judge would make the decision. Mrs. Vavul then asked what is the criteria on the decision if a vote is good, thrown out, or challenged. Mr. Young noted the criteria would depend on what the issue is but the basic criteria are each freehold gets one vote. Mr. Rasdall then asked Brittany Bay if she has a list of everyone who pays a ditch tax, and if that could be used as a voting record registry and passed along to the Board and the Election Committee. Mrs. Bay noted that this is something updated and annually sent to Brown County to collect the equal assessment and that the Election Committee already receives that on the day of the election that is how they verify the affidavit and that the vote is valid. Mrs. Vavul then discussed last year there was an issue with the newsletter sent out and this year there was an issue with the mailing label being on the back side of the ballot and what will happen with those ballots. Mr. Young noted that it is the duty of the election committee to count the votes and certify them; if an issue arises, they can ask for advice from the CSCD attorney. Mr. Parris asked if the Board could give guidance to the election committee to count those votes that may have a label on the back. Mr. Young mentioned the Board could let the committee know how it expects them to perform but to say giving instruction to them is taking away their authority to make the ultimate decision.

- b. Shawn Rexroth (OES 260) thanked Pat Sherman for pointing out that the people who owned properties in the 200k-400k price range pay most of the assessments. Mrs. Rexroth discussed someone out wandering in the woods and saying he was out surveying to connect the two lakes and asked if this was true. Mr. Sherman noted that he believed this sounded like a scam. Mr. Johann noted that sounded like someone playing a joke. Mr. Rasdall mentioned it sounded like someone trying to explain why they were in the woods. Mrs. Rexroth asked Mr. Parris what his plans are for unbuildable lots in the District and mentioned his advertisement sign. Mr. Sherman mentioned that the Board has tried to accommodate unbuildable lots with adjacent properties. Mr. Parris explained the wording on his sign that unbuildable lots are designated by Brown County Health Department but that doesn't mean it couldn't change in the future. Mrs. Rexroth noted that the wake boat thing is not an us vs. them, she believes the lakes are simply too small and it causes damage to shorelines, and it affects others on the lakes. Mrs. Rexroth then asked why the Board voted against freeholders. Mr. Rasdall noted that he didn't. Mr. Sherman explained the way he voted the way he voted was because the accommodation the Board came up with regarding the affidavit and that if someone is found in violation of that they are off the lake for 12 months and the accommodation of keeping people 400 feet off the dam and in the middle of the lake and believed that was reasonable.

8. Management Reports:

a. Director of Finance & Administration:

- 1. Mrs. Bay summarized the fund report. The current balance is \$2,824,338.27.

MOTION: Mr. Sherman motioned to approve the financial report subject to audit, seconded by Mr. Benshoof. Motion passed unanimously.

2. Resolution 2023-21: Transfer of Funds w/in the Budget.

MOTION: Mr. Parris motioned to approve Resolution 2023-21: Transfer of Funds w/in the Budget, seconded by Mr. Sherman. Motion passed unanimously.

3. Mrs. Bay summarized the appropriation report and monthly claims list. The monthly claims total is \$284,326.14. The unexpended remaining balance is \$606,843.44 or 23.96% remaining.

MOTION: Mr. Sherman motioned to approve the monthly claims subject to audit; seconded by Mr. Benshoof. Motion passed unanimously.

b. Director of Operations:

1. Mr. Johann summarized his report.
2. Mr. Johann discussed dam mowing.
3. Mr. Johann spoke about the deer reduction hunt.

9. Commission Reports:

a. Building:

1. Mr. Sherman reviewed the building applications.

MOTION: Mr. Sherman motioned to approve building applications 23-095, 23-097, and 23-099 for approval from the CSCD Board contingent upon lot owners obtaining all permits required by Brown County and meeting all conditions by the Building Commission, seconded by Mr. Rasdall. Motion passed unanimously.

2. Mr. Sherman reviewed the dredging applications.

MOTION: Mr. Sherman motioned to approve dredging application 23-011 for approval from the CSCD Board contingent upon lot owners meeting all conditions by the Building Commission, seconded by Mr. Rasdall. Motion passed unanimously.

3. Mr. Sherman reviewed the Bowen Variance Request at 7015 Opossum.
4. There was some discussion amongst the Board. It was noted there were 4 cases of remonstrance.
 - i. Kathy Gillette spoke about the waterfront being taken away and taking away the view. Mrs. Gillette spoke about the channel already being small.
5. There was some discussion amongst the Board.

MOTION: Mr. Sherman motioned to approve the Bowen variance request at 7015 Opossum Drive. No Second.

MOTION WITHDRAWN: Mr. Sherman withdrew his motion.

MOTION: Mr. Rasdall motioned to not approve the variance request because it extends too far in the lake and because of the cases of remonstrance, seconded by Mr. Edwards. Motion passed unanimously.

b. Ecology:

1. Mr. Benshoof summarized the Ecology Minutes.
2. Mr. Benshoof spoke about the self-fueling card reader at the marina and noted that the ecology commission has done a lot of research on the topic and not one other marina allows this, and the ecology commission would like to reallocate the budgeted money for the card reader at the pump to a different project. Mr. Benshoof noted that the ecology commission is extremely against having a card reader at the marina.
3. Mr. Leavitt mentioned asking the CSCD insurance company about the self-fueling pump.
4. Mr. Rasdall noted he didn't believe the outcome of the wake committee recommendations versus what the Board decided was not shared by everyone. Mr. Rasdall then mentioned the Board has freeholders volunteer their time and they (the ecology commission) have done a ton of research and have unanimously agreed and for the Board not to listen to this commission would be irresponsible.
5. Mr. Benshoof noted that the money was already in the budget so it would be possible to reallocate that money for another security project.
6. Mr. Edwards noted just the money has been approved the purchase has not so this is just a discussion item at this point, it is not actionable.
7. Mr. Leavitt spoke about prescribed burns on the dams.

c. Roads:

1. Mr. Rasdall summarized the Roads Minutes.
2. Mr. Rasdall discussed a road striping quote from Indiana Sign & Barricade.

MOTION: Mr. Rasdall motioned to approve the road striping not to exceed \$43,160.00, seconded by Mr. Sherman. Motion passed unanimously.

d. Security:

1. Mr. Adolay summarized the Security Minutes.
2. Mr. Adolay spoke about a ski show on Cordry Lake in conjunction with the boat parade.
 - i. There were questions asked to Dave Jarret about the ski show. Mr. Jarrett explained this is just the first step getting the Boards approval to allow the event the details are still being worked out. Mr. Jarrett noted that the skiers would have to sign a waiver release liability.

MOTION: Mr. Adolay motioned to approve allowing a ski show on Cordry Lake on a TBD, seconded by Mr. Rasdall. Motion passed unanimously.

3. Mr. Adolay discussed the wake surfing course that the Board sent to the commission. Mr. Adolay noted that the commission needed a January meeting to discuss the rule book, a boating safety course, and the wake surfing course.
4. Mr. Adolay discussed boat measurements. Mr. Adolay suggested that the boat measurements should go off what the manufacturer specifications. Mr. Parris noted he believed there would be a challenge with going from the manufacturer specifications because the way they measure can be different as well. Mr. Leavitt asked if the security commission made a motion or vote on this because it was not presented in the minutes. Mr. Edwards noted there needed to be a lot further discussion on this topic.
5. Mr. Parris asked about the wake surfing course and what the Board thought about making it on Sweetwater you run from south to north and on Cordry running north to southeast. Mr. Rasdall discussed the course, and that the security commission needs to draw the path on a map. Mr. Adolay noted the security commission had safety concerns with the wake surfing course.
6. There was discussion on updating the rules. Mr. Rasdall noted that once everyone gets their updates to the rule book put together before it comes before the whole Board it should go to the CSCD attorney to make sure the rules are legal and enforceable.

e. Water:

1. Mr. Parris summarized the Water Minutes.
2. Mr. Parris spoke about the water rate increase.

10. New Business

a. First Public Reading Resolution 2023-17 Amending water rates and charges

1. Mr. Pariss went over the resolution.
2. Mr. Young went over his changes from the Baker Tilly recommendation that were included in the Resolution.

MOTION: Mr. Parris motioned to approve Resolution 2023-17 Amending water rates, seconded by Mr. Benshoof. Motion passed unanimously.

3. The Board considered Resolution 2023-17 proposing to increase water rates. After discussion Resolution 2023-17 was approved on first reading. The Board directed a notice of Public Hearing of Resolution 2023-17 to be held at the annual meeting on January 13th at 1pm. At which time the public comment will be heard. At conclusion of the hearing the Board will take final action to either not adopt the Resolution, adopt the Resolution as presented, or adopt it as amended.

b. Resolution: 2023-18 Repealing Resolution 2015-10, Amending Resolution 2004-3, & Adopting Resolution 2023-18

1. Mr. Benshoof requested to modify page 2 number 2 “this restriction includes but is not limited to placing additional weight in an area of the boat by placing additional passengers or removable ballast to enhance the wake of the boat” by removing either by the placement of additional passengers. Mr. Benshoof noted he believes this was too subjective. There was discussion amongst the Board and Mr. Young on the modification. Mr. Parris suggested striking the words either and additional passengers. Mr. Rasdall noted that that would still allow freeholders to put all passengers in the back of the boat, which would create a wake. Mr. Sherman mentioned he agreed with Mr. Benshoof it gets slippery telling someone where they can sit in their boat, but he understands Mr. Rasdall’s point. Mr. Parris noted he understood where Mr. Rasdall was coming from but how do you draw the line of how many people are allowed in the back of a boat and what makes them additional passengers. Mr. Rasdall mentioned everyone knows if there are a bunch of large people in the back of the boat it is going to create a larger wake. Mr. Young discussed the difference of people in the back pulling a surfing versus not and what is going behind the boat would be a determination of a violation.

MOTION: Mr. Benshoof motioned to approve amending the terminology of proposed Resolution 2023-18 Repealing Resolution 2015-10, Amending Resolution 2004-3, & Adopting Resolution 2023-18, seconded by Mr. Parris.

Discussion: Mr. Sherman noted that he believes its subjective and did not know if it was something that can be enforced, and asked can you tell someone where you can put their people in their boat. Mr. Rasdall mentioned that if we are allowing them to use their boat on the lake they need to balance their boat. Mr. Young then

read the beginning portion of the resolution. Mr. Rasdall then mentioned that boat patrol could still pull these people over and ask them to distribute their boat evenly. Mr. Sherman mentioned that this would make it a rule and violation it would not give the option to pull them over and ask them to redistribute. Mr. Sherman noted this would make it to where the person would be off the lake for a year as to where maybe this needed to be a three and out rule for passengers. Mr. Young noted this was a lot of changes and he would like to take the Resolution and bring it back at the next meeting. Mr. Rasdall asked about the course and what is that violation.

MOTION WITHDRAWN: Mr. Benshoof withdrew his motion.

MOTION: Mr. Parris motioned to approve amending of proposed Resolution 2023-18 Repealing Resolution 2015-10, Amending Resolution 2004-3, & Adopting Resolution 2023-18 by laying out in section 3 for utilizing people as ballast will fall under any other rule violations and have to receive three before loss of lake rights for a year, seconded by Mr. Rasdall.

Discussion: Mr. Sherman mentioned paragraph 1 where it discusses 4,000lb weight for boats and he believes that if a freeholder can take his boat to a certified scale to determine the boat is under 4,000lbs it should be accepted; because his understanding is the manufacturers have the boat weight listed as the weight with the biggest engine and all accessories available. Mr. Sherman requested Mr. Young add a way for a freeholder to prove by going to a certified scale that their boat was under the 4,000lb weight restriction. Mr. Young then noted that they could say the nada boat database would be the presumption and that that could be rebutted by presenting evidence of a certified weight of the boat. A freeholder then noted that nada boat database has been changed to jdpower. There was discussion on deleting the manufacturers brochure as an alternate because it was preferred to use jdpower. Mr. Sherman also requested to make those same changes in the affidavit.

MOTION: Mr. Sherman motioned to approve changing the weight restriction verbiage as discussed in proposed Resolution 2023-18 Repealing Resolution 2015-10, Amending Resolution 2004-3, & Adopting Resolution 2023-18, seconded by Mr. Benshoof. Motion passed unanimously.

c. Resolution 2023-19 Authorizing Safety Inspection of Watercraft

MOTION: Mr. Sherman motioned to approve Resolution 2023-19 Authorizing Safety Inspections of Watercraft, seconded by Mr. Benshoof.

Discussion: Mr. Sherman discussed the last paragraph on page one. Mr. Sherman asked if possession of an operator's license of a motor vehicle is required to operate a watercraft. Mr. Rasdall discussed people who are old enough to receive a driver's license but just have not because of other circumstances, would that mean they are not allowed to drive a boat. Mr. Young noted he would have to do an amendment to the original Resolution to change the operators age to 16. Mr. Sherman then mentioned the area of the Resolution that stated, "to make such other inspections as may be necessary in order to determine that the watercraft and its occupants are in compliance with all State Laws and CSCD rules and regulations" and he doesn't know if we can do anything if it's a violation of state law. Mr. Young discussed boat patrol reporting state law violations to the authorities. Mr. Young mentioned changing shall to may.

MOTION: Mr. Sherman motioned to approve amending proposed Resolution 2023-19 Authorizing Safety Inspections of Watercraft, seconded by Mr. Leavitt.

Discussion: Mr. Rasdall asked Mr. Young to read the amendments. Mr. Young noted the last Whereas he would delete all state laws and simply say in compliance with CSCD rules and regulations. Then Mr. Young noted that he would like to make the rest of these changes at the office and send it out to the Board.

Motion passed unanimously.

d. Resolution 2023-20 Setting 2024 Salaries

1. Mr. Rasdall requested that budget line item 124 be modified from \$42.50-\$45 to \$42.50-\$50.
2. Mr. Sherman noted the Resolution should be year 2024 not 2023.

MOTION: Mr. Parris motioned to approve Resolution 2023-20 Setting 2024 Salaries with the 124-line-item amendment and amending the year 2023 to 2024, seconded by Mr. Rasdall. Motion passed unanimously.

3. Mr. Parris discussed employee bonuses.

MOTION: Mr. Parris motioned to approve awarding bonuses to both Brittany Bay and Nick Johann in the amount of \$3,250, seconded by Mr. Benshoof. Motion passed unanimously.

e. CSLOA representatives to Security & Building Commissions

MOTION: Mr. Sherman motioned to approve adding JoAnn Hamilton to the security commission and Kathy Wood to the

building commission as the CSLOA representatives, seconded by Mr. Parris. Motion passed unanimously.

f. CSLOA Ox Roast/Fireworks Show

1. Allison Randolph spoke about combining the OX Roast and Fireworks show to get greater participation.

MOTION: Mr. Sherman motioned to approve combining the OX Roast and Fireworks show at the beach, seconded by Mr. Parris. Motion passed unanimously.

g. Election Committee

1. Mr. Johann stated "I have reached out to the folks that helped us last year, Greg and Teresa Gillentine as well as Jim Ray. They are available if the Board sees that they would like to have them help again. I believe that somewhere in the statue or something that as far as the election goes the Board needs to appoint an election committee, so I wanted to make that correct and official. Any input or questions?" Mr. Benshoof "Do you have backups?" Mr. Johann "We have those three who are all prepared to do it, but I can get a couple of backups if need be. I think, not to volunteer Alison, but she has helped in the past with that if need be. I can reach out to several people and get backups. If you didn't see in the newsletter, in the instructions, we are holding the election from 8am-10am, there is a three-hour gap before the meeting starts, hopefully that will be plenty of time. Jim Ray did give us a list of things that he thought would help speed things up, we're going to follow those and hope we make it as efficient as possible." Mr. Rasdall "Wouldn't it be a good idea to make that election committee five people now? It wouldn't hurt to have all five show up. If you only have three that is what you intended for but if you have five that might speed the process up." Mr. Parris "So who is your fifth person?" Mr. Johann said, "Fourth and fifth." Mrs. Bay said, "Alison said she could do it." Shawn Rexroth volunteered for the election committee. Mr. Rasdall "Ok I'll take Shawn and Alison, you said you would. Is that cool with everybody?" Alison asked "The fifteenth?" Mr. Edwards said, "Makes sense." Mrs. Bay said "The thirteenth." Mr. Sherman said "But let Roger research to make certain there isn't." Mr. Rasdall said "A background check." Mr. Sherman said, "No the state law determines the number of freeholders." Alison said, "Oh no I can't but I can get somebody, I can get somebody from CSLOA. If you can't get anyone from the community, I am sure I can get somebody to help." Mr. Rasdall said, "Did you need, is there research you need to do?" Mr. Young noted he wanted to check he thought there could be three or more. Mr. Rasdall said, "Well we have two volunteers tonight." Mrs. Bay said, "Alison can't do it so uhm Renee Skipper is going to do it." Mr. Rasdall said, "Renee and then Shawn." There was discussion. Mr. Rasdall asked, "Do we need to make a motion?"

MOTION: Mr. Rasdall made a motion that Shawn Rexroth and Renee Skipper be added to the election committee along with those that Nick has already mentioned.

Discussion: Mr. Benshoof stated, "We still need a couple of backups." Mr. Edwards said, "We have a motion do we have a second?" Mr. Sherman asked, "Do the backups have to be approved?" Mr. Young said, "Yes." Mr. Sherman said, "So we can't have other backups we have five, so you have three and two backups." Mr. Rasdall asked, "Dave would you like to be a backup?" Mr. Rasdall said, "Lets list Mr. Jarret as a back up for the election committee." Mr. Young noted they are described as alternates. Mr. Rasdall said, "Alternate, and then we will add Dave Jarrett as an alternate to the election committee counting."

Mr. Sherman seconded the motion. Motion passed unanimously.

P.S.: Upon further research from CSCD Attorney Roger Young relayed to the Board of Directors, Nick Johann, and Brittany Bay, "Once again it is proven that it is always a good idea to check the statute before providing a legal opinion. I.C.14-33-5-6 states "At each annual meeting and before the election of directors, the chairman shall appoint three freeholders of the district who are present at the annual meeting to act as clerks of and conduct the election."

Therefore, the election committee (statutorily described as clerks of election) may only consist of 3 freeholders, no more or no less. However, I see no reason why the chairman cannot appoint additional freeholders as alternate clerks in the event that any of the 3 appointed clerks are unable to perform their duties.

As I indicated at the meeting, Paragraph D of the above-referenced statute does make it clear that it is the clerks of election that count the votes and report the vote count to the Board. Upon receipt of the vote count, the chairman of the district is then required to declare the successful nominees elected."

11. Board Members Concerns

1. Mr. Rasdall thanked everyone for coming and wished everyone a Merry Christmas. Mr. Rasdall appreciated everyone showing up no matter what their positions are on topics.
2. Mr. Leavitt also thanked everyone and noted he appreciated everyone.
3. Mr. Adolay thanked everyone for coming.
4. Mr. Sherman thanked everyone for coming. Mr. Sherman asked everyone to watch for their new assessment from Brown County.
5. Mr. Edwards wished everyone a safe and happy holiday.
6. Mr. Benshoof thanked everyone and noted this was his last full meeting after 12 years of serving the District and he enjoyed it and all of the friendships he has made. Mr. Benshoof noted he looked forward to the new friendships he would make since he is now retired and living here full-time. Mr. Benshoof mentioned he appreciated all of the other members he has served with and all they have accomplished. Mr. Benshoof wished everyone a happy holiday.

7. Mr. Parris thanked Josh Edwards and Herb Benshoof for their service, and noted serving on the Board is a thankless job. Mr. Parris wished everyone happy holidays.

12. Adjourn (9:47 PM)

MOTION: Mr. Parris moved to adjourn, seconded by Mr. Rasdall. Motion passed unanimously.

Respectfully submitted,


_____, Board Secretary

Date Submitted: