

**Cordry-Sweetwater Conservancy District**  
**Board of Directors Meeting**  
August 20<sup>th</sup>, 2024

1. **Board Members Present:** Randy Brumfield, Pat Sherman, Aaron Parris, Ted Adolay, Jim Maulden, Mark Rasdall, and Mike Leavitt
2. **Board Members Absent:** None
3. **Also, Present:**
  - a. **Staff:** Brittany Bay & Nick Johann
  - b. **CSCD Attorney:** Roger Young
  - c. Estimated 20 freeholders in attendance & numerous online viewers.
4. **Welcome:** Mr. Leavitt called the meeting to order at 7:02 PM
5. **Agenda Modifications:**
  - a. Mr. Leavitt requested to add line items 6.d.i Approving CSLOA rep Carrie Vavul to the security commission, and 8.c. Election Issues. Mr. Parris requested to add 6.e.i Approving CSLOA rep Jeff Romick to the water commission. Mr. Sherman requested to add 6.a.iv approving adding lots of numbers to parcels that do not have them.

**MOTION: Mr. Sherman motioned to approve the agenda modifications as requested, seconded by Mr. Parris. Motion passed unanimously.**

6. **Approval of Minutes:**

**MOTION: Mr. Rasdall motioned to approve July 16<sup>th</sup>, Board Special Session Minutes as submitted, seconded by Mr. Brumfield. Motion passed unanimously.**

**MOTION: Mr. Brumfield motioned to approve July 16<sup>th</sup>, Board Minutes as submitted, seconded by Mr. Parris. Motion passed unanimously.**

**MOTION: Mr. Adolay motioned to approve August 5<sup>th</sup>, Board Special Session Minutes as submitted, seconded by Mr. Brumfield. Motion passed 6-0, Mr. Sherman abstained.**

7. **Freeholder Concerns:**

- a. Carrie Vavul (OES 333) noted she was asked by another freeholder to invite everyone to the Nineveh Community Day at Princess Lakes Town Hall from 2pm-9pm on Saturday September 7<sup>th</sup> there will be a pet parade, live music, and a silent auction.

- b. Sharon VanKooten (G 58A & I 65) noted she was concerned the cost of dam repairs will cause the equal assessments to increase more than the willingness and ability of low assessed value freeholds to pay. Mrs. VanKooten noted she had questions for the Board about the District plan and if it were amended, about if the District is subject to chapter 12 improving benefits and various resolutions, if the Board could cite the section of the Conservancy Act that gives the statutory authority for the Board to determine more fair and equitable method of funding, if the Board could demonstrate compliance with 2 Indiana Codes regarding assessments. Mrs. VanKooten noted with the dam repairs increasing assessments it needs to be made sure they're being assessed appropriately.
- c. Pam Ruster (7152 Grouper) noted that the July Board minutes approved boat patrol being on 24/7 and that as a former business owner when employees are on duty they must be compensated. Mrs. Ruster then asked if they are on duty 24/7, does that mean they can no longer drink alcohol. Mrs. Ruster noted that she believed a lot of things needed to be considered and guidelines written before this was implemented.
- d. Denise Caudill (I 15) noted that she is a former member of the FAC that was suspended, and that she had done some calculations regarding the dam repairs but with a 5% 20-year bond it would be about \$250,000 a year, and a 4% 20-year bond would be about \$232,000 a year; Mrs. Caudill noted that the interest difference on those two percentages and that she believed this is very significant to the Conservancy. Mrs. Caudill noted that when deciding if it should be added to the fixed rate or the value added, the value added gives natural progression. Mrs. Caudill noted that she emailed the Board asking them to become educated about the equation of how our taxes are established. Mrs. Caudill discussed the wake study and that if Cordry Lake is being lowered for dam repairs and then Sweetwater is to follow will they receive accurate results if someone is engaged during this timeframe to perform the study. Mrs. Caudill noted that she wasn't stating a study shouldn't be done but maybe it should be done later.

## 8. Management Reports:

### a. Director of Finance & Administrative:

1. Mrs. Bay summarized the fund report. The current balance is \$4,031,855.52.

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

2. Mrs. Bay summarized the appropriation report and monthly claims list. The monthly claims total is \$356,828.98. The unexpended remaining balance for 2024 is \$1,244,383.85 or 59.69%.

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

### b. Director of Operations

1. Mr. Johann summarized his report.
2. Mr. Johann discussed how to tell someone to measure a speed boat that was submitted to him via photograph prior to purchasing the boat and have CSCD staff measure.
  - i. There was discussion involving measuring the boat. Mr. Brumfield noted that he went to a dealership that had a boat of the same make

and model and measured that boat and noted that from the drain plug it would measure just under 20 ft but from a little further back it would measure just over 20 ft. There was discussion over using the manufacturer statement. There was discussion over the swim platforms. Mr. Parris noted that tonight he believed the Board was just deciding on whether they were approving this particular boat. Mr. Johann noted that he just needed Board guidance on where to measure this particular boat from. Mr. Brumfield noted to take measurement of the boat it had to be on a plane. Mr. Brumfield noted that this particular by the manufacturer specs it is a 21-foot boat.

**MOTION: Mr. Parris motioned to establish measurement points of this 2024 Skeeter from the drop point of the bow to the point coming to the left side of the bunk trailer, which are considered the forward most point of the boat (excluding the rub rail) in a horizontal distance to the rear most running part of the hull that is in the water while on plane, and if it measures under CSCD rules then it will be approved, if over it will be denied. Motion seconded by Mr. Rasdall.**

**Discussion: There was discussion on where the points of measurement are. Mr. Leavitt noted he agreed with Mr. Adolay that there needs to be a better way to determine length. Mr. Leavitt noted that looking down another avenue at boat weight should be done as well. Mr. Young noted that he did not have the resolution in front of him, but the Board needed to consider the verbiage used in the motion because two meetings ago he had prepared a resolution to change the way speed boat length is determined, and a motion contrary to the rule shouldn't be adopted.**

**Motion passed unanimously.**

**9. Commission Reports:**

**a. Building:**

1. Mr. Sherman reviewed the building applications.
2. Mr. Sherman discussed establishing lot numbers for parcels of property that do not have one. Mr. Johann discussed a freeholder who wanted to build a structure, and he had an offshore lot and a 5-acre parcel, the parcel has his home on it, and it does not have a lot number tied to it. Mr. Johann noted that he previously discussed this with Mr. Young and that the rules did not state that lake structures could only be on water designated lots. Mr. Young noted that he believed regardless of the lot designation on the plat if the lot could accommodate CSCD rules, he doesn't see a reason why the Board

would not permit the construction on the same terms it would permit any other construction.

**MOTION: Mr. Rasdall motioned to approve building applications 24-060, 24-062 and 24-064 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. Sherman.**

**Discussion: Mr. Parris discussed the location of where the dock would be and asked if it was surveyed because it appears it may be on neighboring property. Mr. Johann noted he had the whole property surveyed.**

**Motion passed unanimously.**

3. Mr. Sherman reviewed the dredging requests.

**MOTION: Mr. Sherman motioned to approve dredging request D024-009, D024-010, and D024-011 for approval from the CSCD Board contingent upon lot owners meeting all conditions by the Building Commission, seconded by Mr. Rasdall. Motion passed unanimously.**

4. Mr. Sherman discussed having Mr. Johann and Mr. Young establish a way to come up with a designated lot number for properties without one. Mr. Young noted that maybe they should change the wording to a partial ID number. Mr. Young suggested using Cordry Sweetwater Conservancy District parcel ID number C 1 up to the last one on Cordry Lake and then on Sweetwater SW 1 to the end.
5. Mr. Johann discussed the letter from planning and zoning and a request about a structure on an unbuildable lot. Mr. Young noted that he read the minutes regarding the structure on an unbuildable lot. Mr. Young noted that the District does not have planning and zoning authority, so even if the CSCD rules address this it is not enforceable. Mr. Young noted the deed covenants are enforceable and they should be looked at, and if the covenants prohibit it, they can't do it.

**b. Ecology:**

1. Mr. Brumfield summarized the ecology minutes.
  - i. Mr. Brumfield discussed the deer reduction hunt.

**MOTION: Mr. Maulden motioned to approve the deer reduction hunt qualification date of September 21, 2024 10am-12pm and hunt dates of November 1<sup>st</sup>-17<sup>th</sup> of 2024 and January 4<sup>th</sup>-12<sup>th</sup> of 2025 during normal hunting hours, seconded by Mr. Rasdall. Motion passed unanimously.**

**c. Roads:**

1. No meeting due to lack of quorum.
2. Mr. Rasdall discussed speedbumps.

**d. Security:**

1. Mr. Maulden summarized the security minutes.
  - i. Mr. Maulden discussed an ADA location for freeholders to board boats. Mr. Young noted that if the Board puts in amenities and facilities for disabilities, it must be done in a non-negligent manner. Mr. Young noted that you cannot install handicap facilities and invite people to use them if those facilities are dangerous or constructed in a way that is not going to be safe. Mr. Young noted that the construction must be consistent with ADA requirements. Mr. Young discussed handicap parking and noted if that is the only area designated then that is the only area that needs to be reasonably safe for use by handicapped people. Rasdall questioned if this is something that staff could just implement. Mr. Young noted that the Board should make this a motion as it is removing part of the common element, the common area, from use by the general population and excluding certain freeholders and making it usable only by a certain class. Mr. Maulden discussed parking at the Sweetwater marina. Mr. Sherman discussed making parking at the Sweetwater ramp. Mr. Rasdall discussed a freeholder's father who needed assistance boarding the freeholder's boat and they had parked up front and received some verbal abuse for parking there. Mr. Maulden noted they may not need to do the ADA there are a lot of elderly people who need to be able to get on their boats. Mr. Leavitt noted that he had a lot of handicap signs at the Fire Station that the District could have. A freeholder mentioned that there are very specific regulations for ADA parking. Mr. Young noted that he expected there would be standards for parking space, but simply providing the parking space does not mean the Board would have to go further and reengineer the dock. There was discussion over citations for someone without a disability and without a tag parking in the spaces. Mr. Maulden noted that the security commission was looking at larger areas that could hold a few parking spaces so one could be designated for ADA parking and a couple designated for other things.

- ii. Mr. Maulden reviewed the body cameras for the beach and boat patrol staff and mentioned the current ones are working great for the beach attendants but looking into a different kind for boat patrol. Mr. Maulden asked Mrs. Bay to go over the stationary cameras at the beach. Mrs. Bay noted the cameras had been installed, there is sound on these cameras, they are the only CSCD cameras to have sound, and they cover both shelter houses and the walkways to enter and exit the beach.
- iii. Mr. Maulden discussed the temporary speed bumps on Grizzly. Mr. Maulden noted that a freeholder who is handicapped requested a speedbump on their road so they could feel safer walking up and down the road because that is part of their physical therapy. Mr. Maulden noted there have only been two complaints about the speed bumps, the rest have been positive feedback.
- iv. Mr. Maulden discussed smoking at the beach and people putting their butts out on the playground equipment and in the beach area. Mr. Maulden noted that security discussed this and agreed the beach is a place for families and kids and they wanted to make the beach areas and shelter house smoke free.

**MOTION: Mr. Maulden motioned to approve banning smoking and vaping at the beach and the shelter house and put up signage of the ban; the only smoking area would be in the parking lot at the beach. The motion seconded by Mr. Rasdall.**

**Discussion: Mr. Brumfield mentioned having more people look at this, and maybe ecology should too. Mr. Leavitt noted ultimately this is a Board decision. Mr. Brumfield asked if the CSCD had the authority to enforce this ban. Mr. Young noted yes through ticketing and loss of beach rights, it is CSCD property.**

**Motion passed unanimously.**

- v. Mr. Maulden noted that a CSCD employee came to him, he has been here several years, takes pride in his work and ownership of the area and asked if there was any way he could bring it to the Board to allow full time employees to launch their boat at the lakes. Mr. Maulden noted that Brenda (Maulden) had been reviewing Board minutes from 2011 and it was brought up then, so they

discussed a possible proposal and brought it to the security commission for feedback. Mr. Maulden noted the security commission thought this was a good idea.

**MOTION:** Mr. Maulden motioned to approve full-time employees that have been at the District more than a year be allowed to purchase 1 motorized decal or 2 non-motorized decals, they must pass the zebra mussel course, the boat safety test, follow all CSCD rules, watercraft must be in employee's name, and must be present when the decaled watercraft is operating on the lakes; the decal will be revoked for 1 violation on the lake and will also be revoked when the employee is terminated from CSCD employment. Motion seconded by Mr. Rasdall.

**Discussion:** Mr. Sherman asked if since they do not live here, would they have to go through all of the zebra mussel cleaning requirements, isolation, etc. Mr. Maulden noted they would have to that the zebra mussel course is part of the requirements. A freeholder asked if this applied to just full-time employees. Mr. Maulden noted that it would be for full-time employees after 1 year of service. Mr. Maulden asked Mrs. Bay how many full-time employees the CSCD has; Mrs. Bay noted there is 7 full-time employees.

**Motion passed unanimously.**

- vi. Mr. Maulden recommended adding Carrie Vavul as the CSLOA representative to the security commission.

**MOTION:** Mr. Maulden motioned to approve adding Carrie Vavul as the CSLOA representative to the security commission, seconded by Mr. Rasdall. Motion passed unanimously.

- vii. Mr. Parris noted he had one security-related motion to make and discussed what a freeholder had mentioned at the beginning of the meeting in regard to boat patrol being on duty 24/7.

**MOTION:** Mr. Parris motioned to approve amending the July 2024 Board meeting motion to lake patrols *maintain ticket writing ability for currently employed boat patrol* even if they are not on shift and have the ability to issue a citation to someone who is breaking the rules, at their discretion, seconded by Mr. Rasdall. Motion passed unanimously.

**e. Water:**

1. Mr. Parris summarized the water minutes.
  - i. Mr. Parris recommended adding Jeff Romick as the CSLOA representative to the water commission.

**MOTION: Mr. Parris motioned to approve adding Jeff Romick as the CSLOA representative to the water commission, seconded by Mr. Sherman. Motion passed unanimously.**

- ii. Mr. Parris discussed the water commission wanting to compensate a freeholder for damages that occurred when water was turned on. It was noted that we were at least partially at fault.

**MOTION: Mr. Parris motioned to approve the water commission's recommendation to the Board to approve payment of \$10,000 for damages incurred to the freeholder and the approximate \$200 water bill.**

**Discussion: Mr. Sherman asked if our insurance would cover this. Mr. Parris discussed the premium amount and noted he believed this amount would cover the mistake. Mr. Sherman asked counsel if the District has insurance does the District have the ability to not utilize it. There was discussion. Mr. Parris noted that the challenge is the freeholder called and asked to have water meter put in, but CSCD policy states the water meter is not to be put in unless the freeholder is present. There was discussion of legality versus policies. Mr. Rasdall noted that he was interested to hear legal counsels' advice on whether the Board should make an insurance claim and pay the deductible. There was discussion on the deductible. It was noted that the CSCD deductible is per occurrence. Mr. Young noted that the Board could settle this claim without turning it over to the insurance company. Mr. Young noted that if the Board feels very strongly that this freeholder should be compensated, the Board may not want to turn this claim over to insurance as they may find reasons, they don't believe they should be. Mr. Young noted that if the Board chose to settle this, he suggested a release for the freeholder to sign. Mr. Rasdall noted he would like Mr. Young to get the details. Mr. Young explained the process and cost of him doing that. Mr. Maulden asked what benefit it would be to the District for the water utility to pay this when it could be turned into insurance. There was discussion about the deductible. Mr. Young noted he believed this matter was becoming a matter that should be discussed in an Executive Session.**



**Motion Withdrawn. Topic tabled**

- iii. There was discussion on the date and time of the Executive session.

**10. Old Business:**

**a. Wake Study**

1. Mrs. Bay noted that the updated wake study was sent to the Board.
2. Mr. Rasdall noted the freeholder at the beginning of the meeting made a good point if Cordry is being lowered for repairs it probably not a good time to do it. There was discussion by the Board about looking at the study at a later time. Mr. Leavitt noted the study could be tabled for a period of time, but after a period of time the prices would no longer be valid, and the Board would have to ask for a new proposal. Mr. Sherman noted the other issue of not knowing when Cordry Lake would be back to normal pool.

**MOTION: Mr. Sherman motioned to table the wake study until the Cordry dam repairs are made and Cordry Lake is back to normal pool, seconded by Mr. Ted Adolay.**

**Discussion: There was discussion about when Sweetwater would begin. There was discussion on the time frame of repairs on both Cordry & Sweetwater dams.**

**Motion unanimously.**

**b. Boat Measuring Procedure**

- i. Mr. Leavitt noted there needs to be a better method for determining the length of watercraft. Mr. Maulden noted that going by the manufacturer works great until there is a ski boat with a swim platform. There was discussion over maximum boat weight. There was discussion over boat weight and displacement of waves. There was discussion over changes in boats and how the Boards in the past have accommodated for those changes. Mr. Leavitt noted that the Board needed to get some guidance, research, and comparisons and come back next meeting or the following and discuss.

**11. New Business:**

**a. Spillway Bids**

- i. Mr. Johann read the bids as follows:
  - Monroe, LLC \$1,277,748
  - Millennium Contractors, LLC \$2,094,196
  - Ottenweller Contracting, LLC \$2,179,925
  - Force Construction Company \$2,332,939
  - Bowen Engineering Corporation \$2,658,000
  - RL Turner Corporation \$2,767,542

- Evans Development Co., Inc. (EDCO) \$2,839,600
- ii. Mr. Johann reviewed Christopher Burke's feedback.
  - i. Mr. Johann noted the engineers reviewed the bids and several factors affected their confidence by the apparent low bidder Monroe; including feedback from past clients, lack of comparable projects, and significant difference in bid total from both the engineers estimate and other bidders. Mr. Johann Monroe sent additional justification for low bid on 8/19/24 to Christopher Burke, the Board also received the information the same day. Mr. Johann noted that Christopher Burke noted that the District under advisement of its legal counsel whether the bid is responsible under Indiana Code, if considered responsible and the District is in agreement with Burke's evaluation concerning other components of the bid including the bid is the low, responsive, and responsible bid the district should proceed with awarding the project; otherwise its Burke's opinion that the contract should be awarded to Millennium, the next lowest, responsive, and responsible bidder.
  - ii. Mr. Rasdall asked Mr. Young if Monroe was being responsible and responsive. Mr. Young noted that he did not try to do the work of engineers but that is what the engineer wants him to do. Mr. Young noted that Monrow provided some additional information from his subcontractor; Mr. Johann noted there was additional information provided after this was drafted. Mr. Young noted that he did not have enough information to tell the Board as a matter of law which bid is the most responsive and responsible, and noted that was not a matter of law that is a call to be made by the District's engineer. Mr. young noted that based on the information Burke has provided as a matter of law that Monroe should be considered the most responsive and responsible bid. Mr. Young noted that it is not his job to tell the Board if a contractor is a responsible and responsive contractor contract. Mr. Young noted that as a matter of law, in his opinion that would disqualify Monroe from being selected. Mr. Rasdall noted that is what he wanted to know if there was anything that would disqualify and allow us not to take the low bid. Mr. Young noted not in the matter of the law, but he is not speaking from the standpoint of an engineer. Mr. Parris

asked who was going to be supervising the work of whoever is selected and ensuring its being done to spec? Mr. Johann noted that would be Christopher Burke to do that and they will be on site. Mr. Adolay asked if they should consider a contractor who has done a dam before. Mr. Leavitt noted that was not a requirement of the solicitation. Mr. Young noted there are other things to consider in making sure the District has security such as bond requirements. Mr. Young noted there is nothing that says you can't require Monroe to post a performance bond equal to 150% of the bid price. Mr. Young noted there are things the Board could do so that if the work is not done correctly there is money there to remediate. There was discussion over the performance bond.

- iii. John Simpson, Monroe LLC spoke about the post-performance bond.

**MOTION: Mr. Rasdall moved to approve Monroe LLC's bid for \$1,277,748 with a 150% bond contingent on the bond company and Monroe LLC being able to get that bond and give Monroe LLC a change order in actual cost of the extra bond funds and found responsive and responsible, and contingent on bond financing seconded by Mr. Brumfield.**

**Discussion: There was discussion from a freeholder regarding the engineering firm's recommendation. There was discussion from a freeholder regarding bid requirements and scheduling. John Simpson spoke about a potential timeline Monroe LLC would have for this project with start dates of September 9<sup>th</sup> or October 1<sup>st</sup> depending on the bids. Mr. Simpson noted he knows this work and is in his prime as a contractor and has worked with his subcontractor before. Mr. Simpson noted he believed by early spring they could be completed.**

**Motion passed unanimously.**

- iii. Mr. Sherman discussed bond financing. Mr. Sherman noted that the working group used the second lowest bid for the bond. Mr. Sherman noted the District got a bond for 2.695 million dollars at 3.40% and noted it saved the District a lot of money to use Indiana Bond Bank. Mr. Sherman noted that Mrs. Bay was putting that money in a separate account as there are strict accounting rules on how that can be done with the bond bank. Mr. Sherman noted he just wanted the Board to know why the working group went with the bond bank, that the working group

used the second lowest bid because of timing, there was a \$35,000 fee for the bond bank, and the bond is 2,000,695 at 3.40%. Mr. Rasdall noted that at the end of the day the District saved a lot of money. Mr. Sherman noted that because there were electronic signatures we should ratify both Mr. Leavitt and Mr. Adolay's signatures on the documents.

**MOTION: Mr. Sherman moved to approve ratifying Mr. Leavitt's, and Mr. Adolay's signatures on the application with Indiana Bond Bank seconded by Mr. Rasdall. Motion passed unanimously.**

**b. Complaint running a business in the District**

- i. Mr. Johann reviewed a letter from a freeholder about another freeholder selling wood in the District. Mr. Young noted that should go to Brown County as a zoning issue. Mr. Johann asked from a covenant standpoint who would enforce this. Mr. Young noted from a financial standpoint go to the county and let them enforce it, if they decline it can come back here for further action.

**c. Election Issues**

- i. Mrs. Bay noted this was a topic the Board asked to be added to the agenda for this month for the election procedures. Mr. Leavitt noted this was for the issues from the annual meeting. Mr. Johann noted it was the issues for what has come up with how the election is conducted. James Ray noted the election committee sent a list of concerns to the Board. Mr. Leavitt noted they need to go back over the recommendations from the committee and revisit it at the next meeting.

**12. Board Member Concerns:**

- a. Mr. Sherman noted he was happy to have folks there while they went through the bidding and bond information
- b. Mr. Rasdall noted he wanted to reiterate what Mr. Sherman said and he was happy to see people there to go over the bids and he believes it will help everyone significantly because Brown County just took out a \$4 million bond.
- c. Mr. Adolay spoke briefly about sending out a reminder letter that short term rentals aren't allowed.
- d. Mr. Leavitt thanked everyone for being there tonight and the Board is looking at expenditure here to lessen the impact of the \$4 million bond.
- e. Mr. Parris noted that he wanted to thank everyone for all of the bond work and engineering expertise, and all other areas of construction his fellow Board members bring to the table.

- f. Mr. Brumfield noted he wanted to recognize Amy Sherman she was in a situation that could only be handled by her and thanked her and let her know he appreciated her. Mr. Brumfield noted the dedication of a lot of the CSCD staff that love the area and the people in it. Mr. Parris followed up by thanking Mr. Johann and Mrs. Bay for all the work they have done on this stuff as it has been atrocious.

**13. Adjourn**

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

Respectfully submitted,



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Ted Adolay, Board Secretary

Date Submitted:

