

Cordry Sweetwater Conservancy District Board of Directors Meeting “Minutes”

June 21, 2011, 7:00 PM, CSLOA Clubhouse

Present: Larry Kolar, Quinn Hetherington, Cheryl Boyle, Francis Gantner, Norman Noe, David Moebes

Absent: None

CSCD Attorney: Roger Young

Managers: Vernon McGaha, Marty Anderson, John Collins

Managers Absent: None

Guests: Margaret Bruce, Georgene Settles, Bill Boyce, Dani Korson, Nancy Harrison, Betsy Serra, Jim Serra, Ben Halley, Peggy Obergfell, David Wallace, Dan Lee, Dave Jarrett, JR Davis, Mary Fouch, Jane Spencer, Bryan Dougherty, Herb and Jan Benshoof, Jim Ray, Shawn Michel, Mike Fouch, Mike Clark

A. Welcome and Pledge of Allegiance: Mr. Kolar called the meeting to order at 7:02 PM.

B. Agenda Modifications:

1. Mr. Noe requested that the appointment of the Area 5 Board Representative and the election of the Board Chairman and possibly Vice Chairman be moved to the beginning of the meeting, directly after Agenda Modifications.

MOTION: MR. NOE MADE A MOTION TO MOVE THE APPOINTMENT OF THE AREA 5 BOARD REPRESENTATIVE AND THE ELECTION OF THE BOARD CHAIRMAN AND POSSIBLY VICE CHAIRMAN TO THE BEGINNING OF THE MEETING, DIRECTLY AFTER AGENDA MODIFICATIONS, SECONDED BY MR. MOEBS- MOTION FAILED TO CARRY WITH 2 VOTES FOR AND 4 VOTES AGAINST.

C. Freeholder Concerns:

1. Margaret Bruce requested that the logging issue be placed on the agenda for discussion within the meeting. Mr. Lee stated that the issue would be discussed during the Building Commission section of the meeting.

D. Approval of Minutes:

1. May 17, 2011 CSCD Board Meeting Minutes

Discussion: Mr. Moebs stated he researched the statement made by Mr. Hetherington at the May 17, 2011 CSCD Board Meeting on page six of the minutes regarding the boat types eligible under the current CSCD boat length rules. Mr. Moebs found that there are actually 13 types eligible under the current rules out of the 23 types total available. Also, Mr. Moebs indicated a misspelling in Shawn Michel's name in the May 17, 2011 CSCD Board Meeting Minutes.

MOTION: MR. GANTNER MADE A MOTION TO APPROVE THE MAY 17, 2011 CSCD BOARD MEETING MINUTES, SECONDED BY MRS. BOYLE- MOTION CARRIED UNANIMOUSLY.

2. June 8, 2011 CSCD Board Special Meeting Minutes

MOTION: MRS. BOYLE MADE A MOTION TO APPROVE THE JUNE 8, 2011 CSCD BOARD SPECIAL MEETING MINUTES, SECONDED BY MR. MOEBS- MOTION CARRIED UNANIMOUSLY.

E. Management Reports:

1. Financial Manager: Marty Anderson
 - a. The financial report was read aloud by Mrs. Anderson

MOTION: MR. GANTNER MADE A MOTION TO APPROVE THE FINANCIAL REPORT, SECONDED BY MR. HETHERINGTON- MOTION CARRIED UNANIMOUSLY.

- b. Mrs. Anderson stated that the \$350,000 line of credit with First Financial Bank was up for renewal and asked if the Board members would like to renew.

Discussion: Mrs. Boyle stated that this is a line of credit so the district would not pay anything unless money is drawn from it. Mr. Gantner asked if there was a fee associated with keeping this line of credit. Mrs. Anderson responded that the fee was around \$300.00. Mr. Kolar stated that he felt the district is in a good financial situation currently and that with the tax money due to arrive this week he did not think the line should be renewed. Mrs. Anderson stated that within the past year, the line has not been used. The consensus of the Board was not to renew the line of credit.

- c. The claims were reviewed by the Board members.

Discussion: Mr. Noe questioned claims #365, #380, and #359 as to why the telephone service costs were so high. Mrs. Anderson replied that one is for long distance service through AT&T, one is the water utility payment for telephone service to make the pumps

function, and the other is for office telephone service. Mr. Noe asked Mrs. Anderson to explain claims #369 and #368 for stamps and postage. Mrs. Anderson stated that this is a cost for 300 stamps for regular mail as the office does not have a postage meter and that this cost is incurred approximately every three to four months.

MOTION: MRS. BOYLE MADE A MOTION TO APPROVE THE CLAIMS SUBJECT TO AUDIT, SECONDED BY MR. GANTNER- MOTION CARRIED UNANIMOUSLY.

2. Infrastructure Manager: John Collins

- a. Mr. Collins stated that the inspection of the Sweetwater Dam was performed by Fink Roberts & Petrie, Inc. The inspection yielded no major problems and a few minor issues such as grass and weeds growing in the riprap. Fink Roberts & Petrie, Inc. submitted the inspection report to the Department of Natural Resources.

Discussion: Mr. Gantner asked Mr. Collins to obtain confirmation that the report was submitted to the Department of Natural Resources. Mr. Collins stated he would obtain it as soon as possible.

- b. Mr. Collins stated that the buoys had been received and were installed.

3. Security Manager: Vernon McGaha

- a. The security report was read aloud by Mr. McGaha.
- b. The weather siren is installed at the fire station and will be operational once batteries are received.
- c. A possible new deputy, James Snider, was interviewed by the Sheriff, Col., and Mr. McGaha.
- d. Mr. McGaha is investigating a case where a renter removed boat decals from the property owner's boat and placed them on his boat.
- e. The electrical problem with the Cordry pump and idle light has been repaired.
- f. Mr. McGaha was called to Radtke property on Alder Drive regarding an issue with the neighbor's dock.
- g. Mr. McGaha has attempted to contact an owner of a camper parked on Sweetwater and Owl without success. The owner resides on Osprey. Mr. McGaha stated he noticed the owner was home this evening and will attempt to speak to him this evening.

F. Commission Reports:

1. Building-Dan Lee

- a. Mr. Lee reported an ongoing issue on 7261 Firebush where a neighbor is objecting to the way the property owner is parking his boat as she claims he is parking it on her property. When he parks the boat, it is in the water past her property line. He states that property lines do not extend into the water as the

Conservancy owns the water and he is not infringing upon her property rights. Mr. Lee and Mr. Collins could not find any confirmation that property lines extend into the water in their research of regulations and covenants.

Discussion: The Board members discussed whether the Conservancy has the authority to ask the boat owner to move the boat and whether property lines extend into the water or not. Mr. Young stated that the district does own the lake and the lakebed but the rules must be reasonable. He stated that since the boat owner is not blocking the cove or the property owner's access and the boat owner's dock is legal, he feels the district cannot enforce commanding the boat to be moved. Mr. Young confirmed that if the district had a specific regulation regarding this, it could be enforced. Mr. Noe stated that he felt there needs to be a ruling regarding this situation that can be enforced in the future. Mr. Gantner agreed on the need for a ruling but also stated he felt that there should not be a rule created every time someone has a dispute as the book would be too thick and some situations should be resolved among adults. The Board asked Mr. McGaha to attempt to speak to both parties and arrive at a peaceable remedy.

- b. Mr. Lee stated that property owners at 7909 Centerlake and 8080 Elm wish to harvest timber from these undeveloped lots, which is prohibited in the CSCD Rules and Regulations. Mr. Lee has placed Stop Work Orders on both properties and Mr. Young confirmed that letters have been sent to property owners. Mr. Collins reported that there has been no further activity on the lots but he has received a phone call from one owner.
- c. Mr. Lee confirmed that the property at 6300 Grouse is ninety percent clean currently and that the boathouse is one of the only remaining issues for the cleaning company to remove.

Discussion: Mr. Noe stated that there is an empty house on Grizzly that has grass that has not been cut in a long while and that he believed CSCD rules stated the district could cut it and bill the owner. Mr. Young confirmed this and also stated that most lenders are cooperative with paying these costs as it keeps the property maintained. Mr. Collins stated that this particular property is up for Sheriff Sale on July 14, 2011. Mr. Lee stated that he is going to keep tabs on properties such as this that fall into a state of disrepair.

2. Ecology-Mr. Kolar

- a. Mr. Kolar stated that the wetland delineation was completed and dredging priorities are being examined at this time. Mr. Noe requested a copy of the wetlands report.
- b. The Ecology Commission will be keeping an eye on the beach weeds to determine if the weeding contractor will be asked to return to do a follow up inspection. A freeholder asked if there would be a follow up to the weeding. Mr. Kolar instructed freeholders to inform the office of any areas that seem to need

more treatment and it may be determined that the contractor needs to return for follow up.

- c. The Ecology Commission plans to drop the fish structures in July 2011.
- d. Bids for repair of the Sweetwater ramp are being collected.
- e. A&T Wildlife will trap geese on June 27, 2011.
- f. Al Taylor is currently investigating possible district locations for the REMC raptor nesting program.

3. Security-Mr. Hetherington

- a. Mr. Hetherington stated that the Security Commission approved the purchase of two batteries for handheld radios and one new handheld radio for the boat patrol.
- b. Mr. Moebs donated two sets of binoculars to the boat patrol with gratitude from the Security Commission.
- c. Paddleboards are not considered boats currently. The issue will be revisited later if a significant number or problem arises.
- d. The boat patrol has issued 12 tickets this season to date.
- e. The boat patrol has been instructed to continue watching for flotation platforms in violation of CSCD rules.
- f. The Security Commission has heard reports of dangerous boating violations performed by boat drivers during Anglers Club Tournaments. Boat drivers are urged to drive very carefully. This in no way is reflective of the Anglers Club.
- g. The Security Commission is investigating the possibility of offering boat safety classes.
- h. Freeholders are asked to contact the non-emergency Sheriff Department number to report a boating violation to the boat patrol during off hours.

4. Roads-Mr. Noe

- a. No new information was reported as a Roads Commission Meeting was not held in June 2011.

5. Water-Mrs. Boyle

- a. Mrs. Boyle stated that the Water Commission is investigating creative ways to find water leaks.
- b. The Water Commission is now figuring a rolling 12 month water loss. Calculations reveal less water loss at this time than last year and the water loss is improving.

Discussion: Mr. Gantner questioned the implementation of an automatic shut-off for the water pumps in order to avoid water loss similar to what occurred in March 2011. Mr. Collins stated that an automatic shut-off already exists but the phone lines were being repaired in March 2011 and the shut-off was disrupted as a result. Mr. Gantner stated that if the pump shut-off is reliant on phone lines, possibly the district could install a back-up for the scenario of interruption in phone lines service. Mr. Collins stated he would investigate a

back-up. Shawn Michel stated that the Water Commission is investigating a mechanism of timer that would shut the pump off. Mr. McGaha questioned what would occur then in the situation of a fire. Mr. Collins indicated that if a red light is visible on the tower, freeholders need to contact an officer as it designates a problem with the pump. Mr. Noe stated that there may be wireless options for a shut-off mechanism as well.

G. Brown County Solid Waste: Mr. Moebs

1. Mr. Moebs stated that the Brown County Prosecutor attended the meeting with ideas on how to enforce the open burning and dumping county ordinances. He stated the biggest problem is funds to investigate and turn over to the prosecutor.
2. The Prosecutor complimented their success in the Medicine Take Back Program and the Recycling Program.
3. 157 vehicles brought in an estimated 3,100 tires for the Tire Amnesty Program.
4. Within CSCD, the recycling bins will be pulled twice as often during the summer due to the greater number of people present and this will be done on less busy days.
5. The 2012 budget was reviewed.

Discussion: Mrs. Anderson asked if they would accept long bulbs to recycle. A freeholder confirmed that they do. A freeholder asked what types of batteries are accepted. Mr. Moebs responded that only recyclable batteries are accepted.

H. Status from CSCD Attorney: Roger Young

1. The Indiana Court of Appeals denied the Klosinskis' motion to reconsider. Now the Klosinskis will petition to transfer to the Indiana Supreme Court. Mr. Young is hoping for a favorable decision from the Supreme Court and, if this happens, the district can proceed with the suit to enforce the septic inspection ordinance.
2. The Mercer case is still in the discovery phase and is being litigated by the insurance company which yields no further financial exposure to the district.

Discussion: Mr. Hetherington asked whether the Indiana Supreme Court has to hear the Klosinski case. Mr. Young responded that it does not and that, more often than not, the petition to transfer is denied.

I. Unfinished Business:

1. Mr. Kolar stated that he spoke with Richard Hawes, the insurance agent involved with the general liability insurance for the dam. He expected to hear a response from the legal department within a few days. Mr. Gantner asked Mrs. Anderson to research the renewal date for the general liability policy.
2. Mr. Hetherington presented Resolution 2011-4 as follows:

CORDRY SWEETWATER CONSERVANCY DISTRICT
Resolution 2011-4
RESOLUTION TO PROVIDE DEFINITIONS OF LENGTH FOR SPEED BOATS

WHEREAS, Resolution No. 2004-3 provides only that speed boats shall be no longer than 19 ft.; and,

WHEREAS, it has become apparent that a definition of length is necessary for the types of speed boats authorized to be used on the lakes; and,

WHEREAS, definitions of lengths will allow for consistent, uniform, and reliable enforcement of the speed boat length rule.

IT IS NOW RESOLVED, that Cordry Sweetwater Conservancy District Board of Directors Resolution No. 2004-3 is hereby amended as follows:

1. Paragraph 1 under "Water Craft Classification Code - Powered Watercraft" is deleted and replaced with the following:

1. **SPEED BOATS:** Length shall not exceed 19 feet 11 ½ inches. Length shall be defined as follows:
 - A. **OUTBOARD.** The horizontal distance measured along the centerline of the boat from the bow point (excluding the rub rail) to the lowest point of the transom to which the boat motor is mounted.
 - B. **INBOARD/OUTBOARD.** The horizontal distance measured along the centerline of the boat from the bow point (excluding the rub rail) to the lowest point of the transom to which the outer drive is mounted.
 - C. **INBOARD.** The horizontal distance measured along the centerline of the boat from the bow point (excluding the rub rail) to the lowest point of the transom where the exhaust ports are located.
 - D. **JET.** The horizontal distance measured along the centerline of the boat from the bow point (excluding the rub rail) to the lowest point of the transom where the propulsion outlets are located.
 - E. A measurement tolerance of 1 inch shall be allowed.
 - F. Example photographs are attached.
 - G. Measuring protocol shall be approved by the Board and will include the following:
 - i. Measurements shall be taken by a Deputy Sheriff, who will confirm the measurement on a form to be provided.
 - ii. A standard measuring device, with a pass or fail line, will be made and used for ALL measurements.

- iii. The make, model, year, model number and serial number shall be entered into a computer database, so that measuring will not be necessary with respect to identical boats; and it is,

FURTHER RESOLVED, that this Resolution No. 2011-4 shall be effective from and after June 22, 2011.

MOTION: MR. HETHERINGTON MADE A MOTION TO APPROVE RESOLUTION 2011-4 EXCLUDING POINT F, SECONDED BY MRS. BOYLE- MOTION CARRIED WITH 3 VOTES FOR AND 2 AGAINST WITH 1 ABSTENTION. ROLL CALL WAS AS FOLLOWS:

MR. NOE - NO

MR. MOEBS - NO

MR. GANTNER - YES

MR. HETHERINGTON - YES

MRS. BOYLE - YES

MR. KOLAR - ABSTAIN

Discussion: Mr. Noe posed the following questions regarding the Resolution 2011-4: (1) Where are the example photographs stated in point F? (2) Why is the rub rail excluded from measurement? (3) Why is an inch differential included as this may allow boats over 20 feet on the lake(s)? (4) How can an officer measure the lowest point if the boat is in the water? (5) How many boats are currently on the water that measure over 19 feet in length? Mr. Gantner asked Dave Jarrett, a freeholder, if he had photographs to include with the Resolution 2011-4. Mr. Jarrett responded affirmatively but suggested a diagram instead. Mr. Moebs made the following suggestions regarding corrections to the Resolution 2011-4: (1) The length should be decreased from 19' 11 1/2" to 19' 10 1/2". (2) A point stating that boats with lengths over 20 feet are prohibited from receiving decals should be added. (3) Measuring from the bow to the lowest transom point makes it very difficult for deputies to measure consistently. (4) A point stating that these rules cannot be changed until July 2016 should be added in order to avoid requests to change these rules each year. (5) The length of boat per manufacturer specifications and the measured length should be added to the database. (6) The Board members should examine the measuring tool before passing the Resolution 2011-4. Mr. Moebs stated he felt that he was in a difficult position as he has many safety concerns but recognizes the need to solve the problem of illegal boats on the lake currently. Mr. Hetherington stated that he recognizes the Resolution 2011-4 is not perfect or free from flaws but is much tighter and improved than the current rules. He also stated that it will need to be reviewed more frequently than once every 40 years. Mr. McGaha indicated a problem with officers measuring the boats as the possibility may arise that the officer is on a call and the owner will have to wait. Mr. Noe asked why the measurement was to end at the lowest point of the transom. Mr. Gantner responded that the lowest point of the transom was thought to be a point on the boat easy to identify on any boat regardless of transom configuration. After several questions, Mr. Young stated that

any change in ownership of a boat will defeat the grandfathering rights so a new owner must have the boat measured regardless. Mr. Moebs stated that it was not reasonable to ask new boat owners to take the boat out of the water to get it measured. Mr. Gantner stated that the new owner will have to or the previous owner will have to in order to sell the boat. Mr. Hetherington mentioned that Larry Harder offers a service to remove boats from the water and put back in.

MOTION: MR. HETHERINGTON MADE A MOTION TO RESCIND THE MOTION FROM THE AUGUST 2010 CSCD BOARD MEETING REGARDING THE BOAT LENGTH REGULATION OF 19 FEET, SECONDED BY MR. GANTNER- MOTION CARRIED UNANIMOUSLY.

3. Regarding an audit of CSCD finances, Mr. Kolar stated that he spoke with Mr. Gross of an accounting firm and several levels of audit exist so the Board needs to define the goal and scope of the audit requested in order to avoid costly fees.

Discussion: Mrs. Boyle expressed that she felt it was unnecessary to spend taxpayer money on a third party audit when the State Board of Accounts audits the finances. Mr. Kolar stated that he is not opposed to a third party audit but just needs more direction and definition of the audit that he can take to the accountant(s). Mr. Noe stated that the last time the State Board of Accounts audited was 2008 and that one year should be audited. Mrs. Anderson stated she expected the State Board of Accounts any time to audit 2008-2009. Mr. Gantner asked Mr. Noe to articulate the scope of audit being sought so that the Board could consider it. Mr. Young explained the difference between a third party audit and that performed by the State Board of Accounts in that the State Board of Accounts is concerned with compliance with state law primarily while a third party accountant may just crunch numbers and view disbursements and receipts via sampling. Mr. Moebs suggested that a third party accountant go over the report from the State Board of Accounts and go over it with Mrs. Anderson as well. A freeholder stated that the State Board of Accounts was currently in Brown County auditing county offices.

MOTION: MR. GANTNER MADE A MOTION TO RESCIND THE MOTION FROM JULY 2010 REGARDING A THIRD PARTY AUDIT OF CSCD FINANCES FOR THE PAST FIVE YEARS AND EVERY YEAR IN THE FUTURE, SECONDED BY MRS. BOYLE- MOTION CARRIED WITH 4 VOTES FOR AND 2 VOTES AGAINST.

4. Mr. Moebs requested that the following changes be made on the proposed 2012 CSCD budget spreadsheet: (1) change 2011 boat decal income to \$6,000 (2) change 2011 Verizon Cell Tower receipt to \$15,000 (3) Add Roads Assessment at \$42,000 for 2011 and a new estimate for 2012 (4) Add Employee Payments for Group Insurance at \$2,700 for 2011 and a new estimate for 2012. Mr. Kolar stated that the district may want to raise \$700,000 in taxes in 2012 to decrease the amount

that will have to be raised in 2013 by approximately half. The Board discussed changes and will take questions to the DGLF Workshop.

J. New Business:

1. The Board received four application packets from candidates for the vacant Board Member representative of Area 5 position. As three residents of Area 5 applied, Joe Kurdziel was eliminated from consideration as he resides in Area 7. The remaining three applicants were as follows: David Wallace, Dave Jarrett, and Jim Ray. Mr. Kolar asked if the Board members had any questions for the applicants. The Board members then voted to appoint the new member until January 2012. The results were as follows: 2 votes for David Wallace, 1 vote for Jim Ray, and 3 votes for Dave Jarrett.

OATH OF OFFICE: DAVE JARRETT WAS SWORN IN BY CSCD ATTORNEY AND NOTARY PUBLIC ROGER YOUNG.

2. The Board took nominations and voted to elect a new Chairman of the Board to serve until January 2012.

Nomination: Mr. Gantner nominated Mr. Kolar to serve as Chairman of the CSCD Board of Directors until January 2012, seconded by Mrs. Boyle.

Nomination: Mr. Noe nominated Mr. Moebes to serve as Chairman of the CSCD Board of Directors until January 2012, seconded by Mr. Moebes.

MOTION: MR. GANTNER MADE A MOTION TO CLOSE NOMINATIONS FOR CHAIRMAN OF THE CSCD BOARD OF DIRECTORS, SECONDED BY MR. MOEBES- MOTION CARRIED UNANIMOUSLY.

RESULTS: MR. KOLAR WAS ELECTED TO SERVE AS CHAIRMAN OF THE CSCD BOARD OF DIRECTORS UNTIL JANUARY 2012 WITH RESULTS AS FOLLOWS: 4 VOTES FOR MR. KOLAR, 2 VOTES FOR MR. MOEBES, 1 ABSTENTION.

3. The Board took nominations and voted to elect a new Vice Chairman of the Board to serve until January 2012.

Nomination: Mr. Hetherington nominated Mr. Gantner to serve as Vice Chairman of the CSCD Board of Directors until January 2012, seconded by Mrs. Boyle.

Nomination: Mr. Noe nominated Mr. Moebes to serve as Vice Chairman of the CSCD Board of Directors until January 2012, seconded by Mr. Moebes.

MOTION: MR. MOEBS MADE A MOTION TO CLOSE NOMINATIONS FOR VICE CHAIRMAN OF THE CSCD BOARD OF DIRECTORS, SECONDED BY MR. HETHERINGTON- MOTION CARRIED UNANIMOUSLY.

RESULTS: MR. GANTNER WAS ELECTED TO SERVE AS VICE CHAIRMAN OF THE CSCD BOARD OF DIRECTORS UNTIL JANUARY 2012 WITH RESULTS AS FOLLOWS: 5 VOTES FOR MR. GANTNER, 2 VOTES FOR MR. MOEBS.

K. Board Member Concerns:

1. Bill Boyle, a freeholder, stated that the Building Commission does not have a representative from the Board of Directors. Mr. Jarrett volunteered to be the Board representative on the Building Commission.
2. Mr. Moebis stated that per the letter written by Roger Young dated May 27, 2010 regarding hydrant rental fees, the Water Commission needs to bring two documents to the next Board meeting.

MOTION: MR. MOEBS MADE A MOTION TO DIRECT THE WATER COMMISSION TO COMPLY WITH ROGER YOUNG'S LETTER DATED MAY 27, 2010 REGARDING HYDRANT RENTAL FEES BY BRINGING THE TWO DOCUMENTS NOTED IN THE LETTER TO THE NEXT BOARD MEETING, SECONDED BY MR. NOE- MOTION PASSED UNANIMOUSLY.




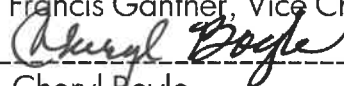
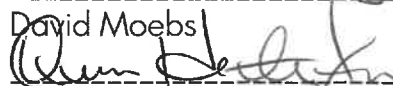

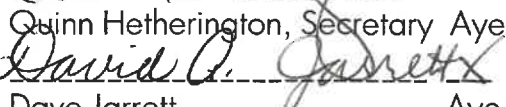
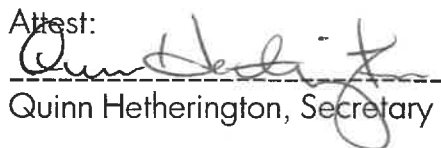
3. David Wallace made a comment that in his opinion the Board appears to be divided and he hopes the new member will help unite its members.

L. Adjourn:

Mr. Gantner made a motion to adjourn the meeting at 9:36 pm, seconded by Mr. Hetherington-motion carried unanimously.

Respectfully submitted by Betsy Edwards.

Approved this 19th day of July, 2011, at Nineveh, IN

	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Larry Kolar, Chairman	Aye Nay	Francis Gantner, Vice Chairman	Aye Nay
	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
David Moebis	Aye Nay	Cheryl Boyle	Aye Nay
	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Quinn Hetherington, Secretary	Aye Nay	Norman Noe	Aye Nay
	<input checked="" type="checkbox"/>		
Dave Jarrett	Aye Nay		
Attest:			
			
Quinn Hetherington, Secretary			