

Cordry Sweetwater Conservancy District Board of Directors Meeting “Minutes”

May 17, 2011, 7:00 PM, CSLOA Clubhouse

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

Absent: Jerry Fenwick, David Moebs

CSCD Attorney: Roger Young

Managers: Vernon McGaha, Marty Anderson, John Collins

Managers Absent: None

Guests: Randy Taggart, Margaret Bruce, Georgene Settles, Robert Sellers, Katie Shrewsbury, Ruthann Gillentine, Joe and Cindy Zajac, Eric Hardesty, Dave Jarrett, Shawn Michel, RuthAnn Hausz, David Hausz, Sue Babcock, Patrick Sherman, Terry West, Bob Beam, Jim Serra, Betsy Serra, Betsy Edwards

- A. **Welcome and Pledge of Allegiance:** Mr. Kolar called the meeting to order at 7:03 PM.
 - 1. A moment of silence was observed in honor of the memory of Robert (Buck) Stogsdill.
 - 2. Mr. Kolar announced the resignation of Mr. Fenwick from the CSCD Board of Directors and explained that the Board will be accepting resumes from freeholders in order to seat a new member of the CSCD Board of Directors. As explained by Mr. Kolar, the deadline for resume submission will be June 15, 2011. Resumes may be submitted at the CSCD Office or via email to Betsy Edwards. The appointment to the Board will be only until the next election which takes place in January 2012. There will be two ads placed in area newspapers announcing the opening and opportunity for appointment to the Board. Freeholders in Area 5 (the former area in which Mr. Fenwick was representative) will be given preference; however, if no suitable representative is determined from applicants in Area 5, at-large resumes will be considered.

- B. **Agenda Modifications:** None

- C. **Freeholder Concerns:** None

- D. **Approval of Minutes:**
 - 1. April 19, 2011 CSCD Board Meeting Minutes

Motion: Mrs. Boyle made a motion to approve the April 19, 2011 CSCD Board Meeting Minutes, seconded by Mr. Gantner- motion carried unanimously.

2. March 15, 2011 CSCD Board Executive Meeting Minutes

Motion: Mr. Gantner made a motion to approve the March 15, 2011 CSCD Board Executive Meeting Minutes, seconded by Mr. Hetherington- motion carried unanimously.

3. April 19, 2011 CSCD Board Executive Meeting Minutes

Motion: Mr. Gantner made a motion to approve the April 19, 2011 CSCD Board Executive Meeting Minutes, seconded by Mr. Hetherington- motion carried unanimously.

E. Management Reports:

1. Financial Manager: Marty Anderson

- a. The financial report was read aloud by Mrs. Anderson

Motion: Mrs. Boyle made a motion to approve the financial report, seconded by Mr. Gantner- motion carried unanimously.

- b. The claims were reviewed by the board members.

Motion: Mrs. Boyle made a motion to approve the claims, seconded by Mr. Gantner- motion carried unanimously.

Discussion: Mr. Gantner questioned the differences in the Operating Fund amounts between the Appropriation Report and Financial Report. Mrs. Anderson explained that the Appropriation Report is budget based and the Financial Report contains actual amounts.

2. Infrastructure Manager: John Collins

- a. Mr. Collins gave an update on the inspection of the Sweetwater Dam. He contacted Fink Roberts & Petrie, Inc., who reported that they had sent the signed contract to the Department of Natural Resources. Fink Roberts & Petrie, Inc., stated that the area is still too wet to perform the inspection and that once it dries up, they will begin the inspection. The Department of Natural Resources was notified of this delay due to weather and agrees with the decision of Fink Roberts & Petrie, Inc.

Discussion: Mr. Hetherington questioned Mr. Collins as to whether Verizon will be returning to the area of the cell phone tower to perform grading and/or landscaping around the tower. Mr. Collins reported that he did speak with a survey company representative who was in the area taking measurements, but the representative explained the measurements were for a possible park in the area. Brown County Deputy Randy Taggart stated that Verizon had agreed to return to the tower site to perform landscaping and that he would contact them to verify.

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.

Discussion: Mr. Kolar asked Mr. McGaha to explain how the weather siren functions. Mr. McGaha stated that the siren has a receiver radio and that once dispatch receives an alert from the Weather Service, they send a signal to the siren. The siren then pivots and sounds for three minutes. It has the capability to be programmed to sound for both weather watches and warnings but presently is only programmed to sound for warnings. The siren also has the capability to be manually activated to sound at the fire station and can be activated by the EMA and/or possibly the police vehicles. Mr. McGaha plans to have the siren functioning within the next week.

- c. The idle lights have been programmed to become yellow at 8:00 p.m.
- d. Mr. McGaha stated he is investigating a possible new reserve deputy by the name of James Snyder.
- e. Mr. McGaha recently received a letter from the Federal Bureau of Communications stating that all radio communication is being converted to narrow band radios by January 2013. All of the CSCD radios will become obsolete with the possible exception of the boat radios. Mr. McGaha is investigating the possibility of grant money to use for the purchase of new radios.
- f. The Church of the Lakes will be hosting a 5 mile run again this year. Mr. McGaha stated he will not allow the road to be closed for this event this year; however, officers will be at the event as a precautionary presence.

F. **Commission Reports:**

1. **Building-Margaret Bruce**

- a. Mrs. Bruce stated the Building Commission was still waiting on a decision from the Board regarding Resolution 2011-3.
- b. The Building Commission is investigating a possible permit for a floating dock.
- c. Dan Lee presented to the Building Commission a copy of a release of liability for the CSCD that would release the CSCD from liability in the event that a catastrophic accident occurred on a structure that the CSCD had issued a permit for.
- d. Mrs. Bruce asked CSCD Attorney Roger Young to issue a letter to the lot owner(s) of 7243 Center Lake Road instructing him and/or her to attend to the disrepair of his and/or her dock and to the leakage of Styrofoam into the lake as a result.

2. **Ecology-Mr. Kolar**

- a. Mr. Kolar stated that Ecology Commission members met with the dredging firm owner regarding the dredging of the north end of Sweetwater lake. Jim Ray

presented to the Commission a list of criteria to use when prioritizing the areas in need of dredging.

- b. Cordry and Sweetwater lakes were treated on May 10, 2011.
- c. The first mowing of the Cordry and Sweetwater dams will occur in June 2011.
- d. Rick Normington's presentation was discussed regarding a proposal to drop 75 porcupine structures (with a split of 60 percent in Sweetwater lake and 40 percent in Cordry lake). This is the same type of structure put into the lakes in 2010.

Motion: Mr. Kolar made a motion to approve the purchase of 75 porcupine structures at a cost not to exceed \$2,000, seconded by Mr. Gantner- motion carried with 4 votes for and 1 vote against.

Discussion: Mr. Noe questioned the amount of structures remaining in the lake(s) if they were put into the lakes in the past and the need for more now. Mr. Kolar stated that the Commission decreased the number of structures from 150 in the past to 75 now and that the Commission has also discussed using different materials to attract different fish. Mr. Noe questioned the financial soundness of this decision. Mr. Kolar explained that the use of the structures is in lieu of fish stocking, which can cost the CSCD approximately \$7,500. A freeholder questioned the size of the structures. Mr. Kolar answered that the structures are approximately five feet in size. Mrs. Boyle asked if there was a possibility of donation of the structure materials to decrease cost. Mr. Kolar stated that the labor involved with the structures is being donated which yields cost savings.

- e. The Commission is still waiting on the permit to trap and euthanize geese.
- f. The Commission is investigating possible contractors that perform work on boat ramps to provide to John Collins.
- g. Mr. Kolar stated there are various traps in area trees that are collecting different forest pests such as emerald ash borers, gypsy moths, and others.

3. Security-Mr. Hetherington

- a. Mr. Hetherington stated that 13 new boat patrol, beach, and marina staff have been hired to start on May 27, 2011.
- b. The Commission asked the deputies to devise wording for the staff to use when issuing violation tickets. There was discussion involving quoting from the rule book.
- c. The marina hours were lengthened while the days of operation were reduced in order to make the arrangement more economical for staff. The Commission had decided the marina hours for 2011 for both lakes to be: Wednesdays and Fridays 4:00 p.m. - 7:00 p.m., Saturdays 11:00 a.m. - 7:00 p.m., Sundays 11:00 a.m. - 5:00 p.m. (11:00 a.m. - 7:00 p.m. preceding a holiday), and Holidays 11:00 a.m. - 5:00 p.m.

Discussion: A freeholder suggested staffing one person between the two lakes on Wednesdays and Fridays by splitting the time in order to be more efficient. The suggested schedule was: Wednesdays and Fridays Cordry 4:00 p.m. – 6:00 p.m. and Sweetwater 6:00 p.m. – 8:00 p.m., Saturdays both lakes 11:00 a.m. – 7:00 p.m., Sundays both lakes 11:00 a.m. – 5:00 p.m. (11:00 a.m. – 7:00 p.m. preceding a holiday), and Holidays both lakes 11:00 a.m. – 5:00 p.m.

- d. The Commission discussed placing the new hours at the bottom of the CSCD Water Utility bills in order to notify freeholders.
- e. Mr. Hetherington stated that the gas wholesaler will not give prices in advance so the CSCD will have to pay by the truckload. He asked the Board to decide what price to sell the gas at the marina.

Discussion: Mr. Gantner asked what the markup on gas was that the CSCD had implemented in the past. Mrs. Anderson replied that it was between \$0.50 and \$1.00. Mr. Noe suggested a markup of \$0.75 for 2011. Mr. Gantner questioned the amount of gallons the CSCD sells on average at the marina. Mr. Collins replied that the average is approximately 10,000 gallons. Mr. Noe asked if the \$7,500 markup received from the sale of 10,000 gallons of gas would finance the marina payroll for the summer. Mrs. Anderson replied that it will finance the majority of the marina payroll. Mr. Noe also noted that the availability of gas at the marina reduces the amount of gas leaked into the lake(s) that occurs when boat owners pour gasoline into boats themselves. Mr. Hetherington stated that there will be an expense involved with the eventual replacement of the pump and dispenser at Cordry lake.

Motion: Mr. Gantner made a motion to implement a \$0.75 markup above the wholesale price for gasoline sold at the marina, seconded by Mr. Hetherington- motion carried unanimously.

- f. The Commission asked the Board to allow permanent CSCD employees to purchase one boat sticker for use on both lakes with the stipulation that this be reviewed each year and that this allowance would be revoked with the first violation of rules and regulations.

Discussion: Much discussion ensued on this topic. Mrs. Boyle stated that in the past, Tom Dasher did deny the employees' request for the allowance to purchase boat stickers and instead offered the use of his boat. Mrs. Boyle stated she has received emails from freeholders expressing vehement opposition to this possible allowance due to the fact that they pay taxes for property owned in the CSCD and, therefore, feel that they deserve special and exclusive rights to the lakes. Mr. Kolar read aloud one email Mrs. Boyle had received from a freeholder stating these arguments. Mr. Gantner expressed his opposition to the allowance. Bob Beam, a freeholder, questioned the possibility of a lawsuit due to the changing of the CSCD bylaws but also stated he is not in opposition to the allowance. Bill Boyle, a freeholder, questioned where the liability would lie for injury as the employee

would not be a freeholder. Mr. Collins expressed that the CSCD employees take care of the lakes and should be able to use them as a result.

Motion: Mr. Hetherington made a motion to allow permanent CSCD employees to purchase one boat sticker for use on both lakes with the stipulation that this be reviewed each year and that this allowance would be revoked with the first violation of CSCD rules and regulations, seconded by Mr. Noe- motion failed to carry with 2 votes for and 3 votes against.

- g. Mr. Hetherington stated that since July 2010, there has been a discussion of boat length. The current CSCD rule for boat length was put in place in 1975 and the types of boats available 36 years ago were very different than the types available today. The Security Commission had asked for the rule to be changed at the April CSCD Board of Directors Meeting and would like to re-visit the topic.

Discussion: Much discussion ensued on this topic. Mr. Noe stated that he thought there would be public meetings for freeholders to voice input before putting this issue to a vote. Mr. Kolar stated that there have been several public Security Commission meetings for freeholders to attend and that several of these meetings had large crowds in attendance. Mr. Noe stated he felt that freeholders had not been adequately notified of the vote on this topic tonight and that the vote was premature. Mrs. Boyle stated that the Board agreed last month to discuss this topic this month and that there were several public meetings with large crowds in attendance. Mr. Gantner stressed that, regardless of length, a consistent strategy for determining length must be devised and that the only consistent method to determine length is physical measurement. Mr. Gantner also stated that there must be a definition of the physical measurement process so that it can be enforced uniformly and then communicated to freeholders, possibly via the notes section on CSCD Water Utility bills. Mr. Noe stated that the Board was short two members tonight and should not vote as the Board would not wish for this important topic to be perceived as "being pushed through" impartially. Mr. McGaha stated that, presently, the deputies are using state guidelines to measure boats. Mr. Gantner stated that there is within the state guidelines, there is no guidance regarding how to treat a platform, which may lead to a lawsuit due to inconsistency of platform measurement. A freeholder expressed an opinion to leave the rule alone and not change it. Mr. Hetherington stated that, of the 14 brands of boats available today, only five are allowed under the CSCD rules and that to maintain the same rule would be inconsistent regardless due to the lack of definition of measurement. The Board decided to hold a Special Meeting during the Security Commission Meeting on June 14, 2011 at the CSLOA Clubhouse at 7:30 p.m. to discuss this topic and receive input from freeholders. The Board will then take the Security Commission's recommendations on boat length and a definition of measurement at the CSCD Board of Directors Meeting on June 21, 2011 at the CSLOA Clubhouse at 7:00 p.m. A decision will be made on the topic and a possible resulting vote may be taken during the CSCD Board of Directors Meeting on June 21, 2011. Notice of these meetings will be published in the CSCD Newsletter and the Brown County Democrat and will also be posted around the Conservancy area. The Board instructed Mr.

McGaha to continue measuring boats the way that he has been in order to maintain consistency.

4. Roads-Mr. Noe

- a. The Commission received proposals from Milestone Contractors, L.P. and Dave O'Mara Contractor, Inc. for the paving of Hackberry, Firebush, and Phase I of Sweetwater Drive. The Commission voted to accept the Milestone Contractors, L.P. proposal due to lower costs and the contractor's history of work quality within the Conservancy.

Motion: Mr. Noe made a motion to accept the Milestone Contractors, L.P., proposal to pave Firebush, Hackberry, and Phase I of Sweetwater Drive at a cost of \$82,804.00, seconded by Mr. Gantner- motion failed due to lack of second as second was rescinded after discussion.

Discussion: Mr. Kolar questioned what were the specifications given to both contractors and why both phases of Sweetwater Drive should not be done all at once. Mr. Young and Mr. Kolar stated that according to Indiana Code 36-1-12-4.7, the Board should invite quotes from at least three contractors by mailing them a written notice including specifications and a request for proposal not less than seven days before the time fixed for receiving. Mr. Collins stated he contacted Mr. Young prior to contacting the contractors to confirm the legal compliance of his process as he did not send written notices to the contractors but spoke on the telephone with them. Mr. Young stated that there was a miscommunication between himself and Mr. Collins as he assumed Mr. Collins was contacting them in writing. Mr. Kolar stated that he was not in disagreement that the paving needed to be completed and that the CSCD does have the necessary financial resources but he was concerned about the legal compliance of the quotes process. Mr. Noe explained that in the past, a roads quote above the \$150,000 ceiling was accepted without being on the agenda. Mr. Noe asked if the quotes process for the roads had been performed this way before and the Board responded affirmatively. Mrs. Boyle questioned a difference in square footage specifications between the two proposals. The Board recommended that Mr. Collins send out a written notice containing plan specifications and a request for proposal to three contractors in order to comply with Indiana Code 36-1-12-4.7. Mr. Collins stated that he wished the Board to know that he was not trying to hurry through the process or do anything noncompliant. The Board stated that they did not feel that way toward him. Mr. Noe suggested that the Board create a list of guidelines for the quotes process that Mr. Collins can follow in the future to ensure compliance.

Mr. Gantner rescinded his second.

- b. Mr. Noe stated that there remains an opening on the Commission.

5. Water-Mrs. Boyle

- a. Mrs. Boyle stated that the utility is still owed \$37,000 for the second installment of 2010 and \$37,000 for the first installment of 2011 fire hydrant rental.

Motion: Mrs. Boyle made a motion for the CSCD Board to pay \$37,000 to the CSCD Water Utility for the delinquent second installment of 2010 fire hydrant rental, seconded by Mr. Hetherington- motion carried with 4 votes for and 1 abstention.

Discussion: Mr. Noe stated that he believed that the Board was not going to pay this fire hydrant rental installment until the taxes from Spring 2011 were received. There was some discussion about whether the Board was going to pay the second 2010 installment or the first 2011 installment of the fire hydrant rental after the receipt of the Spring 2011 taxes.

- b. Mrs. Boyle stated that Shawn Michel will be performing a presentation at the CSCD Board Meeting on June 21, 2011, regarding water loss.
- c. Mrs. Boyle read the Water Operator Report.

Discussion: Mr. Noe questioned the water loss for the month. Mrs. Boyle stated that it is inaccurate to view the water loss monthly and that the Water Commission wishes to determine it annually as the annual figure is more accurate.

G. Brown County Solid Waste: Mr. Moebs (absent)

H. Status from CSCD Attorney: Roger Young

1. Mr. Young reported that he discussed with Mrs. Anderson the receipt of tax money from the DLGF (Department of Local Government Finance).
2. Regarding the Klosinski lawsuit, the plaintiffs petitioned for re-hearing. All three Court of Appeals judges upheld the right of the district to require the septic inspection in the initial decision. Mr. Young felt it was unlikely that these judges will grant a re-hearing.
3. Regarding the Mercer lawsuit, Mr. Young will continue to monitor the case as there is a fraud allegation. However, Mr. Young cannot find evidence of fraud in his investigation.

Discussion: Mr. Collins requested a copy of the Mercer lawsuit in order to view the fraud allegations. Mr. Gantner expressed an interest to meet with Mr. Young regarding the Klosinski lawsuit and the possibility of obtaining attorney fees since they are continuing to prosecute.

Motion: Mr. Gantner made a motion to request that CSCD Attorney Roger Young issue a letter to the lot owner(s) of 7243 Center Lake Road instructing him and/or her to attend to the disrepair of his and/or her dock and to the leakage of Styrofoam into the lake as a result, seconded by Mr. Hetherington- motion carried unanimously.

I. **Unfinished Business:**

1. The Board revisited the issue of insurance coverage on the Dam. The Board is still waiting on a response from the insurance company.
2. Mr. Kolar scheduled a Special Meeting on June 8, 2011, at the CSLOA Clubhouse at 6:00 p.m. to discuss the proposed 2012 CSCD budget.
3. The Board revisited the approval of Resolution 2011-3 regarding the setback guidelines for decks.

Discussion: Mr. Noe asked what the county guideline is for deck setbacks. Mrs. Bruce replied that it is 25 feet from the rear property line. The Resolution died from lack of motion.

4. The Board began a discussion concerning revisions of boat sticker rules. It was decided that discussion of boat sticker revisions would be delayed until the June CSCD Board of Directors Meeting.
5. The Board began a discussion concerning audit of the CSCD finances.

Discussion: Mr. Noe stated that during the July 2010 CSCD Board of Directors Meeting, there was a motion carried to have the CSCD finances audited each year. Mr. Kolar asked Mrs. Anderson to collect three quotes from accounting firms to perform an audit of the CSCD finances. Mr. Gantner asked what the scope and purpose of the audit is so that the scope of work can be defined for Mrs. Anderson's requests for proposals to the accounting firms. Mr. Kolar requested that someone go back and research the July 2010 minutes to determine what was decided. Mr. Noe stated that a forensic audit was requested for the year 2008 and a review audit was requested for the year 2009. Mr. Gantner explained that a forensic audit is different than annual reviews. Mr. Young explained that the state will investigate finances to determine if the expenditures of the public money are allowed under the law(s).

6. Mr. Kolar asked the Board to revisit the approval of the resolution for payment of claims, now named Resolution 2011-3.

Motion: Mr. Gantner made a motion to approve Resolution 2011-3 regarding the payment of claims, seconded by Mrs. Boyle- motion carried unanimously.

J. **New Business:** None

K. **Board Member Concerns:**



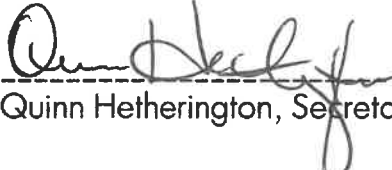
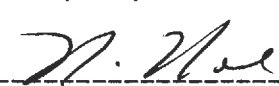
1. Mr. Hetherington asked if the Conservancy knows yet the amount of the June payment of property taxes it will receive. Mrs. Anderson replied that the amount is not known yet.
2. Mr. Noe questioned whether the Board will have an election for the Chairman at the June CSCD Board of Directors Meeting. Mr. Kolar responded affirmatively.

L. Adjourn:

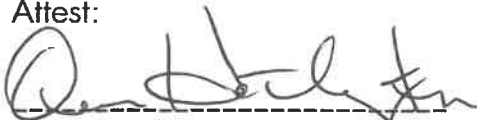
Mr. Gantner made a motion to adjourn the meeting at 9:34 pm, seconded by Mrs. Boyle-
motion carried unanimously.

Respectfully submitted by Betsy Edwards.

Approved this 21st day of June, 2011, at Nineveh, IN

			
Larry Kolar, Vice-Chairman	Francis Gantner	Aye	Nay
David Moebis	Cheryl Boyle		
David Moebis	Cheryl Boyle	Aye	Nay
			
Quinn Hetherington, Secretary	Norman Noe	Aye	Nay
		Aye	Nay

Attest:


Quinn Hetherington, Secretary