

Cordry-Sweetwater Conservancy District
Board of Directors Meeting
May 21st, 2024

“DRAFT MINUTES UNTIL APPROVED”

1. **Board Members Present:** Aaron Parris, Randy Brumfield, Pat Sherman, 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 13 freeholders in attendance & numerous online viewers.
4. **Welcome:** Mr. Leavitt called the meeting to order at 7:03 PM
5. **Agenda Modifications:**
 - a. Mrs. Bay requested to add line items 5. b. i Vehicle Bids, 5. b. ii Christopher Burke Amendment, and 7.b Wake Boats.

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

6. **Approval of Minutes:**

MOTION: Mr. Brumfield motioned to approve April 16th, Board Minutes as submitted, seconded by Mr. Rasdall. Motion passed unanimously.

MOTION: Mr. Parris motioned to approve April 23rd Special Session Board Minutes as submitted, seconded by Mr. Sherman. Motion passed unanimously.

7. **Freeholder Concerns:**

- a. Carrie Vavul (OES 333) thanked everyone who helped with the Nineveh Road Clean up; thanked Allison Randolph for spearheading this. Mrs. Vavul noted that it went past the Dollar General.
- b. Marcia Harper noted that as many already know her and Greg have discussed at security meetings for many years the danger of boaters coming in hot past the no wake area. Mrs. Harper noted as far back as 2020 she began bringing video of every kind of boat coming in hot to the cove far past the no wake area. Mrs. Harper noted to her knowledge not one boater

has been given a ticket for disregarding the no wake area. Mrs. Harper noted that many people have personal buoys up to protect their family and property from boaters who ignore the no wake area. Mrs. Harper noted that she felt boat patrol was still not dealing with the issue that caused many people to put personal buoys out in the first place, and now the people who have these buoys out are being threatened with a ticket for not pulling them in at night. Mrs. Harper discussed an orange buoy that was previously there when they purchased the property. Mrs. Harper noted that she would like to formally request for a CSCD buoy to be put in place of her personal buoys which would alert freeholders of the shallow area. Mrs. Harper noted that this served as notice to the Board of this hazard and their request that the Board start taking responsibility for this hazard as well as others on the lake being marked and made known to other freeholders. Mrs. Harper noted that she sent pictures to the Board of what could be the solution with her type of buoy and having it marked shallow; and gave the website information. Mrs. Harper noted that they kept their personal buoys in place last year after a Board member told her to disregard the letter, they received about pulling their buoys in. Mrs. Harper noted that they have received conflicting information on this topic, and now there is the threat of a ticket. Mrs. Harper noted that they will remove their buoys by May 22nd and she will be giving the Board a copy of her statement to include in the minutes. Mrs. Harper noted there were other freeholders with the same issue.

8. Management Reports:

a. Director of Finance & Administrative:

1. Mrs. Bay summarized the fund report. The current balance is \$3,126,737.72.

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

2. Mrs. Bay summarized the appropriation report and monthly claims list. The monthly claims total is \$322,711.77. The unexpended remaining balance for 2024 is \$1,607,880.93 or 77.13%.

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

b. Director of Operations

1. Mrs. Bay summarized Mr. Johann's report.

- i. Vehicle Bid

- i. Mrs. Bay noted the 2017 Durango was relisted on gov deals and the bid came in higher than the reserve at \$7,600. There was discussion on this being more than the previous bid.

MOTION: Mr. Rasdall motioned to approve and accept the vehicle bid for \$7,600, seconded by Mr. Parris. Motion passed unanimously.

ii. Christopher Burke Cordry Lake Spillway
Reconstruction Amendment for Scope of Work

Discussion: There was discussion of costs, and the services Christopher Burke would be providing. There was discussion over the rates being in line with what most firms charge.

MOTION: Mr. Sherman motioned to approve the Christopher Burke Amendment seconded by Mr. Brumfield. Motion passed unanimously.

9. Commission Reports:

a. **Building:**

1. Mr. Sherman reviewed the Variance request for Sternberg at 8019 Duck.

Discussion: Mr. Johann noted there was a remonstrator, Annette Dinneen, who lives next door. Mrs. Dinneen noted that this structure would block her views. Mrs. Dinneen noted she took some pictures and was more than happy to email them to the Board. Mr. Young wanted it noted that the petitioner failed to appear. Mr. Sherman noted that since the petitioner is not present and that we have a neighbor here indicating that she believes her view to the lake would be infringed upon, they should deny the request.

MOTION: Mr. Sherman motioned to deny the variance request for Sternberg (8019 Duck), seconded by Mr. Rasdall. Motion passed unanimously.

2. Mr. Sherman reviewed the building applications.

MOTION: Mr. Sherman motioned to approve building applications 24-026, 24-028, and 24-037 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. Parris. Motion passed unanimously.

MOTION: Mr. Sherman motioned to approve building applications 24-038, and 24-039 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.

3. Mr. Young reviewed the easement for the Byam property. Young noted that the District sold property to the Byam's to enlarge and improve their septic system and noted that this occurred because it was a benefit to the District as it would get rid of a potentially failing system. Mr. Young noted that to get this septic installed they would have to cross Cougar Drive, which would require an easement by the Board. Mr. Young noted that Nick has inspected the site, and the sewer line is where it should be, and the water utility people found it acceptable. Mr. Young noted the number of protections written into the easement; and that there have been a few of these types of easements done in the past to improve a septic system. There was discussion of method of excavation to get across the road. It was noted the freeholder is responsible for Mr. Young's fees to write the easement.

MOTION: Mr. Rasdall motioned to approve the Byam Easement (6500 Cougar), seconded by Mr. Sherman. Motion passed unanimously.

b. Ecology:

1. Mr. Brumfield summarized the ecology minutes.
 - i. Mr. Brumfield discussed the proposal from Dr. Sweeten to study shoreline erosion and noted the ecology commission unanimously approved to recommend this study to the Board. Mr. Brumfield noted this was a 3-year study but Dr. Sweeten could give some data back after this year. Mr. Brumfield went over the study and what it included such as wave sensors that measure wave height, direction, etc. and would be available on a live feed. Mr. Brumfield noted the total cost was \$132,000, which is an average of \$44,000; but the first year the start up year would be \$61,000. Mr. Brumfield noted this study would not just be about the impacts of the wake boats on the lake it would also give the District a baseline of what shape the lakes are in.
 - ii. Mr. Leavitt noted there has been a lot of discussion over specific activities, but his concern is what if there is a problem with the lakes that has not even been identified. Mr. Leavitt noted that this study could give a path forward to prevent the lakes from dying.
 - iii. There was discussion over a past flood and not getting FEMA assistance because there was no data.
 - iv. There was discussion over studying bank erosion and accumulation of sediment with this study.

- v. Mr. Brumfield noted he asked Dr. Sweeten if the Board could get some data back by December to help make rules/resolutions, if necessary, before the next year of boating begins, and Dr. Sweeten let Mr. Brumfield know he would do his best.
- vi. Mr. Sherman noted that to the extent that this moves forward it would be good to have some of this information as next year's budget is being put together. Mr. Sherman noted that if there was any indication of what is going on that would help to determine how this will be paid for.
- vii. Mr. Rasdall went over the live feed that would be available for all freeholders to view.
- viii. There was discussion about the LiDAR Drone scan of the shorelines of both lakes.
- ix. There was discussion about if more bids were needed because of the cost of this study. Mr. Young noted that the law does not require bidding for a professional service.

MOTION: Mr. Brumfield motioned to approve the full 3-year study with Dr. Sweeten to not exceed \$132,000, over a 3-year period seconded by Mr. Rasdall.

Discussion: Mr. Maulden asked if there would be more discussion on how this would be paid for. Mr. Young noted that the motion may have to be contingent, if there is not money budgeted somewhere to spend on this; then you would have to request additional appropriations. Mr. Young noted that if the Board doesn't have adequate funds available the motion should be modified to include contingent upon approval of additional appropriations. Mr. Young went over the process of requesting additional appropriations.

MOTION: Mr. Brumfield motioned to approve the full 3-year study with Dr. Sweeten to not exceed \$132,000, over a 3-year period contingent upon approval for additional appropriations, seconded by Mr. Rasdall.

Discussion: Mr. Parris asked if the first amount of the \$61,000 that the Board is contingently approving of, is only for the first year spent. Mr. Young responded yes; all the Board will need to do is additionally appropriate what will be needed for this account. Mr. Parris asked if there were any items that could be cut. Mr. Brumfield went over the questions that the Board wanted answered from Dr. Sweeten and team, and noted this was prepared as Dr. Sweeten's recommendations to answer those questions. Mr. Adolay noted that before you do the study and spend the money they need to decide if they're going to ban wake

surfing, because then the study wouldn't be needed. Mr. Brumfield noted that what if wake surfing wasn't a problem, and there are so many factors out on the water. Mr. Brumfield noted that Dr. Sweeten can give the Board a preliminary determination this year if possible. Mr. Rasdall noted that this study goes beyond just wake surfing with the ecology of the lakes, algae blooms, and other things, so that the lakes don't die. Mr. Leavitt noted if you look at the impact on the lake, there is focus on wake surfing, but that's a small percentage of boats on the lakes, and we could be missing the bigger issue. Mr. Brumfield noted this is a comprehensive scientific review of what were doing and its impact on the ecology of the lake. Mr. Sherman asked Mr. Brumfield to let Dr. Sweeten know that we can only encumber 1 year at a time; and even though this is a 3-year contract he must understand it's really only a 1-year contract. Mr. Young noted that ordinarily he would look at the contract and there is usually a termination clause that the owner can terminate at their convenience. Mr. Young asked Mrs. Bay to prepare for the additional appropriations and then asked the Board did they want to fund this all out of the rainy-day fund or were there some budgeted funds they want to use to cover this, because Mrs. Bay will need to know what amount to advertise. Mr. Sherman noted at this point in time they should take it out of the rainy-day fund and then the Board can determine how they want to reimburse the rainy day fund.

Roll Call:

Mike Leavitt: Aye
Aaron Parris: Nay
Ted Adolay: Nay
Pat Sherman: Aye
Randy Brumfield: Aye
Jim Maulden: Aye
Mark Rasdall: Aye

Motion passed 5-2.

c. Roads:

1. Mr. Rasdall summarized the roads minutes.

d. Security:

1. Mr. Maulden summarized the security minutes.
 - i. Mr. Maulden discussed personal buoys and requested Mrs. Bay send a message reminding freeholders to pull them in at night. Mr. Maulden noted that the security commission wanted to ask the Board that if there is a legitimate reason like the water is very shallow and someone can

damage their boat then those people can come to the security commission meeting and the security commission can investigate it and then make a recommendation to the Board to put a CSCD buoy in those areas, if warranted. There was discussion over potential hazards being out in the water that they may not know about. There was discussion about the district's responsibility. Mr. Sherman noted that this could be a great expense for the district because where do we stop. Mr. Young noted that the decision to place a buoy is going to be determined by funds available and based upon the Boards determination of where they're mostly needed under those circumstances. Mr. Young noted that the Indiana Torque Claims Act is says a governmental entity is not liable for loss if it occurs based upon the government's performance of discretionary function; a discretionary function is something you can do but not something you have to do. Mr. Young noted there is not a law stating you shall put a buoy here, and he believes the placement of buoys is a discretionary function. Mr. Brumfield noted he knows pretty much every part of these lakes and there are maybe 4 places he could think of shallow enough to need a buoy. Mr. Brumfield noted that the shallow areas could be 3 feet or less, Mr. Brumfield doesn't believe that there are any boats that are going deeper than 3 feet. There was discussion as to whether this needed a motion or could be done operationally.

- ii. Mr. Rasdall asked if the District could move the buoys that are out 50 feet in the lake. Mr. Young noted that if they are illegal under your rules then yes, the District should remove them, they should make an effort to return them to the owner, if you can identify the owner. Mr. Young noted that they can certainly be moved if they're not allowed under the District's rules and they are a navigation hazard. Mr. Maulden asked if we have the right to ticket people for not moving them. Mr. Young noted that removal would be more effective if the idea is to get them out of there. Mr. Young noted that he would write a letter to the freeholder first and notify them they have a buoy that is illegally placed, cite the rules give them a time frame to remove the buoy, and note if it is not removed within that timeframe the District will remove the buoy and make every effort to return it to you and place it on your property.

- iii. Mr. Maulden discussed a launch site location on Sweetwater for non-motorized watercraft.

MOTION: Mr. Rasdall motioned to approve the CSCD park on Nuthatch, where there are parking spaces, as nonmotorized watercraft launch site, seconded by Mr. Maulden.

Roll Call:

Mike Leavitt: Aye
Aaron Parris: Aye
Ted Adolay: Nay
Pat Sherman: Aye
Randy Brumfield: Aye
Jim Maulden: Aye
Mark Rasdall: Aye

Motion passed 6-1.

- iv. There was discussion over sign removal.

e. Water:

1. Mr. Parris summarized the water minutes.

10. Old Business:

- a. None

11. New Business:

- a. Patrick Sherman- Policies & Procedures for Office of District Marshall
 - i. Mr. Sherman noted at the last meeting he asked permission to talk to Tim, who was the executive director of ILEA, the Indiana Law Enforcement Academy, and that Tim directed Mr. Sherman to Kevin Jowitt. Sherman summarized Kevin's resume. Mr. Sherman asked the Board for permission to start discussions with Kevin on his availability for help with establishing the policies and procedure for the Marshall Office and what a professional services contract would look like with him. Mr. Sherman noted then he would bring that back to the Board. Mr. Sherman noted this process to put everything in place is quite extensive. Mr. Leavitt noted that Mr. Sherman wanted to have discussions on what our path forward is. Mr. Rasdall noted that Mr. Sherman wasn't spending money right now he was just having conversations. Mr. Leavitt noted that they needed to figure out what they are doing in the long term. There was discussion that if Brown County were to change their policy or Brad wasn't there anymore and it was a new Sheriff, and he said no this isn't happening anymore, then there needs to be alternatives. Mr. Leavitt noted that he believes it's fine to continue having discussions and heading down that path. There was discussion

over the part time deputies. Mr. Leavitt noted that working parallel tracks is good.

12. Board Member Concerns:

- a. Mr. Rasdall thanked everyone.
- b. Mr. Maulden thanked everyone.
- c. Mr. Brumfield discussed an electric vehicle survey. There was discussion and it was agreed to post it via survey monkey.

13. Adjourn (9:39)

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

Respectfully submitted,



Ted Adolay, Board Secretary
Date Submitted:

